

ANNUAL SURVEY OF VIOLATIONS OF TRADE UNION RIGHTS 2011



ITUC CSI IGB

INTERNATIONAL TRADE UNION CONFEDERATION

Annual Survey

of violations of trade union rights 2011

Period under review: January to December 2010

The International Trade Union Confederation (ITUC) is a confederation of national trade union centres, each of which links the trade unions of that particular country. It was established on 1 November 2006, bringing together the organisations which were formerly affiliated to the ICFTU and WCL (both now dissolved) as well as many national trade union centres which had no international affiliation at the time. The new Confederation has 305 affiliated organisations in 151 countries and territories on all five continents, with a membership of 175 million, 40 per cent of whom are women. It is also a partner in "Global Unions" together with the Trade Union Advisory Committee to the OECD and the Global Union Federations (GUFs) which link together national unions from a particular trade or industry at international level. The ITUC has specialised bureaux in countries around the world, and has General Consultative Status with the Economic and Social Council of the United Nations.



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Foreword

The publication of the ITUC Annual Survey this year comes at a time of momentous change across the Arab world as people mobilise for their democratic rights. The denial of fundamental rights at work in these countries and the failure of countries to ensure decent jobs for millions of people, especially the young, are documented in this report. These trends, especially severe in the Arab countries, have been major drivers of the massive demand for reform there, but the denial of rights at work is by no means limited to the Middle East.

Further erosion of the rights to organise unions and to collective bargaining worldwide is a strong feature of this year's Survey, which covers 143 countries. The crisis in employment, set off by the global economic crisis, continues in every region as those who make policy have largely failed to make the changes needed to create and sustain employment. Governments have simply swallowed free market corporate rhetoric at the expense not only of working families but also of the stability and future of their own national economies. Big banks, big finance and big business have been allowed to dominate government policy, while unemployment, poverty and insecurity continue to grow. The very inequality, which was a driving force in tipping the world into economic crisis, is still growing, and the violation of basic international labour standards is itself the primary cause of this inequality.

While these global trends accelerate, trade unions in many countries face the most severe repression by governments and employers. Ninety people were killed in 2010 due to their involvement in legitimate trade union activities, and a further 75 were subjected to death threats. This Survey also documents some 2,500 arrests and 5,000 dismissals of trade unionists. Many more cases went unreported, in particular due to the climate of anti-union fear and intimidation in which many workers carry out their union activities.

Once again this year, the Americas was the deadliest region with the death toll remaining high in Colombia (49) and in Guatemala (10). A further 20 murder attempts were recorded in Colombia and two in Guatemala. Killings were also recorded in Bangladesh, Brazil, El Salvador, Honduras, Pakistan, the Philippines, Swaziland and Uganda. In Iran, a teacher trade unionist was hanged after a "trial" which violated the most basic standards of justice, despite international protests.

In Belarus, Burma, Cambodia, Djibouti, the Russian Federation, Honduras, Iran, Nepal, Nicaragua, Nigeria, Mexico, the Philippines, Swaziland and Zimbabwe, many trade union organisations continued to operate in a climate of violence and constant threats. The ILO's Commission of Inquiry on Zimbabwe confirmed that the Zimbabwean government was responsible for systemic and systematic

violations of trade union rights. In Djibouti, the ILO expressed its deep concern at the government's complete lack of will to settle several cases of trade union rights violations.

Even before the popular uprisings in the Arab world, workers taking part in strike actions and other union activities faced violence and arrest. Again, such intimidation was not limited to Arab countries. The Survey includes cases from Bangladesh, South Korea, Cambodia, Egypt, the United Arab Emirates, India, Iran, Nigeria, Panama, the Philippines, Qatar, Tunisia and Yemen amongst others. In Iran, the government failed to deliver on its promise to free Mansour Osanloo, leader of the Teheran bus workers union, and imprisoned at least seven others. One person was also sentenced to corporal punishment. In Panama, some 700 people were injured and 101 arrested when the authorities reacted to worker protests at the removal of key legal protections at work.

Complete bans on trade unionism remained in place in several countries, notably Burma, Saudi Arabia and the United Arab Emirates, while severe restrictions on the right to strike and other forms of union activity made effective trade union representation almost impossible. In certain sectors, especially agriculture, the public sector and domestic service, bans or restrictions on union activity deprived workers of representation in a number of countries, as did overly-broad definitions of "essential services". Single, government-controlled or government-sponsored trade union systems also remained in China, Laos, North Korea, Syria, Vietnam and other countries.

Other notable deficiencies highlighted in the Survey include weak or non-existent enforcement of labour laws, including lack of investment in labour inspection, appalling treatment of migrant workers in every region, especially in the Gulf countries, and exploitation of the mainly female workforce in the world's export processing zones.

Some of the world's most wealthy economies also figure in the report, in particular the USA, where attacks on organising and collective bargaining rights already identified in 2009 and previous years have actually intensified in 2010.

Defending and promoting workers' rights to freedom of association and collective bargaining constitutes the primary mission of the ITUC. Our actions in direct solidarity with workers whose rights are under attack, as well as in international fora, in particular at the ILO, are and will always be the top priority of the ITUC. Our work across the scope of global institutions and international

events – at the UN, the G20, the international financial institutions and elsewhere – will continue to put these fundamental rights, which are essential not only to human dignity and social justice but also to ending global poverty and ensuring sustainable development, at the forefront.

A handwritten signature in black ink, appearing to read 'A. Burrow', with a stylized, flowing script.

Sharan Burrow
General Secretary

An explosive situation before the shake-up in Tunisia

**Mustapha Tlili, Director, ITUC Regional Office For Arab Countries,
Amman – Jordan**

The suddenness of the revolution in Tunisia in December 2010 and the immediate domino effect in Egypt have caused a powerful wind of real change and a yearning for change to blow through the entire Arab world.

In Tunisia, Egypt, Bahrain, Libya, Yemen, Syria, Iraq and Kurdistan the news has been painfully dominated by instances of fierce crackdowns by many of the respective powers-that-be, designed to quell any such aspirations. This suppression has claimed hundreds of civilian lives, left thousands injured and prompted very numerous arrests. Protests have also been stamped out in Algeria, Mauritania, Jordan, Morocco and Palestine. In some countries, like Tunisia and Egypt, such government repression failed to prevent illegitimate, corrupt regimes from caving in to pressure exerted by the general public. In others, like Morocco, large-scale popular uprisings ended up exacting announcements of encouraging reforms.

The profound causes of the popular uprisings in all these countries are identical: the denial of fundamental human rights, unemployment, poverty, inequality, corruption and the despair of an entire young generation deprived of future prospects.

This report highlights the extremely dark picture regarding trade union rights in the Arab region in 2010. Against the backdrop of extremely severe restrictions imposed on the freedom of association, trade union rights are being very extensively violated there in spite of repeated promises by a series of countries that the situation will improve, and the tangible headway made in 2010 in the countries in question was far too meagre. The excessive frequency of rights violations presented in this report should suffice to convey the explosive nature of the situation that prevailed in 2010.

In Tunisia, the report spotlights the rising tide of social protest that was suppressed by the authorities, especially in the mining region of Gafsa (in the west central part of the country), which was where the first of the riots that eventually dethroned President Ben Ali broke out in December 2010. The government constantly meddled in the affairs of the Tunisian trade union movement until the last few days of the year, when the protests flared up thanks to growing support from the Tunisian General Union of Labor.

In Egypt, the wave of revolt that began in 2006 was still going strong in 2010. The report stresses that in spite of sackings and reprisals by employers, police violence and numerous arrests, more and more workers had no hesitation in taking strike action and taking to the streets to protest. The report also underlines the strengthening of Egypt's independent trade union movement, which having suffered many years of harassment under the old regime would play a key role in the revolution and in countering the influ-

ence of the omnipotent official trade union centre, in which the Mubarak regime directly pulled all the strings.

In Bahrain, the report underscores the recurrent problem of unemployment and inequality, these being the two major causes of unprecedented protests that broke out in mid-February 2011 before being swiftly and brutally snuffed out. Not only have scores of people been killed or disappeared, and hundreds been arrested, there has also been a massive wave of job losses, combined with threatened and actual violence perpetrated against workers and/or trade unionists in retaliation for their participation in strike action or their involvement in the protest movement. The General Federation of Bahrain Trade Unions (GFBTU), which committed itself alongside the legitimate movement calling for more democracy in the country, is now finding itself the target of an extremely worrying campaign of repression.

From Libya to Bahrain and Yemen, migrant workers are once again finding themselves caught up in the whirlwind of popular Arab uprisings. The report already deplores the fact that such workers are too frequently exploited and deprived of their basic rights, especially in the Gulf region.

In Bahrain, the authorities are using migrants for their own ends by arranging for strikers to be replaced by non-striking workers, and by migrant workers in particular. The present crisis is exacerbating the government's delay in paying a number of sub-contractors, leaving hundreds of migrants even without anything to eat.

The prime target in demonstrations are women, who have most certainly not escaped the clamp-down, and who also wish to seize this opportunity to see their efforts finally translate into greater equality on the labour market and in society as a whole, including within trade union organisations.

Trade unions throughout the region are also suffering from the gaping democratic deficit. In most countries, the single union system that facilitates the respective authorities' control over labour movement activities is clashing head on with mounting aspirations for domestic democracy, especially among young people. These dissident youngsters are aware that when unions are free and independent they can make a crucial difference in the process of shifting to a situation characterised by respect for fundamental rights, social justice and decent jobs. Just as the weapon of large-scale strikes proved decisive in toppling dictators in Tunisia and Egypt, the historic events in the region during the early part of 2011 clearly show how indispensable free trade unionism is to democratic and social progress. To remedy the causes underlying these legitimate uprisings, trade union rights have to be fully respected, being essential for the construction of genuine democracy, which is indissociable from representative, independent trade unionism.

The eight core labour standards of the ILO (International Labour Organisation)

It is indicated in the text whether a country has ratified the following Conventions:

- N° 29 - Forced Labour (1930)
- N° 87 - Freedom of Association and Protection of the Right to Organise (1948)
- N° 98 - Right to Organise and Collective Bargaining (1949)
- N° 100 - Equal Remuneration for Work of Equal Value (1951)
- N° 105 - Abolition of Forced Labour (1957)
- N° 111 - Discrimination in Employment and Occupation (1958)
- N° 138 - Minimum Age for Employment (1973)
- N° 182 - Worst Forms of Child Labour Convention (1999)

For further information on ILO International Labour Standards and ratification of the ILO Conventions, please consult <http://www.ilo.org/ilolex/english/iloquery.htm>.

Africa

In Africa, the implementation of labour laws - when in place- and respect for trade union rights, remain problematic. Numerous violations were again recorded in 2010. In addition to the structural issues, unions in the region often have to grapple with anti-union actions both from private employers and governments. Lawful strikes are difficult to call in many countries, and strike repression is rife and often leads to violence.

In Swaziland, where constitutional freedoms have been suspended by a state of emergency in force since 1973, trade unionists who had gathered for May Day celebrations were brutally attacked by police, who also carried out violent arrests and searches. Sipho Jele, one of the arrested unionists, died in custody. Unionists in South Africa also faced harsh police repression and violence throughout the year. On several occasions police fired rubber bullets and used tear gas and water cannons to break strikes. Workers on picket lines were also harassed and intimidated, and approximately 100 South African unionists were arrested in 2010.

In Djibouti, unions operate in a very difficult environment. For several years, trade unionists have been subjected to constant harassment by the authorities, and in March 2010 the ILO expressed its deep concern at the government's complete lack of goodwill to settle cases of trade union rights' violations. Arrests, imprisonments, injuries and dismissals are also common, as evidenced by the apprehension of 300 striking railway- and dock workers.

An ILO Commission of Inquiry also confirmed in March that the government of Zimbabwe is responsible for serious and systematic violations of fundamental trade union rights. Arrests, detentions, violence and torture of trade unionists and workers occurred while nationwide events were organised by the unions.

Unprecedented social protests began in Tunisia after the self-immolation of an unemployed graduate on 17 December and the suicide of another man. Many protesters, who were demanding actions against unemployment and corruption as well as respect for fundamental rights, were beaten by the police, arrested and fired at with live bullets. Government interference in the trade union movement was constant up until the final days of 2010.

Violence against workers and trade unionists were common in Africa in 2010. For example, in Uganda, police fired live ammunition during a strike, killing two workers and severely injuring a third; in Zambia, protesting mineworkers were shot and injured by their Chinese managers; in Mauritania, riot police used extreme violence against demonstrators on several occasions; and in Algeria, anti-riot police brutally suppressed a strike in Rouiba.

Organising is a difficult task in the region. In Sudan, the Labour Code essentially denies trade union freedoms, and only allows for one trade union federation – which is controlled by the state. Workers in Libya and Egypt faced a similar

situation. Although freedom of association and the right to organise is recognised in other African countries, legal restrictions make free organising difficult in countries like Botswana, Djibouti and Lesotho. In practice unions also face considerable hurdles. For example, in Equatorial Guinea the authorities do not recognise unions, and in Eritrea trade unions only enjoy limited rights to organise and all unions are kept under close scrutiny by the totalitarian government.

Organising in the export processing zones (EPZs) proves an even bigger challenge to unions: employers often refuse to recognise unions, and abuse and harassment of workers who join unions is widespread. Violations of trade union rights occur in the EPZs in countries like Nigeria, Ghana, Kenya, Mozambique and Togo.

In countries where unions are allowed to organise freely the problem of union proliferation may occur. The situation is perhaps the gravest in the Democratic Republic of Congo, where the authorities and employers have purposely encouraged the formation of hundreds of unions over a number of years with the view of weakening the trade union movement. A lack of objective criteria for recognition of representative unions in the labour laws of Côte d'Ivoire and Senegal has also undermined the work of representative unions and contributed to union division. In 2010, yellow unions were reported for example in Burundi and Ethiopia.

Unions in Africa also have to struggle with a lack of respect for social dialogue and collective bargaining. This problem can take many shapes, including very weak social dialogue (e.g. Liberia), exclusion of some trade union organisations from tripartite structures (e.g. Mali and Mauritania), negative climate or hostile stances towards unions (e.g. Namibia and Benin), failure to implement tripartite protocols and decisions (e.g. Togo and Malawi), and lack of or limited collective bargaining in the public sector (e.g. Angola, Central African Republic, Egypt and Libya). Strikes or threat of strikes are often necessary to force the authorities to the bargaining table.

The labour laws of many African countries contain excessive restrictions on trade union rights. In addition to the oft-recurring limitations imposed on free organising, the right to strike is commonly very restricted and, as a consequence, lawful strikes are difficult to call. Where workers do go on strike, repression often follows in the form of violence, arrests, harassment and dismissals, as evidenced by the events in for example Algeria, Egypt, Kenya, Senegal, South Africa and Swaziland. In general, the application of labour laws and ILO conventions is problematic, also since the labour inspectorate is often weak and inefficient. The conditions in which the latter have to work are often extremely difficult. They often lack decent means of communication and transport and are generally seriously understaffed. This further complicates the enforcement of trade union rights on the continent.

Algeria



POPULATION: 34,900,000
 CAPITAL: Algiers
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

The authorities' broad powers to declare strikes illegal proved insufficient to prevent their existence, but they were often suppressed by employers and the authorities. Trade union rights are not guaranteed in multinational companies and are nonexistent in those linked to oil and gas production. In the public sector, independent unions face extremely tight constraints, giving them very little room for manoeuvre. In May, trade union premises in Algiers were closed down under false pretences.

TRADE UNION RIGHTS IN LAW

Union organising is frustrated by excessive restrictions and government intervention. In order to be recognised, a union needs to represent at least 20% of the workers in an enterprise and must obtain prior authorisation from the government.

Legal strikes are difficult to organise, as they must be preceded by a secret ballot of the entire workforce. In addition, pursuant to the Act of 6 February 1990, the authorities can refer an industrial dispute to the National Arbitration Commission. The government can also ban a strike if it is deemed to cause a serious economic crisis, or declare it a subversive or terrorist action if it obstructs public services or impedes traffic or freedom of movement in public places. Finally, pursuant to the State of Emergency decreed in 1992, the latter offences carry hefty penalties including imprisonment for up to 20 years.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Algeria's economic dependence on oil and gas exports remains a major cause for concern, along with the poor job prospects for young people. The official unemployment rate is 10%, but the actual figure is closer to 25%. The price of foodstuffs continued to soar, fuelling discontent among a population still largely living in poverty. Civil liberties are heavily constrained by the state of emergency that has been in force since 1992.

Independent unions repressed: Independent unions in the education and health sectors, although highly representative, had enormous difficulty making their demands heard by the authorities. The scant progress or promises made in terms of pay, for example, were only secured after many months of protest staged in spite of the intimidation suffered at the hands of the authorities. Several strikes were declared illegal. Threats were brandished that the strikers would face mass dismissals and the unions would be de-registered. Many trade unions have still not been recognised, or their names have been usurped by government-backed dissidents, in a bid to undermine their representativeness.

Although still in gestation, a trade union centre, the CSA (Confédération des syndicats algériens) was formed in April by the four most representative unions in the health and education sectors, the CNAPEST (Conseil national autonome des professeurs de l'enseignement secondaire et technique), the UNPEF (Union nationale des travailleurs de l'éducation et de la formation) the SNPSP (Syndicat national des praticiens de santé publique) and the SNPSSP (Syndicat national des praticiens spécialistes de la santé publique). The confederation criticised the exclusion of independent unions from the process of revising the labour law.

Strike suppressed in industrial suburb of Algiers: On 6 and 7 January, anti-riot police brutally suppressed a strike in Rouïba, an industrial suburb to the east of Algiers. At least five workers were injured. The 5000 employees of the national automobile company SNVI (Société nationale des véhicules industriels) had downed tools on 4 January; the action then spread to other companies in the area. The workers were demanding pay rises as well as marking their opposition to a pension reform and the main decisions of a tripartite agreement concluded at national level in December 2009.

Vocational training union awaiting registration since 2002: The national union of vocational training workers SNTFP (Syndicat national des travailleurs de la formation professionnelle) has been trying in vain to register since 2002. In March, in the response addressed to the ILO Committee on Freedom of Association, the government claimed that the union was to blame for the delay. It also explained it had carried out investigations into the founding members and that several of them had police records that cast doubt on their credibility. The Committee on Freedom of Association refuted these arguments and urged the government to register the SNTFP without delay. In April, the Minister of Vocational Training announced that he would only negotiate with the UGTA (Union générale des travailleurs algériens), and that he could not recognise trade unions that have not been registered.

Freelance journalists harassed following strike: The stringers staging a strike at El Bahdja radio were forcibly ejected by the police on 7 March and the management of the national radio broadcasting corporation ENRS, which controls the station, filed charges against seven of them for illegally occupying its premises and staging a wildcat strike. The strikers were suspended and barred from the radio station. Several protests were staged.

Despite the charges being dismissed by the Algerian judiciary and the mediation efforts of the national federation of Algerian journalists FNJA and the national journalists' union SNJ, the radio's management refused to compromise. It demanded that as a precondition to their reinstatement the journalists must sign a public statement testifying to political and foreign manipulation (the International Federation of Journalists, IFJ, had supported the strikers) and must agree to be transferred to other radios. Several journalists, under pressure, agreed to these conditions. The ENRS journalists, some 900 in total, had called the strike in protest at their status as eternal stringers. They had just, moreover, learnt that their set fees were being replaced with piecework rates, making their employment even more precarious.

Repression following two strikes in cement industry: Two "illegal" stoppages were held at a Lafarge Group cement plant. In May, the staff downed tools for six days after a strike notice was served by the branch of the UGTA (Union générale des travailleurs algériens) at the company. The management retaliated by trying to get rid of three trade unionists. In June, Lafarge's failure to honour its pledge to keep on 145 agents hired through a security firm, with the arrival of a new subcontractor in charge of security services, led to another work stoppage. The 145 dismissed workers had to be forcibly evicted by the police. Seven of them, including the head of the branch union, were arrested on 19 August, after Lafarge's management filed charges against them for proffering threats and obstructing work and freedom of movement. The seven security workers were released on 31 August and condemned to pay a fine.

Authorities shut down Maison des syndicats: On 12 May, the Algiers city authorities ordered the closure of the Maison des syndicats, the premises rented by the national independent union of public administration staff, the SNAPAP (Syndicat national autonome des personnels de l'administration publique), which also served as a meeting venue for several independent unions. A trade union forum bringing together unionists from several countries in the Maghreb region was due to be held there two days later.

The pretext presented was that "public meetings and gatherings were being organised without prior authorisation, foreign nationals were invited without notifying the relevant authorities or requesting authorisation, and the space was being used as a meeting place for young men and women from different countries in the region". As the notice was served to the owner rather than the lessee, the SNAPAP was deprived of the right to contest the decision. Independent trade unions were also deprived of a place to meet and hold debates, in a context where requests to authorise meetings in public places are systematically rejected.

Tripartism in crisis at ArcelorMittal: In June, the management at the El Hadjar steelworks owned by ArcelorMittal succeeded in efforts to ban a strike on procedural grounds, which were contested by the local branch of the UGTA (Union générale des travailleurs algériens). The UGTA finally called for the strike's suspension. Three strikes were staged during 2010 at the complex employing some 7000 people with ever growing concerns about their future given the refusal to meet their pay demands, the ever wider use of contract labour and the large number of employees being dismissed. In November, Farah Lotfi, the UGTA branch secretary at ArcelorMittal, denounced the "oppression and constraints exerted by the multinational" and the management's refusal to recognise the tripartite agreements.

Administrative and legal offensives against two SNAPAP leaders: On 24 October, the authorities refused to renew the passport of Mourad Tchiko, an executive member of the national independent union of public administration staff, the SNAPAP (Syndicat national autonome des personnels de l'administration publique). The union leader is facing legal action for defamation, instituted by the General Directorate for Civil Protection. He was suspended from his post as a fireman in December 2004 for having organised a sit-in.

Rachid Malaoui, the president of the SNAPAP, has not been allowed to travel to France or any other Schengen countries to maintain and develop links between his union and its European counterparts. After having to undergo urgent surgery in France in 2006, the Algerian administration has since refused, in breach of the Franco-Algerian social security convention, to settle his hospital bill. For Public Services International (PSI), to which the SNAPAP is affiliated, this is "effectively a breach of the right to freedom of movement and trade union freedom".

Trade unionism forbidden in many oil and gas multinationals: Many multinationals operating in the oil-rich south of Algeria continued to show hostility towards workers' demands. The general workers' union UGTA repeatedly denounced the anti-union practices deployed by multinationals in the Hassi

Messaoud region. Companies have prohibited workers from organising and pressing for better working conditions.

Over recent years, workers attempting to exercise their trade union rights have faced threats and harassment. Legal rulings ordering employers to reinstate workers who have been dismissed or faced arbitrary decisions have been ignored. On 5 March, Meryem Mehdi ended a 79-day hunger strike following an agreement with her former employer, British Gas. Several protests in front of ministries and the multinational's headquarters had led nowhere. Yacine Zaid, a former employee of Compass, is another of the rare victims who managed to capture the media's attention. Dismissed by the British group in 2006, just after trying to set up a branch of the UGTA, his blog has often served as a platform for denouncing workers' rights violations in these multinationals.

Angola



POPULATION: 18,500,000
 CAPITAL: Luanda
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 182

Trade union activity is still closely monitored by the authorities. The legal framework is still unfavourable for trade unions.

TRADE UNION RIGHTS IN LAW

Although the new Constitution adopted on 21 January 2010, guarantees fundamental trade union rights, they are excessively restricted. The procedures to set up a trade union are long and cumbersome and the law stipulates that grassroots organisations must include at least 30% of the workers in their activity sector. Collective bargaining is limited in the public service as the law stipulates that collective disputes can be resolved through obligatory arbitration by the Labour Ministry.

Although the right to strike is recognised, an excessively high quorum must be obtained when holding a strike ballot. The list of categories of workers excluded from the right to strike also exceeds the ILO's definition of "essential services" Furthermore the law stipulates that the Council of Ministers is entitled to suspend the right to strike when a "situation threatens the peace or is a public nuisance". The requisitioning of workers in the postal services, the fuel industry, public transport and the

food industry is also permitted. Anti-trade union discrimination is forbidden but the law does not contain any effective measures to prevent employers from taking retaliatory action against the strikers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The new constitution entered into force in February, consolidating the president's de facto powers over state institutions and abolishing direct elections for the president. In April parliament passed a law to curb Angola's endemic corruption. Separatists from the oil-rich Cabinda state continued to carry out sporadic attacks in their fight for independence.

Collective bargaining curtailed: Collective bargaining is restricted in its coverage. The government is the country's biggest employer and, through the Ministry of Public Administration, Employment and Social Security, sets wages and benefits on an annual basis. This involves consultation, but no negotiations with the unions.

Little respect for rights: Workers' organisations are closely monitored by the authorities, particularly in the strategic oil and diamond industries. The authorities and employers have shown little tolerance for protest action. There are frequent and repeated warnings. Any social unrest is met with reminders about the need for the country's economic recovery, discipline at work and for dialogue as the only possible solution to workers' demands. Freedom of expression is quashed just as much as freedom of association, if not more so, hence union demands or grievances are rarely mentioned in the press.

Benin



POPULATION: 8,900,000
 CAPITAL: Porto Novo
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Strikers had their salaries docked in violation of the legislation. The government banned all demonstrations regarding the disappearance of a high-ranking official, a member of the opposition party and a public-service trade union. The trade unions have reproached government for their disregard for social dialogue. Trade union rights remain severely restricted.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are guaranteed in the law, excessive restrictions are still in place. To obtain legal recognition, unions must deposit their statutes with the competent authorities, or face a fine or prosecution. Workers have the right to bargain collectively, with the exception of merchant shipping employees.

Although the right to strike is recognised in both the public and private sectors, it is marred with restrictions, including a requirement to announce the length of a strike in advance. The government also has the right to declare a strike illegal on specific grounds such as a threat to social peace and order, and can requisition civil servants in the event of a strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country celebrated fifty years of independence on 1 August. The country was hit by unprecedented floods in October, causing the deaths of 46 people and leaving more than 150,000 others homeless. Social and political tensions are heavily accentuated in the run-up to the presidential elections scheduled for March 2011.

Demonstration ban perceived as attack on trade union freedom: The Minister of the Interior's decision to ban all demonstrations relating to the disappearance of a high-ranking official, a member of the opposition party and the Syndicat des travailleurs de l'administration centrale des finances (SYNTRACEF) was criticised by the country's main trade union centres as they consider this an attack on public and trade

union freedom. Numerous strikes took place to shed light on this disappearance. On 12 October, the armed forces prevented trade unionists from entering the *Bourse du Travail* from where a protest march against the ministerial ban was due to start.

Illegal salary deductions and negative social climate: Trade unions have denounced the government's increasing disregard for their rights. There have been numerous strikes in the health and education sector on account of unfulfilled government promises. Negotiation attempts have been marked by a climate of profound distrust and by an escalation of grievances against the government. According to the trade unions, the non-reimbursement of salaries arbitrarily docked during previous strikes has added to this list of grievances. At the end of December, the government threatened to prosecute the leaders of the Front uni des organisations syndicales de la santé (FUOSS) who were striking.

Botswana



POPULATION: 1,900,000
 CAPITAL: Gaborone
 ILO CORE CONVENTIONS RATIFIED: 87 - 98 - 100 - 105 - 111 - 138 - 182

Japhta Radibe of the Botswana Teachers' Union (BTU) was dismissed after demanding an end to forced early retirement. Botswana Railways went to court to try to stop the recognition of a new union and the government tried to withdraw representation from five major unions. The labour law grants the authorities wide powers to regulate trade unions, and legal strikes are almost impossible to organise.

TRADE UNION RIGHTS IN LAW

Trade unions have to operate in a harsh legal environment. The Registrar can deny union registration in the absence of some formal requirement, and there is no procedure for rectifying the deficiencies, resulting in the automatic dissolution and banning of the activities of the organisation. Employers can also petition the Commissioner of Labour to withdraw union recognition. The Trade Disputes Act empowers the Labour Minister to determine the conditions for union membership, and allows the Minister to inspect the financial affairs of a union at any time.

Although unions have the right to bargain collectively both in the private and public sector, to do so they must represent a significant proportion of the workforce.

Finally, it is virtually impossible to call a legal strike: workers must follow complex arbitration and mediation procedures, and disputes are eventually referred to the Industrial Court, which comprises Ministry of Labour officials. The Commissioner must also establish that an industrial dispute exists before strike action can be initiated.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country remains economically and politically stable. AIDS is still a serious problem with an estimated 300,000 people living with HIV. Twenty villages had to be evacuated in May after the Okavango River burst its banks.

Railway seeks to thwart workers' attempt to unionise:

Botswana Railways (BR) went to the Court of Appeal in January to challenge the decision to grant train crew permission to form a labour union. The train crew's application was approved by the Industrial Court to unionise but the railways management was not prepared to accept the decision. At the Court of Appeal, BR lawyer Stephen Vivian stated that the workers could only unionise if they represent one third of the employees of the railway. He said that the Industrial Court was wrong to rely on Section 48 of the Trade Unions and Employers Act and interpreting it to mean that the union proposed by the workers represents the majority of employees within one sector of the BR workforce - train crew staff. The court ruled in the union's favour but BR made it clear it would continue to seek to oppose the judgement.

Teacher loses unfair dismissal case: On 25 March the High Court of Botswana finally dismissed the application of Japhta Radibe for unlawful, unfair and wrongful dismissal. Radibe was forced into retirement on 24 October 2007, although he was only 49 years old. This act effectively ended his leadership of the union, which he used to strongly defend teachers' welfare and publicly criticise government education policies such as privatisation and the re-introduction of school fees. Mr. Rabibe sought reinstatement and compensation but his case had been repeatedly delayed without justification.

The Botswana Teachers' Union (BTU) discovered that the Director of Teaching Service Management had also identified 14 heads of secondary schools that have been intimidated because of their involvement in trade union activities.

Burkina Faso



POPULATION: 15,800,000
CAPITAL: Ouagadougou
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Within the country, trade unions continued to strengthen their inter trade union actions and succeeded in making their voice heard, not only on work-related issues but also on major socio-economic issues. However, public and private companies often fail to respect trade union rights.

TRADE UNION RIGHTS IN LAW

A 2008 amendment to the Labour Code brought some improvements to the trade union rights situation, and explicitly recognised the right to form and join trade unions. The new Labour Code also bans any trade union related dismissal. Although unions have the right to bargain collectively on wages and working conditions, the categories of public servants who enjoy this right have not yet been specified.

The new Labour Code recognises the right to take strike action, also to defend workers' material or moral interests. However, occupation of workplaces or their immediate surroundings is not permitted, and the government retains the right to requisition private and public sector workers to ensure a minimum service.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: President Blaise Compaoré was re-elected on 21 November with 80% of the votes. Political opposition is non-existent and divided in this very poor country, fifty years on from independence.

No reinstatement for strikers unfairly punished: Trade union leaders and members of several public service trade unions arbitrarily dismissed or transferred in the last few years on account of their trade union activities have not as yet been reinstated. Several judgements in the unfairly dismissed strikers favour were not implemented.

Recurrent anti-union discrimination: The Labour Code has not prevented numerous employers from suppressing trade

union activities, refusing, for example, the organisation of employee representative elections. This negative climate seems to discourage employees from putting themselves forward for election for fear of reprisals. Trade union delegates' rights are often flouted.

Burundi



POPULATION: 8,300,000
 CAPITAL: Bujumbura
 ILO CORE CONVENTIONS RATIFIED: 87 - 98 - 100 - 105 - 111 - 138 - 182

Violations of fundamental human rights and in particular violations of trade union rights multiplied throughout the year. The two main trade union centres condemned attempts to destroy the trade union movement by the creation of yellow trade unions. There was widespread government interference, particularly in the education sector where institutions harassed and threatened teachers to become members of these new organisations. Trade union activities in the public sector are strictly regulated.

TRADE UNION RIGHTS IN LAW

Despite basic trade union rights being recognised in the Constitution and the Labour Code, numerous excessive restrictions apply. All unions must have at least 50 members, and all union representatives must have worked in the sector for at least one year. Freedom of association in the public sector is regulated by Law No. 1/015 of 29 November 2002, which stipulates that for civil servants' unions to be recognised, they must be registered with the Civil Service Ministry, which is their employer.

Although the right to collective bargaining is guaranteed in the Labour Code, bargaining on wages is not possible in the public sector as the government sets wages.

Though the Constitution recognises the right to strike, workers can only go on strike when, and if, the Ministry of Labour and Social Security says it is satisfied that they have exhausted all other means of dispute resolution. This effectively gives the Ministry the power to veto all strikes. Finally, in the public sector, solidarity strikes are prohibited, and the government can requisition striking workers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In June, Pierre Nkurunziza, the incumbent President was re-elected for a second term following elections which were boycotted by the opposition parties. Human rights' violations escalated throughout the year.

Right to strike suspended: On 27 April, the government announced that it was suspending the right to strike during the election, a decision criticised by the education unions on strike since 8 March. A few days earlier, the authorities had put pressure on the teachers to accept difficult economic conditions. The teachers' claims related to the improvement of their working and living conditions in accordance with an agreement reached with the government on July 2002, which has not been implemented.

Political intimidation and the creation of yellow trade unions in the health and education sectors: The two principal trade union centres, the Confédération des syndicats du Burundi (CO-SYBU) and the Confédération syndicale du Burundi (CSB) have criticised the authorities' constant interference in trade union affairs. Trade unions with close ties to the ruling party have been created in the health and education sectors. Workers are harassed by their employers to join the ruling party and these new organisations. Consequently, during a meeting in Rumonge in the Bururi region on 19 December of over 500 teachers organised by the sector's five main trade unions, participants explained how they had been victims of intimidation by management, who threatened to transfer them if they did not join these new trade unions supported by the ruling party.

Trade union activist still not reinstated: At the end of 2010, Juvénal Rududura, Vice-President of the Syndicat des personnels non-magistrats du ministère de la Justice (SPMJB), an affiliate of the Confédération des syndicats du Burundi (COSYBU) had still not been reinstated. His criminal record has not been expunged and he has not been given his job back. He was imprisoned for ten months in 2008 and 2009 for criticising anti-union repression and corruption in the recruitment process on television.

Cameroon



POPULATION: 19,500,000
 CAPITAL: Yaoundé
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Excessive legal restrictions, widespread corruption and abuses of power by the authorities and employers have made it very difficult to exercise trade union rights. In January, Orange Telecom suspended trade union activists. In November, leaders of a public service trade union centre were arrested and charged.

TRADE UNION RIGHTS IN LAW

The legal framework is not favourable to trade unions despite some constitutional guarantees. For example, a union cannot include workers from both the private and public sector, and workers who organise a union and carry out trade union activities without having a registration certificate are liable for prison sentences. In addition, despite promises of reform, public servants may not form trade unions unless they obtain prior approval from the Minister for Territorial Administration. As well, they may not affiliate internationally without prior authorisation. Although anti-union discrimination is prohibited in law and coupled with sanctions, reinstatement or compensation is not available for unfairly dismissed workers.

Finally, the right to strike is heavily restricted as arbitration is compulsory for all industrial disputes and workers who ignore the procedures can be dismissed or fined. Civil servants do not have the right to strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The population waits in vain for social reforms promised for years by the authorities. Corruption stifles the economy. Human rights are largely ignored. The situation of the independent press has become more and more worrying, intimidation and violence against journalists increased in 2010. Several leaders of the Syndicat national des journalistes du Cameroun (SNJC) were victims of the government's determination to repress freedom of expression. The country celebrated 50 years of independence. Presidential elections are due to be held in 2011. Paul Biya, the current President has been in power since 1982.

Interference, manipulation and favouritism: In recent years, the government has relied on registration procedures, which are too fluid in law and in practice in order to prevent the registration of trade unions it deems too independent and favours organisations it considers easier to control. In terms of national social dialogue, the government accorded equal status to the six national trade union centres even though during the last social elections in 2007 (restricted to the private sector even though the law also allows this in the public sector), only two of these centres obtained more than 5% of the votes.

According to a 2010 ILO report, the antidemocratic nature of the government has rubbed off on numerous so-called trade union organisations, utterly lacking in ethics with corrupt management and supported by the employers.

Trade unionists at Orange Telecom sanctioned: On 12 and 13 January, Orange's Cameroon management suspended five workers in retaliation for a strike. The Syndicat national de la communication (SYNACOM) began strike action in December 2009 to protest about management's slowness to conclude negotiations on a collective agreement. The dispute was resolved a few weeks later and the workers were reinstated, following support in particular from the Internationale des Services (UNI) and its affiliates under the global agreement negotiated with France Telecom.

Seven leaders of the Centrale syndicale du secteur public arrested and charged: On 11 November, seven leaders of the Centrale syndicale du secteur public (CSP) including the President, Jean-Marc Bikoko, were arrested during a peaceful sit-in in Yaoundé. They intended to present the Prime Minister with a series of demands to improve working and living conditions. The gathering in front of the Primature had been banned by the municipal authorities because the request had not been made within the legal timeframe and because "public demonstrations with a vindictive nature and/or protests are and remain forbidden by law in the Mfoundi region". The seven trade unionists were freed two days later after being charged with demonstrating illegally and disturbing public order.

Since it was formed in 2004, the authorities have also been hostile to the CSP, the main public service workers national federation. The May Day celebrations that the CSP regularly organises outside the official commemoration are suppressed and their leaders are often victims of intimidation.

Central African Republic



POPULATION: 4,400,000
 CAPITAL: Bangui
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

The authorities lack of will and slowness to clear the salary backlog caused a breakdown in social dialogue, strikes and anti- union repression. Trade union rights remain severely restricted despite recent legal amendments.

TRADE UNION RIGHTS IN LAW

The new Labour Code that was adopted in January 2009 brought some well-needed but inadequate improvements. Access to union office is still restricted, and foreigners who want to organise face residency requirements of at least two years. In addition, although the Labour Code provides some protection for unions against interference by employers, it does not cover measures aimed at placing unions under economic or other forms of control by the employer.

Trade unions and professional groupings of workers are held in equal standing, and both may negotiate collectively. A strike may only be called in support of work-related demands, and the government reserves the right to requisition workers if deemed in the "general interest". Furthermore, strikes are banned until all conciliation and arbitration procedures have been exhausted.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: This country which acceded to independence fifty years ago is ranked 159th on the Human Development Index. Despite its large mining resources, approximately 70% of the population live below the poverty line. Access to essential services is severely limited and there are constant interruptions to the electricity supply. Armed gangs are rife in several regions. On 24 November, the town of Birao was attacked by rebels. The deterioration of the State is blatant, particularly outside the capital. In reality, it is self-defence forces that stand up to these armed gangs. In December, the United Nations Secretary General called on the authorities to put an end to the culture of

impunity and corruption that is undermining the socio-economic development of the country. Presidential and parliamentary elections are due to be held at the beginning of 2011.

Ineffective labour inspection: Labour inspection is virtually non-existent owing to the lack of staff and resources. Travel costs are not reimbursed, as the government itself recognises. Inspections are therefore rare and no inspection reports have ever been made.

Two SOCATEL trade union delegates had their salary withheld: The salaries of two delegates of the Société centrafricaine des télécommunications (SOCATEL) were withheld for three months in retaliation for a strike over salary arrears. Agreement was reached in September. The trade union members were paid and also received a portion of the salary arrears.

Blockage in public service salary negotiations: The authorities lack of will and slowness to clear the salary backlog and to pay civil servants a decent salary caused a breakdown in the trade union negotiations in this sector. Certain workers are owed 30 months' pay. Furthermore, a civil servant's salary is the legal minimum wage which has not increased in over 20 years. At the end of October, the head of State who has set his sights on re-election at the beginning of 2011, proposed to personally pay ten million US dollars to clear a small portion of the arrears.

Unfortunately at the beginning of November, frustrated, as they had received nothing, the civil servants went on strike, the strike was politicised with the opposition supporting the striking workers. At the end of the year, the trade union centres called repeatedly and without success for the release of 65 prisoners of conscience, detained during a banned protest meeting organised by the opposition. The strike continues.

Chad



POPULATION: 11,200,000
 CAPITAL: N'Djamena
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Social dialogue is flouted by oil companies and their subcontractors. In the public service, trade unions are equally ignored except when they threaten to strike; a right which is severely restricted.

TRADE UNION RIGHTS IN LAW

Basic trade union rights are frustrated by interference by the authorities. Although the Labour Code protects unions against anti-union discrimination, it also obliges them to provide financial statements and receipts whenever labour inspectors so request.

The right to collective bargaining is enshrined in the Labour Code, which nevertheless allows for some government intervention. Finally, the Law of 9 May 2007 circumscribes the right to strike in the public sector. All industrial disputes must be submitted to the Conciliation Council established by the Law, and unions must announce the length of the strike prior to taking action. The authorities can unilaterally determine the extent of the minimum service in services deemed "essential" and the number of employees required, and are also permitted to requisition workers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country, which ranks 163rd on the Human Development Index, already affected by a food crisis following a poor harvest in 2009-2010, has experienced renewed catastrophic floods since July which have affected 150,000 people. The population has never benefited from the country's oil exploitation. Economic growth is increasing but there is poverty and a widening social divide. The mandate of the United Nations Mission in Central African Republic and Chad (MINURCAT) ended on 31 December but there remain enormous humanitarian and political challenges in the east of the country. Parliamentary elections have been postponed until 2011.

Virtually non-existent social dialogue: In the education sector, a one-week strike which began on 15 February was declared

"totally illegal" and the reason for the strike "untruthful" by the Ministry of Public Service and Labour. The claims of the Syndicat des enseignants du Tchad (SET) related to poor working conditions and the non-implementation of clauses of the special law relating to teachers.

The government refused to participate in a tripartite seminar on conflict prevention, management and resolution on 24 and 24 March. Nevertheless a new call was made to the government on this occasion for the relaunch of a national tripartite structure. In November, the two main trade union centres spoke out, threatening to strike on account of the government's unwillingness to take into account the high cost of living and to improve workers' living conditions. The Union syndicale du Tchad (UST) condemned the authorities' attitude who will not bargain with trade unions unless a strike is threatened and who subsequently do not deliver on the commitments made.

Trade unionists facing obstacles in the oil industry: Trade unions reported no improvement in their relations with the oil companies. The last few years, the management of Esso-Chad has also tried to scupper social dialogue. PETROSYNAT, the trade union which represents almost all employees of this subsidiary of ExxonMobil reported even greater difficulties with subcontracting firms. Security is used as a pretext for forbidding the union representatives from the various sites and companies from meeting in each other's offices. Trade union activists at the China National Petroleum Corporation International (CNPCI) who is responsible for the exploitation of a new oilfield will be even worse off with an employer who has refused to enter into any negotiations until the first barrel is extracted in 2011.

Congo, Democratic Republic of



POPULATION: 66,000,000
CAPITAL: Kinshasa
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Many trade unionists were dismissed at the Finance Ministry whilst others remained at the mercy of managements refusing to apply legal decisions ordering their reinstatement. Several trade unions denounced the proliferation of self-styled workers' organisations, a phenomenon encouraged by employers and the authorities to dilute the trade union movement. The full exercise of the right to strike is hampered by complex procedures.

TRADE UNION RIGHTS IN LAW

The 2006 Constitution guarantees the right to form and join trade unions without prior authorisation. However, a residency requirements of 20 years effectively bars foreign workers access to trade union office. In the private sector unions negotiate with the government and with employers in the National Employment Council, but in the public sector the government sets wages by decree. Staff of decentralised entities (towns, territories and sectors) do not enjoy the right to bargain collectively.

Although the right to strike is recognised, unions must obtain prior consent and adhere to lengthy compulsory arbitration and appeal procedures. Workers are not allowed to occupy the workplace during a strike, and an infraction of the rules on strikes may lead to incarceration of up to six months. Employers are nevertheless prohibited by law from retaliating against strikers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The security forces of the Democratic Republic of Congo and other armed groups continued to commit human rights violations, including rapes in the east of the country, on a massive scale. The Congolese authorities and the international community have proved incapable of curbing the war in Kivu, which has its roots in the decay of the state, 50 years after its independence, the security implications of the former genocide

movements and the greed linked to the region's vast natural resources.

Authorities encourage catastrophic proliferation of trade unions: By encouraging the formation of hundreds of unions over a number of years, the authorities have considerably and purposely weakened the trade union movement. There are reported to be around 500 officially recognised trade unions in DR Congo, a situation that has been denounced by the most representative organisations and which they describe as probably the worst case of trade union proliferation in Africa. The authorities have persistently followed the principle of "divide and rule", under the cover of promoting political pluralism. The creation of yellow and empty-shell unions has been encouraged by employers and the state. An ILO report published in 2010 confirmed these chaotic developments, deemed catastrophic for the trade union movement. It is a trend that has been driven by self interest, political ambition or misinformation about the real values and objectives of trade union pluralism. In most cases, the unions that have emerged are characterised by all-pervading corruption, and their existence has contributed the widespread violation of workers' rights.

Mass unfair dismissal of Finance Ministry employees: On 6 January, the authorities dismissed 68 civil servants, including 29 trade union representatives, from the Finance Ministry, on grounds of serious misconduct. The trade union coalition grouping several public unions, the Intersyndicale nationale du Congo, has called for the reinstatement of these employees and trade unionists, penalised for staging a strike in 2009 to demand the payment of unpaid bonuses.

Customs and excise authority refuses to reinstate trade union leader unfairly dismissed in 2005: All the procedures undertaken since 2005 by the Congolese labour centre CCT (Centrale congolaise du travail) to secure the reinstatement of several members of the trade union committee at the customs and excise authority, including trade union leader Lubamba Kabeya who was arbitrarily arrested at his employer's request then unfairly dismissed, have proved ineffective. On 15 July, the employer once again refused to respect the decision issued by the judiciary and the labour inspectorate calling for the union leader's rehabilitation.

Union elections marred by corruption: In September, two national union centres, the UNTC (Union nationale des travailleurs du Congo) and the CDT (Confédération démocratique du travail) contested the results of the union elections in the private sector (elections have not as yet ever been held in the public sector). The criticisms pointed to the absence of coordination mechanisms at the elections, the delays and the establishment

of false records. The country's largest trade union centre, the CSC (Confédération syndicale du Congo), which came first in terms of votes and seats, also condemned the corruption and lack of trade union culture at the elections.

Congo, Republic of



POPULATION: 3,700,000
CAPITAL: Brazzaville
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Government commitment's to implement social reform and to negotiate with the unions are constantly postponed. Despite some guarantees, the legal framework for trade union activities remains weak.

TRADE UNION RIGHTS IN LAW

The Constitution and the Labour Code provide for basic trade union rights, although some workers, including some public administration employees, are excluded. The law bans anti-union discrimination, but does not provide for sufficiently dissuasive sanctions, and is not backed up by any effective and rapid procedures. Unions have the right to bargain collectively, but may not negotiate on deduction of trade union dues from employees' pay.

In order to call a lawful strike, all conciliation and non-binding arbitration procedures must have been exhausted. For strikes in services that are "essential for protecting the general interest", a minimum service must be established. The minimum service is organised by the employer and refusal to take part is considered gross misconduct.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The fiftieth anniversary of independence in August provided an opportunity for the political opposition and civil society to denounce the bad governance and the plundering of natural resources. This, in a country where 70% of the population live below the poverty line, despite the fact that the country has become the fourth largest oil producer in Sub-Saharan Africa.

Social truce under the guise of social dialogue: Social dialogue has made very little progress. These last years, there have been a series of social truces, broken promises, warnings to overly anti-authoritarian trade unions. At the beginning of May, the government called the unions to task about the need not to endanger the State's solvency. The Minister of State, Florent Tsiba, said he was "outraged" by the strike in April by the Fédération des travailleurs de la science, des sports, de l'enseignement, de l'information et de la culture (FETRASSEIC) which could in his opinion, have led to "dangerous tensions and chaos".

Employers' reluctance to negotiate has led to strikes, some of which have been very long such as the strike at the Société nouvelle des ciments du Congo (SONOCC). A national committee for social dialogue is due to be set up in 2011 to replace the social truce commission.

Two elected trade union leaders not recognised by employers: The Agence nationale de l'aviation (ANAC) which will be privatised in a process, considered opaque by the trade unions, refused to recognise Béatrice Mban and Daniel Adoua, elected secretary general of their respective trade unions on 13 July during the Worker's General Assembly. In October, differences were ironed out during a meeting of the social partners that did little to reassure the unions about the negotiation of a social plan for the 800 ANAC workers.

Côte d'Ivoire



POPULATION: 21,100,000
CAPITAL: Yamoussoukro
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The political crisis has prevented the full exercise of trade union rights. The absence of criteria governing representativeness and growing division continue to undermine the trade union movement. While there are limitations, fundamental trade union rights are guaranteed by law.

TRADE UNION RIGHTS IN LAW

The Constitution of 23 July 2000 guarantees freedom of association and the right to strike in both the private and the public sector, but the guarantees are frustrated by a number

of restrictions. Foreigners may not hold union office until they have been residents for at least three years, unless there is a reciprocal trade union and worker protection agreement with the foreigners' home country.

Workers are vulnerable to anti-union discrimination, as the Labour Code does not provide for sufficiently dissuasive sanctions. Also, all labour disputes must go through a complicated conciliation and mediation procedure. The President of the Republic may submit strikes in essential services to arbitration, but the Labour Code does not contain a list of services considered to be essential.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: At the end of the year, the country was again thrown into institutional chaos and violence. The independent electoral commission announced that Alassane Ouattara was the winner of the second round of presidential elections on 28 November, but the Constitutional Council, run by supporters of outgoing President Laurent Gbagbo declared the results invalid. All attempts at mediation were in vain. By year's end, political violence had already caused the death of over 200 people.

Union divisions encouraged, representativeness undermined: With no objective criteria set down in the labour code, there are no guarantees for the recognition of representative trade unions. This lack of precision has enabled both public and private employers to refuse to negotiate, while discrediting trade unions or repressing their activities. The socio-political chaos has weakened the trade union movement, and dissent has been encouraged in several public sector unions.

Still no reinstatement for the 39 SICOGI strikers: The Côte d'Ivoire General Workers Union (UGTCI) continued in vain to demand the reinstatement of 39 workers at the Côte d'Ivoire Construction and Real Estate Company (SICOGI), dismissed following a strike in December 2007. In 2009, the National Labour Council, a new tripartite institution set up to prevent and manage industrial disputes, had concluded that the dismissals were unjustified and that the employer had exercised a blatant abuse of authority.

Djibouti



POPULATION: 864,000
CAPITAL: Djibouti
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The government and employers continued to base their actions on a labour law which is anti-trade union in order to repress independent trade union activities. Hundreds of dockers and railway workers were arrested during strikes.

TRADE UNION RIGHTS IN LAW

Freedom of association is strictly regulated by a 2006 Labour Code that can at best be described as unfriendly to unions. When registering a trade union, the Minister of Labour takes into account not only the appropriate union documents, but also reports by the Labour inspector, thereby giving virtual discretionary powers to the public authorities. The Law on Associations also requires prior authorisation in order to register a union. Any changes in a union's statutes or leadership must go through the same procedures as when registering the union.

Furthermore, if one of the ministries demands the dissolution of a union, the Chief Public Prosecutor can approach a civil court to obtain said dissolution. Accession to union office means the almost automatic suspension of the employment contract, and any person convicted "by any court" may not hold a leadership position. The President has vast powers to requisition civil servants in essential services.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In April, the pro President Ismaël Omar Guelleh parliament unanimously voted to change the Constitution allowing the head of state to run for another term in the presidential elections scheduled for 2011.

Trade unions harassed and weakened: In March 2010, the ILO expressed its deep concern at the government's complete lack of goodwill to settle several cases of trade union rights' violations. For several years, trade unionists and members have been subjected to constant harassment by the authorities. The government accuses trade union activists of being the enemies of the nation and as a result, they are arrested, imprisoned,

transferred or dismissed. Strikes are brutally repressed. Organisations are refused registration or are made so weak that in practice, they can no longer function.

Trade union activities impossible in companies operating in export processing zone: Trade union activities have become impossible in certain companies operating under the export processing zone regulations such as Port Secure Djibouti, Djibouti Container Services or Djibouti Labour Service. The absence of laws governing labour relations in the export processing zone, in the national legislation and in the specific export processing zone code, turns these companies into zones without rights. Workers who wish to remain anonymous, explained that their employers forbid all contact with trade unions and that they do not dare to demand better working conditions as the slightest complaint results in automatic dismissal.

Mass arrests of railway workers: On three occasions during the year, the armed forces repressed railway workers' strikes. On 6 and 7 March, more than 164 railway workers were arrested and held for several hours. On 28 November, approximately ten workers were once again arrested by the police and released after 48 hours in custody. At the end of the year, salary arrears, the basis for the protest actions, reached seven months.

One hundred striking dockers arrested, their trade union continuously prevented from carrying out its activities: On 1 August, a docker's strike calling on the port authorities, the DP World group (Dubai), to pay a premium owed, was repressed by the armed forces. Approximately one hundred dockers were arrested and held for a short period. It must be pointed out that the docker's trade union has been virtually unable to carry out any activities for several years. According to a December press release by the Association pour le respect des droits de l'homme à Djibouti (ARDHD) and the Union djiboutienne du travail (UDT), all recent attempts to organise trade union elections have failed because of repression by employers and the Djiboutian authorities. Several dockers used "trade union alibis". Many others suspected of being leaders or just because they demanded their rights, had their dockers' cards withdrawn and were therefore unable to work.

UDT General Secretary stopped at the airport: On 12 December at Djibouti airport, police prevented Adan Mohamed Abdou, General Secretary of the Union djiboutienne du travail (UDT) from taking a plane to Morocco. They confiscated his passport and his ticket, informing him that they were following orders from their superiors. The trade union leader was due to participate in a regional conference in Rabat organised by the Organisation arabe du travail (OAT) and the ILO. The government is now in the habit of trying to keep dissenting voices

away from tripartite international conferences and sending puppet trade unions representatives in their place.

Egypt



POPULATION: 83,000,000
CAPITAL: Cairo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Pressure for change is mounting in Egypt, where the official national trade union centre is losing ground and calls for the respect of workers' rights grow stronger. Politicians and employers have yet to change their anti-union approach. Collective bargaining remains almost impossible and workers have to resort to strike action and street protests. In many cases the police responded with force, beating and arresting strikers and protestors, while employers dismissed workers for going on strike.

TRADE UNION RIGHTS IN LAW

The right to form and join trade unions is heavily curtailed in law as there is only one legally recognised national trade union centre, the Egyptian Trade Union Federation (ETUF). The ETUF has close ties with the ruling party, and controls the nomination and election procedures for trade union office. Not only can workers organising outside the ETUF be sacked, the 2003 Labour Act makes it legal for an employer to dismiss a worker without giving any reason.

There is very little scope for collective bargaining in the private sector, and a collective agreement is only valid if it conforms to the law on public order or general ethics, which is a vague notion that is open to abuse. Legal strikes are virtually impossible. The law only permits a limited form of strike action in "non-strategic" installations, the list of which is determined by the Prime Minister and exceeds the ILO definition of essential services. All strikes must also be approved by two-thirds of the ETUF board, and the union must indicate the planned duration of the strike beforehand.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Despite promising since 2005 to end the state of emergency, the government renewed Law No. 162 of 1958

in May, but agreed to restrict its use. Egyptian human rights organisations estimate that around 5,000 people have been arrested under the emergency laws over the last 29 years. Elections held on 1 June for the Shura Council, the upper house of parliament, were marred by reports of fraud and voter intimidation. In October, over 150 members of the Muslim Brotherhood were arrested after it announced it would put up candidates in the 29 November parliamentary elections, which took place with ineffective judicial supervision.

Collective bargaining ineffective or non-existent: The Minister of Manpower and Migration oversees and monitors collective negotiations and agreements. The government sets wages, benefits and job classifications for public sector and government employees. However, the National Wages Council has been criticised for failing to carry out a comprehensive salary review, instead only intervening when the situation becomes acute in a specific sector. One independent trade unionist observed that “there is a complete breakdown of collective negotiation tools at the national level as well as in the industrial sectors and the work sites.” In the private sector, where the Egyptian Trade Union Federation (ETUF) representation is very weak, employers avoid collective bargaining, and fail to respect government decisions on the minimum wage, social security and other issues. The absence of a bona fide national trade union centre makes it very difficult for workers to settle disputes through bargaining; hence, there is a tendency for them to resort to protests and strikes.

Employers and authorities remain anti-union while pressure for change mounts: The wave of worker unrest that began in 2006 continued during the year. Increasingly workers chose to protest in the streets, where it was harder for the authorities to mistreat or ignore them. Strikers at the workplace tend to be severely beaten by the police, on the grounds that their action is “illegal”. From February onwards protesting workers camped out outside the parliament and other government buildings demanding higher wages and other rights. In some cases the state security agencies reportedly urged ministries to meet the workers demands in the hope it would contain the protests, and prevent protestors joining forces with the movement for democratic change. On 19 February MP Nasha’t el-Qassass from President Mubarak’s National Democratic Party (NDP) called for protestors to be shot. (He was later referred to a disciplinary committee).

Monopoly of ETUF over as it lashes out at ILO: In April the government-backed Egyptian Trade Union Federation (ETUF) President, Hussein Megawer, criticised the ILO’s representative for asserting that workers had the right to form trade unions and to join international labour confederations without restric-

tion, in line with ILO Convention 87. At an ILO symposium he complained that this supported trade union independence. The public sector, where most of ETUF’s members are based, is being dismantled to meet the IMF’s demands to liberalise the economy. Workers have been breaking away from the official ETUF-affiliated unions to form their own independent organisations, some of which, such as the Real Estate Tax Authority Union (RETA), have gained legal recognition.

ILO criticises government for interfering in trade union affairs: At its June conference the ILO criticised the Egyptian government for interference in labour affairs. The organisation was particularly critical of the Egyptian security forces for their role in dispersing recent labour protests. The ILO noted that the Egyptian government failed to respond to previous complaints by the organisation about repeated interference in the affairs of Egypt’s national labour force and that Egypt continued to violate Conventions 87 and 98.

Linen company union leader dismissed: In January the Tanta Linen Company sacked the president of its workers branch union, Mr. Salah Musallem for inciting workers to strike over fears that the company’s assets were to be sold. He was dismissed without investigation. The 800 workers responded on 8 January by announcing a sit-in in the company’s yard to condemn the management’s decision. The workers were critical of the official General Trade Union of Textile Industries (GTUTI) which did nothing to protect the branch union members and their president Mr. Salah Musallem. Security trucks surrounded the company in order to prevent the workers from getting onto the streets. Further protests by Tanta Linen workers occurred in the following months over pay, compensation and unfair dismissals.

In June three managers from the Tanta Flax Company were sentenced to two years imprisonment for dismissing employees arbitrarily, among other charges.

PetroTrade dismisses 60 workers after protest: In January workers at the Petroleum trading service company “PetroTrade” organised a two-day sit-in in the company’s Cairo, Tanta, Me-halla el Kobra and Alexandria branches calling for equal pay for workers employed since 2002 and those who were employed starting 2004 whose monthly bonuses were four times higher. The workers asked for a single regulation for all 20 000 employees instead of the two regulations applied on the same job site, causing disparities in wages and other benefits. Instead of negotiating, the company chairman announced that wage system would remain the same.

Workers also asked to exercise their right to form a trade union. The company deducted dues from their monthly salaries (which

could be transferred to the account of the official General Trade Union for Petroleum Workers (GTUPW)) yet they did not have a trade union organisation in their company. The company dismissed 37 workers from Tanta, 13 from Mehalla el Kobra, 2 from Alexandria and 11 from Cairo. Many workers were denied entry to the company buildings.

Workers demonstrated outside the Ministry of Petroleum in Cairo on 13 January. Workers in Tanta organised a sit-in for two successive days. The company prevented 900 workers from joining the protest demonstration, but this did not prevent them from organising a sit-in outside the company. The management finally agreed to develop a single set of regulations on industrial relations and wages in the company and to remove discrimination between wages gradually.

Union president fined following strike: In January Ahmed Ghazy, president of the trade union committee at the Egyptian Establishment for Oil Products in western Alexandria, was referred to investigation for encouraging workers to go on strike. He had led a workers' protest in December 2009 over a pay dispute. The owner of the establishment had left the country leaving debts and the National Bank of Egypt took over. The bank stopped paying wages because the company was doing badly. The workers held a sit-in while the union sought to negotiate but the bank refused. After the subsequent investigation of Ahmed Ghazy he was fined five days wages.

Reprisals against leaders of attempted strike: In early 2010 Management at Misr Spinning and Weaving Company in Mehalla el Kobra implemented punitive measures against leaders of a strike due to take place in December 2009, but prevented by intimidatory tactics (see 2010 edition of the Survey). Three years previously 13,000 of the company's workers had written to the Egyptian Trade Union Federation (ETUF) affiliated General Trade Union for Textile Industries (GTUTI) withdrawing confidence from their branch union of the GTUTI, which they felt had failed to protect their interests. Instead they elected their own labour leaders to negotiate on their behalf who represented the workers for over two years in negotiations with the management and with other concerned parties until the management started to take arbitrary measures against the group members, penalising them and transferring them.

One of those was Mustafa Fuda, who was dismissed for supposedly calling a strike without respecting the conditions laid down in Egyptian labour law. Another, Abdel Kader el Deeb was transferred to the company's branch in Alexandria even though there was no suitable job for him there. He was not provided with any housing or transport and was obliged to spend more than 50% of his monthly salary on daily transportation. Another,

Faysal Lakusha had the annual increment he had received in July 2009 removed, no annual increment in July 2010 and was transferred to the company's branch in Cairo even though there was no suitable job for him there. He was obliged to spend more than two thirds of his monthly salary on daily transportation and was threatened with dismissal if he continued legal action against the company to overturn the procedures taken against him.

Independent union still under pressure: Attempts to undermine the Real Estate Tax Authority Union (RETA) continued. The independent union, which represents 30,000 workers, was officially registered in April 2009. Ever since the government-backed Egyptian Trade Union Federation (ETUF) has stepped up its attempts, with the help of the state, to force workers at the Real Estate Authority to join the official union.

The ETUF Board of Directors issued a decision to establish a new general trade union under the name: 'The General Trade Union for Workers in Finance, Taxes and Customs', approved by the ETUF general assembly at the end of December 2009. The ETUF president sent a letter dated 28 February to the Chairman of the Real Estate Authority instructing him to deduct monthly dues from the workers' salaries as from the beginning of January 2010 and to transfer them to the new 'General Trade Union' and to transfer the equivalent of 10% of these dues directly to the ETUF. The new General Trade Union does not have any actual or legal status. There is nothing to indicate the size of its membership, their posts or geographical location, or the election of representatives. It exists only as a decision of the ETUF's Board of Directors.

RETA has repeatedly raised the issue of the illegality of deducting dues from workers' salaries for a union which they did not establish or join with the authorities. However, the Minister of Finance agreed to the demand of the president of ETUF. Dues are deducted every month from the wages of the Real Estate Tax Authority's employees in 15 governorates. Thousands of these workers sent signed applications to the concerned departments stating their refusal to join this official union and to have dues deducted from their salaries. They were preparing to take legal action.

Police use excessive force against Aminsito workers: On 23 May police used excessive force to disperse protesting workers from the Aminsito company. The company, and its 1600 workers, had been taken over by the Misr Bank after its owner fled, leaving debts. Despite efforts to find a permanent solution on the company's future and that of its workers, workers finally held a sit-in outside parliament for 14 days until 23 May after an agreed compensation package was ignored.

On 23 May representatives were invited to a meeting of the Manpower Committee of Parliament chaired by Mr. Hussein Megawer, President of the Egyptian Trade Union Federation (ETUF). They were told that “a formula acceptable by all parties was reached”. The new package was inferior to the early agreement. The workers’ representatives were not allowed to express their opinion and were treated roughly. Workers then marched towards the Misr Bank, where security forces used sticks, water hoses and excessive force to disperse them. Several demonstrators were injured including Essam Abdel Hameed vice-president of the trade union committee of the company and Ragab Khedr el Kholy. Six workers were arrested and detained at el Sayida Zainab Police Station. They were later charged with obstructing traffic.

Forceful suppression of workers’ demonstrations: On 23 May police used force to disperse demonstrating workers who were demanding their rights outside the chambers of the Parliament. The workers were from the Al Nubariya Engineering and Agricultural Mechanisation Company and the Egyptian Company for Telephone Equipment Industries. They were forced to evacuate the area and security forces prevented journalists from covering the events. Mustafa Bahgat, a journalist from Al Masry Al Yum, was detained for 30 minutes and his camera taken from him. His camera and other belongings were returned to him after all the material he had recorded had been erased.

Pipe manufacturer dismisses 14 workers for striking: On 27 May the Future Co. for Pipes Industry in 6th October City began retaliatory measures against striking workers. The company’s 700 workers had earlier announced a sit-in calling on the company to classify them as staff working with hazardous materials, entitling them to better wages, better insurance benefits and the application of occupational health and safety measures. Several workers suffer from occupational diseases due to the absence of preventive measures and monthly salaries range between EGP 500 (USD 86) and EGP 600 (USD 103). The company took punitive action against 14 of the workers’ representatives who negotiated with management during the sit-in. They were suspended from their jobs before being dismissed for organising a strike outside the conditions set down by law.

Textile company dismisses 45 workers for protesting at beating of colleague: In May 2010 Duhan Ching, the Korean owner of Dubeera Spinning and Weaving Company in the 2nd Industrial Zone of Ismailia dismissed 45 workers after they objected to the beating of a colleague. The worker protested over transport arrangements for workers and was beaten by an administrative staff member. The dismissed workers appealed to the concerned government bodies, in vain.

At the same time the owner of the company filed charges with the police, accusing the workers of destroying his machinery and causing a loss amounting to EGP 100,000 (USD 17,190). The workers protested in front of the Labour Relations Office (the local office of the Ministry of Manpower) which began negotiations with the company on returning the dismissed workers. An agreement was reached which included a demand by the owner of the company that some of the “trouble makers” be transferred to different sites. The Dubeera Company has been operating in Egypt for 15 years and does not have a trade union committee.

Civilian workers sentenced by military court after protest: Eight workers from Helwan Engineering Industries Company (Military Factory 99) were arrested on 3 August for leading a sit-in to protest against a fatal accident where one worker was killed and another sustained serious injuries and was taken to hospital. Workers were angry as a similar incident in late July had caused injury to six employees. They demonstrated inside the company, calling on Engineer Mohamed Amin, Chairman of Company’s Board of Directors, to resign and to be referred to investigation. Workers continued their demonstration within company premises, accusing management of being negligent. They refused to leave the place or remove the corpse of their dead colleague until the arrival of investigators.

Eight of the protesting workers were detained for four days for investigation. On Tuesday 17 August their detention was renewed for another 15 days. They were referred to the Military Court, despite the fact that all the workers were civilians. The court issued its sentence on 30 August. Three workers were acquitted and two were sentenced to one year imprisonment and a fine of EGP 1,000 (USD 172) each on charges of damaging property. The court suspended the sentence for three years and acquitted them of the charge of assaulting a public officer and abstaining from work. The remaining three were sentenced to six months imprisonment and a fine of EGP 1,000 (USD 172) on charges of damaging property. The court also suspended their sentences for three years and also acquitted them of the charge of assaulting a public officer and abstaining from work.

Police assault 16 teachers during protest: In May the Director of Education in Sharkiya announced he was going to dismiss 16 teachers and threatened to terminate the contracts of other teachers. According to the Director the appointment of these 16 teachers by the former Minister of Education was a mistake that the current Minister wished to correct.

The teachers filed a grievance against the decision with the Ministry of Education in Cairo. Despite discussions and assurances from ministry officials the teachers still found themselves

jobless and with no source of income. When they returned to the Ministry on 9 August they did not find any officials ready to discuss their problem. While protesting in front of the Ministry of Education in Cairo on 9 August police officers proceeded to kick and beat the group of men and women teachers from Sharkiya Governorate.

Information centre employees beaten by police: Employees of the government's Information Centres, belonging to the cabinet of ministers, went on several strikes throughout the year to call for higher pay and permanent contracts that would provide health and social insurance. Their action met with police violence.

On 20 October 2010 Information Centre employees holding a sit-in in front of the Egyptian Trade Union Federation (ETUF) were assaulted by security forces who forced them to end their protests when they tried to move to the premises of the cabinet of ministers. Some of the workers sustained injuries. On 26 October the Information Centre employees resumed their sit-in outside the premises of the cabinet of ministers. They were surrounded and beaten by the security forces who used clubs to disperse them by force.

Two thousand Information Centers employees demonstrated on 10 November. One woman demonstrator was beaten by a policeman which led to disturbances between the protestors and the security forces. Security force officers refused to call ambulances when some protestors fainted.

ILO official declared persona non grata by Ministry: The Center For Trade Union and Workers Services (CTUWS) reported in mid November that the Egyptian Minister of Manpower and Migration had declared Mr. Mostafa El Saeed the Coordinator of ILO's Programme for Promoting Fundamental Principles And Rights at Work and Social Dialogue in Egypt persona non grata, and said he should leave the country. The Ministry accused Mr. El Saeed of "contacting illegal organisations and inciting irresponsible persons in such a manner that led to tensions, agitation and disturbances". The illegal organisations referred to appear to have been the independent unions, set up by the workers themselves and considered illegal because they are established outside the structures of the official trade union organisation.

According to the CTUWS the ministry had pressured staff at the ILO Cairo Office and branch offices of international non-governmental organisations in a manner that restricted and impeded their activities.

Equatorial Guinea



POPULATION: 676,000

CAPITAL: Malabo

ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

There was no change in this repressive country, where trade union rights are non-existent and independent unions have never been allowed to register.

TRADE UNION RIGHTS IN LAW

Lacking and ambiguous legal provisions considerably complicate union organising. Although the government ratified several ILO core conventions in 2001, it has still not adapted its legislation accordingly.

In order to be recognised, a union must have at least 50 members from the same workplace and the same geographical area, and company unions are not provided for by law. Furthermore, a law allowing the unionisation of public administration officials has still not been drafted and the legal framework for collective bargaining is deficient.

Finally, the law does not make it clear whether the right to strike is allowed in public utilities, and which services are deemed to be essential.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The corrupt and repressive regime continues to siphon off the oil wealth while the rest of the country live in poverty. In August, four alleged coup plotters were executed within hours of being found guilty by a military court, after "confessing" under torture. A French appeal court authorised a probe into corruption charges against three African heads of state, including President Obiang, in November

Trade unions still not recognised: The authorities do not recognise trade unions. In 2004, the government told the ILO that "there were no trade unions in the country as there is no tradition of trade unionism". The Workers' Union of Equatorial Guinea (UST), the Independent Service Union (SIS), the Teachers' Trade Union Association (ASD) and the Rural Workers' Organisation (OTC) have all tried to win recognition, but the authorities have refused. Delegations are no longer sent to the

International Labour Conference and in 2010 the ILO again had to remind the government it had failed to submit the reports due that year. In the event of a dispute, the government has sometimes acted as mediator or it has repressed the workers. In 2008, a Chinese workers' strike on a building site provoked a bloody intervention by the army, in which two workers were killed (see 2009 edition of the Survey).

Eritrea



POPULATION: 5,000,000
 CAPITAL: Asmara
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138

There was no improvement in this totalitarian state where there is no freedom of association and no free collective bargaining.

TRADE UNION RIGHTS IN LAW

Labour law is governed by Labour Proclamation No 118, which gives workers the right to form unions. Unions are not allowed in the armed forces, the police and in essential services. In addition, civil servants not involved in state administration do not have the right to organise until the draft Civil Service Proclamation is passed. Furthermore, the Ministry of Labour and Human Welfare must grant special approval for groups of 20 or more workers seeking to form a union. Collective bargaining and strikes are allowed and industrial disputes are resolved by a tripartite board composed of workers, employers and Ministry of Labour and Human Welfare officials.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Eritrea remains a one party state and the only country in Africa to have no privately owned news media. The economy is mainly dependent on loans and remittances from the diaspora. Peace with Ethiopia remains fragile. Peace was threatened internally when in May rebel groups said they were operating jointly to topple the government.

No freedom of association, no collective bargaining: There is no freedom of association in the country and no political organisations, other than the ruling People's Front for Democracy and Justice (PFDJ), are permitted. All unions - including

the National Confederation of Eritrean Workers (NCEW) and its affiliates - are kept under close scrutiny by the totalitarian government. There is no free collective bargaining.

Forced labour: By law, all able-bodied adult Eritreans must perform 18 months of national service. In practice, national service is routinely prolonged indefinitely. National service conscripts, about 300,000 at any given moment, are badly paid and are made to work on government projects, principally agriculture and construction. They are also used as cheap, involuntary labour on projects that personally benefit civilian and military leaders. Another use for these workers is in the gold mines, often run by western companies who sub-contract much of the work - construction, food products, transportation, banking, even some drilling - to local companies, which inevitably means government-owned companies. The overwhelming majority of those "employed" by government companies are the national service conscripts, forced to work for a salary of ERN 500 (USD 12) per month.

Ethiopia



POPULATION: 85,800,000
 CAPITAL: Addis-Ababa
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

The National Teachers Association (NTA) is still being denied recognition. When bank workers set up their own union the employer tried to undermine it with a parallel union, while a steel workers union complained of constant harassment and breaches of its collective agreement. A plastics company dismissed its workers for going on strike in a dispute over shift times. The labour legislation does not fully conform to international labour standards.

TRADE UNION RIGHTS IN LAW

The Constitution recognises the right to form and join trade unions, but much of the labour legislation is based on the restrictive 2003 Labour Proclamation, which excludes many categories of workers primarily in the public sector. Furthermore, the law does not prevent an employer from creating or supporting a workers' organisation with a view to controlling it. Collective bargaining is limited, and all negotiations aimed at amending or replacing a collective agreement must be

finished within three months or the provisions cease to apply. In addition, civil servants are not allowed to bargain on wages or working conditions. Although workers have the right to strike, they must follow lengthy and complicated procedures which make legal strike action difficult. Trade unions can be dissolved if they carry out a strike in essential services, the list of which is extensive, or engage in political action.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) won the May 2010 parliamentary elections with 99.6% of the vote. The polls were preceded by months of intimidation of opposition party supporters. In October, the government released prominent opposition leader, Birtukan Midekssa, from a two-year detention. Hundreds of other political prisoners remained in jail and at risk of torture and ill-treatment. The government's crackdown on independent civil society and the media continued.

Government interference: The government blatantly interferes in trade union affairs in all sectors, notably the banking and education sectors. Many trade union leaders are regularly intimidated and most are removed from their posts and/or forced to leave the country. The government closely monitors the Confederation of Ethiopian Trade Unions (CETU).

Teachers denied the right to organise: Teachers in public schools continue to be deprived of the right to form and join trade unions. After 15 years of lengthy legal proceedings, the Federal Supreme Court ruled on 26 June 2008 that the name, logo, all property and bank assets of the Ethiopian Teacher's Association (ETA) be given to the government-recognised entity, thereby dismantling the once largely independent teacher association. The only de jure ETA now claims to be the continuation of the teacher organisation created in 1949. Members of ETA, which lost the 2008 judicial battle, reorganised themselves and formed a new association called the National Teachers Association (NTA). The NTA was denied legal registration by the Ministry of Justice in December 2008 on the ground that a national teacher association already exists. The second attempt to register in February 2010 has consistently been discouraged verbally by officials of the newly created Charities and Societies Agency. However, no official notification from the Agency has been received by NTA to date. Given that it is not yet registered, NTA members do not have a guaranteed right to conduct collective bargaining.

Members of the independent teachers' association have faced harassment, dismissal, arrest, torture and even death. No new

cases were reported in 2010, but the Government of Ethiopia has not yet initiated steps to conduct a full and independent inquiry into allegations of trade unionists' arrests, their torture and mistreatment when in detention.

The ILO has urged the government to register NTA without delay.

Bank tries to undermine workers' union: When workers at the Dashen bank formed their own workers' union, management responded by setting up an alternative union. The bank's president, Leulseged Teferi, addressed a meeting of 1,200 staff on 1 January and picked five people to run the meeting. These five facilitated the election of 11 members, out of a nominated 13, forming the new labour union. The Dashen Bank and the Federation of Banking and Insurance Trade Unions of Ethiopia (FBITUE) together with the founders of the disputed labour union of the bank met on 4 January and the bank agreed the first union could continue to exist – but also insisted the second union was legitimate. The FBITUE complained that the Dashen Bank failed to respond within 15 days to a letter it sent on 6 January requesting a meeting over the dismissal in 2009 of employees who were involved in the formation of the first labour union. Dashen Bank denied that anybody was fired in relation to the formation of the labour union, claiming the dismissals were for disciplinary reasons. The bank's president denied any knowledge of a letter sent from the Federation to the Board.

On 23 January, one of the employees suspended by the bank, Zenebe Dinkesa, a member of the security personnel, was dismissed after he was interviewed by a newspaper in connection with the formation of the labour union and his suspension. He took his case to court and on 3 February the court ruled that his dismissal was illegal and he had to be reinstated. The bank did not reinstate him and instead said it would file an appeal, but delayed doing so.

Plastics company dismisses 34 after working time dispute:

In July and August Roto Plc, a plastics company, sacked a total of 34 employees following a dispute over shift times. The company made changes to the times of the shifts without consulting the employees, resulting in a strike on 7 June. The Roto workers' union, affiliated to the National Federation of Energy Chemical and Mine Trade Unions (NFECMTU), had signed an agreement with the company on shift specifications. The two sides failed to reach agreement during the strike and employees returned to work with a 250 Birr (USD 15) penalty while asking for shift hours to be changed back to the original.

On 14 June, 14 employees were fired for not showing up on time for the new shift. Another 20 employees were forced to stay in the factory for the duration of their shifts for four days, even when there was no power for them to work, according to the union. The union gave 10 days notice on 20 July that it would call a strike if problems were not resolved and their colleagues reinstated. The strike went ahead on 30 July and the company sacked a further 20 employees.

Roto later agreed to reinstate the 20 employees, to implement the agreement with the labour union, to notify NFECMTU about the fate of the 14 dismissed employees within three days, to cancel the 250 Birr penalty it had imposed on the employees, and to respect employees' human rights. According to Firew Bekele, president of the NFECMTU, the company did not keep its promise as agreed.

On 4 August the company announced it had hired and trained 20 new employees and had decided not to bring back the 34 employees, saying it would prefer to pay them compensation.

Steel company harassed union, repeatedly breached collective agreement: On 23 October, the Ethiopian Steel Plc workers union notified the company that it would go on strike on 2 November if they could not reach an amicable solution to repeated breaches of the collective agreement and harassment of union members. The nine violations of the collective agreement included a 20-day salary penalty imposed on the union leaders without prior notice, biased performance evaluations of union members, and the denial of annual leave and reimbursement of the employees' medical expenses. Workers claim they have been harassed due to their attendance at union meetings, a claim the company denies.

The labour union postponed the strike after a meeting with the Ethiopian Industrial Federation of Construction, Wood, Metal, Cement, and other Trade Unions (EIFCWMCTU) and the city's Employees and Social Issues Office on 27 October. The dispute was submitted for investigation by the Addis Abeba City Administration Employees and Social Issues Office.

Gabon



POPULATION: 1,500,000
CAPITAL: Libreville
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 182

A coalition of education unions denounced the authoritarian excesses of their supervisory board. Expatriate contractual teachers were singled out after a strike at the beginning of the school year in October. Two union leaders at the Libreville Town Hall were held in prison for over three months.

TRADE UNION RIGHTS IN LAW

Freedom of association and the right to strike are guaranteed in the Constitution. However, the provisions in the Labour Code are somewhat lacking, although public servants have the right to organise. Anti-union discrimination is not expressly prohibited in law, but the courts can award compensation to employees who have been victims of such discrimination.

The authorities are not permitted to interfere in lawful strikes, which must be preceded by arbitration. Although workers in the public sector have the right to call a strike, it can be restricted if deemed to pose a threat to public safety.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Social reform and tackling corruption, which the government claims are its priorities, are all the more necessary in a country where one person in three lives in poverty, despite healthy oil revenues.

Two trade union leaders held in prison for over three months: Alexandre Nzengui, President of the Libreville Town Hall Workers' Union (SYAML) and Olui Nzué Memine, General Secretary of Action for Municipal Renewal (ARM), were held in preventive detention from 22 July to 27 October for "obstructing the freedom to work" and "destruction of the real estate of a third party". The arrests took place against a background of tense industrial relations. The municipal employees had carried out several strikes since January to protest against delays in paying their salaries and the non-payment of social charges, deducted at source by the Town Hall. At the beginning of April, strikers had placed, in the main hall of the Town Hall, the body

of a colleague who had died, they claimed, because he had not received the care he needed due to the delayed payments.

Authoritarian excesses in the education sector: On 10 November the Minister of Education, Séraphin Moundounga, announced that he wanted teachers who had taken part in a strike at the beginning of the school year in October to appear before a disciplinary council. The decision concerned 18 expatriate members of the Executive Board of the Union of Contractual Teachers of Gabon (SECEG). The SECEG has hundreds of expatriate teachers among its members who feel they have been discriminated against because they cannot benefit from a new incentive bonus for teachers. The other union that called a strike, the National Convention of Education Sector Unions (CONASYDED) had repeatedly complained of the authoritarian excesses of the supervisory authorities, in particular its refusal to continue dialogue with "illegal" organisations. CONASYDED maintains that all its member unions are legally recognised.

Ghana



POPULATION: 23,800,000
CAPITAL: Accra
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 182

Many employers remain hostile to trade unions, particularly in the export processing zones (EPZ). One union leader was sacked for speaking out about concerns over the future of jobs in the health insurance authority. The labour legislation does not sufficiently secure trade union rights, and the authorities retain some discretionary powers over unions.

TRADE UNION RIGHTS IN LAW

Although the Labour Act has been brought more into line with international labour standards, problematic areas remain. For starters, the Emergency Powers Act 1994 is still in force, and grants the authorities extensive powers to suspend any law and prohibit public meetings and processions. Many categories of workers are also excluded from the Labour Act, including managerial workers, the definition of whom is very broad. If there are multiple unions at a workplace, the "chief labour officer" has discretionary powers to decide which union will be awarded the collective bargaining "certificate" needed to negotiate with the employer. Albeit the right to strike is guaran-

teed in the Labour Act, it can be limited in private enterprises if the workers' services are deemed essential to the enterprise's survival, and in essential services, which includes many sectors that fall outside the ILO definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Ghana remained politically and economically stable during the year and was on course to achieve the Millennium Development Goal (MDG) of halving poverty by 2015. It is still very dependent on international development assistance, however, and only ranks 130th on the Human Development Index. A new public sector pay policy, the Single Spine Salary Structure, was introduced in June, welcomed by some unions and rejected by others.

Employers use court decision to undermine trade union rights: Although freedom of association is protected in law, in practice this is undermined by a 2008 decision of the Accra High Court concerning Ghana Telecommunications Limited (GT) to the effect that employers could hire and fire without giving any reasons for the termination of employment. Mr Kofi Asamoah, secretary general of Ghana Trades Union Congress (TUC), warned at the 2009 May Day rally that some employers were using the ruling to get rid of so-called troublesome workers and unionists.

Persistent violations in EPZ: Some employers in the export processing zones (EPZ) have persistently resisted the unionisation of their employees, despite the protection provided by the 2003 Labour Act. Blue Skies Products (Gh) Ltd (a subsidiary of Blue Skies Holdings UK), an EPZ fruit processing company that employs over one thousand workers, has consistently refused to recognise its workers' union the Food and Allied Workers Union (FAWU). FAWU is an affiliate of the Ghana Federation of Labour (GFL). The union organised the workers and was issued with a Collective Bargaining Certificate in February 2004, but has still not been able to negotiate with the company.

Employer intolerance of trade unions: Many employers have a policy of zero tolerance for trade unions. Workers who attempt to form or join a trade union are intimidated and dismissed. Some employers include anti-union clauses in their employment contracts. In an interview in January 2010 Samuel Kwasi Donkor Baffoe, Industrial Relations Officer of the Union of Industry, Commerce and Finance (UNICOF), publicly called on employers to respect the right of workers to join any labour union of their choice and refrain from threatening their unionised employees with dismissals. Many rural and community banks in the Ashanti region were criticised by the Industrial and

Commercial Workers Union (ICU) for deliberately attempting to frustrate unionisation at the workplace. The findings were contained in a research conducted by the ICU to ascertain the basis of alleged workplace intimidation of its members.

Blue Skies workers still denied right to join union of their choice: Blue Skies Products (Gh) Ltd continued to drag its feet over recognition of its workers' union the Food and Allied Workers Union (FAWU). While the Labour Department issued a collective bargaining certificate to FAWU, it also gave one to the Blue Skies Staff Association, which the Ghana Federation of Labour (GFL) has described as a yellow union. The case to decide which union should represent the workers went to court. FAWU filed a motion to join in the case in order to press its position. The case was called to court on 14 October without prior notification given to FAWU. The Attorney General's Department suddenly announced the discontinuation of the case, without explanation. Blue Skies had filed several cases against GFL and FAWU as a means of delaying the recognition of its workers' union. The cases were still pending at the end of the year.

Union leader dismissed for speaking out: Kwabena Bobie, branch chairman of the National Health Insurance Authority (NHIA) workers' union was dismissed on 6 December for comments he allegedly made in a recent interview on Joy FM, an Accra-based radio station. Mr. Bobie spoke on 13 November about the actions of some National Democratic Congress (NDC) staff which had led to the closure of some NHIA offices, as well as some cash flow problems facing the health insurance scheme, expressing concern for the job security of his colleagues. Although officials of NHIA are on record confirming some of the concerns Mr. Bobie alluded to in his Joy FM interview, the NHIA's Chief Executive Officer, Mr. Sylvester Mensah, terminated his appointment.

Guinea



POPULATION: 10,000,000

CAPITAL: Conakry

ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Trade union members including several leaders received anonymous threatening phone calls during the period of political transition. In the mining sector, workers were threatened, suspended and prosecuted.

TRADE UNION RIGHTS IN LAW

While basic trade union rights are guaranteed, problematic areas exist in the law. Freedom of association is recognised in both the Labour Code and in the new Constitution, which was adopted on 19 April 2010. While union officials are protected against anti-union discrimination, the Labour Code fails to extend this protection to all workers. Workers enjoy the right to strike, but the right is defined as a complete cessation of work for the purpose of vindicating professional claims. This definition excludes in principle industrial action with an economic or a social dimension. Finally, compulsory arbitration can be imposed in essential services, which are broadly defined to include transportation, hospitals, radio and television, and communications.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The head of the junta, Captain Camara, victim of an assassination attempt which left him seriously injured, resigned in January and was replaced by General Konate. Despite violence during the second round of the presidential elections, promises of a free election were fulfilled. On the 21 December, Alpha Condé, the long-standing opposition candidate, was elected president. He called for reform of the army and the setting up of a "truth and reconciliation" commission for crimes committed since independence. If the mining resources are finally better exploited and well managed and workers are treated in accordance with the labour code, the enormous mining resources of the country should allow for an improvement in the population's living conditions.

We would also like to mention the death of two trade union leaders, Ibrahima Fofana, General Secretary of the Union syndicale des travailleurs de Guinée (USTG), and Haja Magbit

Bangoura. The two trade unionists and two journalists died in a car accident in April on their way to Fria for negotiations in a bauxite factory.

Several trade unionists received threatening telephone messages: At one o'clock in the morning on 15 January, several trade unionists received threats on their mobile phones. The contents of the message were intended to exacerbate ethnic and religious tensions and constituted a direct threat to the trade unionists.

Strikers in the mining sector threatened and suspended: Numerous social conflicts on the mining sites demonstrated once again that workers' rights are not being properly respected by employers and the authorities. Serious problems continue to exist despite the authorities promises to pay more attention to the workers' grievances and in particular that they will accelerate the revision of the national mining convention which is biased in favour of the mining companies.

However the vital importance of this sector for the country's economy has often incited the authorities to support employers to the detriment of the workers. On 4 April, the Prime Minister, Jean-Marie Doré threatened to use force and to severely punish striking workers at the Friguia aluminium factory, part of the Russian Rusal group, even though the strikers maintained a minimum service during the strike.

The 25 August, the management of the Société minière de Dinguiraye (part of the Canadian Crew Gold Mining Group) suspended 223 workers. The company accused the workers of attacks on the freedom to work, public abuse, threats and detentions, accusations denied by the trade union leaders who denounce the deterioration of dialogue with management and in particular, a supervisor who slapped a worker. On 29 October, the Sigiri tribunal ruled on this complaint – of the 223 defendants, only two were found guilty but the employer has appealed. The 223 workers remain suspended as they wait for the next phase of judicial proceedings.

Guinea Bissau



POPULATION: 1,600,000
CAPITAL: Bissau
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 138 - 182

Trade union rights are guaranteed in law, but with limitations. However, the law is not respected and the environment is still largely anti-union. The government finally paid wage arrears to public sector workers, but some, such as health workers, still missed out.

TRADE UNION RIGHTS IN LAW

Restrictions exist despite fundamental trade rights being granted; all workers have the right to form and join trade unions. However, the provisions in the Labour Code on anti-union discrimination are inadequate as they only protect trade union delegates and are not coupled with sufficiently dissuasive sanctions.

Most wages are established in bilateral negotiations between workers and employers, but a tripartite National Council for Social Consultation holds consultations on wages and employment legislation. Finally, workers have the right to strike and are protected by law from employer retaliation.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country has a massive foreign debt and an economy which relies heavily on foreign aid. The European Union (EU) announced in August that it was ending its mission to reform Guinea Bissau's security forces, noting a lack of respect for the rule of law was making its work impossible. In December the EU threatened to suspend development aid unless Guinea Bissau restored democratic norms.

Violent suppression: The country has a history of violently suppressing trade union activity, which as the ILO has pointed out constitutes a serious obstacle to the free exercise of trade union rights.

Government reneges on agreement - again: After long delays and repeated broken promises the government announced it finally had the money to pay off civil servants' salary arrears in January, thanks largely to European Union (EU) grants. In April,

however, health workers went on strike over a continued failure to pay arrears and teachers also complained that they had not been fully paid.

Kenya



POPULATION: 39,800,000
CAPITAL: Nairobi
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 138 - 182

The right to strike is still being undermined in practice in Kenya, where 40 strikers were dismissed by fruit multinational Del Monte and striking tea workers faced threats and intimidation. The Postal Corporation, after obstructing collective bargaining negotiations, obtained an injunction blocking its workers from going on strike. A Chinese company was ordered by the Industrial Court to reach an agreement with its workers' union after negotiating in bad faith. Privatisation and the prevalence of casual, short-term contracts are making union organising all the more difficult.

TRADE UNION RIGHTS IN LAW

While the new Constitution, which took effect on 27 August 2010, recognises fundamental trade union rights, union activity is hampered by excessive legal restrictions. The procedures for forming a trade union are long and cumbersome, and the law requires that a certificate is obtained before members can be recruited to form a union. Furthermore, the Registrar of Trade Unions may refuse to register a union if another trade union already exists which is sufficiently representative. The law imposes strict conditions and limitations on the use and management of unions' funds, and the Registrar has extensive powers to audit these funds. The Labour Relations Act excludes members of the prison service and the National Youth Service from its scope.

The new Constitution also guarantees the right to bargain collectively, but it is not clear whether this right can be enjoyed by all employees in the public sector. With regard to the right to strike, a long dispute resolution procedure must be exhausted before a lawful strike can be called. A strike must also concern the terms and conditions of employment or the recognition of a trade union, and sympathy strikes are prohibited.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In August, Kenyan citizens voted by a two thirds majority for a new Constitution that is designed to limit the powers of the president and devolve power to the regions. It also paves the way for the establishment of a land commission and sweeping changes to the police and judiciary. The year also saw the prosecutor of the International Criminal Court (ICC) open an investigation into the post-election violence.

Trade unions under attack: The Central Organisation of Trade Unions (COTU) has warned that the labour movement is under attack from multinational corporations that engage in cutthroat competition. As a result of privatisation many workers have had to re-apply for their jobs under new contracts, often with multinational corporations which usually require them not to join labour unions. The unions have lost members as a result. Furthermore, an increasing number of employees are on part-time, temporary and contractual basis, making union organising more difficult. At the Kenya Power and Lighting Company 5,000 of its 8,000 employees were employed on casual contracts. After a dispute erupted in September the company agreed to hire more workers on full time contracts.

Obstructing the right to strike: In practice, the right to strike is frequently violated in Kenya. During the notice period, the Minister of Labour generally intervenes and proposes a mediator for the dispute. If the negotiations break down, the government usually refers the matter to an industrial court, pre-empting any decision to take strike action. In cases where workers have become frustrated with the lengthy process and have decided to go ahead with a strike, their action has usually been declared illegal. Employers won a court order declaring the tea pickers strike illegal in October.

EPZ employers refuse to recognise unions: Although labour laws apply in the export processing zones (EPZ) most firms based in EPZs have refused to recognise trade unions and obstructed their efforts to organise workers. The Kenya Textile Workers' Federation adds that getting workers to join a union is difficult because the managers at EPZ companies use non-registered organisations to recruit casuals on their behalf.

Chinese construction company negotiating in bad faith: Construction on the Thika Road Highway was disrupted on 23 August when 400 workers went on strike demanding better pay, working conditions and medical cover, an end to exploitation, long working hours and the illegal withholding of drivers licenses. The Kenya Building, Construction, Timber Furniture and Allied Industry Employees Union (KBCTFAIE) sought in vain

to reach an amicable negotiated solution with the SINHYDRO corporation. According to the union, tri-partite negotiations failed because of the lack of good will on the part of the employer. Company management called in the police to disperse the workers who went on strike.

On 28 September the Industrial Court of Kenya ordered the SINHYDRO corporation to commence negotiation of a collective bargaining agreement with KBCTFAIE to be concluded within 45 days.

Del Monte Kenya targets union activists for dismissal: Forty workers were dismissed in retaliation for a week-long strike at Fresh Del Monte's fruit processing factory. Some 1,700 workers walked out on 12 October to protest unpaid allowances, increasing insecurity due to the widespread use of temporary work contracts and a deteriorating working environment which resulted, in what the Kenya Union of Commercial, Food and Allied Workers (KUCFAW) believe, was a work-related death.

The company obtained a court injunction on 13 October calling for an end to the strike and a resumption of work. Workers returned to the factory to find a notice instructing them to reapply for their positions. They refused to do so under these circumstances, returning only on 19 October after the union and company reached an agreement under the auspices of the Industrial Court. This provided for a return to work under existing terms and conditions.

However, the agreement stipulated that disciplinary procedures would be applied to a group of workers alleged to have committed illegal acts during the strike. Del Monte Kenya management proceeded to dismiss 40 workers, including nearly every shop steward. KUCFAW began procedures to contest the dismissals in the Industrial Court.

Striking tea workers face threats and intimidation: On 18 October tea plantation employees went on strike over the increased use of machines for picking tea. Employers did not consult with workers prior to the increase, breaching an agreement with the Kenya Plantation and Agricultural Workers' Union (KPAWU). The union feared machines would cost the jobs of 80,000 workers directly employed by the tea industry in Kenya and thousands indirectly employed. A new agreement was sought to specify the portion of tea that would be plucked by the machines and how much would be picked by workers.

At least two of the companies affected by the strike, the Williamson Tea Company and Tindirect Tea Company, hired new staff to replace those on strike. The Central Organisation of Trade Unions (COTU) reported that tea workers belonging

to KPAWU were being subjected to arbitrary arrests, torture in police cells, and the harassment of trade unionists and their families. Companies sought to dissuade workers from striking by using various intimidatory tactics such as evicting striking staff from company houses and disconnecting water and electricity. By 26 October some KPAWU leaders had been held by the police for two weeks without charge.

The Federation of Kenya Employers (FKE) initially obtained a court order barring tea plantation employees from striking, but this was later overruled by the Industrial Court further to an application by COTU and KPAWU. Employers still insisted the strike was illegal. The union called off the strike after two weeks to allow for negotiations with the tea multinationals over the use of machines.

Collective bargaining obstructed and strike blocked at post office: On 30 November the Postal Corporation of Kenya won a temporary injunction preventing members of the Communication Workers Union (COWU) from continuing a strike begun that day. COWU members were prohibited from taking industrial action for a period of 14 days and restrained from interfering with the operations of the postal corporation.

COWU had called its 4,000 members out on strike in face of the refusal by the corporation to start collective contract negotiations after several attempts by the union to get negotiations underway. The union was demanding a 48% pay rise. The Postal Corporation of Kenya had offered them a 2% increase. Other issues included the refusal to pay overtime, changes in the staff pension scheme and the union's demand for the resignation of the head of the Human Resources department, whom they felt had frustrated their bargaining efforts.

The two sides agreed to resume negotiations in early 2011.

Lesotho



POPULATION: 2,000,000
 CAPITAL: Maseru
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

No new developments were reported for Lesotho. Normal trade union activities are difficult to carry out despite some legal guarantees.

TRADE UNION RIGHTS IN LAW

Although the law allows unions to conduct their activities without interference, high thresholds and restrictive provisions make such work difficult. Workers have the right to form and join trade unions, except for public employees, who can only form or join "associations" that have consultative status. Moreover, union activities are hampered by requirements that only registered unions that represent more than 35% of the employees are entitled to elect workplace union representatives and have access to the workplace to communicate with management and perform other union functions. Finally, a strike can only be called following very complicated procedures, and all strikes in the public sector are illegal by definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Poverty remains deep and widespread, with the United Nations describing 40% of the population as "ultra-poor". It ranks 141st place on the Human Development Index. The "Toxic Jeans" series, which highlighted the unintended consequences of efforts to stimulate trade with Africa, showed the pollution caused by the Nien Hsing denim factory in Lesotho and the dangers it posed to the local population, particularly the children.

No legal strikes: Because the strike procedure is complicated, there have not been any official strikes in the country for many years. There have been regular spontaneous protest actions over the years, however. As these are technically defined as illegal, workers continue to risk losing their jobs and being taken to court.

Mixed picture in the textile factories: The late General Secretary of the International Textile, Garment and Leather Workers' Federation (ITGLWF), Neil Kearney, speaking in October 2009,

noted that despite the problems in Lesotho's apparel industry, progress has been made. There have been significant improvements in unionised factories such as Precious Garments, where efforts have been made to develop regular dialogue and negotiation between representatives of workers and management. Serious workers' rights problems still persist in non-unionised factories however. The textile and garment industry is almost the sole source of manufacturing employment in Lesotho.

Legislation not enforced: The country has a poor record on respecting trade union rights. In the private sector, the complex procedures and employers' anti-union attitude make it very difficult to operate a trade union. Although the law prohibits anti-union discrimination, many employers still stop union organisers from entering factory premises to organise workers or represent them in disputes. In some cases, employers intimidate union organisers and members, threatening the latter with dismissal, particularly in domestic industries.

Liberia



POPULATION: 3,900,000
 CAPITAL: Monrovia
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 105

The legal framework for trade union activities remains lacking until the labour law is reformed. There are also problems in applying trade union rights in practice, although there were encouraging signs during the year, notably the signing of an agreement with steel giant ArcelorMittal guaranteeing the respect of trade union rights.

TRADE UNION RIGHTS IN LAW

Many shortcomings in the labour law exist, although promises of a reform were made by the Labour Minister in 2006. The Constitution guarantees freedom of association, but employees of state-run enterprises and the civil services cannot form trade unions. In addition, the laws on anti-union discrimination are deficient, and do neither award sufficient protection against discrimination during recruitment or at work, nor do they protect unions against employer interference. Finally, the government's Labour Practices Review Board has the right to supervise trade union elections, and workers in state enterprises do not have collective bargaining rights. Legal strikes are once again on the

agenda due to a 2006 law that annulled Decree 12 of 1980, which had banned strikes.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The economy is still in ruins as a result of the civil war, although access to health care and primary education has improved. Corruption is rife and unemployment and illiteracy are endemic. Inadequate police responses to persistent violent incidents and the failure to prosecute civil servants implicated in large-scale embezzlement resulted in increased criticism of the government of President Ellen Johnson-Sirleaf during the year.

Patchy respect of rights, but improvements at major multinationals: The government's record on including the Labour Congress in tripartite forums has been patchy and it has not managed to prevent big multinational companies from flouting union rights. There were improvements during the year, notably the signing of a historic protocol agreement between Arcelor-Mittal and the Forestry, Logging and Industrial Workers' Union of Liberia (FLIWUL) in March. This will guarantee trade union protection once ArcelorMittal begins its mining, rail and export operation in the country. In June, the second collective agreement between Firestone Agricultural Workers' Union (FAWUL) and Firestone Rubber Plantation was signed.

Social dialogue weak: Social dialogue remains weak in general and industrial disputes tend to turn violent, notably on the plantations.

Libya



POPULATION: 6,400,000

CAPITAL: Tripoli

ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

There were no improvements in Libya where there is a still a single, government controlled national union centre. Migrant workers, who have no trade union rights, continue to be badly treated. When Nepalese workers went on strike to demand to be paid the full amount they were promised, the construction company where they were employed padlocked them into their residence.

TRADE UNION RIGHTS IN LAW

The Constitution does not recognise trade union rights, which are regulated by the 1970 Labour Code. However, there is no real freedom of association, as workers are automatically members of the government-linked General Trade Union Federation of Workers (GTUFW), although they can opt out. Independent trade unions are banned, and union membership is limited to workers of Libyan nationality. Furthermore, Directorate General of Labour or an official from the Directorate can be present at every trade union general meeting.

Collective bargaining is seriously hampered by a provision in the Labour Code that requires the clauses of collective agreements to be in conformity with the national economic interest. The government also has the right to set salaries unilaterally. Section 150 of the Labour Code stipulates that all conciliation and arbitration procedures must be exhausted before a strike can be called. Compulsory arbitration is possible at the request of one of the parties or at the discretion of the public authorities, making it possible to prohibit almost all strikes or end them quickly. The 1975 Trade Unions Act does not sufficiently protect workers against acts of anti-union discrimination.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The government continued to clamp down on freedom of expression during the year. In January it blocked access to at least seven independent and opposition Libyan websites based abroad. In February security officers briefly arrested four journalists from the radio station Good Evening Benghazi

and, in November, Internal Security officers arrested 20 journalists from the Libya Press agency for three days and suspended the publication of Oea. The United Nations High Commissioner for Refugees (UNHCR) was ordered to close down its office and leave the country in June, with no explanation.

Role of the national centre: Despite the General Trade Union Federation of Workers' (GTUFW) claims in recent years to be more independent, it is still very much a part of the official Jamahiriya (State of the Masses) system, and as such is under government control. The leadership of the union centre has adopted several amendments to its constitution to bring it more in line with the principles of free and democratic trade unionism, but these changes have to be submitted for "legalisation" to the Congress of People's Committees. The GTUFW has not reported any changes in the structures of the organisation so far.

Collective bargaining: The government has the right to set salaries unilaterally and even to cut them, as it has done repeatedly in the recent past, for instance with the national airline. So in practice, there is no real collective bargaining at either the national or sectoral level. In the event of a dispute, the union centre approaches the management to find solutions and concludes an individual agreement with the company.

Migrant workers excluded from unions: Libya's business boom has led to increasing reliance from the Maghreb, sub-Saharan Africa and Asia. It is estimated that over one fifth of the workforce are expatriates. Those from the Maghreb tend to be fairly well treated while migrant workers from sub-Saharan Africa and increasingly Asia often do menial jobs. During the year hundreds of Nepalese and Indian workers had to be repatriated by their governments as they were not being paid at all, while about 200 Bangladeshi workers went on strike for two weeks over non-payment of wages and beatings by management. Migrant workers cannot form their own unions, nor can they hold union office, and the official trade unions appear to be doing nothing to support or organise them.

Migrants held hostage in pay strike: Nepali workers were held hostage on 21 October after asking for a pay rise. The 67 workers were employed at a real estate and construction company and had been on strike for 18 days when company officials locked them into their residence, padlocking the main gate. They had been paid less than they were promised when they came from Nepal in April. When they went on strike the company asked them to leave, at their own cost. In August 108 Nepali workers, who had not been paid for a year, were held hostage by their employer and had to be rescued by the Nepalese authorities with the help of the International Organisation for Migration (IOM).

Madagascar



POPULATION: 19,600,000
CAPITAL: Antananarivo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The authorities have systematically contested the legitimacy of strikes and trade union actions in an already aggravated socio-economic climate. Freedom of expression and assembly are severely restricted. In this context, it is difficult to exercise the right to organise. The four ITUC affiliates have made numerous calls for a peaceful end to the crisis, for negotiations and for an urgent response to the lack of decent work and increasing poverty.

TRADE UNION RIGHTS IN LAW

Although the Labour Code provides for basic trade union rights, it also contains excessive restrictions. It is complemented by decrees. Both private and public sector workers have the right to join and form unions, except for seafarers and workers in essential services, the list of which exceeds the ILO definition. The establishment, organisation and operation of trade unions is determined by decree, and unions must provide lists of all their members, which exposes them to the possibility of anti-union abuse.

Industrial disputes must go through conciliation, mediation, and arbitration procedures determined by the authorities. Furthermore, state employees are not allowed to strike due to Article 33 of the 2007 Constitution, which stipulates that "the right to strike is recognised without prejudice to the principle of continuity of public services or to the security and essential needs of the Nation", a provision that does not explicitly exclude private sector employees either. The authorities also have broad powers to requisition public employees in essential services.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country plunged into a serious political and economic crisis. Power has been in the hands of the self-proclaimed president, Andry Rajoelina and the High Transitional Authority since 2009. All international mediation attempts have failed. Sanctions have been put in place against the current regime. International aid has been suspended with the

exception of emergency humanitarian aid. The withdrawal of trade concessions by the US awarded under the African Growth and Opportunity Act (AGOA) have had serious repercussions in terms of business closures and job losses as the country is very dependent on textile exports.

In November, a referendum was organised which was boycotted by the three major opposition parties. It was supposed to represent the first step in a process to end the crisis with parliamentary and presidential elections scheduled for 2011. An unsuccessful military coup also took place at the same time. On 11 December, Andry Rajoelina promulgated the new constitution and the setting up of the fourth republic.

Trade union rights often flouted: The predominance of subsistence agriculture and the informal sector as well as the employers' contempt for trade union activities help to ensure that labour legislation only applies to a small minority of workers. Over recent years, trade unions have complained of the opacity of the agreements concluded between the authorities and the mining companies and the growth in the illegal export of rosewood. According to a recent report by the Conférence des travailleurs de Madagascar (CTM) and the Friedrich-Ebert-Stiftung (FES), most of the collective agreements have been signed in public companies. With privatisation, however, many have become obsolete (rail, telecommunications, energy, etc.).

Significant reduction in activities and jobs in export processing zone companies: According to the Groupement des entreprises franches et partenaires (GEFP), the withdrawal of trade concessions by the US which had been awarded under the African Growth and Opportunity Act (AGOA) caused the loss of almost 30,000 jobs. In 2009, companies in the export processing zones employed 133,000 workers, 80% of these workers were employed in the textile industry. It should be noted that in recent years, most reported cases of anti-trade union discrimination involved companies in the export processing zones.

Intimidation by the authorities: The Conférence des travailleurs malgaches (CTM), the platform which groups together the main trade union centres decided to boycott the 1 May celebrations and not to march in the streets, as they considered that democracy was in crisis in the country and fearing that the celebrations would be hijacked for political motives. The social climate deteriorated seriously throughout the year and the government tried to intimidate striking workers and trade union activists. Protest actions in certain sectors of the public service such as health and education caused by the worsening socio-economic climate have been systematically criticised by the authorities. They claimed that they had political motives and

that the transition period was not an appropriate moment for demands.

Two trade unionists dismissed at Blue Maille: Two trade union activists, Henintsoa Randriamahatsangy and Faridah Sliamani from Blue Maille (clothing) in the export processing zone have been waiting the entire year to be reinstated. They were dismissed in 2009 on trumped up charges just after setting up the Syndicat autonome des travailleurs Miray Hina (SATMAH) affiliated to the Union des syndicats autonomes de Madagascar (USAM). The employer showed no hesitation in telling them that he would not tolerate a trade union within the company. The Court dismissed the plaintiff's case; the plaintiffs launched an appeal on the 10 February. The trade union was able to show that a crucial part of the file had been removed to favour the employer. A verdict will be issued early 2011.

Malawi



POPULATION: 15,300,000
CAPITAL: Lilongwe
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The Malawi Congress of Trade Unions (MCTU) complained that points tabled by the unions and agreed to in tripartite negotiations were missing from the final draft of the amended Employment Act. A MCTU march was stopped by police due to a technicality. Collective bargaining is strenuous, and striking workers are not protected against reprisals.

TRADE UNION RIGHTS IN LAW

There is some legal protection for trade union activities, although some gaps remain in the labour law. Workers, including civil servants, have the right to form and join trade unions, and workers sacked because of their union activities must be reinstated. However, unions seeking to bargain collectively face inordinately high representation thresholds. In addition, industrial councils set wages and conditions and resolve disputes in the absence of collective agreements. Only registered unions may strike, and the procedures prior to a strike can be long. Furthermore, all labour disputes must be reported to the Principal Secretary responsible for labour, who shall acknowledge the dispute within seven days and then refer it to conciliation,

which can last up to 21 days. Furthermore, the law does not specifically prohibit retaliation against strikers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In August the first local elections in more than a decade were postponed again. The trade unions organised a national protest in November against a bill to set the retirement age above average life expectancy. More than half the population still lives below the poverty line and tens of thousands of Malawians die of AIDS every year.

Employer resistance: Barely 12% of workers are in formal employment. For the small minority in formal jobs, the resistance of some employers and the government towards respecting their rights, limits freedom of association and collective bargaining. Speaking to the press in June 2009 Ronald Mbewe, general secretary of the Transport and General Workers Union (TGWU), said most employers were reluctant to work with trade unions. His views were echoed by Mary Dzinymba, general secretary for Commercial Industrial and Allied Workers Union (CIAWU), who said employers preferred to have workers who were ignorant of their rights. Many companies in the export processing zones (EPZ) also resist union activity, while the unions complain that they have little access to workers in the zones.

No collective bargaining for informal sector workers: Workers in the informal economy have organised themselves into a union, the Malawi Union for the Informal Sector (MUFIS), and have been affiliated to the Malawi Congress of Trade Unions (MCTU). It took over two years to register MUFIS with the Ministry of Labour as they noted that the union had no negotiating partner. The MCTU has, in recent years, reported on a number of cases where workers have been badly mistreated and where employers have appeared unaware that workers have employment rights by law.

Child and bonded labour on tobacco plantations: A documentary made for Britain's Channel 4 programme "Unreported World" aired in June 2010, highlighting the ongoing use of child labour in tobacco harvesting. A group of women and children, some just toddlers, were filmed sorting tobacco leaves at the side of the road. One woman with three children helping her said that she would earn around one euro for the day's work. Many tenant farmers also suffer from very low wages and have to borrow money from the farm owners. They end up in debt, becoming bonded labourers. Child labour is illegal in Malawi, but is tolerated by the authorities. There are no trade union rights for child or bonded labourers.

Tripartite decisions not respected: The Malawi Congress of Trade Unions (MCTU) protested in July against the newly adopted Employment Act (Amendment) bill, saying it discriminated against lower paid workers. It also protested that several of the concerns raised by trade unions were not accommodated in the final document and that some of the clauses agreed on in tripartite discussions were changed in the final document.

Police stop trade union march: On 16 November the police stopped a march by the Malawi Congress of Trade Unions (MCTU) to present a petition to parliament urging it not to go ahead with the Pensions Bill. The bill would raise the retirement age to 55 for women and 60 for men, in a country where average life expectancy is only 50 years. The police claimed that the Lilongwe City Council had failed to give the police due notice of the march. The march went ahead two days later.

Government interference: The Malawi Congress of Trade Unions (MCTU) wrote to the Minister of Labour, Yunus Bussa, in December protesting at remarks he had made saying the MCTU was acting at the instigation of Vice-president, Joyce Banda. Mr. Bussa was referring to the march organised by the MCTU in November against the bill to raise the pension age. The MCTU objected strongly to this act of interference in their affairs and the use of false allegations to make it a political scapegoat. It said it had never discussed the bill with the Vice-president.

Mali



POPULATION: 13,000,000
CAPITAL: Bamako
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The workers' trade union confederation of Mali CSTM (Confédération syndicale des travailleurs du Mali) continued to be excluded from several national tripartite structures. The cases concerning strikers unfairly sanctioned by their employers, some dating back several years, have still not been settled.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are recognised in law, a number of excessive restrictions still apply. Both the 1992 Labour Code and the 2002 Law on the General Status of the Civil Servants allow workers to form and join unions, including

non-nationals but excluding top managers of the Banque Centrale des Etats de l'Afrique de l'Ouest.

Collective bargaining is guaranteed for both private and public sector workers. All workers have the right to strike, including civil servants, and there are no restrictions as to the form of the strike. However, Article L.229 of the Labour Code grants the Minister of Labour the right to refer strikes to compulsory arbitration if they are liable to "jeopardize the normal operation of the national economy or involves a vital industrial sector". Furthermore, the categories of workers required to provide a minimum service during a strike include school principals.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Fifty years after gaining independence, Mali remains one of the poorest countries in the world. Cotton, the country's second largest export earner, after gold, employs over 25% of the active population. The adoption of the family law, set to give greater rights to women and girls, was postponed until 2011 by parliament, which wants a more widely-accepted law.

No effective protection against anti-union discrimination: The absence of legal provisions against acts of anti-union discrimination continued to obstruct trade union activities. Employers were able to stop the setting up of trade union committees without even having to explain their motives. Trade union calls for the reinstatement of workers transferred or dismissed for taking part in a strike were ignored. Such was the case, for example, at the Morila Gold Mine and the mining company BCM-Mali.

Twenty trade union representatives still awaiting reinstatement: Mining company BCM-Mali has still not reinstated the 28 workers, including 20 trade union representatives, who were unfairly dismissed in March 2009 when changes were made to the contract with the temporary employment agency Universal Prestation Service (UPS/Mali), in spite of a final ruling in the workers' favour, pronounced on 30 December 2009. Repeated demands for their reinstatement by the national trade union confederation CSTM and the administrative authorities went completely unheeded during 2010.

CSTM excluded from Mali's main tripartite body: The CSTM (Confédération syndicale des travailleurs du Mali) continued to be excluded from tripartite social dialogue structures, such as the Economic, Social and Cultural Council (CESC), as well as social security structures, despite several Supreme Court rulings in the trade union confederation's favour.

Mauritania



POPULATION: 3,300,000
CAPITAL: Nouakchott
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The authorities and employers refused to negotiate with trade unions. Attempts to organise workers and protest actions were repressed. As a general rule highly restrictive legislation makes it very difficult for trade unions to function properly.

TRADE UNION RIGHTS IN LAW

Freedom of association is strictly regulated despite some initial guarantees. Workers are free to form and join trade unions by virtue of the 2004 Labour Code. However, prior authorisation from the government is required to register a union. Only workers' representatives within companies are protected against anti-union discrimination, and reinstatement for arbitrary dismissals is not available.

Collective bargaining is severely circumscribed, since the Ministry for the Civil Service and Labour decides whether or not an organisation may engage in negotiations, and can even participate in the preparation of collective agreements. The head of government also decides how collective bargaining is organised at the national level.

Furthermore, although the right to strike is recognised, cumbersome procedures must be exhausted before a legal strike can be called. Civil service unions must give one month's notice prior to a strike, and all strikes can be declared illegal by the public authorities, without the possibility of appeal. The list of "essential services" is also bloated.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Poverty and unemployment remained high despite the country's mining industry, which accounts for 75% of exports but only 3% of jobs. Nearly one Mauritanian in two lives below the poverty line and agricultural production only meets 25% of domestic needs. In November, as the country marked its 50th anniversary, the President called for better dialogue with the political opposition. Human rights violations are still widespread. The presence of hundreds of thousands of migrants in

the country is also a cause for concern. An ambitious partnership between Mauritanian, Senegalese and Malian trade unions to help these migrants continues to develop.

Social dialogue at a standstill: Social dialogue remained virtually non-existent at all levels. The only multi-sector collective agreement dates back to 1974. There are only four sectoral agreements, the most recent of which (for the mining industry) dates back to 1969. In April the four main trade union centres lodged a formal complaint with the ILO about their exclusion from social dialogue forums, where only unions loyal to the government were invited to take part. Both public and private employers will not, in general, negotiate with the trade unions until a dispute breaks out.

Ineffective labour inspection: The enforcement of rights is complicated by the fact that labour inspectors have few means at their disposal and corruption is rife. Some have to cover regions that extend over 6,000 square kilometres, without a telephone or car. Even when a dispute breaks out, labour inspections are limited to voluntary conciliation. Taking a case to court does not guarantee that a dispute will be resolved. The procedures for settling disputes have also become increasingly lengthy and complex. The legal environment is such that cases pile up and can be left to collect dust for years before often contradictory rulings are made. Furthermore, if the courts rule against them, employers can ignore the decision with impunity.

Interference and relentless anti-union tactics by many employers: In many companies, employers are ruthless with trade union activists, and sometimes do not hesitate to dismiss them with impunity. There is constant interference in trade union affairs. Trade union elections are delayed, manipulated or banned (Macore, Mauritel, Bemop, the Autonomous Port of Nouakchott, etc.) . In the private sector, the increasing use of sub-contracting has weakened the trade union struggle. But multinational companies are also guilty of anti-union tactics. In January, for example, the Free Confederation of Mauritanian Workers (CLTM) denounced the aggressive behaviour of a Coca Cola executive towards his staff, particularly on the grounds of their union membership.

Several demonstrations repressed, many arrests: Many strikes were repressed by the authorities. The most serious incidents took place in Nouakchott in May during a dockers' protest. Anti-riot police used extreme violence against the demonstrators on several occasions, and many were injured. According to the Free Confederation of Mauritanian Workers (CLTM), 70 dockers were taken in for police questioning during the clashes. On 6 May, police used truncheon blows to disperse Ksar town hall employees. The National Local Authorities' Work-

ers' Union (SNTCL) had applied for authorisation for the demonstration several times, in vain. Earlier in the year, on 3 March, elementary teachers who held a sit-in outside the national Education Ministry were violently dispersed by the police. Six primary school teachers were taken for police questioning.

Public service strike repressed: During a general strike by public service workers on 15, 16 and 17 March, organised by the Workers' Union of Mauritania (UTM), the General Workers' Confederation of Mauritania (JTM), the General Workers' Confederation of Mauritania (CGTM), the Free Confederation of Mauritanian Workers (CLTM) and the National Confederation of Workers of Mauritania (CNTM), several trade unionists were taken for police questioning, and others were summoned to appear before the walis (governors) in a bid to break the movement. This strategy worked in several towns such as Sélibaly (in the Guidimagha region) where the security forces even raided the CGTM's regional office, which was being used as the headquarters of the striking unions. All the trade unionists in the building were taken to the police station. There were many incidents of pressure and intimidation. And while the trade unions' demands were obscured or denounced by the official media, the pro-government unions were given full voice. Several strikers faced heavy sanctions.

CGTM excluded from delegation to International Labour Conference: The Labour Ministry refused to include a member of the General Workers' Confederation of Mauritania (CGTM) in the country's workers' delegation to the International Labour Conference, in violation of the Labour Code which sets the criteria for representation. It argued, incorrectly, that the national centre was not one of the most representative.

Mauritius



POPULATION: 1,300,000
 CAPITAL: Port Louis
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Migrant workers still have no trade union rights in practice and employers in the export processing zones (EPZ) and other private sector companies remain broadly anti-union. The broadcasting corporation suspended a trade union leader on dubious grounds. The right to strike is seriously circumscribed.

TRADE UNION RIGHTS IN LAW

The 2008 Employment Relations Act includes measures to promote collective bargaining, and also recognises the right to bargain at the sectoral level. However, many restrictions apply to the right to strike. To call a strike, a complex conciliation and mediation procedure must be exhausted, which can last up to two months in total. Both the requirement regarding the voting system and the necessary quorum in a strike ballot are excessive, and unions can not call a strike concerning general economic policy issues.

Furthermore, all demonstrations are prohibited during the sittings of the Parliamentary Assembly, as are all strikes at the national level. Even when a lawful strike is organised, the Prime Minister can request the Supreme Court to prohibit it and refer the dispute to arbitration. A minimum service must be established in far too many sectors.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country remained politically stable and the economy continued to grow. The ruling Social Alliance, led by Prime Minister Navin Ramgoolam of the Labour Party, was re-elected in a closely fought vote in 2010, defeating the Mauritian Militant Movement led by Mr Berenger.

Migrant workers: Migrant workers are particularly vulnerable to trade union rights' violations. When these workers go on strike, the coordinated response of the employers and the authorities is frequently to send them back to their country of origin on the grounds of "breach of contract" and "illegal strike". Many migrants are employed on short-term contracts, particularly

in the sugar plantations and textile industry, and in practice they cannot organise. The working conditions of Bangladeshi migrants in Mauritius have been described as being akin to modern slavery. The ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has asked the government to indicate the measures taken to guarantee migrant workers their trade union rights, both in law and in practice.

Export processing zones: Employers in the export processing zones (EPZs) remain hostile to the unions, who find it very difficult to approach the workers given that, in most cases, trade unionists are denied access to the industrial sites. As a result, union membership levels in the EPZs are below 12%. The ILO has consistently highlighted the need for greater protection against acts of interference by employers and employer organisations in the activities of trade unions and the need for rapid appeals procedures and sufficiently dissuasive sanctions in this regard. The ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has urged the government to take measures for the promotion of collective bargaining in all areas of economic activity.

Trade unions weak in the private sector: Trade union presence in the private sector has steadily dwindled, leaving only the sugar industry with structured unions and active grass roots militants. Even the sugar industry unions may be at risk. Under the Employment Relations Act, employers can withdraw recognition from any union that represents less than 30% of the workforce - some unions in the sugar industry do not meet this target.

Union leader suspended: The Mauritius Broadcasting Company (MBC) suspended the President of the Mauritius Broadcasting Staff Association (MBSA), Mrs. Reehana Ameer, without pay in August, pending her appearance before a disciplinary committee. She was accused of being the author of an anonymous letter that was considered a highly defamatory criticism of the company. Such letters are apparently relatively common practice among disgruntled employees who do not use official channels for fear of victimisation. The Director of MBC set up an internal investigation, not into the accusations made in the letter, but to determine the author. The investigation concluded that Mrs. Ameer was the person responsible.

The names of those questioned in the investigation were kept secret and although MBC lodged a complaint with the Ministry of Labour, it chose not to disclose the contents of the letter. The MBSA countered that Mrs. Ameer was the person responsible for taking up grievances through official channels and had no need for anonymous letters. It believed the real reason behind

the suspension was her role as president of the staff association and called for her to have a fair hearing.

Morocco



POPULATION: 32,000,000
CAPITAL: Rabat
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 138 - 182

The rights of workers to organise and to negotiate with employers are not respected in practice. Union representatives are harassed or dismissed as soon as they are elected. Organising in the export processing zones is very difficult. The right to strike is constantly flouted.

TRADE UNION RIGHTS IN LAW

Although constitutional guarantees for freedom of association are in place, it is restricted by provisions in the Labour Code. Certain categories of workers are not allowed to form trade unions, including public servants, members of the judiciary, domestic workers and agricultural workers, and all union officials must be of Moroccan nationality.

Collective bargaining is confined to the most representative union, which must represent at least 35% of the total number of employees at the enterprise level. Despite the fact that the right to strike is guaranteed in the Constitution, employers are permitted to seek criminal prosecution of any strikers who hold a sit-in, damage property or carry out active picketing.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country's economic development cannot conceal the persistent poverty and serious problems such as child labour and illiteracy that affect almost half the population. Morocco's partnership with the European Union has deepened. In November, clashes between the security forces and Sahrawi independence rebels left hundreds dead in Laâyoune.

Export processing zones expanding as unions face major challenges: Organising in Morocco's export processing zones is very difficult. The zones are spreading rapidly across several regions and sectors of activity in Morocco. The biggest project

is the transformation of the port at Tangiers into an international logistics hub. Activities in the zones are diversifying, and now cover the service sector (call centres, off-shore banking, information technology etc.) and aeronautics.

Trade union access to the zones is heavily restricted, making freedom of association almost impossible in practice.

Workers are too scared to form trade unions, for fear of losing their jobs. The labour inspection service claims there are few problems concerning the respect of workers' rights in the zones but gives no statistics to back up this claim.

Labour unrest as right to strike is undermined: The repeated strikes in many sectors are evidence of the government's and employers' disinterest in talking to the trade unions and taking workers' demands into account. Low union membership levels and the legal demands to be met to hold collective negotiations have blocked progress in many enterprises. Worker unrest culminated in two widely followed strikes in the civil service in November organised by several major trade union centres. But most protest action and stoppages during the year simply met with disapproval and repression by employers and the authorities who abusively interpreted the labour code to treat any obstacle to the freedom to work as serious misconduct. The government continued to keep a tight grip on the right to strike, only recognising the right of the most representative unions to take action.

Four month prison sentences for UMT members from mining conglomerate OCP: Thirteen union members were arrested in Khourigba on 22 April during a dispute between the Office Cherifien des Phosphates (OCP), a Moroccan conglomerate of mining and chemical industries, and the local branch of the Moroccan Labour Union (UMT) during clashes with the police. They were sentenced to four months in prison on 7 June and were released on 22 August after serving their sentences.

In 2009, disgruntled workers hired on temporary contracts by a subsidiary of the group and in some cases with several years service demanded the same rights as OCP workers and decided to form a union. According to the local branch of the UMT, 850 workers were dismissed because of these demands. There have been many instances of protest action since then, calling for the reinstatement of the dismissed workers. As the world's leading phosphate producer, OCP employs over 17,000 people. In May 2010, an agreement was signed between OCP and a coalition of the most representative unions.

Interference and discrimination at Royal Air Maroc: In September the General Workers Union of Morocco (JGTM)

complained of interference by the management of Royal Air Maroc (RAM) aimed at turning the unions against each other. According to the UGTM, it was targeted by management. The general secretary was ordered to resign his position and three members of the union's executive were transferred. Union members faced discrimination, including having their requests for annual leave regularly refused.

Four trade unionists dismissed from Tangiers port: On 26 November management at APM Terminals, Tangiers, dismissed four members of the transport workers' union, including the General Secretary, Omar Zanfa. The union, affiliated to the Moroccan Labour Union (UMT), had just reached the legal membership threshold that would allow it to negotiate a collective agreement with the employer.

Interference and threats by Saudi Arabian Airlines: At the beginning of the year management at Saudi Arabian Airlines threatened to dismiss workers if they refused to sign a petition calling for the dissolution of the union created in June 2009. The Saudi Arabian Airlines Moroccan Workers' Union had denounced the company's infringement of national labour legislation. The company claimed, wrongly, that it had "diplomatic status" and was therefore not bound to respect a company's normal legal obligations towards their employees.

Deterioration in social dialogue: Members of the SNTIMMEE-CDT union at the SONADID company, owned by Arcelor Mittal, in Nador and El Jadida, reported a serious deterioration in social dialogue over the last two years. Management refused to negotiate with the union, even though it had won over 35% of the vote on worker representation at both sites in May 2009, the legal threshold for bargaining.

Repression of new unions: The Democratic Confederation of Labour (CDT) and the Moroccan Labour Union (UMT) reported cases of repression against their members. Members of the unions' executives were dismissed as soon as they had been set up, at firms such as the Bogart textile company in Casa-blanca and the Spanish company Douna Export (production and export of peppers).

Mozambique



POPULATION: 22,900,000

CAPITAL: Maputo

ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Employers remain predominantly anti-union. Even where collective agreements exist they are not necessarily applied, as security guards found to their cost. Public servants still do not have the right to organise, and the right to strike is restricted.

TRADE UNION RIGHTS IN LAW

Free trade union activity is hindered by a number of restrictions. Public servants do not have the right to form and join unions. However, a general law on public servants has been drafted to allow these workers to exercise freedom of association though the draft still excludes some categories of workers, and provides for cumbersome dispute resolution procedures.

Furthermore, the draft law provides for fines for strike pickets that disrupt the normal operation of services. Arbitration is compulsory in essential services, the list of which is very broad and includes activities in the country's export processing zone (EPZ) in Mozal. Finally, the Labour Act allows a strike to be ended by a decision of the mediation and arbitration body, and makes any violation of the articles on the right to work of non-strikers and on minimum services a disciplinary offence, making the striking workers liable to civil and penal sanctions.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: On 1 September police opened fire on demonstrators in Maputo marching against the rising price of food and other basics. At least six people were killed, including two children. A total of 13 people died in two days of rioting and more than 140 others were arrested. Mozambique still scores very low on the human development index, ranking 165 out of 169.

Employers – good intentions collectively, ignoring rights individually: Although the Mozambican Workers' Organisation (OTM-CS) considers relations with the social partners are good at the national level, it has asked to be involved more closely in Civil Service pay reforms, recalling the lack of transparency that

has prevailed. At the enterprise level, performance is not so good as trade unions have not been able to develop. Employers have continued to show their hostility towards workers' representatives and anti-union discrimination remains a problem as the 2007 Labour Code does not contain sufficiently dissuasive sanctions, while the legal constraints on private gatherings and workers' meetings at the workplace are very strict. Collective agreements are rare and constantly violated, which has led to several industrial disputes. The increasing use of contract labour has made organising more of a challenge for trade unions, who say workers are often unaware of their rights.

Discrimination in the EPZ: The Mozambique Workers' Organisation (OTM-CS) has complained of discrimination against trade unionists in the export processing zones (EPZ) where dismissals of activists and members or violations of collective agreements where they exist occur. Furthermore, the right to strike is very difficult to exercise in practice as the zones are covered by the law on essential services.

Security company breaches collective agreement: At the beginning of January workers at the private security company SINER-Seguranca went on strike over the company's total failure to respect the terms of the collective agreement and to demand payment of wage arrears. The New Year bonus had not been paid nor the backdated pay increase. Workers had been forced to work 12 hour days without overtime and the company had apparently failed to pass on workers' contributions to the social security institute. The workers also complained they did not have proper protective equipment, communications equipment or transport.

Namibia



POPULATION: 2,200,000
CAPITAL: Windhoek
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 105 - 111
- 138 - 182

Strong concern was expressed about workers' rights in Chinese owned construction companies. A food workers' union accused a retail chain of bargaining in bad faith and had its recognition agreement terminated. Although basic trade union rights are secured, excessive restrictions apply to the right to strike.

TRADE UNION RIGHTS IN LAW

Problems remain in the labour legislation despite recent improvements. The Constitution and the 2007 Labour Act guarantee freedom of association, but exclude prison staff. In addition, the Labour Commissioner may cancel the registration of a trade union if it fails to comply with its legal obligations, although the decision may be appealed in court.

Furthermore, the right to bargain collectively is recognised for registered trade unions that represent the majority of the employees in a bargaining unit. Finally, the right to strike is limited, as strike action can only be initiated in disputes that involve specific workers' interests, such as pay rises. Strikes are also subject to a long conciliation procedure. Disputes over workers' rights, including dismissals, must be referred to the Labour Court for arbitration, and the dispute solving mechanisms are long and cumbersome.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country remained politically and economically stable. President Pohamba of the South West Africa People's Organisation (SWAPO) continued a second term in office, cementing his reputation as a consensus builder. The country ranks 105 out of 169 countries, with a Human Development Index of 0.606, placing it well above the regional average. The HIV/AIDS epidemic, however, is estimated to affect 25% of Namibians.

Union marginalised: At a press conference in June 2010 Mahongora Kavihuha, secretary general of the Trade Union Congress of Namibia (TUCNA), stated that the relationship

between the union and government was hostile and that it was difficult to access ministers.

Employer hostility: Employers have a history of being generally very hostile towards the unions, refusing to recognise them or let them carry out their activities in workplaces, or to engage in collective bargaining with them. This tendency has been particularly prevalent in the export processing zones (EPZ). The categories most vulnerable to trade union rights' violations are farm and domestic workers.

Workers concerned for their rights: At a conference organised by the Metal and Allied Namibian Workers Union (MANWU) on 23 and 24 August 2010 workers expressed strong concerns about Chinese construction companies who regularly ignored workers' rights and the country's labour laws. Between 60% and 70% of construction tenders are awarded to Chinese companies.

Bad faith bargaining: In December the Namibian Food and Allied Workers' Union (NAFAU) found itself in dispute with Shoprite Checkers over what the union termed "slavery working conditions and exploitation of workers". Tensions were further heightened by the deadlock in negotiations for annual wage increments, with NAFAU feeling that the company started off negotiations in bad faith. The Labour Commission granted the negotiations a certificate of unresolved dispute. Shoprite terminated the recognition agreement with NAFAU saying the union did not have majority members.

NAFAU had rejected a pay offer from the retail chain that fell well below its demands. The union also asked Shoprite Checkers to address long-standing employment conditions of housing and transport allowance and the issue of employing people as casual workers for a period of more than two years.

Unfair dismissal ruling – company avoiding reinstatement: A labour arbitrator with the Ministry of Labour ruled on 20 October that the dismissal of 156 workers by the mining company Purity Manganese, following a strike in July 2009, was unfair. The company was ordered to reinstate the workers to their former posts by 3 January 2011 and to pay each of them the equivalent of a year's salary. The company lodged an appeal against the ruling and there had been no reinstatements or compensation paid by the end of the year.

Nigeria



POPULATION: 154,700,000
CAPITAL: Abuja
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Anti-union attitudes persisted in the oil industry, where union members lost their jobs as part of cost-cutting exercises and members of a newly elected union executive were sacked. Collective bargaining obligations were ignored in different sectors. The Oyo state government starved the teachers' union of fees after its candidate failed to get elected to the union leadership. Electricity workers were arrested for protesting against privatisation plans. In addition, trade union rights are not adequately protected in law.

TRADE UNION RIGHTS IN LAW

Despite the repeal of some of the anti-labour decrees from the military era, many restrictions still remain. To register a union, the organisation must represent at least 50 workers, and a union cannot be registered where another union already exists. Workers in essential services do not enjoy freedom of association, and organising in the country's export processing zones is virtually impossible. Furthermore, the Registrar has broad powers to supervise the trade union accounts at any time.

Although the law recognises the right to collective bargaining, every agreement on wages in the private sector must be registered with the Ministry of Labour, which decides whether the agreement becomes binding or not. The right to strike is likewise restricted, as the Trade Disputes Act imposes compulsory arbitration. In addition, strikes that concern conflicts of interest or economic issues, including the government's social or economic policy, are prohibited. Also, strikers may not block airports nor obstruct public highways, institutions or premises of any kind. The penalties for participating in an illegal strike include fines and imprisonment for up to six months.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In May, President Umaru Yar'Adua died after a long illness, and Vice-President Goodluck Jonathan succeeded him. The financial crisis continues to have repercussions, and the year was marred by violent attacks. Sectarian violence in

the city of Jos left over 150 dead in January, with clashes between Christians and Muslims leading to 120 deaths in March. The killings continued throughout the year. In October, celebrations in Abuja marking 50 years of Nigerian independence were overshadowed by bomb blasts. Violent attacks and kidnappings continued to threaten workers in the oil-producing Niger Delta, including two workers from a subsidiary of the Nigerian National Petroleum Company (NNPC) who were kidnapped and murdered in March. In Bauchi State, the Boko Haram, an Islamist sect, continued to wage war against the state and its citizens, fighting to make the country a Muslim state.

Anti-union attitudes persist in oil industry: On 3 and 4 February members of the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) and the National Union of Petroleum and Natural Gas Workers (NUPENG) shut down two worksites operated by Mobil Producing Nigeria (MPN), ExxonMobil's subsidiary in Nigeria, to protest against the sacking of casual workers by Mobil's contractors and the company's failure to address the matter with unions first. Since September 2009, up to 100 Nigerian nationals have been sacked by contractors serving under MPN after taking part in a collective protest to gain fair remuneration, while other contractors have sacked Nigerian nationals from full-time positions, replacing them with casual workers. The sackings are not just of junior staff, but also of highly skilled and experienced nationals in technical, engineering, administrative, and commercial positions.

In March, the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) reported that many companies had done away with full-time junior staff in their employment, including MPN, which phased out NUPENG members in favour of contract staffing. The ICEM reported that further to the February strike by NUPENG and PENGASSAN, MPN converted some 10% of all casual workers to full-time staff. However, in November, 66 members of NUPENG and 18 members of PENGASSAN were sacked by MPN ostensibly as a cost-cutting exercise. The unions believed this was an act of discrimination against union members and Nigerian workers, following the pattern of replacing national workers with expatriates.

PENGASSAN and NUPENG also report that prominent oil and gas servicing companies Baker Hughes Nigeria Ltd., BJ Services and Mak Mera Nigeria Limited (Shell Nigeria) have persistently resisted the unions' attempts to obtain recognition for their respective unions with the view of negotiating collective bargaining agreements.

NUPENG members targeted with dismissal: In January 2010, 67 workers were made redundant by the management of Fedison Nigeria Limited after they joined the National Union of Petroleum and Natural Gas Workers (NUPENG). Some of the workers dismissed had already been elected to positions within the union and were fired when mobilising for union recognition. The company management has also in the past persistently resisted unionisation of the workplace.

Government interference: In January, the Oyo state council of the Nigeria Labour Congress (NLC) accused the state government of interfering in the affairs of industrial unions in the state's civil service. It claimed that the government withheld statutory funds from the state chapter of the Nigeria Union of Teachers (NUT), as the state government's candidates were not voted onto the union executive. After a new set of officers were elected to lead the state NUT, the state government directed the State Universal Basic Education Board (SUBEB) and the Teaching Service Commission (TESCOM) to stop deducting check-off dues from public, primary and secondary schools teachers' salaries in order to starve the union of funds. NUT cancelled its delegates' conference twice and moved the venue to Akure due to the state government's attempts to impose its own supporters and fears for the security of its members. NUT reported that members had been living in fear of attack by thugs believed to be working for the government. NLC accused the government of recognising the state Academic Staff Union of Secondary Schools (ASUSS), which it believes is an illegal body.

Striking health workers threatened with dismissal: On 13 February, the Kaduna State Government threatened to sack health workers and introduce a no-work, no-pay action if they went ahead with a proposed strike. The Medical and Health Workers' Union of Nigeria (MHWUN) called the strike in response to the government's failure to implement an agreement reached in November 2009. MHWUN had called off a previous strike when the agreement was signed, but when the 2010 budget did not respect the union's demands contained in the agreement, it gave the government two weeks to make the necessary changes. The government responded that the changes could not be made and refused to negotiate further with the union, claiming that as it was not formally registered, it was illegal.

Chevron sacks union leaders: When the National Union of Petroleum and Natural Gas Workers (NUPENG) organised workers at Logistics Facility Affairs Limited (LFA), a labour contractor to Chevron Nigeria Limited, their efforts were resisted by LFA Management, supposedly acting on the directive of Chevron Management, claiming that LFA Limited is not an oil company. Workers nonetheless chose to join the union. The Manage-

ment of Chevron Nigeria Limited responded by withdrawing all the buses the workers were assigned to drive, and the LFA attempted to redeploy all the 54 workers, mainly drivers and mechanics for the oil and gas industry. This move was resisted by the union, which resulted in the termination of the union's seven leaders.

All the workers were reinstated and the buses returned following the intervention of the Minister of Labour and Productivity, who gave the management of Chevron Nigeria Limited and LFA two weeks to re-instate the sacked union executives at LFA or face sanctions. The minister's intervention came after the union threatened strike action. The question of which union it was appropriate for the workers to belong to was still pending at the end of the year.

PENGASSAN members arrested: Ten members of the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) were arrested at work on 25 November by armed officers of the Economic and Financial Crimes Commission (EFCC). The officers were investigating the bribery and corruption scandal around Halliburton and the multi-million dollar bribes paid to top government officials in exchange for the contract to build Africa's first liquefied natural gas plant in Bonny, Rivers state. PENGASSAN were angered the arrests were targeted at their members only, whom they believe to be innocent. PENGASSAN condemned the barbaric nature with which the anti-corruption agency carried out its operations at the Halliburton office, beating workers and molesting female staff. Those arrested and brutalised by the EFCC were Jarvis Peter, Hans Kempeneers, Liliy Adioogu, Lawal Yakubu, Iseoluwa Ogundele, Efe Collins, Isa Saibu, Barnabas Iroegbulem, Chi-Ukpai, and Theodore Okonkwo.

Electricity workers arrested: On 15 December police disrupted a nationwide rally by workers of the Power Holding Company of Nigeria (PHCN) and arrested 35 workers who were protesting in Benin, Lagos, Umuahia Abeokuta, Ogun State and Asaba, Delta State. The rally had been called by the National Union of Electricity Employees (NUEE) to protest against the government's planned privatisation of PHCN among others. After the protesters set off from the Maryland Transmission Office in Lagos, they were stopped by the police, who explained they were instructed by the Inspector General of Police to stop the rally. Armed military personnel and police were deployed at all PHCN installations and all NUEE local offices and National Secretariats across the country. A statement signed by the union's Assistant General Secretary Isaac Babatunde explained that the workers' protest was not intended to adversely affect the relative peace of the country, noting that the protest had no element of strike or "work-to-rule action" attached.

Teachers fired: On 15 October 2010, 43 teachers in community schools owned by the State Security Service were dismissed and physically assaulted after petitioning for regularisation of their employment contracts and the right to belong to the Nigeria Union of Teachers (NUT). On 24 September, 17 teachers were also let go, and on 24 June seven teachers saw their contracts terminated. After the intervention by the President of the Nigeria Labour Congress, Ibrahim Omar, all but eight of the teachers were reinstated.

Government fails to implement collective agreements:

Failure to respect a November 2009 collective bargaining agreement (CBA) triggered disputes by university staff in five state universities in the South East of the country. In July 2010 the Academic Staff Union of Universities (ASUU) reported that although the CBA stipulated a new salary structure for academics, the federal government had yet to pay this actual amount. University funding had also not risen in line with the agreement, and the stipulated retirement age of 70 years appeared to have been forgotten. While a few universities did begin to apply the agreement after union pressure, many did not, including those in the South East. Local negotiators on the government side further exacerbated matters by insisting in October that negotiations to unblock the dispute be conducted in the Igbo language, despite the fact that some of the ASUU officials do not speak the language. The dispute continued at the end of the year.

In October, members of the National Association of Nigerian Nurses and Midwives (NANNM) were arrested and detained in Jos in North Central Nigeria when the workers under the auspices of the Joint Action Congress of Health Workers engaged the state government to implement the new salary structure for health workers as provided in the CBA with the federal government of Nigeria. When the state government refused to implement the new structure, the health sector unions decided to call a strike. The government responded by arresting and detaining the union leaders, including NANNM Public Relations Officer Mr. Yakubu Izand.

Rwanda



POPULATION: 10,000,000
 CAPITAL: Kigali
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Employers have tried at least twice, to break-up new trade unions by not renewing the contracts of trade union activists or by mass dismissals of new trade union members. Free and voluntary bargaining is not guaranteed and the right to strike is hampered by overly complex procedures

TRADE UNION RIGHTS IN LAW

Problematic areas remain in the labour law despite the adoption of a new Labour Code in May 2009. While the Code and the Constitution guarantee freedom of association, there are no provisions that secure trade union rights in the public sector. In addition, to be recognised as the most representative organisation, a union must allow the labour administration to check the register of its members and property, which could allow for government interference.

Furthermore, a collective agreement shall be negotiated within a joint committee convened by the Minister of Labour at the request of only one of the parties. All collective labour disputes are also subject to mandatory conciliation, and are referred to an arbitration committee set up by the National Labour Council if an agreement can not be reached.

Strikes are forbidden until all the procedures have been exhausted, which can take more than two months. Finally, the terms and conditions for exercising the right to strike will be determined by a Minister's Order.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In August, President Paul Kagame was re-elected with 93% of the votes following an electoral campaign marred by grenade attacks in the capital, repression of the political opposition and increasing attacks on the freedom of expression. Even though work continued to develop the country's economy, promises for democratic reform have still not been fulfilled.

Mass dismissals in the tobacco sector: On 22 January, 161 members of the Premier Tobacco Company (PTC) trade union were dismissed, the majority of which were women. According to the Rwandan Congrès du Travail et de la Fraternité (COTRAF), this was a decision designed to "break" this new affiliate who had two days earlier completed very difficult negotiations to ensure that all workers would be covered by social security. The employer falsely claimed that these were seasonal workers even though many of them had worked at the PTC continuously for several years. Despite a new agreement on 26 January, the employees have not been reinstated. During the year, the COTRAF called in vain for mediation by the National Labour Council and the Ministry for Labour.

Contracts not renewed in the brewing sector: On 2 March, Group Environnement Service, a subcontractor of the brewing and soft drinks company, Bralirwa did not renew the contracts of 18 trade union activists from the Rwandan Congrès du Travail et de la Fraternité (COTRAF). Appeals to the Bralirwa management and the Labour Ministry had absolutely no effect.

Senegal



POPULATION: 12,500,000
 CAPITAL: Dakar
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

The proliferation of trade union centres is weakening social dialogue. The issue of trade union representativeness and the holding of credible trade union elections was the subject of serious concern throughout the year. Workers were threatened or dismissed on account of their union activities or for taking part in strikes. The right to strike is extremely limited.

TRADE UNION RIGHTS IN LAW

Freedom of association and the right to strike are guaranteed in the Constitution but are marred by a number of restrictions. The Ministry of Interior has discretionary powers to grant or refuse registration of a union, and the registration procedure is often very long. Collective agreements are signed between workers and employers under state arbitration.

The right to strike is heavily restricted, most notably due to a provision in the 2001 Constitution which stipulates that strike action must not infringe upon the freedom to work or jeopardise the enterprise. The authorities also have broad powers to requisition workers to replace those on strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Senegal, which celebrated 50 years of independence in 2010, is still one of the world's poorest countries. Forced begging is a scourge affecting over 50,000 children.

Representativeness, the major issue of the day: The legal haze surrounding union registration has led to all manner of confusion and abuses. Even totally unrepresentative unions have been recognised as national centres. There were 19 by the end of the year, for fewer than 500,000 salaried employees. The government has granted all of them partnership status. In some instances, unions have rejoined their former centres, but the fragmentation of the trade union movement as a result of personal or political interests lies at the root of many trade union rights violations. Many employers have exploited the flaws in the legislation to pit organisations against each other or to support bogus unions.

Union activists consider the holding of union elections in early 2011 to be crucial. The trade union centres have secured their adjournment on several occasions, considering there to be insufficient guarantees to ensure their fairness. At the end of 2010, several union leaders called into question the government's impartiality in the organisation of the ballot.

Trade unionists threatened and dismissed: Several centres reported that workers were often stopped from joining the unions of their choice, faced with pressure and intimidation of all kinds at the hands of their employers. The CNTS denounced the relentless tactics deployed by the management at the paper mill SIPS (Société industrielle de papeterie du Sénégal) to stop workers from joining the national print workers' union, the Syndicat national des travailleurs des industries polygraphiques. Two members of the agro-industrial workers' union, the Syndicat national des travailleurs des complexes agro-industriels alimentaires, were dismissed following their election as union representatives at the CSS sugar company (Compagnie sucrière sénégalaise). At Transrail, Ousmane Sene, the deputy general secretary of SATRAIL, affiliated to the national union of autonomous trade unions of Senegal UNSAS (Union nationale des syndicats autonomes du Sénégal), was dismissed in February. The railway company had already dismissed several trade unionists during the previous year on account of their activism.

Two union leaders intimidated in turbulent telecom sector:

On 13 July, following a strike at the national telecommunications company SONATEL, Ndèye Founé Diallo, a member of the Executive Bureau of the SONATEL Intersyndicale was interrogated for several hours by the Criminal Investigations Department. On 30 September, the management at Global Voice filed defamation charges against Mamadou Aidara Diop, the president of the Intersyndicale. The union leader had denounced the establishment of the U.S. group and the risk it represents for thousands of jobs, direct and indirect. At the end of December, Global Voice dropped the charges.

Forty-three workers dismissed for taking part in sit-in: Forty-three workers from the ICS (Industries chimiques du Sénégal) chemical firm were dismissed at the beginning of November in Mboro for staging "a work stoppage in blatant violation of the rules". The workers had organised a sit-in to protest against the non application of a Memorandum of Understanding signed two years earlier.

Government interference in agricultural union movement:

The confederation of autonomous trade unions of Senegal CSA (Confédération des syndicats autonomes du Sénégal) criticised the authorities' policy of ostracising its organisation. Several of its affiliates have still not received official recognition or are excluded from consultations. The most blatant case relates to the agricultural workers' union SCEMS (Syndicat des cultivateurs, éleveurs et maraîchers), which is still being sidelined, whilst the agricultural union set up by the government in 2009 was imposed as the only social partner throughout 2010. A government post was even created for this purpose: that of deputy minister in charge of farmers' organisations and the unionisation of agricultural workers, held by Khadim Gueye until June.

South Africa



POPULATION: 50,100,000
 CAPITAL: Pretoria
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Police dealt forcefully with strikers and protestors using tear gas and rubber bullets against world cup stewards and more rubber bullets together with water cannons against striking public sector workers. In the private sector Bridgestone Firestone obstructed collective bargaining while a pharmaceutical chain refused to negotiate. Striking workers in the motor industry were dismissed. Although secured in law, the right to strike is weakened by the employers' right to hire replacement workers.

TRADE UNION RIGHTS IN LAW

While the Constitution and the Labour Relations Act provide a strong legal foundation for trade unions to exercise their rights, some issues exist. All workers – with the exception of members of the National Intelligence Agency and the Secret Service – are allowed to join unions and are protected against unfair dismissal, and unions can seek redress in court for such dismissals.

The Labour Relations Act favours centralised collective bargaining at the sectoral level but does not prohibit bargaining at other levels. Bargaining normally takes place in bargaining councils or in statutory councils. However, in order to establish a bargaining council a trade union must be “sufficiently representative”, but there is no definition in the Act of the term.

The right to strike is explicitly guaranteed and is broadly construed to include pickets, secondary strikes and socio-economic protest actions. Nevertheless, the right is curtailed by the fact that employers are permitted to hire replacement workers during defensive lock-outs, i.e. lock-outs called in response to a strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: South Africa was the focus of world attention when it hosted the 2010 football World Cup in June. Despite this temporary boost the country still has one of the highest

unemployment rates in the world with over a third of the workforce out of work. During the year the government launched an awareness campaign on HIV/AIDS as the country still has among the highest prevalence in the world. The Congress of South African Trade Unions (COSATU) celebrated its 25th anniversary in December.

Telecoms company keeps union at bay: The Communication Workers' Union of South Africa (CWU) reported in February that it was not consulted on the restructuring of MTN, one of the country's largest telecom operators, despite the provisions of the 1995 Labour Relations Act on union consultation. The company argued that it was not obliged to recognise the union as it represented less than 10% of staff. The union countered that the company had actively fought to keep membership below the 10% legal threshold for recognition.

Police fire tear gas and rubber bullets at striking World Cup workers: On 14 June, police fired tear gas and rubber bullets at about 500 workers staging a protest over pay outside the football World Cup stadium in Durban. The riot police were equipped with body armour, helmets and guns. The workers said they had been promised 1500 rand a day, but had only been paid 190. They had also been left with no transport and were facing long walks home. The protesters claim their action, three hours after a match, had been peaceful and they were surprised that the police charged at them and fired tear gas. The police corralled the protesters before they reached the city centre and after a tense standoff the workers dispersed. Police later confirmed that one woman had been hit by a rubber bullet but claimed that no-one had been hurt.

The following day in a similar incident in Cape Town riot police were brought in to break up an attempted strike at the Green Point World Cup stadium.

Dis-Chem management refuse to negotiate while police harass striking workers: A strike by workers employed by the pharmaceutical chain Dis-Chem unveiled a series of abuses and a clear determination to break their union, the South Africa Commercial, Catering and Allied Workers Union (SACCAWU). The union was in dispute with the company over several issues, notably pay. The company refused to negotiate with the union and SACCAWU had to refer the matter to the Commission for Conciliation, Mediation and Arbitration (CCMA). The outcome was an Advisory Arbitration Award which ruled that the company should negotiate. When the company refused to adhere to the advisory award, the CCMA granted a certificate which allowed SACCAWU members the right to embark on a protected strike to press for their demands. The strike began on

27 May and was followed by over 2000 SACCAWU members at more than 40 Dis-Chem Pharmacies nationwide.

On 18 June, 23 Dis-Chem workers in Midrand were arrested and held over the weekend before being released the following Monday without charge. The arrests occurred after striking workers confronted the store and central management for taking photographs of workers on the picket-line. Strike and picket rules clearly stipulate that management should not take photographs of workers on the picket-line. Three more workers were arrested on 23 June and charged with alleged damage to property.

SACCAWU reported that striking workers continued to be harassed by store managers, mall managers and the police. Some workers were assaulted on the picket-line by a store manager in Pretoria. As the strike entered its fourth week Dis-Chem openly stated that even if SACCAWU had 100% membership in the company they were not obliged to negotiate with the union. At a conciliation meeting, the company went further and stated it was not prepared to meet with SACCAWU to seek a resolution to the current strike under any circumstances.

This was consistent with Dis-Chem's firmly anti-union approach. For some time the company had regularly discouraged its employees from joining SACCAWU and actively participating in union activities. In 2009 SACCAWU had to declare a dispute to compel the company to recognise the union.

Government orders police to crush public sector strike: In August, President Zuma ordered police to crush a national strike. On 19 August, police clashed with protesting public sector workers, using rubber bullets and water cannons to disperse strikers demonstrating outside a Soweto hospital. The public sector unions launched their indefinite strike on 18 August to demand an 8.6% pay rise plus a monthly housing allowance of R1,000 (USD142) for all civil servants. More than a million civil servants joined the strike. The government insisted that its debts and the global downturn meant it could not afford to meet union demands and instead offered 7% and R700 (USD99) towards housing. The leader of the Congress of South African Trade Unions (COSATU), Zwelinzima Vavi, pointed out that President Zuma was earning more than R2.2m.

The dispute ended on 20 October when the unions accepted a 7.5% wage increase backdated to 1 July and an R800 housing allowance.

Strikers dismissed: When motor industry workers went on strike on 1 September in the auto supplies industry and at petrol stations around Durban and Port Shepstone the police

responded with brutal harassment and arrests, according to the National Union of Metalworkers of South Africa (NUMSA). The motor workers went on a strike after both the Retail Motor Industry (RMI) and the Fuel Retailers Association (FRA) failed to meet their demands for improved wages and conditions of employment for workers after more than three months. The union, representing some 70,000 members in the South African component, fuel stations, retail franchises and tyre industries, had asked for a 15% wage increase, improvements in severance pay and six months maternity leave. NUMSA particularly objected to the arrest and intimidation of striking workers around Durban and Port Shepstone petrol stations during their legal, protected action.

After a two week strike the two sides finally agreed to an increase of between 9 and 10% - but the FRA and the RMI then dismissed workers who had been on strike.

Tyre manufacturer obstructs collective bargaining: Tyre manufacturer Bridgestone-Firestone walked out of negotiations aimed at resolving a dispute over wages and working conditions. This led to a strike in the tyre and rubber manufacturing industry organised by the National Union of Metalworkers of South Africa (NUMSA) that started on 30 August. Since the start of the negotiations earlier in the year Bridgestone-Firestone had opposed every move towards collective progress. The company even tabled counter-proposals that were lower than those made by the New Tyre Manufacturing Industry Employers' Association (NTMIEA) to which it is affiliated.

Intimidation of strikers at retail chain: On 29 October during a strike at the Pick 'n Pay retail chain workers in Klerksdorp were arrested for singing and shouting slogans on the picket-line. A judge allowed them to continue their picket but told them to keep the noise down. Their union, the South Africa Commercial, Catering and Allied Workers Union (SACCAWU) also reported that three workers were shot at, one in a drive-by shooting on workers on the picket-line and the other two by mall security. There were no reports of injuries. A further 62 workers were arrested on 30 October and on 2 November all the striking workers in Klerksdorp were arrested, but later released.

The strike was called after months of frustration. SACCAWU submitted proposals on pay and working conditions for 2010 to the company in December 2009 and workers were due to receive their increases at the beginning of March 2010. Nothing happened in March however, and after numerous attempts to resolve the dispute SACCAWU called its 27,000 members out on strike on 29 October. A settlement was reached after two weeks and the strikers returned to work on 11 November.

Sudan



POPULATION: 42,200,000
 CAPITAL: Khartoum
 ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 -
 111 - 138 - 182

There was no improvement in Sudan where no independent trade union activity is tolerated.

TRADE UNION RIGHTS IN LAW

The 2000 Labour Code essentially denies trade union freedoms. Furthermore, the 1992 Trade Union Act only allows one trade union federation, the state-controlled Sudan Workers Trade Union Federation (SWTUF), and independent unions are banned. The government regulates most aspects of the trade unions' activities, including elections, their organisational structure and alliances, and the unions' funds are controlled by the Auditor General.

Collective bargaining is thwarted by the fact that salaries are set by a tripartite committee comprising members of the government, employers, and the SWTUF. Although labour disputes are adjudicated by the labour courts, the Minister of Labour can refer them to compulsory arbitration. Legal strike action is practically impossible as all strikes must be approved by the government.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: President Bashir won Sudan's first multi-party elections in 24 years, marred by widespread vote rigging and intimidation. The Darfur conflict continued after attempts at a peace deal ultimately failed. In July, the International Criminal Court (ICC) issued a second arrest warrant for President Bashir - this time for charges of genocide. At the end of the year the country was preparing for the January 2011 referendum on independence for the South.

Dismal rights record: Sudan is a non-democratic, authoritarian country whose human and trade union rights record is a matter of serious concern. Trade unionists outside the pro-government trade unions live under constant fear and do not dare denounce inhumane work conditions. It appears that independent trade unionists are not able to participate in international trade union meetings for fear of reprisal when they return home. Accurate

information about the numbers of trade unionists in prison is difficult to obtain and their whereabouts is unknown. Some tolerance is shown to trade unions within the official structures. The Sea Ports Trade Union has publicly opposed any plans to partially or fully privatise Port Sudan Harbour, as it could jeopardise workers jobs. Their position was supported by the official Sudan Workers' Trade Union Federation (SWTUF).

SWTUF colludes in government surveillance of oil workers:

In the oil-producing regions, police and secret service agents closely monitor workers' activities in collusion with oil companies. These regions are designated "high security areas", where the free movement of people has been effectively curtailed. The official Sudan Workers' Trade Union Federation (SWTUF) is used as part of the government's strategy to control workers in order to ensure a regular flow of oil. Part of the revenue from this oil has been ploughed back into financing the war efforts in the Darfur region. The SWTUF has consistently supported government denials that mass murder has taken place in Darfur, where workers have not even dared to approach the SWTUF for protection.

Export processing zones: There is one export processing zone (EPZ) in Port Sudan which is exempt from labour laws. There is no freedom of association for workers in the zones.

Swaziland



POPULATION: 1,100,000
 CAPITAL: Mbabane
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 -
 111 - 138 - 182

Police brutally arrested and manhandled workers taking part in international workers' day celebrations. More trade unionists were arrested and some deported when they took part in pro-democracy events in September, while the offices of the Swaziland Federation of Trade Unions (SFTU) were raided. Trade union rights are restricted, and lawful collective action is virtually impossible. In several cases employers dismissed workers who took part in strike action.

TRADE UNION RIGHTS IN LAW

Basic trade union rights are recognised in the law, and the Industrial Relations Act was amended in 2010 to take into

consideration some issues that the ILO has commented on for many years. Nevertheless, trade unions still face a harsh legal environment. The 2006 Constitution entrenches the State of Emergency in force since 1973, which suspends constitutional freedoms. It also invests all power in the King's hands, bans opposition political parties and meetings, and gives the government the ultimate executive, judicial and legislative authority. The Suppression of Terrorism Act was renewed in 2010, and is used to target trade unions.

The law bans prison staff and workers in export processing zones from forming and joining unions. The dispute settlement procedure that must be exhausted before a strike can be called is long and cumbersome. Trade unions also face civil liability for any damage caused during a strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: A Global Day of Action for Democracy in Swaziland was held on 7 September as part of a worldwide programme of solidarity action beginning on 6 September, Swaziland Independence Day. Nearly 70% of the population still live on less than a dollar a day and the unemployment rate is estimated at 40%. Thousands of jobs were lost in the private sector during the year as a result of company closures in the wake of the financial crisis. In November it was announced that about 7000 public servants in Swaziland would lose their jobs in cutbacks as part of a government bid to gain International Monetary Fund (IMF) approval for a loan.

Firm rejection of a police union: During a ceremony on 1 April to hand over office to his successor former Police Commission, Edgar Hillary, restated his firm opposition to trade unions in the police. He stated that "a union has no place in the police service or any disciplined force. Unions in such formations can only cause division, uncertainty and anarchy". The ILO still leaves the question of trade unions in the police and armed forces to the discretion of Member States.

Continued repression of trade union activity: In an interview given to a London student's newspaper in February 2010, B.V. Dlamini, deputy secretary general of the Swaziland Federation of Trade Unions (SFTU) described the trade union rights situation in the country as follows: "When workers go on strike, the government sends the police to beat the hell out of them. There are even cases where police agents were shooting the workers just because they went on strike, demanding better working conditions. The government said that it was "not going to tolerate [strikes], because it will chase [away] investors". Mr. Dlamini also explained that while Swaziland was often one of

the first countries to ratify international conventions, including ILO Conventions, it was usually also the first to violate them.

Hotel refuses to negotiate: The Royal Villas Swaziland (Pty) Limited refused to negotiate with the Swaziland Hotel Catering and Allied Workers Union (SHCAWU). It claimed SHCAWU's two representatives, Mathokoza Bhembe and Nokuthula Mamba, were illegally in office as shop stewards, thereby making the negotiation process defective. In January it announced it would take the union to court.

Police brutality against trade unionists celebrating May Day: Police arrested and brutally manhandled trade unionists gathered for the workers' day celebration organised by the Swaziland Federation of Trade Unions (SFTU) in Manzini, Swaziland's industrial capital, on 1 May. Police and prison officers entered the stadium where the event was being held, searching for workers wearing t-shirts of the banned political parties People's United Democratic Movement (PUDEMO) and the Swaziland Youth Congress (SWAYOCO). The SFTU is closely involved in the pro-democracy movement in Swaziland. Many workers were beaten and violently arrested for more thorough searches at the police station.

Among the workers arrested was a youth activist, Wandile Dlodlu, who was taken in for wearing the Congress of South African Trade Unions (COSATU) t-shirt and an African National Congress (ANC) cap, which was later confiscated. When the police were confronted by the leadership of both SFTU and Swaziland National Association of Teachers (SNAT) on their actions, they claimed to have arrested the workers for other offences.

Police also arrested the guest speaker from the Swaziland Democracy Campaign, Miss Marie Da Silva and Swaziland Consumers' Forum (SCF) representative, Peter Mpandiana, on the pretext that he was "not a worker". The guest speaker from the Swaziland United Democratic Front (SUDF), Alex Langwenya, was held by the police until the event was nearly over, preventing him from giving his speech. Simangele Mmema from SNAT had been asked to video the event, but police officers confiscated her recording equipment, deleting everything on it.

Trade unionist dies in custody: One worker died in custody after being arrested during May Day celebrations. Sipho Jele was a member of the Swaziland Agriculture and Plantation Workers' Union (SAPWU) and the People's United Democratic Movement (PUDEMO). The police arrested him during a military-style invasion of a sports stadium in Manzini where workers had gathered for an event to mark international labour day. They took him to his home where, according to his aunt,

they searched the house and found nothing more than Jele's PUDEMO membership card. He was forced to have his picture taken showing this card before being taken away. Two days later, the correctional services department announced that Siphos Stephen Jele had committed suicide in the toilet of a prison cell.

According to information received by the ITUC, the police exerted pressure on Jele's family for him to be buried quickly, in an overt attempt to conceal the real cause of death. Furthermore, the inquiry appointed by the Prime Minister of Swaziland was carried out by the police's own correctional service staff. Given the circumstances of his arrest, trade unionists and democracy activists fear he was killed for his activism. Pathologist reports say there were signs suggesting he was strangled. The Jele family endured further suffering when they were denied the right to give Siphos a traditional burial.

Teachers' union muzzled: In June the Swaziland Broadcasting and Information Service (SBIS), refused to announce a statement issued by the Swaziland National Association of Teachers (SNAT) announcing a forthcoming SNAT meeting as it had not been approved by police. Senior personnel at the radio station claimed they always required "big organisations" to have announcements accompanied by police approval. The requirement had never been formally communicated to the relevant organisations and had never been applied before. This led the union to believe that it was part of the government's continued suppression of all entities linked in any way with the pro-democracy movement.

Truck drivers dismissed for go slow action: The Simunye branch of the Cargo Carriers Logistics Company dismissed 22 truck drivers at the end of June for allegedly engaging in a go slow strike. The truck drivers were dismissed after disciplinary hearings. The 22 were among the 24 drivers that engaged in the go slow strike to express their anger at the management's failure to address a number of their grievances. The company was granted an order by the Industrial Court directing the workers to stop the go slow. Before the disciplinary hearing the company had suspended the 24 drivers for engaging in an illegal activity. The Swaziland Transport and Allied Workers Union (STAWU) Simunye branch said the drivers had appealed the decision of the disciplinary hearing.

Trade unionists arrested and deported: Police detained 50 people on 6 September including Swazi activists and representatives from the Congress of South African Trade Unions (COSATU). The police broke up a peaceful meeting of pro-democracy activists in Manzini before taking them to police headquarters. The meeting was taking place ahead of

the 7 September Global Day for Action for Swaziland to support its struggle for democracy and human rights. All the detained workers were later released from police detention and the South Africa trade unionists were deported immediately. A delegation of about 20 people from the South African Municipal Workers' Union (SAMWU) was denied entry into the country.

SFTU offices raided: On 7 September police raided the Swaziland Federation of Trade Unions (SFTU) offices, confiscating pamphlets and placards that had been prepared for the pro-democracy demonstration, A Global Day of Action for Democracy in Swaziland held on the same day.

Dismissed for protest action: Unitrans, a South African fuel supply company, dismissed 43 workers, represented by the Swaziland Transport and Allied Workers' Union (STAWU) on 18 October. The following day it locked out 143 workers and obtained a court order for them to stay at least 200 metres away from the company premises.

The dispute began when the union expressed concerns over the mistreatment of workers by a contract manager. Management failed to resolve this grievance. As a result, on 14 October the union indicated it wanted to hold a meeting on the company's premises at 6am on 18 October. The company sought a court order to prevent the meeting taking place but its application was rejected. The meeting went ahead and the workers agreed they would only resume work on condition that the grievance against the contract manager be resolved and that he be denied entry into the premises except to attend a hearing.

The company issued ultimatums advising the employees to return to work. As they did not do so they were given letters terminating their services, informing them they were dismissed for participating in an "illegal" work stoppage.

More employees downed tools and resolved not to return to work until the charges against their colleagues were withdrawn; management responded by implementing the lockout. STAWU said that all 143 workers were effectively dismissed. They appealed against their dismissal and the union called for government intervention.

Minister outlaws STAWU protest action: Following the dismissal of 124 workers at UNITRANS in October, the Swaziland Transport and Allied Workers' Union (STAWU) applied to the Ministry of Public Works and Transport to hold a one-week protest from 15 to 22 November. The protest was not only to call for the reinstatement of the sacked colleagues but also to press for new regulations governing pay scales and greater

respect for workers' rights. STAWU noted that its members had also been dismissed from other companies, such as Transship, Cargo, Express Cargo and Fuelogic. In some cases dismissal occurred without hearings or relevant procedures, demonstrating the lack of respect for workers rights. The union also argued that its members were underpaid through labour brokers who do not follow the correct payment scale. The application was rejected by the Minister, Ntuthuko Dlamini, who said, "I only approve table negotiations requests and not protest actions or marches in my ministry".

Dismissal threats following pay strike: Over 500 textile workers risked losing their jobs at the end of the year at the textile company HOs Enterprise following a strike over bonus pay. The workers went on strike after management failed to confirm whether they would be paid their annual bonus. Management called in the police to remove them from the premises and told them they were being sent home for the end of year holiday period. They were warned they would probably have to reapply for their jobs in the New Year and that no one was guaranteed a job. A manager at the company confirmed that it had plans to ask workers to reapply for their jobs and that those who took part in what she termed the "illegal" strike could be dismissed.

Retailer intimidates union members: PEP Stores appeared to be blatantly discriminating against members of the Swaziland Commercial and Allied Workers Union (SCAWU) by favouring non-union members when granting wage increments in December. The company was engaged in a dispute over wages with its employees. It was reportedly intimidating those who were members of the union, forcing them to withdraw their membership.

Tanzania



POPULATION: 43,700,000
CAPITAL: Dodoma
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Widespread breaches of freedom of association rights in the gold mines were revealed. The legal environment is not conducive to trade unions, especially in Zanzibar where all strikes are prohibited.

TRADE UNION RIGHTS IN LAW

Despite some constitutional guarantees, many excessive restrictions apply. The government retains control over many trade union activities, and can even suspend a union if it considers that public security or public order are endangered. While the right to collective bargaining is recognised, all collective agreements must be submitted to the Industrial Court for approval and may be refused if they do not conform to the government's economic policy. Furthermore, workers in public services are not allowed to bargain collectively. Strike action is permitted as a measure of last resort, but all strikes are subject to a compulsory 30-day mediation period. The list of services where strikes are prohibited is extensive, and covers almost 50% of all services. Strikes in other sectors may be either temporarily or permanently banned after a complicated investigation process. Picketing is not allowed.

In the semi-autonomous region of Zanzibar, there are even greater restrictions. To register a union, at least 50 people are required, and the Registrar has considerable powers to restrict registration if s/he does not agree with the union provisions. Furthermore, all strikes are prohibited.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Politically the country remained stable, but economically it continued to struggle. President Kikwete won a second term in the October elections. An opinion poll conducted before the general election listed the most serious problems facing Tanzanians as corruption, HIV/AIDS, poverty, high food prices, bad roads and unemployment. In July, Tanzania became a founding member of the new East African Common Market.

Difficulties in organising legal strikes: Workers tend to stage illegal wildcat strikes and walkouts because of the lengthy and cumbersome requirements for calling a legal strike. In the private sector, employers often deny their workers the right to organise and to engage in collective bargaining. President Kikwete declared the strike in May by the Trade Union Congress of Tanzania (TUCTA) illegal. The strike was called after a breakdown in negotiations over, amongst other things, an increase in the minimum wage. The President had threatened that all civil servants taking part in the strike would be sacked, however no dismissals were reported.

Breaches of freedom of association rife in gold mines: In March, a workshop run by the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) revealed widespread breaches of freedom of association rights in the gold mines sector. Representatives of the Tanzania Association of Mining and Construction Workers' Union (TAMICO) reported that at Geita Gold, owned by Anglo Gold, management illegally screened all TAMICO membership forms and has refused union recognition to those workers that it does not want in the union. Geita management in the Mwanza Region of Tanzania only recognises 400 workers as members of TAMICO, despite the fact that the union has recruited 900. The Geita human resources director, Philemon Tano has a history of openly discriminating against union membership. At African Barrick Gold Plc., 75% owned by Barrick Gold of Canada, management has continued to issue dismissals as a means to discourage membership in the union. It was reported at the workshop that TAMICO members are sacked almost on a daily basis.

Togo



POPULATION: 6,600,000
CAPITAL: Lomé
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The Labour Ministry tried hard to improve social dialogue and guarantee good industrial relations. However, when faced with industrial unrest, both public and private employers prove reluctant to allow freedom of association and collective bargaining. Workers and trade union rights are continually flouted, particularly in private education and the export processing zone.

TRADE UNION RIGHTS IN LAW

While the Constitution guarantees freedom of association and the right to strike, excessive restrictions still apply.

The Labour Code of 2006 extends the right to hold union office to migrant workers legally established in the country, and specifically stipulates that the consent of a spouse is not needed to join a union, a provision that facilitates the right of women to organise. However, workers in export processing zones do not enjoy the same trade union rights as workers outside the zones. Furthermore, the Labour Code stipulates that the dismissal of union representatives require the consent of the labour inspectorate. Although anti-union discrimination is prohibited, there are no provisions protecting strikers against employer retaliation.

While the right to collective bargaining is recognised, it is limited to a single nationwide agreement that must be negotiated and endorsed by the government as well as trade unions and employers. Finally, public sector health workers are not allowed to strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: On 4 March Faure Gnassingbé was re-elected in a presidential ballot marred by irregularities. Living conditions further deteriorated as the price of basic goods soared. The authorities harshly repressed several demonstrations. In December, the IMF and the World Bank announced that the country had reached the completion point under the enhanced Heavily Indebted Poor Countries (HIPC) Initiative and could therefore

allocate more of its limited resources to priorities such as social needs and renovating infrastructure. Togo celebrated 50 years of independence.

Unions created in export processing zone, but many abuses persist: Three trade unions were recently created in the country's export processing zone. However the difficulties they encountered in their formation and in just being able to function underlined the contradictions and vagueness of the regulations governing workers rights in the zone. The majority of the 9000 workers (60% women) employed in the 60 enterprises of the zone continued to be deprived of their most basic rights. There is no general framework for consultation and the unions were not involved in the review of the legal texts governing the free trade zone. Hence the exemptions regarding dismissal, arbitration and dispute settlement remained, to the detriment of the workers.

Unions still waiting for real social dialogue: National trade union centres demanded a resumption of social dialogue several times during the year, as well as the full implementation of the protocol signed by the social partners in 2006. Out of the 125 commitments made aimed at resolving serious shortcomings in terms of economic, social and cultural rights, barely 30 have been implemented. Only an emergency seems to galvanise the authorities into negotiating with the unions. In June a sharp rise in fuel prices led to strong social unrest. After announcing a general strike, the five major trade union centres obtained a small fall in fuel prices during a crisis meeting of the National Council for Social Dialogue. The discontent continued however.

Teachers' union leader dismissed: On 29 July Kokou Pognon, a teacher and the General Secretary of the National Union of Lay and Denominational Teachers (SYNESPLAC-TOGO), was dismissed by the "Nouvelle constellation" school for taking part in trade union training seminars, even though the National Workers' Trade Union Confederation of Togo (CSTT) had sought permission, in line with the labour code. In October SYNESPLAC-TOGO and several other teachers' unions had denounced the lower quality working conditions in private schools and the refusal to allow trade union activities.

Three union officials formally sacked and strikers effectively dismissed by pharmaceutical company in export processing zones: Poor working conditions at the Sprukfield pharmaceuticals factory led to a serious industrial dispute there at the end of the year. After management refused to negotiate with the representatives of staff belonging to the SYNATRAZOFT union or to accept their notice of strike action, 120 employees out of the total workforce of 132 stopped work on 9 November. Workers were hopeful after the zone's management offered to

mediate. However, on 3 December it confirmed the request by Sprukfield to dismiss the three SYNATRAZOFT representatives, Fayossey Koffi Agbegna, Panema Hezo and Kangbeni Delphine. The remaining workers who had taken part in the strike also found themselves out of work, but with no formal notice of dismissal.

Tunisia



POPULATION: 10,200,000

CAPITAL: Tunis

ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Government interference in the trade union movement was constant up until the final days of 2010 when social protest reached unprecedented levels with the growing support of members of the national trade union centre Union générale tunisienne du travail (UGTT).

TRADE UNION RIGHTS IN LAW

A number of restrictions apply despite basic trade union rights being guaranteed. The Labour Code provides for the right to form and join trade unions, and unlike for associations, prior authorisation is not required to create a union. However, foreign nationals need prior approval by the authorities to have access to union office. Wages and working conditions are set in triennial negotiations between unions and employers after general guidelines are laid out through national tripartite consultations.

While the right to strike is guaranteed, unions must announce the duration of the strike in advance. Workers having participated in an unlawful strike can also face long prison sentences of between three and eight months.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The unrest that swept across Tunisia as of 17 December brutally exposed the limits of the "Tunisian miracle" boasted by President Ben Ali, which brought steady economic growth but proved incapable of creating the skilled jobs sought by the country's increasingly qualified young men and women. The brutal police repression also served to illustrate how heavily the regime relied on silencing civil society and suppressing human rights.

Damning HRW report on trade union rights violations: In October, a Human Rights Watch (HRW) report entirely devoted to the attacks on the Tunisian trade union movement was released, documenting the tight system of control over trade unions set in place by the authorities, which “refused to recognize independent unions, limited their ability to assemble peacefully, and unfairly prosecuted members, effectively shrinking the space in which unions can operate outside of government control”. The report also exposes the attacks on students’ organisations and highlights the plight of journalists’ unions and the CGTT (Confédération générale du travail tunisien), the trade union centre that has been awaiting recognition since 2007. In its response to these criticisms, the Tunisian government ensured the NGO that the unions not recognised were those that had not provided the documents required to be registered.

Former detainees still not reinstated in Gafsa: On 25 November, teachers in Gafsa held a stoppage in protest at the injustice still present in the Redeyef mining region. Over two years following the wave of protest that swept the phosphate mining region, and its violent repression by the authorities, many union activists, mainly teachers, have still not been reinstated to their posts, whilst a number of those who took part in the demonstrations in 2008 continue to be held in jail. The protestors released from prison, as well as their families, are reportedly kept under constant surveillance and harassed on a daily basis. In addition, the economically depressed region has still not received any support from the government in terms of development projects.

Wave of social protests and violent repression unleashed: The self-immolation of a young unemployed Tunisian graduate on 17 December followed by the suicide of another young man in the town of Sidi Bouzid unleashed a wave of protests across the country, in which the regional federations affiliated to the national trade union centre UGTT took part. On 27 December, in Tunis, anti-riot police surrounded trade unionists, mainly teachers, health, postal and telecommunication workers, who had gathered in front of the UGTT head office. At demonstrations across the country, police fired live ammunition at protestors on numerous occasions. At least one demonstrator was killed in December and dozens more were injured. Hundreds of people were arrested, including lawyers and journalists. The protesters were demanding action on unemployment and corruption, as well as respect for fundamental rights. The journalists’ union SNJT (Syndicat national des journalistes tunisiens) denounced the authorities’ clampdown on the media.

Government interference in journalists’ union: Members of the former executive bureau of an independent union of journalists, the SNJT (Syndicat national des journalistes tunisiens),

demanding in vain that a congress be held so that they could be re-elected to their positions as the organisation’s legitimate leaders. Pro-government forces had organised a putsch in 2009 to silence the SNJT after the union released a highly critical report on press freedom in Tunisia. Since then, its members have been faced with harassment from the authorities.

Uganda



POPULATION: 32,700,000
CAPITAL: Kampala
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Police shot and killed two striking workers and seriously injured a third at a leading tobacco company. There was no improvement in the respect for collective bargaining and collective agreements were ignored in several cases. Strikers were faced with mass dismissals and a cut flower company denied union officials access to its premises.

TRADE UNION RIGHTS IN LAW

Some issues remain despite basic trade union rights being guaranteed. In 2006, four labour reform bills were passed, all of which significantly improved labour laws concerning workers’ rights. Employers are barred from interfering in workers’ right to organise, and it is a criminal offence to obstruct this right. However, organising is prohibited in the Export Processing Zones.

The right to collective bargaining is guaranteed under the Labour Unions Act, and the Labour Disputes Act provides for the fast resolution of labour disputes and elevates the Industrial Court to the status of the High Court. However, section 27 of the latter Act empowers the Minister of Labour to refer a dispute to the Industrial Court if either side does not comply with the recommendations of a board of inquiry, a procedure that is tantamount to compulsory arbitration.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The year was marred by corruption and violence. In June the public prosecutor opened investigations into the Vice-President, Foreign Minister, several other ministers and

officials over the alleged theft of USD25m. Also in June, troops were ordered to step up border security following the apparent resurgence in the Democratic Republic of Congo of the ADF-NALU rebels striving for an Islamic state in Uganda. Two bomb attacks on people watching the World Cup final killed at least 74 people in July. The Somali Islamist group Al-Shabab says it was behind the blasts. In August the National Resistance Movement's primary elections for parliamentary and local candidates were suspended amid irregularities and violence. Opposition demonstrations protesting against the composition of the electoral commission were met with police brutality.

No collective bargaining in public sector: No public service unions, including medical staff and teachers, are able to negotiate their salaries and employment terms as these are fixed de facto by the government.

Union rights often not enforced: Uganda was criticised in 2009 by an ILO representative in the country for failing to protect workers' rights to organise and engage in collective bargaining for fear of offending foreign investors. These rights were further hampered by heavy bureaucracy, the ILO said. In a meeting with the Labour Minister in September 2009, the Central Organisation of Free Trade Unions (COFTU) expressed serious concern about the ill-treatment of workers by foreign investors.

Collective agreement ignored, right to organise denied: The National Organisation of Trade Unions (NOTU) reported in November that it had petitioned the Inspector General of Police, Major General Kale Kayihura, over the working conditions of private security guards. Over 35 private security firms are registered with the police, many of them employing over 250 guards. The guards complained that conditions set out in collective bargaining agreements, including compensation for injuries and correct dismissal procedures, had not been respected. They also complained that in some cases employers deny security guards the right to join trade unions.

Union leaders denied access to workers: The Uganda Horticulture and Allied Workers Union (UHAWU) registered a complaint with the Labour Commissioner on 8 July stating that the management of JP Cuttings Ltd. blocked union leaders from accessing workers at the workplace. This had occurred on several occasions, the most recent being on 1 July. The managing director, Mr. Piet de Jong, directed his security personnel to block entry to the union leaders who came to visit the farm to address workers in a scheduled meeting.

Mr. Piet de Jong also intimidated union members to make them withdraw from the union and assaulted the union's Sec-

retary General, Mr. Stephen Barasa, when he went to oversee workers being paid. The Union and JP Cuttings Ltd. were still involved in a court battle at the end of the year.

Three strikers shot and two killed by police: Police fired live ammunition during a workers' strike at British American Tobacco (BAT) on 7 September. Two people, Denis Bazaare and Bernard Byabasajja, died and a third, Sylvia Kabasinguzi, was injured and treated at Hoima Hospital. The strike was called over a pay dispute that had been going on for two months. The employer called in the police who began shooting at the workers.

The Inspector General of Police acted swiftly, ordering the arrest of five police officers and the confiscation of their guns. Three of the five officers, the District Police Commander, Augustine Kasangaki, the officer in charge of Hoima Central Police Station, Romeo Ojara, and the Head of Operations, Luke Mbusa, were charged with negligence of duty, cowardice and irregular conduct. The police also paid for the funerals of the deceased workers.

Dismissed during collective bargaining negotiations: On 30 September management at Record Network Television suddenly dismissed 60 workers. It had been in negotiations with the Uganda Media Union (UMU) and on 29 September the managing director met with the labour commissioner and agreed that a collective bargaining agreement would be signed. However, the next day the company refused to recognise the agreement and instead announced it was dismissing staff. The union called on the National Organisation of Trade Unions (NOTU) to intervene. The employer responded by calling in the police, as if it were a strike. The union petitioned parliament, and the matter was still unresolved at the end of the year. Record Network Television is owned by Record International, based in Brazil.

Arrests and indefinite closure in response to rice factory strike: When workers at Tilda Uganda Ltd, a rice processing firm, went on strike on 4 November the riot police were called in and 18 people were arrested. The workers complained about low pay and poor working conditions, including the lack of protective gear, sexual harassment, child labour and the non-recognition of their union for the last 14 years. The workers, Tilda management, the National Organisation of Trade Unions (NOTU) and the labour ministry held a series of meetings in which they agreed to resume work as negotiations continue. However, on 15 November the company announced it was closing down indefinitely to allow for an investigation into the strike and assess all options. NOTU had asked Tilda to resume operations while carrying out the investigations so that the workers would not lose their jobs.

Zambia



POPULATION: 12,900,000
 CAPITAL: Lusaka
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

While the Zambian government courts the Chinese and welcomes their heavy investment in the country, there is growing concern over Chinese employers' attitudes to their workers and harsh response to organised protest. In one incident 11 miners were shot and two seriously injured. The Revenue Authority continued to delay and effectively deny recognition of an independent workers' union. The right to strike is severely limited in law.

TRADE UNION RIGHTS IN LAW

A number of limitations on trade union rights apply despite initial guarantees. While the Constitution provides for freedom of association, there can only be one union per industry. Furthermore, workers in the prison service, judges, court registrars and magistrates are excluded from the Industrial and Labour Relations Act, and the Minister also has discretionary powers to exclude certain categories of workers from the scope of the Act.

While the right to collective bargaining is secured, it is almost impossible to call a lawful strike, as all strikes are subject to a long series of procedural requirements. Strikes can also be discontinued if found by the court not to be "in the public interest". Police officers can arrest workers without needing a warrant if they are believed to be on strike in an essential service, the list of which exceeds the ILO definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: China's involvement in Zambia deepened in February when the two countries signed a mining cooperation agreement and a deal to set up a joint economic zone. This was followed in August by an agreement with China to build a second hydro-electric power plant on the Kafue River. Zambia is now worse off than in 1970, partly due to HIV/AIDS, according to the UN's Human Development Index. The disease has decimated Zambia's professionals, including engineers and politicians, and malaria remains a major problem. Millions of

Zambians live below the World Bank poverty threshold of USD 1 a day.

Unions facing difficult conditions and growing casualisation:

Former Zambia Congress of Trade Unions (ZCTU) President, Fackson Shamenda, observed that trade unions in the country were operating under difficult conditions, given the political climate, the economic situation and consequent job losses. Meanwhile the Labour and Social Security Minister, Austin Liato, publicly criticised some employers for using temporary workers to fill traditionally permanent positions simply to avoid paying statutory employment benefits to workers, leading to growing casualisation and making union organising all the more difficult.

Government intimidation: In September, the General Secretary of the Mineworkers' Union of Zambia (MUZ), Oswald Munyenye, protested that the government intimidated the union whenever it spoke out on issues affecting miners. Matters came to a head after the MUZ repeatedly voiced concerns about the government's decision to allow Vale, a Brazilian mining giant, to start operating in Zambia. The government disregarded the union's concerns and instead accused it of being used by the opposition. The MUZ pointed out it did not need the opposition to tell it to defend miners' interests. The MUZ's views and concerns about Vale were based on the company's record of mistreating workers at mines it operated in other countries.

Protesting mineworkers shot: Eleven miners at the Chinese-owned Collum coal mine in Zambia's Sinazongwe district were shot and injured on 15 October by Chinese managers. Two miners were in a critical condition after they were shot in the chest and head, requiring surgery in Lusaka. The others were treated at the local hospital before being sent home.

The shootings happened after the miners raised concerns over safety and low pay at the mine with their managers. The miners were awaiting an address from Mr Sifuniso Nyumbu, President of the Gemstones and Allied Workers Union of Zambia (GAWUZ). The protest was also supported by the Mineworkers Union of Zambia (MUZ). Miners' interviewed said they lacked face masks and safety shoes and in many instances had to wear their own clothes on duty. They were being paid ZMK 500,000 (USD 100) a month and paying about ZMK 100,000 (USD 20) to rent mud-walled huts lacking basic facilities. The MUZ had warned about the dangerous operating conditions and lack of proper clothing for its workers and criticised the "slave wages" paid to locals.

Two supervisors at the Collum coal mine, Xiao Li Shan and Wu Jiu Hua, were charged with attempted murder and remanded in custody. The government brokered a temporary deal providing a better basic wage plus housing and transport allowances, pending a negotiated agreement between the union and the mine. Mine managers had already showed a poor reputation for respecting workers' rights. In July, two miners at the site were beaten and one of them hospitalised after four Chinese supervisors attacked them for allegedly failing to meet production targets.

Union denied recognition: The Zambia Revenue Authority (ZRA) has consistently used delaying tactics to effectively deny recognition of an independent workers' union. The Zambia Union of Financial Institutions and Allied Workers (ZUFIAW) has been fighting for recognition by the ZRA for over ten years. Workers complied with a mediation ruling in March 2009 whereby those who wished to resign from the employer's in-house union, the Zambia Revenue Authority Workers' Union (ZRAWU), had to write a formal letter to the general secretary. In November 2009, the ZUFIAW submitted a recognition agreement. In January 2010, ZRA responded by demanding that employees who had joined ZUFIAW also write personal letters to management, which they duly did. The ZRA dragged its feet for months eventually informing ZUFIAW that recognition would have to wait until they had consulted with other stakeholders due to the sensitive nature of the ZRA. The ZUFIAW pointed out that it already represented workers in other "sensitive" institutions such as banks and questioned the need to consult stakeholders, seeing this move by management as yet another means to stall recognition.

Zimbabwe



POPULATION: 12,500,000
 CAPITAL: Harare
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Agricultural workers' leader Gertrude Hambira was forced into exile after threats and harassment from the police. Several events held by the Zimbabwe Congress of Trade Unions (ZCTU) were disrupted, curtailed or prevented by the police, and in some instances participants were arrested. A ZCTU official was assaulted by a manager at a security company, while a worker at a Chinese-owned company was dismissed for protesting about working conditions. Union activities are hampered by restrictive legal provisions, and there are no trade union rights in the public sector.

TRADE UNION RIGHTS IN LAW

The labour laws pertaining to trade union rights are lacking. Although private sector workers enjoy freedom of association, public sector workers do not have the right to form and join trade unions, to bargain collectively or to strike. The Registrar has the power to supervise trade union elections and can cancel, postpone, or change the venue of the elections. Furthermore, collective bargaining is not the exclusive prerogative of trade unions, as workers' committees may also bargain at the company level, hence potentially undermining the unions. All collective bargaining agreements must then be approved by the authorities.

The right to strike is also limited, as the procedures that must be exhausted prior to a strike are excessively long. Employers are not prohibited from hiring replacement workers during a strike, and also have the right to sue workers for liability during unlawful strikes. The penalties for participating in an illegal strike include harsh prison sentences of up to five years. Strikes are banned in "essential services", the list of which exceeds the ILO definition. The Minister also has discretionary powers to decide what constitutes an essential service.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The economy has stabilised since the Government of National Unity (GNU) was formed in 2009, but the

country remains desperately poor, and Zimbabwe still ranks bottom on the UN's Human Development Index. Tensions within the GNU were apparent, as President Robert Mugabe and the Zimbabwe African National Union-Patriotic Front (ZANU-PF) continued to use violence and repression to dominate government institutions and hamper meaningful progress. The Minister of National Healing, former trade unionist and Movement for Democratic Change (MDC) founding president, Gibson Sibanda, died in August after suffering from cancer.

ILO Commission of Inquiry finds serious violations: An ILO Commission of Inquiry confirmed in March that Zimbabwe's government was responsible for serious violations of fundamental rights, in particular the freedom to organise trade unions, the right to collective bargaining, the right to strike, and protection of trade unionists from discrimination. The Commission found the violations to be both systematic and systemic and highlighted that it "sees a clear pattern of arrests, detentions, violence and torture by the security forces against trade unionists that coincide with Zimbabwe Congress of Trade Unions (ZCTU) nationwide events, indicating that there has been some centralised direction to the security forces to take such action." It also concluded that "there was another clear pattern of control over ZCTU trade union gatherings, be they internal meetings or public demonstrations, through the application of the Public Order and Security Act (POSA)" and that "detentions and targeted violence have been used to intimidate both leaders and rank and file members of the trade union in a systematic and systemic manner." The POSA has been used regularly as a pretext for anti-union action by the Mugabe regime.

The COI report made a series of recommendations to the Zimbabwe authorities including an immediate halt to the victimisation of trade unionists, the creation of an effective Zimbabwe Human Rights Commission, training on human rights for the security forces, strengthening of the rule of law and legislative changes to comply with international labour laws.

Farm workers' union leaders harassed and arrested: When the General Agricultural and Plantation Workers' Union (GAPWUZ) published a report highlighting the plight of farm workers in Zimbabwe, they faced harassment and arrest. On 19 February the General Secretary of GAPWUZ, Gertrude Hambira, and members of her staff were questioned at Harare Central Police station about a documentary, the House of Justice, and its accompanying report, "If Something is Wrong". The film contained testimonies of murder, torture and violence against black workers on former white-owned farms during the government-driven, chaotic land reform since 2000. While the police believed the documentary contained serious anti-government

allegations, Ms. Hambira and her colleagues were released, but with severe warnings.

The police visited the GAPWUZ headquarters daily to harass staff and search their offices questioning them on the whereabouts of their General Secretary and threatening them. The police investigation found that Mrs. Hambira had contravened Section 31 of the Criminal Law Act, which makes it an offence to publish or communicate false statements prejudicial to the state. Mrs. Hambira, who had already been threatened and beaten on several occasions in the past for her trade union activities, felt forced to go into exile on 24 February.

When the police again visited the GAPWUZ offices on 25 February, still looking for Mrs. Hambira, they arrested the Assistant General Secretary, Gift Muti, and the President, Manjemanje Munyanyi. They were briefly detained but then released. On 1 March, after failing to find any senior GAPWUZ officials, the police took a student who was on assignment with the farm workers' union to the central police station for interrogation.

ZCTU staff arrested after workshop disrupted by police: Police disrupted an educational workshop organised by the Zimbabwe Congress of Trade Unions (ZCTU) for its Regional Women Advisory Council (RWAC) based in Mutare and due to be held from 2 to 4 March. On 2 March two plainclothes officers entered the workshop and sat as participants. The ZCTU paralegal officer based in Mutare advised the police officers that they were unwelcome and that the law does not allow them to attend ZCTU meetings uninvited. The police officers left and returned with a group of 15 uniformed colleagues and five more plainclothes officers. They were led by a senior assistant inspector from the Criminal Investigation Department (CID). They ordered the workshop participants to disperse, accusing the ZCTU of conducting a workshop without police approval and citing the Public Order and Security Act (POSA) as their authority for dispersing the gathering. The participants complied with the order.

Three ZCTU employees, Tenyson Muchefa, Gilbert Marembo and Adrian Mugwanju, were arrested and detained at Mutare Central Police Station's CID. After the intervention by a Mutare-based lawyer, at the request of the ZCTU, the police later released Tenyson Muchefa and Gilbert Marembo. They threatened to keep Adrian Mugwanju in the cells, accusing him of being a nuisance to the police. Mugwanju was ordered to pay a fine of USD20 under duress. He complied and was later released. An appeal against payment of the fine was filed at the Mutare Magistrate Court. The matter was still pending at the end of the year.

Workers suspended for protesting: Harare City Council suspended 75 workers, the majority of them executive members of the Harare Municipal Workers' Union (HMWU), for staging a demonstration at Town House on 9 March. The workers were protesting against the non-payment of February salaries, an outstanding arbitration award and the unfair dismissal of a union leader. HMWU chairman Mr. Comas Bungu had been dismissed after 23 years service on allegations of "causing havoc". The union had written to the Mayor on several occasions outlining their grievances and seeking a meeting with him, but to no avail.

The suspension letters were sent out on 24 March but made the suspensions effective from 15 March, with subsequent loss of both pay and benefits. The Town hall claimed the protest held on 9 March was illegal, although the union had sought and obtained police permission. The suspensions were valid for 14 working days, to allow for investigations and possible disciplinary action. During that time the workers were prohibited from visiting City of Harare premises and were warned not to "interfere" with witnesses or investigations. The union's chairman, Mr Cosmas Bungu, believed the council's action was aimed at crippling and destroying the union.

ZCTU official harassed by police: On 10 April a ZCTU district officer, Runesu Dzimiri, was ordered to stop distributing fundraising forms for ZCTU May Day celebrations around Makoni shopping centre by a Criminal Investigation Department official (CID). All forms and his personal diary were confiscated by the CID official, who demanded that Mr. Dzimiri produce a certificate of authority from ZCTU. Mr. Dzimiri advised him to call the ZCTU office to clarify his position, as the forms were duly signed by the ZCTU Secretary General, but the police officer remained adamant. The forms were withheld for 10 days. The ZCTU paralegal officer then spoke to the officer commanding the Chitungwiza district, and the forms and diary were later returned to Mr Dzimiri.

Union official assaulted by manager: The national organising secretary of the Zimbabwe Security Guards Union (ZISEGU) was assaulted on 11 April by a manager at Guardians Security Company while conducting union business. He was collecting the verdict of a hearing involving one of the company's employees and a union member. The manager ordered him to leave the premises and demanded that the union send someone else, as he did not want workers at the company to be represented by that particular union officer. The manager then sent security guards to escort the union official out of the company premises. As he was being escorted out, he called his general secretary to inform him of what was happening. As he made the phone call, the manager started punching and kicking him. He sus-

tained a broken tooth, bruises on his hands and a swollen face from the assault. He was treated at Harare Central Hospital and discharged the same day.

Attempts to hamper ZCTU May Day celebrations: The Zimbabwe Congress of Trade Unions (ZCTU) had its May Day celebrations restricted. The union notified Masvingo police of its intention to hold a peaceful procession to mark International Workers' Day on 1 May, from ZCTU Masvingo offices to Mucheke Stadium, but in a letter dated 30 April the police superintendent banned the procession. Commemorations were allowed to go ahead at the Mucheke Stadium.

The ZCTU Chiredzi District received approval from the Chiredzi municipality to hold an International Workers' Day commemoration in Chetsanga hall and duly paid for the use of the hall. On 1 May, however, when ZCTU members led by the district chairperson, Mr Martin Shumba, gathered at Chetsanga hall, they found it being used by members of the Zimbabwe African National Union-Patriotic Front (ZANU-PF). When the ZCTU members queried the occupation of their venue, ZANU-PF members told them to leave the place. ZCTU approached the council authorities, who later allocated them a community boardroom to conduct the commemorations. Commemorations went ahead but with a low turnout.

Mass dismissal of striking miners: Rio Tinto Zimbabwe Ltd. (RioZim), operator of the Renco Gold Mine in Zimbabwe's Masvingo province, dismissed 70 miners, suspended 370, and gave a total of 760 of Renco's 1,000 workers final warnings in retaliation for taking part in a strike in May. The miners were members of the Associated Mine Workers' of Zimbabwe (AMWZ), which called the national mine strike in protest at the failure of several mining employers affiliated to Zimbabwe's Chamber of Mines to deliver on wage adjustments that came in an arbitration award the previous year. The mining companies had also neglected to remit contributions to the Mining Industry Pension Fund, monies owed to the National Employment Council for the Mining Industry, and to the AMWZ for subscriptions.

The AMWZ filed the necessary 14-day intent-to-strike notice in April, and their action went ahead on 9 May. Some 20,000 miners protested in 45 different mining companies. The Chamber of Mines responded by filing a show-cause order, and on 14 May the Labour Ministry ordered the AMWZ to suspend its five-day strike. The AMWZ was told to inform miners to return to work or they could face dismissal. All strikers at Renco returned to work within the mandatory 24-hour period after the issuing of the show-cause order, yet the disciplinary measures were still imposed.

The AMWZ leaders, including its president Tinago Ruzive, attempted to meet with Renco management over the unfair measures, but management refused to meet.

Police try to prevent ZCTU commemoration of mine disaster:

On 6 June police chiefs in Harare banned the Zimbabwe Congress of Trade Unions (ZCTU) from holding a commemoration at the Hwange Colliery of the 1972 mine disaster in which 427 mine workers died. The police officer commanding Harare South District, Chief Superintendent T.A. Chagwedera, claimed the ZCTU had not given enough notice under the provisions of the notorious Public Order and Security Act (POSA). The police chief also claimed that World Cup duties had put an additional strain on their forces. In a letter to the ZCTU, he warned against defying the order: "We shall not hesitate to invoke the provisions of section 29 of POSA," he wrote. The threat contradicted recent promises the government had made to the ILO that it would stop using the POSA to regulate trade union activities. After protests to the co-Ministers of Home Affairs, the police finally sanctioned the commemorations under certain conditions, and they went ahead on 19 June. However, the procession was banned.

Police also attempted to block ZCTU commemorations of the mine disaster in Kwekwe. It took the intervention of the High Court to allow the event to go ahead on 3 July. In Bulawayo, the police banned a union procession commemorating the mine disaster.

Dismissed for protesting at working conditions: In June it was reported that an employee at the Chinese telecommunications construction company CETC was dismissed for complaining about poor working conditions. Workers were forced to work for 14 hours per day instead of the stipulated eight hours, with no overtime pay. The company was also paying its workers at lower rates than those agreed to at the National Employment Council (NEC), the collective bargaining forum whose agreements are legally binding on all companies in a particular sector. The company was also accused of not providing employees with protective clothing. The dismissed employee successfully challenged his dismissal with the help of the Zimbabwe Congress of Trade Unions (ZCTU), and the company was ordered to compensate him for the underpayment, overtime, and loss of income and to reinstate him to his previous position without loss of pay and benefits. The ZCTU is still trying to ensure that the company adheres to proper labour practices, as Chinese businesses in Zimbabwe have not shown great respect for the country's labour laws.

Positive signals from the government: The Ministry of Labour announced in August that it was unlawful for the notorious

Public Order and Security Act (POSA) to be used against trade unions and that an awareness campaign was needed for the police. The Ministry also announced that the government was going to review the POSA.

Airline union leaders sacked over pay protest: Air Zimbabwe announced on 15 September that it had fired the eight members of the Board of the Zimbabwe Pilots Association further to a strike the previous week. The 40 pilots employed by Air Zimbabwe went on strike in protest at receiving less than half their monthly pay package. The airline said they were being paid at least USD 1,200 a month, but it could not afford to pay them the full USD 2,500 salary owing to severe financial difficulties. The pilots did not return to work when ordered to and disciplinary proceedings were started.

Attempts to block union fail: In September the Zimbabwe Revenue Authority (ZIMRA) lost its three-year-long bid to block its workers from launching a trade union, after the Registrar of Labour approved the application by the Zimbabwe Revenue Authority Trade Union (ZIMRATU) to be registered as a trade union. The revenue authority had argued that the nature of its business was sensitive and that involving trade unionists in its ranks would open the floodgates to leaks of important data. ZIMRATU leaders are said to have endured a string of intimidatory tactics from powerful government officials who tried to stamp out trade unionism at ZIMRA following management representations to Ministries seeking a directive to force the abandonment of the idea.

ZIMRA bosses said they preferred to deal with a workers' committee, which gave them the latitude to extinguish threats of job actions before matters escalated. The report by the Registrar of Labour dated 8 September 2010, however, said ZIMRA's workers' council was ineffective in addressing the needs of the workers, adding that a trade union for the taxmen would be imperative to effectively represent the disenfranchised employees. It also noted that ZIMRATU was exercising rights enshrined in the Constitution of Zimbabwe and the Labour Act.

Continued harassment of ZCTU: At an ITUC meeting in Harare in September hosted by the Zimbabwe Congress of Trade Unions (ZCTU), Kwasi Adu-Amankwah, general secretary of ITUC-Africa, noted that while the formation of the inclusive government heralded a step toward some healing, progress has been too slow. ZCTU leaders still faced harassment and unions were still finding their job very difficult. In a later interview his views were echoed by ZCTU General Secretary Wellington Chibebe that unions were still facing political harassment.

Collective bargaining still very difficult: Interviewed in October 2010, Zimbabwe Congress of Trade Unions' (ZCTU) General Secretary Wellington Chibebe said that most employers were refusing to engage in wage negotiations. Where they were engaging in wage negotiations, they were refusing to honour the agreements. Furthermore, the government called for a moratorium on wage negotiations, making the situation very difficult for the unions.

Americas

In 2010, the Americas retained the title of the most dangerous continent for the exercise of trade union rights. Many workers had their rights severely flouted, sometimes very violently even when these were protected by law. Inadequate protection of these rights by governments and the Courts, their violation by companies, the development of practices expressly aimed at by-passing these rights such as Solidarismo (El Salvador, Ecuador, Costa Rica amongst others), protection contracts (Mexico) or the use of contract or temporary workers (Colombia, Honduras amongst others) in addition to the constant growth in the informal sector are the many challenges facing trade union organisations in this region. The economic crisis is consistently used as a pretext to undermine trade union and workers' rights.

Most shocking however, is the excessive number of personal attacks and attacks on personal integrity suffered by workers involved in trade union activities. In 2010, 75 people, 45 in Colombia alone (three of which were women and 16 trade union leaders) were killed for trying to defend workers' rights and 24 (20 in Colombia) escaped attacks. There were also 10 deaths in Guatemala, six in Panama, three in Brazil, Honduras and El Salvador. Death threats were received by trade unionists in Guatemala, Mexico and Haiti. Furthermore, over 100 workers were arrested (the majority in Panama), 1,000 others were attacked during a demonstration (more than 700 of these in Panama) and approximately 300 were dismissed (three quarters of these in Venezuela). Many trade unionists were also arrested. In addition, complete impunity remains for crimes against trade unionists.

On the Continent as a whole, employers use a wide variety of tactics to repress trade union activities –the setting up of trade unions, collective bargaining or strike action; arbitrary dismissals, discrimination, anti-trade union campaigns. In Venezuela, more than 200 workers were dismissed for taking part in trade union activities. In many countries, collective bargaining is a very marginal phenomenon on account of employer resistance but also because of the lack of any binding legal measures. Only rarely do the governments implement genuine measures to encourage free and open collective bargaining.

In Colombia persecution of trade unions and trade union activity remains systematic. Although new laws and legal rulings have increased protection against anti-trade union discrimination and interference in trade union affairs, the situation for trade unions has not improved. Again this year, they were the victims of murders, death threats, attacks and discriminatory acts and those responsible went unpunished.

Major demonstrations took place in Panama against the so called "Chorizo" law which sought to radically modify the labour code. It was during one of these demonstrations, brutally repressed by law enforcement forces, that six people were killed, over 700 were injured and approximately 100 were arrested.

In Guatemala where a climate of violence and impunity continues to reign, the situation remains worrying. The anti-trade union culture implemented by employers is tolerated by the State. Ten people were murdered, two people escaped death and five others received death threats. Furthermore, the majority of trade union organisations were victims of smear campaigns, infiltration, parallelism and exclusion from all social dialogue forums.

Since the coup d'état in 2009, Honduras has plunged into a spiral of violence which includes severe anti-trade union repression. Threats and attacks on the lives of members of the Resistance Front, including leaders of trade union organisations and popular movements, are frequent. Three trade unionists were killed.

Attacks on Mexican workers' trade union rights are systematic as illustrated by the "protection contracts" dominated by employers and employers' interference in social elections and the use of force – by the State or private interests – aimed at suppressing the legitimate demands of workers for democratic trade unions. The Mexican Miners' and Metalworkers' Union (SNTMMSRM) and the Mexican Electrical Workers' Union (SME) are particularly targeted.

In the north of the hemisphere, hostility towards trade unions and anti-trade union discrimination remain very strong. In the United States, employers have the right to campaign to dissuade and intimidate workers, thus preventing them from exercising their legitimate right to join a union; manoeuvres are also carried out in order to avoid concluding collective agreements. As the Republicans held the majority in the House of Representatives at the end of 2010, the Free Choice Act amending the national law on labour relations has been almost entirely shelved. In Canada, faced with the federal and provincial government's refusal to modify the legislation to include collective bargaining despite a 2007 Supreme Court decision, the Canadian trade unions have submitted complaints to the ILO. The use of strike-breakers is common practice in both countries.

Employer pressure remains very strong in the export processing zones where the deterioration of trade union rights – where they exist, is constant. The governments often do nothing to protect and monitor their application. This was, amongst others, the case in Belize, Costa Rica, Ecuador, Honduras, Nicaragua and El Salvador. Similar to the workers in the export processing zones, workers in the informal sector cannot organise and are therefore unable to fight for better working conditions.

However, in Panama despite the anti-trade union position of DHL in the region, in May, the Sindicato de Empleados de Líneas Aéreas de Panamá (SIELAS) succeeding in negotiating a collective agreement on behalf of the DHL workers.

Americas

Restrictions to organising and collective bargaining: the challenge for the full implementation of human and trade union rights for workers in the Americas

Víctor Báez Mosqueira, TUCA General Secretary

In Latin America and the Caribbean, the level of both organising and collective bargaining attained by the workers is closely determined by the legal restrictions in both processes. It is a consequence of the strong state interference in trade union rights, in complete opposition to the almost widespread process of deregulating individual rights, so that trade unionism is in the “worst of worlds”, unprotected from the employers’ tendencies to be flexible and “protected against themselves” in terms of collective action.

A study carried out by the Trade Union Confederation of the America’s (TUCA) Human Right’s network and its Continental Legal Team involving 23 affiliated and fraternal trade union centres in 14 countries, confirmed what the ITUC had just highlighted in its Annual Survey of violations of trade union rights: the large extent of these limitations and deterioration in several cases.

In terms of organising, the obligatory thresholds for registration amongst other things and for the setting up a trade union were analysed. These are used by the States to make it difficult to organise small or medium sized companies of between 7 and 40 workers; the extent to which the labour codes prevent the organising of self-employed or autonomous workers, which does not comply with the ILO definition that “work” includes all forms of economic activities. Limits apply to the organising of vast categories of wage-earning workers in the public and private sectors, including outsourced workers, home and domestic workers, workers in security and professionals who are all subject to the traditional restrictions applied to the armed forces and the police (frequently in the public service organising is only permitted into non-trade union organisations); the most extensive restrictions apply to migrant workers’ rights to hold trade union leadership positions and even to join a trade union.

In terms of collective bargaining, with the exception of the Southern Cone countries (Argentina, Brazil and Uruguay), the typical situation in the region is one of an almost total concentration of collective bargaining at company level, including in the workplace, putting limits on the ability to bargain collectively on a sectorial, national or territorial level. When the setting up of national Federations are authorised, these Federations can only accompany their affiliates to company level negotiations.

The State frequently intervenes in negotiations by concluding direct agreements. An imperfect “liberalisation” is prevalent in the public sector, even though collective bargaining is not the norm but takes place on an ad-hoc basis, frequently obtained as a result of trade union pressure.

In conclusion, the challenge that Latin American organisations and the ILO (Decent Work in the Americas: An agenda for the hemisphere) need to address is to move towards bringing about changes in the standards, instead of limiting themselves, as is now the case, to improving the labour administration systems.

The TUCA has since its founding Congress in March 2008 warned about this situation and from an internal perspective, adopted a strategy of Trade union auto reform, as a way to develop alternative ways of organising and policies to address a reality which is more and more limiting to trade union activities. The internal change should be accompanied by external change to address the limitations in law and in practice, that restrict the trade union right to organise and collective bargaining, that together with persecution, anti-trade union violence and the impunity for crimes committed against trade unionists, make this the most dangerous region in the world for trade union action.

Argentina



POPULATION: 40,200,000
CAPITAL: Buenos Aires
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Employers continue to obstruct collective bargaining and to dismiss unionised workers, particularly in the communications sector. The use of contract labour continues, making labour rights more precarious. The Labour Ministry intervened on several occasions to impose compulsory conciliation on enterprises and in some cases to fine them for preventing the holding of trade union elections. In February workers unfairly dismissed from the *Crónica* daily newspaper were reinstated.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are guaranteed in law, certain issues exist. Under the Constitution, workers have the right to form and join trade unions without prior authorisation. However, only one union – the most representative one – in a given industrial sector and within a specific geographical region can have official trade union status (*personería gremial*), and the requirements for obtaining such status are excessive. While the law grants certain benefits solely to trade unions with official status, including the right to check off union fees and to protection for its leaders, the latter right was extended to representatives of all registered unions in a Supreme Court ruling in December 2009. In November 2008, the Supreme Court also ruled that it is not necessary to be affiliated to a union with official status to be elected as a trade union representative in the public sector.

Furthermore, while the right to bargaining is recognised, registered unions that do not have official status are precluded. The law also stipulates that collective agreements must be approved by the Ministry of Labour to become binding. In addition, the principle of “representation of collective interests” apply to the right to strike, thereby denying this right to unions without official status. The Ministry of Labour also takes the final decision on the minimum services needed during a strike when “the parties fail to reach an agreement” or “when the agreements prove insufficient”.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Public policies to bolster employment, the economy and demand succeeded in reducing the impact of the economic crisis in Argentina. According to the ILO, the Universal Child Allowance has reduced poverty among children and adolescents by 65% and 18% respectively. The allowance was extended to the children of workers in the informal economy and the aim is to make it cover all children.

The biggest labour disputes took place in the media. The unions continue to organise contract workers and to strive for them to have a direct link with the enterprise.

Bogus labour cooperatives: There are still some bogus labour cooperatives used to thwart the creation of trade unions. At least 1500 railway workers are hired using this method, whereby workers are registered as supposed business associates, and are not paid a salary but instead make “withdrawals” from the cooperatives profits. Further to complaints the government has dealt with this serious problem by cancelling their permission to operate in many cases. The cooperatives have launched legal appeals against these cancellations.

Anti-union dismissals and violations of collective bargaining rights at *Diario La Capital*: The media workers’ umbrella organisation *Intersindical de los Medios* condemned *La Capital*’s refusal to recognise the journalists’ and graphical workers’ collective agreement on automatic salary indexation in line with the minimum wage, and the dismissal of 26 workers in March 2010. The *Prensa Rosario* Union (SPR), the Argentinian Communications Workers’ Association (AATRAC), the Public Spectacles United Workers’ Union (SUTEP) and the Argentinian Presenters Society (SAL) all form part of the *Intersindical de los Medios*. The organisations went on strike, affecting the publication of the newspaper, in order to demand the reinstatement of those dismissed and respect for the working conditions of unionised employees. The company prevented the workers from entering the premises, despite being ordered by the Labour Ministry to hold compulsory conciliation talks and review the dismissals. After several days of the strike, the company agreed to compulsory conciliation and reinstated the dismissed workers.

Monitoring trade union activities: In July the National Labour Appeals Tribunal of the Federal Capital appointed a permanent supervisor whose principal task would be to monitor all the activities and the scope of action of the Bank Workers’ Association (affiliated to the General Confederation of Labour –CGT) within the framework of the discussion on trade union

elections. This measure seriously undermined the fundamental principal of trade union freedom and independence and was condemned by the organisation's leaders and national trade union centres.

Workers' Party member dies during contract workers' demonstration: On 20 October a mob from the railway workers' union Unión Ferroviaria (UF) killed Mariano Ferreya, a student and activist from the Buenos Aires University Federation (FUBA) and the Workers' Party (PO), who was one of some 200 railway workers taking part in a piquet that blocked the General Roca railway line at Avellaneda. There was a confrontation between the two groups, using sticks and stones, around the Hipólito Yrigoyen station. As they fought, some of the Unión Ferroviaria group brought out guns and shot at the left-wing activists. In addition to killing Mariano Ferreya, they injured three others. The demonstrators were calling for the reinstatement of dismissed contract workers, in an attempt to put an end to precarious employment.

The authorities began legal proceedings against seven people who took part in the disturbances that led to the death of Ferreya. The seven were being held in preventive detention, and include the top leader of Unión Ferroviaria.

El Clarín newspaper fined for violating trade union rights: In November the Labour Ministry imposed a fine of ARP 1.347.000 on Artes Gráficas Rioplatenses (AGR), a printing company and subsidiary of the El Clarín daily paper, for preventing a meeting taking place to hold trade union elections. Labour inspectors also found there had been a range of practices that obstructed the exercise of trade union activity. Other serious violations of trade union rights have taken place in the company since 2004, for which it has also faced fines and sanctions.

Reinstatements at La Crónica: In September 2009, the daily newspaper La Crónica dismissed several workers and sought the permission of the Labour Ministry to dismiss 120 unionised employees. Between November 2009 and February 2010, after lengthy direct negotiations between the parties and meetings mediated by the Labour Ministry, the company and the union reached agreement on the reinstatement of the dismissed workers. Furthermore, La Crónica promised not to carry out any restructuring for one year and to respect the collective agreement.

Bahamas



POPULATION: 342,000
CAPITAL: Nassau
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

There continues to be obstacles to trade union freedom of association which prevents this right from being fully exercised. As was also the case last year, the Government refuses to recognise certain trade unions and continues to harass and threaten trade union members on account of their trade union activities. In some cases, the collective bargaining process has been deliberately hindered, by delay tactics.

TRADE UNION RIGHTS IN LAW

While basic trade union rights are guaranteed, they are subject to many excessive restrictions. Private sector and most public sector workers have the right to form and join trade unions. However, the authorities have real discretionary powers to refuse to register a union, and to deny the required licence unions need to affiliate with any body outside Bahamas. The authorities also interfere with internal trade union matters, as the Registrar must supervise the secret ballot to amend a union constitution. The law stipulates that union representatives should be elected at intervals not exceeding three years.

Furthermore, the right to collective bargaining is recognised, but a union must represent 50% plus one of the employees to be recognised as a bargaining agent. Also, if the employer and the union fail to reach an agreement after 12 months, the employer can apply to have the union's recognition revoked.

In order to call a strike, the Ministry of Labour must approve the strike ballot, and can refer a dispute to the Tribunal if the parties fail to reach a settlement, during which time strike action is prohibited. The authorities also have the right to intervene in strikes to ensure the delivery of basic services and to uphold the "national interest". The law restricts the permissible targets for strikes and appears to prohibit protest and sympathy strikes, and workers who participate in unlawful strikes face excessive sanctions including imprisonment for up to two years.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In the last elections, held in 2007, the Free National Movement (FNM) secured a majority in Parliament (23 seats), outnumbering the Progressive Liberal Party (PLP) and consequently, Hubert Ingraham, a member of the FNM became Prime Minister. The next elections are scheduled for no later than, May 2012. The economic downturn has also hit Bahamas as the global recession has caused a reduction in tourist numbers and tourism is the country's main industry.

As a result of the recent financial and economic crisis which has had serious consequences for the country, Bahamas' government announced that it has strengthened social dialogue mechanisms to deal with the effects of the crisis.

Dismissal, harassment and threats common anti-union practices: Harassment and threatening of trade union leaders are commonly used to hinder the work of trade unionists.

Collective bargaining deliberately delayed: In some workplaces, the employers deliberately delay collective bargaining with the union for over one year before making use of available legislation to request that the union's recognition be revoked.

Government intervention in strikes: The right to strike is not exercised freely as the government sometimes intervenes to stop a strike and has the legal right to do so.

Barbados



POPULATION: 256,000
CAPITAL: Bridgetown
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

As with the previous year, 2010 saw restrictions on the exercise of the right to organise owing to the government's refusal to recognise certain unions. Workers who have been able to unionise experienced difficulties fully exercising their rights. The right to collective bargaining has still not been regulated by law, stripping the mechanism of its effectiveness. Legislation tolerating certain anti-union practices, such as dismissal for union activities, is also still in place.

TRADE UNION RIGHTS IN LAW

Despite some initial guarantees, trade union rights are not sufficiently secured in law. While the law secures the right to form unions except for members of the armed forces, employers have no legal obligation to recognise unions. Anti-union activities are not prohibited, and although workers who are wrongfully dismissed can apply to the courts, this right is very limited since judges generally award compensation instead of reinstatement. Furthermore, despite having ratified ILO Convention 98, the right to collective bargaining is not explicitly recognised. Since 1993, a set of protocols has provided for increases in wages, and the fifth Prices and Incomes Protocol was signed by government, the private sector and union representatives in 2005.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Barbados is a parliamentary democracy, modelled on the British system. The most recent parliamentary elections, in January 2008, saw the victory of the Democratic Labour Party (DLP), bringing an end to the 14-year rule of the Barbados Labour Party (BLP). David Thompson was appointed as prime minister.

As part of its efforts to tackle the financial and economic crisis, Barbados announced a strengthening of its social dialogue mechanisms. In this respect, it should be noted that the unemployment rate in the country was 10.6%. The government also announced that it had launched a mass media campaign

to promote policies against child labour, particularly its worst forms.

No progress on right to unionise: The government and employers have refused to recognise unions on a number of occasions over recent years.

Right to organise remains weak: Employers refuse to recognise unions in some instances, being under no legal obligation to do so. The Barbados Workers' Union (BWU), affiliated to the ITUC, has called on the government to make the recognition of unions obligatory, provided that the requirements are met in terms of representativeness.

Government neither supports nor guarantees collective bargaining: In the absence of legal requirements, collective bargaining is only practised where there is good will between the parties or a tradition of such negotiations. The negotiations are generally restricted to four areas: minimum wages, working hours and conditions, recruitment procedures, and disciplinary and grievance procedures. Despite recognising unions, employers often refuse to negotiate a collective agreement with them.

Anti-union discrimination: There are no laws prohibiting anti-union discrimination, which facilitates anti-union practices. As a result, workers dismissed for union activities are rarely able to secure reinstatement and only receive compensation if they secure a court ruling in their favour. According to the BWU (Barbados Workers' Union), a law should be adopted to make it an offence punishable by the courts for employers to deny this human right to associate freely.

Belize



POPULATION: 307,000
CAPITAL: Belmopan
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Trade unionists face discrimination in the banana plantations and export processing zones, where companies totally forbid unions. Women workers do not receive equal pay and are faced with high levels of unemployment.

TRADE UNION RIGHTS IN LAW

While the law guarantees basic trade union rights, there are some shortcomings. Workers are free to establish and join trade unions, and members are free to elect officers from their membership. However, foreigners are not allowed to hold union leadership posts. While the law prohibits anti-union discrimination, it does not provide for reinstatement in the case of dismissal for union activities. The fines imposed on companies for anti-union discrimination are also extremely low.

The right to collective bargaining is recognised, however under the Trade Unions' and Employers' Organisations Act, a union can only be certified as a bargaining agent if it receives 51% of the votes of the workers. Furthermore, the Settlement of Disputes in Essential Services Act empowers the authorities to prohibit or terminate a strike in "essential services", the list of which exceeds the ILO definition, as well as to refer a dispute to compulsory arbitration.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Belize is considered to be a stable country, although it is not without its economic and societal problems. The next elections are not until 2013, but the political parties are already gearing up for them. The country is regularly hit by natural disasters and the situation in their aftermath leads to workers' and trade union interests being sidelined by the government. Child prostitution is a major cause for concern. The government showed no evidence of any progress in eradicating human trafficking and legally combating the traffickers. The mistreatment of migrants on the border with Mexico is a nationwide concern. It has, indeed, been recognised that there is a responsibility with regard to migrants that cross the border

and are exposed to precarious employment, human rights violations and attacks.

Legislation not applied: The labour legislation applies to the country's 63 export processing zones (EPZ) but, in practice, employers constantly prohibit the formation of unions and refuse to recognise them. As a result, there are no unions in the EPZs.

Rights-free zones: Banana production has long been an economic area characterised not only by inhumane and appalling working conditions but also the systematic violation of workers' fundamental rights, such as the right to organise, to strike and to collective bargaining. The same applies to the export processing zones (EPZ), where any attempt to organise is crushed by dismissing the workers trying to do so.

Women deprived of labour rights: Poor application of the labour laws results in Belizean women facing inequalities and discrimination at work. The unemployment rate among women is 18.6%, while the rate for men is 8.4%. Women's pay is only 52% of that received by men, and they tend to be more concentrated in low paid and low skilled jobs.

Bolivia



POPULATION: 9,900,000
 CAPITAL: Sucre
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Child labour is still common practice in Bolivia. Excessive restrictions on the formation of trade unions and on the right to strike remain. The authorities are able to interfere unduly in trade union activities.

TRADE UNION RIGHTS IN LAW

The 2009 Constitution improves the protection of trade union rights, however many excessive restrictions remain in the law. While workers enjoy freedom of association, the General Labour Act, dating back to 1942, requires prior government authorisation to establish a union and permits only one union per enterprise. Industrial unions need the support of at least 50% of the workforce in order to be established, and no union may join an international organisation.

Public servants, with some exceptions, are denied the right to organise and to bargain collectively, which is also the case for some categories of agricultural workers. Furthermore, there are restrictions on union internal affairs, as members of the executive boards must be Bolivian by birth, and labour inspectors can attend union meetings and monitor union activities. A trade union can also be dissolved by administrative means.

While the right to strike is guaranteed in the Constitution, all strikes must be supported by three quarters of the workers. Strikes in public services, including banks and public markets, are banned by law, as are general strikes and solidarity strikes. Compulsory arbitration may also be imposed to end a strike or collective dispute in sectors that are not considered essential by the ILO. Finally, workers who participate in an unlawful strike may be sentenced to prison terms of one to five years, with forced labour as an additional punishment.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: According to the UNDP, Bolivia made progress during the year in building a more equal society, principally thanks to advances in life expectancy and education, and in reducing extreme poverty. However, serious inequalities remain in terms of income distribution due largely to the high level of informal employment (about 75%) and low incomes for workers. The ILO also recognised progress at the institutional level, with regard to issues such as migration, forced labour and equal opportunities. Official figures put unemployment at 6.5%. Several groups within the country's political, trade union and academic circles question these figures and are concerned about the ever rising levels of informal employment.

The most serious industrial disputes concerned salaries and fuel price rises. The Bolivian Labour Centre (COB) held a national strike in May to call for better wages, and several protests and demonstrations over the price rises. A new pensions act was approved by Congress but some trade unions, including teachers and health workers, oppose this law. The Mineworkers' Trade Union Federation of Bolivia (FSTMB) was involved in extensive talks with the government on the new mining law.

Child labour at Canedo Constructions: The Bolivian authorities ordered the Canedo Construcciones company to pay a fine of 10,000 Bolivianos (about 1,000 euros) for employing ten minors in the construction of the Palmeto building in the city of Cochabamba. The children, working in different areas of construction, faced precarious employment and social security conditions and long working hours.

According to UNICEF and the National Institute of Statistics (INE) more than 800,000 children between the ages of seven and 13 were employed in 2010 and many worked more than 40 hours a week. The children were employed in the sugar industry, mines, particularly zinc mines, prostitution and other activities.

Brazil



POPULATION: 193,700,000
CAPITAL: Brasilia
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 111
- 138 - 182

A number of trade unionists were killed in 2010, in spite of government efforts to tackle this problem. The persecution of trade unionists, anti-union practices and dismissals persisted in the private sector. The government fined companies employing workers, some migrant, in slave-like conditions in the agricultural and garment sectors. Trade union pluralism is restricted and the authorities have the right to reject collective agreements.

TRADE UNION RIGHTS IN LAW

While basic trade union rights are guaranteed, a number of problematic areas exist in the law. The Constitution and the Labour Code protect the right of all workers to unionise, except for various state employees. The “unicidade” system stipulates that there can only be one trade union per economic or occupational category in each territorial area, and there are excessive requirements for establishing trade union centres.

Furthermore, the right to collective bargaining is not adequately secured, as an agreement can be declared null and void if deemed to conflict with the government’s economic or financial policies. Civil servants have no collective bargaining rights, and bargaining on wages is limited in public and mixed enterprises.

Although the right to strike is guaranteed for private and public sector workers alike, striking in the public services is subject to a set of rules that have not yet been established. Finally, the legal instrument known as an “interdito proibitório” (prohibitory ban) has been used to ban or restrict strike pickets on the grounds of “safeguarding property against interference or despoliment”.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Over the last eight years, Brazil has created over 15 million formal jobs, 2.5 million in 2010. Unemployment has fallen, going from 12% to less than 6%. The minimum wage was increased by 67% as a result of an agreement between the government and the trade union centres, leading to poverty being reduced by over 20%. The rate of informal employment however remained very high, at almost 47%, along with growing underemployment. In 2010, Brazil adopted a national plan for decent work.

As part of its policy against discrimination at work, the government announced that it would submit the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families to Congress for ratification.

Serious harassment and persecution of union leader at Claro, América Móvil: In March 2010, a director at Claro, América Móvil perpetrated acts of persecution against trade union leader Valdemar Antonio da Silva Junior, to stop him from taking part in the union elections, of which the company had been legally notified. The same director then went on to sack the trade union leader, who was ultimately reinstated on the grounds that the rights protecting him as a trade unionist had been violated. The persecution continued, with ruthless moral harassment that finally resulted in the trade union leader being admitted to hospital due to the severe stress suffered.

Agricultural labour leader assassinated: On 31 March, Pedro Alcántara de Souza, policy coordinator of the agricultural union FETRAF in Pará, was killed in the municipality of Redenção in the south of Pará. Pedro Alcántara had informed the Human Rights Forum that he had been receiving threats from estate owners over the last month. The authorities are still investigating the case.

Trade union leader allegedly killed by security guard at Sony: On 1 October, Augusto Lima da Cruz, leader of the metalworkers’ union, Sindicato dos Metalúrgicos, affiliated to the national metalworkers’ confederation CNM-CUT, was killed. According to witnesses, the leader was killed by security guard Hernani Puga Neto from the Visam security firm providing security services to Sony, whilst holding a conversation about the company’s policies. Hernani took flight on a motorbike, assisted by the other security guards.

Trade unionist killed in São Paulo: On 12 November, José Carlos da Silva, a member of the transport union Sindicato dos Motoristas e Trabalhadores em Transporte Rodoviário Urbano

de São Paulo, was killed. He was shot at several times by two men whilst in his car.

Dismissals and anti-union practices at Santander Group: The wave of dismissals seen within the Santander Group during 2009 continued into 2010, as the company pursued its policy of violating trade union rights and guarantees and disregarding the OECD guidelines on multinational companies. The group also deployed anti-union practices affecting the workers' right to organise and to strike.

Farms fined for holding workers in slave-like conditions: One hundred and eighty workers were freed from slave-like conditions at farms owned by the Lima Araújo Agropecuaria company in the state of Pará. Among the employees were ten teenagers, including a boy aged 14. The High Court of Labour ordered the company to pay a fine of US\$2.9 million.

Workers being kept like slave labourers were also discovered in the state of Rio de Janeiro, where 95 were rescued from farms in Campo de Goytacazes. Another 51 were rescued in Cambui, in the state of Minas Gerais. They were employed as strawberry pickers and sugarcane workers.

Migrant workers exploited by Lojas Marisa: In 2010, garment manufacturer Lojas Marisa was found to have undocumented migrants working for it in precarious and unsanitary conditions for more than 12 hours a day. The Regional Department of Labour in São Paulo fined the company, as well as ordering it to register the 17 workers found in the garment workshop and to pay them the wages owed for the work done.

Canada



POPULATION: 33,600,000

CAPITAL: Ottawa

ILO CORE CONVENTIONS RATIFIED: 87 - 100 - 105 - 111
- 182

As the Canadian and provincial governments grapple with Supreme Court rulings supporting freedom of association, laws in both jurisdictions still fail to provide statutory protection for certain groups of workers to organise, engage in collective bargaining, or exercise the right to strike.

TRADE UNION RIGHTS IN LAW

Trade union rights are officially guaranteed in federal legislation, but there are concerns regarding the provincial laws. While the right to form and join unions is recognised for both public and private sector workers, a number of categories of workers enjoy limited or no freedom of association in several provinces. At the national level, the Canada Post Corporation Act continues to restrain certain temporary and contracted-out workers from joining a union. The law also protects collective bargaining, but there are again provincial restrictions. However, in a 2007 landmark case, the Supreme Court ruled that a "limited right" to collective bargaining should be included within the country's Charter of Rights and Freedoms.

The right to strike is also circumscribed at the provincial level. For example, in Manitoba, arbitration may be imposed at the request of one party after 60 days of a work stoppage. Teachers in this province are also prohibited from striking. In all of Canada strikes are not permitted whilst a collective agreement is in force and workers who disregard the provisions are liable to severe and disproportionate sanctions. The exercise of the right in the public services is often limited by the obligation for many strikers to provide essential services as well as by regulatory procedures that make it very difficult for unions to counter employer designations. Finally, replacement labour may be used in industries governed by the Canada Labour Code.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Despite a Supreme Court ruling in 2007 that collective bargaining was included within the meaning of the Charter of Rights and Freedoms, federal and provincial govern-

ments have not moved with any haste to identify and amend non-compliant legislation or regulatory practice, acting instead on a case-by-case basis. As a result, Canadian unions have undertaken proceedings on their own to appeal to international law, including by filing a record number of 'freedom of association' complaints to the ILO. There are expectations that the Supreme Court will soon rule on whether also the right to strike is enshrined in the Charter.

Salary roll-backs and a reversal on pay equity at the national level: The Canadian government is currently implementing legislation introduced in conjunction with the 2009 Federal Budget, which fixes the level of wage increases for all federal public service employees. The provisions continue to negatively impact federal public sector employees in general, and particularly those working for the Canada Revenue Agency, the National Gallery of Canada, the Canada Council for the Arts, the Canadian Museum of Nature and the National Arts Centre, who will experience a reduction in negotiated wage rates.

In addition, the Canadian government is implementing legislative measures to "modernise" wage parity in the federal public sector, by making pay equity an object of collective bargaining instead of a legislated right. At the same time, it has prohibited a trade union from representing its members in the filing of pay equity complaints. In December 2010, the Public Service Alliance of Canada (PSAC) was granted leave by the Ontario Superior Court of Justice to present arguments against the constitutionality of the Expenditure Restraint Act and the Public Sector Equitable Compensation Act. PSAC's appeal is also backed by the Royal Canadian Mounted Police and the union representing professional employees in the public sector.

The Canadian government also allowed the Maritime Employers' Association, which operates under federal jurisdiction, to lock out longshoremen in the Port of Montreal without notice or justification in order to reinforce its intention to reverse a long-standing trade union right to income security.

Broad exclusions and additional obstacles to organising: There is mounting evidence that the Saskatchewan government intends to stand by the legislation adopted in 2008 which has the effect of reducing the rights to collective bargaining and organising for thousands of public sector employees. The ILO has directed the government to take steps to amend its Bill 5, the Public Services Essential Services Act, and Bill 6, the Trade Union Amendment Act, but it continues to stand firm.

Broad designation of "essential service": The Government of Manitoba is also standing by current legislation that allows employers to arbitrarily designate workers as 'essential'. Simi-

larly, legislation widening the application of 'essential services' regulation continues to deny full exercise of trade union rights in such other provinces as New Brunswick, British Columbia and Prince Edward Island.

Uninhibited use of strikebreakers in legal strikes: Employers continue to employ strikebreakers at will, pointing to a lack of provisions against the use of strike-breakers in many Canadian jurisdictions. In 2010, for example, strikes involving Steelworkers at Brantford, Sudbury and Port Colborne in Ontario were aggravated and extended by the introduction of strikebreakers.

Collective bargaining and organising rights of farm workers violated in three provinces: Farm workers are excluded from protection afforded by labour relations legislation and thus deprived of the right to organise in the provinces of Alberta, Ontario and New Brunswick. In November 2008, the Ontario Appeal Court gave the government a period of one year to ensure that farm workers in that province were covered by sufficient protective legal provisions to allow them to bargain collectively. However, the Ontario government has appealed this ruling to the Supreme Court of Canada, and a decision is pending. As well, the ILO has recommended that the governments amend their laws.

Withdrawing rights of construction trade unions: The Saskatchewan government has introduced legislation that will eliminate sectoral bargaining in the construction industry, allow the establishment of employer-dominated company unions, and greatly reduce the power of unions in the construction industry by reducing their long-standing right concerning the supply of labour.

Canada Post refuses mail couriers basic union rights: In a conflict stemming from the 1980s, rural route mail couriers of Canada Post have struggled for their rights to form a union and to engage in collective bargaining. Section 13(5) of the Canada Post Act excludes mail contractors from the scope of the Canada Labour Code, and the employer has adamantly stated that rural route mail couriers and other associated staff shall be considered contractors. In 2003, as a result of intense lobbying, the Canadian Union of Postal Workers (CUPW) was certified to represent the workers and negotiated a collective agreement that granted the mail couriers employee status. However, the employer has continued its judicial persecution of the union and its organising efforts.

Back-to-work legislation imposed on university staff: The Liberal government of Ontario passed back-to-work legislation in 2009 to end a legal strike at York University by contract staff, teaching assistants and graduate assistants. Despite interna-

tional condemnation and probing by the ILO, Ontario remains steadfast in its resolve to defend its actions. The ILO has now been asked by the Canadian Union of Public Employees (CUPE) 3903 to reopen the case in light of government inaction.

Anti-union strategies in Quebec: In April 2005, Wal-Mart, one of Canada's largest retail chains, closed down its store in Jonquière, Quebec seven months after the United Food and Commercial Workers had been certified to represent the workers. The company claimed the store was not profitable, and two Quebec Court of Appeal decisions confirmed Wal-Mart's right to close its store. On 27 November 2010, the Supreme Court of Canada ruled that the company was allowed to permanently close down its store and that its former employees could not benefit from the protection and remedy provided by the Quebec Labour Code. However, the Court also recognised that the employees have the right to claim and prove that the closure resulted from the unionisation drive. If the union is successful in presenting evidence to this effect, the Labour Relations Commission could then fashion an appropriate remedy, including damages.

Chile



POPULATION: 17,000,000
 CAPITAL: Santiago
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Numerous trade union rights violations were seen during 2010, both in the public and private sectors. Working conditions remained precarious in strategic sectors of the Chilean economy, such as mining, and the right to organise, to negotiate and to strike were repeatedly violated. During the first half of 2010, 48 companies were fined for anti-union practices. Trade union activities are hampered by a range of excessive restrictions.

TRADE UNION RIGHTS IN LAW

Problematic areas exist in the labour law despite basic trade union rights being guaranteed. Workers have the right to join and form unions without prior authorisation. However, the law grants broad powers to the Directorate of Labour to supervise the accounts and financial and property transactions of unions.

Collective bargaining is only guaranteed at the company level. In addition, it is of a "voluntary" nature, and is cumbersome for higher-level union organisations and union alliances. The right is further circumscribed by the fact that many workers in state-sponsored entities are excluded from collective bargaining, as are workers with apprenticeship contracts and those employed for specific tasks. Non-union workers are also allowed to propose collective agreements, even if a union exists at the workplace.

Furthermore, while the right to strike is recognised, there are many limitations. A lawful strike must be approved by an absolute majority of the employees of an enterprise, disputes can be referred to compulsory arbitration in many companies, and all strikes must be carried out within three days of the decision to call it. Workers in the public sector are prohibited from striking. Under certain circumstances, the President can order the resumption of work, and striking workers can also be replaced. Finally, those who participate in an unlawful strike can face imprisonment or banishment to a different region.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Sebastián Piñera, of the right-wing Coalition for Change, won the 2010 elections, defeating the Concertación candidate and parties that had been in power for 20 years. In his government programme, the new president announced plans to create a million quality jobs over the next five years and to ratify ILO Convention 187 on occupational health and safety.

During 2010, deep-seated problems in the mining industry became more visible following a series of strikes and disputes at various mines, along with the accidents claiming the lives of at least 35 miners. A number of labour disputes were seen in the public sector. The national trade union centre CUT (Central Unitaria de Trabajadores) set up a commission on workers' health and safety, which recommended that the government adopt a policy on the matter. The country was hit by a massive earthquake in February that destroyed much of its infrastructure and housing. Trade unions and the government managed to come to an agreement on a reconstruction programme incorporating decent work.

Precarious contracts exploited to prevent unionisation: Employers continued to make fraudulent use of precarious contracts as a means of preventing unionisation and avoiding the cost of labour rights and benefits. A million workers were employed on precarious contracts in 2010, depriving them of rights and social protection, and only 8.3% of the workforce

enjoyed collective bargaining rights. Labour outsourcing is common practice, as subcontracted workers are able to perform the same tasks as those with employment contracts but receive 40% less pay and cannot exercise the right to unionise, to bargain collectively or to strike.

Barrick Gold refuses to negotiate on improving miners'

precarious working conditions: In February, miners at Barrick Gold held a work stoppage and, through the unions, demanded better pay and conditions. The workers have to cope with low temperatures, inadequate protection, long working hours, precarious facilities and equipment, and have to work at altitudes of above five thousand metres. The company refused to negotiate and to deal with the workers' grievances, arguing that it is up to the contractors to resolve problems related to work in the mines. Such grievances are a constant at the operations run by this multinational in countries across the American continent. Barrick has been accused of showing total disregard for workers' rights, failing to comply with the security standards for mining operations, deploying anti-union practices and causing irreparable damage to the environment.

Union busting at Universidad Austral de Chile: The Universidad Austral de Chile interfered in the strike action called by the university academics' union, the Sindicato de Académicos de la Universidad Austral de Chile, replacing the striking teachers with non-unionised lecturers. The unionised staff called on the rector of the university to stop such practices; following the university's refusal, the union filed a complaint with the Labour Inspectorate.

Companies fined for anti-union practices: The Department of Labour announced that 48 companies were fined for engaging in anti-union practices during the first half of 2010, almost the same number as in 2009, when 51 firms were fined. It reported that, in 2010, the most frequent violation was the unfair dismissal of workers holding trade union positions, in spite of the legal protection covering trade union representatives, followed by acts of anti-union interference, and the harassment of trade union leaders, including their dismissal. Two companies were fined on three occasions: Unión del Transporte S.A. (UNITRAN S.A.) and Electro Quality Ingeniería Limitada.

Trade union rights violated at Banco del Desarrollo

Scotiabank: During 2010, workers affiliated to the union at the Banco del Desarrollo (BDD), the Sindicato de Trabajadores del Banco del Desarrollo de Chile, suffered serious violations of their trade union rights at the hands of this Chilean bank owned by the Canadian multinational Scotiabank. The bank refused to comply with the collective agreement, took repeated action

to discredit the union leadership by email, illegally intercepted the union's correspondence to its members, and imposed "improvement plans" on union members, with the sole intent of justifying their dismissal.

Colombia



POPULATION: 45,700,000
CAPITAL: Bogotá
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138

Trade unionists in Colombia saw no improvement in their situation in 2010. The number of trade union leaders assassinated remained high (49) while many trade union activists faced death threats and assassination attempts. The legal system continues to be ineffective in solving these murders and bringing those responsible to justice. While the new government claims to take workers' rights seriously, anti-union attitudes among employers remain strong. Numerous violations of collective agreements were reported.

TRADE UNION RIGHTS IN LAW

The trade union rights situation has changed in recent years, particularly with regard to the autonomy and independence of trade union organisations. New laws and court rulings have improved protection against anti-union discrimination and interference, the recognition of trade unions and bargaining in the public sector, and have set out clear limits for compulsory arbitration. Freedom of association is also enshrined as a basic right in the Constitution. However, there are problems related to various contractual arrangements, such as workers' cooperatives, service contracts and civil and commercial contracts, which cover genuine employment relationships but can be used to prevent workers from setting up trade unions.

Furthermore, while the right to collective bargaining is secured, the pension system is not covered by collective bargaining. There is also a possibility to conclude collective "pacts" directly with the workers, which can be used to undermine the position of trade unions.

The right to strike is included in the Constitution, but the law still prohibits federations and confederations from calling strikes. Laws dating back to between 1956 and 1990, which

ban strikes, remain applicable to a wide range of public services that are not necessarily essential.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Juan Manuel Santos, former Defence Minister in the Alvaro Uribe government, was elected President of the Republic in May 2010. The new government promised to create 2,500,000 jobs and formalise 500,000, as well as re-establishing the Ministry of Labour. Angelino Garzón, former General Secretary of the United Workers Centre (CUT) and former Minister of Labour, who had spoken out in favour of trade union, was elected vice-President. With structural employment above 12%, about 2,500,000 people are unemployed without any unemployment protection or allowances. Nearly half the unemployed are under 25. The severe winter floods affected some 2 million Colombians. Over 17,000 jobs were lost in the flower growing industry according to the Ministry of Agriculture.

Impunity for crimes against trade unionists continues:

Impunity remains a very serious problem in the case of crimes against trade unionists. The Public Prosecution Service only investigates 25.5% of murders and less than 3% of cases of other forms of anti-union violence. The number of people sentenced remains so low that the level of impunity for crimes against trade unionists remains at 98%. Investigations carried out by the Prosecution Service's sub-division up to February 2010 provided no significant results. The sub-division had 1,344 cases assigned to it but in reality is only investigating 1,150, because they could not find the physical records for 194 cases.

Between January 2002 and April 2010 the courts recorded 296 sentences, of which 207 were handed down by judges specialised in cases of anti-union violence. These cases concerned 414 victims, of which 254 are trade unionists, and 12 are trade unionists' family members. 148 are people who were victims of anti-union violence, although they have nothing to do with the trade unions. These results show that impunity remains very high despite the increase in the number of sentences handed down. The level of impunity for the crime of forced disappearance is chilling – one sentence in 218 cases, while impunity for non-lethal violence which causes intimidation and restricts freedom of association is virtually 100%.

Collective bargaining marginal: There are over a million companies and 19 million workers in Colombia, but collective bargaining is virtually a marginal activity. The negotiation of collective agreements has fallen over the last eight years. The Colombian government has done nothing to encourage free

collective bargaining, conducted in good faith. The widespread anti-union attitude of employers, whose practices run contrary to good faith and free and voluntary bargaining, continues with no legal or administrative tools to adequately or effectively promote collective bargaining rights.

Exercising the right to strike as a trade union and social act:

The increase in protest action by non-unionised and informal sector workers seen in previous years continues. This action has involved drivers, including lorry drivers and dump truck drivers, moto-taxi drivers, footballers, the 2000 recyclers who protested in Bogota, informal vendors and traders in various Colombian cities, informal sector petrol vendors and porters in border regions near Venezuela. In Medellin and its surrounding area alone, there were 15 protests by urban bus drivers over constant extortion and the violations of their life, liberty and personal safety.

The strike in February at the DPA-Nestlé milk multinational (formerly Cicolac, also run by Nestlé) by about 140 workers lasted for 40 days and was in protest at the company's refusal to reach a settlement on a list of demands presented in December 2009. The strike was accompanied by a media offensive aimed at putting pressure on and discrediting the workers in the eyes of the public while denying them the right of reply.

In October the Association of Sick Drummond Employees (ASO-TREDP) held a protest outside the Ministry of Social Protection to denounce the serious health problems affecting them as a result of their work as miners. Miners from the Sinifana coal mining region in south east Antioquia also held demonstrations in protest at the tragedy in Amagá in June 2010 in which 74 miners lost their lives.

Members of the mine and energy workers union SINTRAMI-ENERGETICA employed by the Carbones de La Jagua coalmine, owned by the Swiss multinational Glencore, began a 40 day strike in June in the town of La Jagua de Ibirico, Cesar department, which ended with the signing of a collective agreement. Several demonstrations took place in September in the towns of Segovia and Remedios, Antioquia department, culminating in a civil strike involving the populations of both towns, to defend the workers' ownership of the Frontino Gold Mines company. These events highlight the serious problems in the mining industry and their disastrous consequences for the environment, the local population and national interests, undermined by those of multinational capital.

Repeated failure to comply with ILO recommendations: There is no legal tool to ensure compliance with the recommendations of the ILO's supervisory bodies. It is up to the goodwill of

the government to take the necessary measures to prevent or overcome violations of the trade union rights conventions. Trade union organisations will again have to initiate legal proceedings to seek compliance with ILO recommendations. In the case of the Red Cross workers' union, Sintracruzroja Colombia, which submitted a complaint to the ILO Committee on Freedom of Association in 2004, legal proceedings were taken against the government's failure to comply. The government has been awaiting a final ruling from the Supreme Court since 31 March 2009.

Violence against the trade union movement persists:

Violence against the trade union movement continued in 2010. A total of 443 violations of the right to life, liberty and physical integrity are proof that an environment conducive to the free exercise of trade union rights has not yet been established in Colombia. 49 assassinations, 20 attempted assassinations and forced disappearances are an obvious demonstration that the intention to exterminate the trade unions and their leaders still exists. Added to this are the threats, forced displacements, harassment, kidnappings, illegal raids and arbitrary detentions which together amount to the systematic persecution of trade unionists and trade union activity in the country.

Assassinations of trade unionists: A total of three women and 45 men were assassinated in 2010, 16 of whom were trade union leaders, in other words one third of the murders were targeted at union leaders. The unions most affected were the Colombian Federation of Educators (FECODE), with ten cases, the second was the National Penitentiary and Prison Workers Trade Union Association (ASEINPEC) with three, then the National Transport Workers' Union (SNTT) and the South Bolivar Agro-mining Federation (FEDEAGROMISBOL) with two victims each. The new government is pushing a law on victims through congress which will set out a more favourable legal framework for demanding the respect of the rights of victims from the trade union movement.

On 5 June, Hernán Abdiel Ordoñez Dorado, leader of the National Penitentiary and Prison Workers Trade Union Association (ASEINPEC) was murdered in Cali. Ordoñez had denounced possible corruption by the management of the women's prison in his city and had been the target of threats and an assassination attempt. Despite an earlier request by the General Labour Confederation (CGT) for security protection, there had been no response from the authorities.

On 17 June, Nelson Camacho González, a maintenance worker at the Ecopetrol refinery, and member of the Petroleum Industry Workers Union (USO), was assassinated. His murder took place against a background of threats against the trade union move-

ment in the Magdalena department, in the form of pamphlets and communiques issued by the paramilitary, against social and trade union organisations, including USO.

On 13 August, Luis Germán Restrepo Maldonado, President of the Packing Company Workers Union (SINTRAEMPAQUES) and a prominent leader of the CGT in Antioquia, was assassinated. This murder was particularly serious given that it was of a high ranking union leader who was well known for defending his political and trade union views in various national and international forums.

On 9 September Nelson Murillo Taborda, a member of the executive board of the Meta Independent Agricultural Workers' Union (SINTRAGRIM) was assassinated. He was attacked by someone who identified themselves as a member of the self-defence league, then fired several shots. He was killed in front of his wife.

On the same day Segundo Salvador Forero, a member of the teachers' union EDUCAL, was assassinated in Anserma, Caldas. The union had requested that the Caldas Education Ministry grant him the status of a threatened person which would have given him the right to be transferred, to save his life. The request was not granted.

20 attacks and attempted assassinations: There were 20 attacks and attempted assassinations during the year, principally against members of the mining unions, the Petroleum Industry Workers Union (USO) and the Mining and Energy Industry Workers' Union SINTRAMIENERGETICA, with three victims from each.

In July Alejandrino Betancur, president of the Antioquia mine-workers' union SINTRAMINEROS, in Amagá, received a death threat by telephone. The threats were made after he had taken steps vis a vis the companies that own Industrial Hullera, in an attempt to resolve an industrial dispute that had been running for over 13 years.

On 16 December threats were made against the presidents of the Universities of Colombia National Workers' Union (SINTRAUNICOL) and the University Professors Trade Union Association (ASPU) and the vice-president of SINTRAUNICOL in a pamphlet signed by the "Bloque Central Los Paisas" paramilitary group. The threats came while SINTRAUNICOL was demanding guarantees for the public employees of the University of Colombia and during a pilot process of collective reparation following the paramilitary takeover of the university as an institution, during the last decade.

Attacks on trade union premises: Several trade union premises were attacked during the year. On 10 February, the premises of the Electricity Workers Union of Colombia (SINTRALECOL) and the United Teachers Union of Caldas (EDUCAL) in Manizales were targeted, with threats that identified their members as military targets. In July shots were fired at the windows of the premises of the National Hospital Workers' Association of Colombia ANTHOC and the United Workers Centre (CUT) in Villa Vicencio, Meta.

Attacks on workers during industrial action: In January, 185 workers from the Palo Alto farm, owned by Gnecco Espinos Palo Alto Investments, in Ciénaga, Magdalena, were forcibly removed from their workplace by gunfire, which left one of the workers injured. The armed men asked for two workers, José Luis Soto Jaramillo y Juan Carlos Torres Muñoz, both leaders of the National Agri-business Workers Union (SINTRAINAGRO). The incident took place during a period of union action to protest against the non-payment of salaries and other emoluments.

Later several workers who had taken part in a strike were threatened, and in May Francisco Antonio Abello Rebollo was assassinated, despite the intervention of the United Workers' Centre (CUT) before the President and Vice-President of the Republic, and the Ministry of Social Protection of the Interior and Justice, to denounce the potential risks faced by workers.

Court ruling C-614 of 2009 not complied with: The Constitutional Court has stated that service contracts and associated labour cooperatives (CTA) violate the labour rights of workers employed by the State when they prevent them from freely exercising their trade union rights.

Mass dismissal of public employees: When the new government came to power, the National Customs and Taxation Department announced the dismissal of 1,012 "superfluous" workers, on the grounds of budget cuts. There had been no meaningful consultation with the trade unions. The cuts go against the good faith agreements that had been reached with the unions and the previous director in earlier years on expanding the staff (those with a formal employment relationship) and the payment of bonuses.

Dismissed for creating a trade union organisation: The Peruvian multinational soft drinks company AJE COLOMBIA S.A. dismissed the leaders of the workers' union SINTRA AJE COLOMBIA S.A. without just cause, as soon as the union was formed. The company also signed a collective agreement that only benefitted non-unionised workers, initiating the lifting of the union protection clause (*fuero sindical*) which led to the

withdrawal of the list of demands by the union organisation and ended their collective bargaining.

Widespread lack of good faith among employers over collective bargaining: Throughout 2010 there were serious cases of anti union policies in which employers opposed the unionising of their workers and any collective bargaining. Some examples come from the transport of valuables sector: Domesa and Prosegur; from the mining industry in Guajira and Cesar: Drummond, Chaneme Comercial S.A., Glencore, and Carbones de I Jagua; in the oil industry: Gran Tierra Energy and Emerald Energy (Canadian multinationals that drill for oil in the Putumayo Department) British Petroleum and Ocesa; in the food and drinks industry: Coca Cola, Sodexo, Proleche and Parmalat, and Coolechera; in the transport sector: Copetran, Fenoco; in the financial sector: Banco de Bogotá and BBVA, and in the flower growing sector Naneti/Sunburst Floramérica.

Workers from Gran Tierra Energy and Emerald Energy, in Ilagarzón, Puerto Limón, Puerto Guzmán and Puerto Umbría, submitted a list of demands for the improvement of their working conditions, the hiring of workers from the region, and on investment policies for the region. The list was presented jointly with community representatives, social leaders and town councillors. Demonstrations and rallies were held from 19 April onwards to press for dialogue with the representatives of the multinationals, to no avail. On 9 June, the national police force's Mobile Anti-Riot Squad (Esmad) attacked demonstrators in Villagarzón with gas and rubber bullets, leaving at least 10 people injured.

The National Education Ministry's Workers' Union (SINTRENAL) in Cauca, the Putumayo Educators' Trade Union Association (ASEP) and the District and Municipal Public Servants Union of Colombia (UNES) are some of the unions whose bargaining rights are being undermined.

Costa Rica



POPULATION: 4,600,000
CAPITAL: San José
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

2010 was a very complicated year for the country. The government sought to remove the recognition of the JAPDEVA Workers' Union (SINTRAJAP) and weaken collective agreements. Pineapple growing communities suffered for their trade union activities. The law does not encourage trade union activity.

TRADE UNION RIGHTS IN LAW

Problematic areas exist in the law despite basic trade union rights being guaranteed. Workers have the right to join the union of their choosing without prior authorisation. However, there is no deadline for the administrative authority to decide on the registration of unions. Foreigners are not allowed to hold office or positions of authority in trade unions, and the law obliges the union's general assembly to nominate its leadership each year. While anti-union actions are prohibited, the sanctions and redress procedures are slow and inefficient, and it can take four years to obtain a clear ruling.

The right to collective bargaining is recognised in the Constitution, but employers are also allowed to conclude direct agreements with non-unionised workers, even in places where a trade union organisation exists. Furthermore, the Supreme Court has, following complaints issued by the public authorities or a political party, declared many clauses of collective agreements in the public sector to be unconstitutional.

Finally, to hold a lawful strike, at least 60% of the people working in the establishment must approve of the action. The list of essential services exceeds the ILO definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Anti-union views have prevailed in Costa Rica's social, political and institutional environment over the last few decades. Although some of the effects of the anti-union persecution that went on under former president Oscar Arias can still be felt, the current government led by Laura Chinchilla has proved more amenable to negotiating with the trade union

movement. During 2010, the Rerum Novarum Workers' Confederation (CTRN) played an important role, together with other social partners, in the legislative process for the reform of the Procedural Labour Code, which is still ongoing. It defends rights such as the protection of union officers from dismissal.

Trade union rights not respected in practice: The ILO's supervisory bodies have repeatedly pointed out the slowness and inefficiency of the procedures to sanction and redress anti-trade union actions, the cancellation of clauses in some collective agreements and the serious imbalance between the number of collective agreements and "direct arrangements" with non-unionised workers.

It is almost impossible to form and run trade unions in the private sector, owing to the combined effect of the promotion of "solidarismo" and employer opposition. Employers sometimes use methods that go against both the law and moral standards in order to discourage the formation of new trade unions or destroy existing ones. The Rerum Novarum Workers' Confederation (CTRN) reported that the ANFO company refused to recognise the SITRAPECORI union. Workers at the Chiriquí Land Company also faced difficulties in negotiating collective agreements.

Government support for alternative organisations that violate trade union rights: Although the government maintains that only collective bargaining has constitutional status, in practice it supports organisations set up as an alternative to trade unions. Hence in April a Regulation was passed that grants "solidarismo" that same status as bona fide trade unions. There are only about 13 collective agreements in the country, while more than 74 direct arrangements have been signed. This has led to a fall in trade union membership, with less than 3% of workers belonging to a union. In contrast, about 300,000 are in the "solidarismo" system.

Government's blatant interference in SINTRAJAP: The ITUC, its regional organisation TUCA and its affiliates in Costa Rica roundly condemned the attempts by the government and the JAPDEVA port authority to undermine the leadership of the workers' union SINTRAJAP, which was campaigning against the privatisation of the Limón port in the Caribbean.

On 15 January, the JAPDEVA port authority's management held a parallel general assembly in one of the company's storerooms for workers close to the government, in violation of the law and the union's statutes, as well as the principle of trade union independence enshrined in Convention 87. The government appointed a new, illegitimate leadership at SINTRAJAP with the complicity of some parts of the media.

However, Costa Rica's constitutional court ordered the immediate reinstatement of the legitimate leaders of the SINTRAJAP stevedores union, led by Ronaldo Blear, general secretary, who was removed from his post in January. The court also annulled all agreements reached by Douglas Brenes, the representative appointed by the government. On 25 August, the court ordered that the executive board, including the displaced general secretary Ronaldo Blear, be reinstated and declared the collective agreements and other agreements regarding the leasing of the Moin and Limón ports to private owners invalid.

European campaign against pineapples grown in Costa Rica: Communities growing pineapples suffer unacceptable conditions, reveals a study published in November. Consumers International (CI) launched a Europe-wide campaign to expose the complicity of the continent's major supermarkets in the unacceptable working and environmental conditions faced by the communities involved in pineapple growing in Costa Rica. Three quarters of pineapples sold in Europe come from Costa Rica. Supermarket chains buy from Del Monte, which exports 50% of Costa Rica's pineapples, and the Acon Group. Complaints were also made about the dismantling of trade unions. One Acon Group worker stated that after the mass dismissals, only those who did not belong to a union remained, and they were kept because they were paid a lower rate for the same work. The violations included not only the dismantling of the trade union by means of dismissing its members and leaders but also poverty wages, exposure to toxic chemicals, dangerous working conditions and water contamination.

Cuba



POPULATION: 11,200,000
 CAPITAL: Havana
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138

The Central de Trabajadores de Cuba (CTC) continues to be the only organisation authorised to represent workers' interests. The Cuban government continues to forbid independent unions. The law does not specifically recognise the right to collective bargaining or to strike.

TRADE UNION RIGHTS IN LAW

Basic trade union rights are not adequately protected. While the law guarantees the right to organise, trade unions must also

play a political role and contribute to developing and supporting the government. Workers' rights are thus subordinate to political objectives. There is only one officially recognised trade union, the Central de Trabajadores de Cuba (CTC), which has a monopoly with respect to representation of workers vis-à-vis government instances.

The right to collective bargaining is not specifically recognised, and the provisions that regulate how collective agreements are to be concluded are too detailed. The law also requires the approval of the National Office for Labour Inspection for registration of collective agreements in many activity sectors. In the event of differences between the parties, the law imposes compulsory arbitration and provides for interference or intervention by the authorities and by the CTC.

The right to strike is not provided for in the legislation, and its exercise in practice is prohibited.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Cuba reached 2010 suffering the hard-hitting economic effects of the international financial crisis, the U.S. embargo, the devastation left by a series of hurricanes, the fall in the price of nickel (its chief export) and the decline in revenues from tourism. According to official statistics, around 83% of the workforce is employed by the state and an additional 5% is employed by cooperatives closely linked to the state. Half a million jobs were slashed between November 2010 and the first quarter of 2011 under the plan to restructure the Cuban labour force. According to the national workers' centre Central de Trabajadores de Cuba (CTC), which is the only officially recognised union in the country, these cuts correspond to the process of updating Cuba's economic model and the economic plans for the 2011-2015 period. The layoffs in the public sector could affect up to 1.8 million workers.

The regime did not meet the 7 November deadline for the release of 12 political prisoners and prisoners of conscience (from the Group of 75) who refused to leave the island under the deal stemming from talks between the Catholic Church and the Spanish government. Dozens of other opposition figures were forced to leave the island, having agreed to go into exile in Spain, along with their relatives, in return for their release from jail.

Repression stifles labour rights: The number of politically-motivated arrests was estimated to have reached 1,224 in November 2010, which discourages the formation of independ-

ent trade unions, as the authorities view exercising freedom of association as a political activity.

Political legislation overrides trade union laws: There have been no changes in the Cuban labour legislation. The trade union movement is controlled by the Cuban state, and the leaders of the single union CTC are not elected by the workers but appointed by the state and the Communist Party of Cuba.

Workers obliged to relinquish their rights: The Cuban labour legislation and the monopoly of the only trade union organisation recognised by the state mean that workers have to relinquish the defence of their rights and contribute, rather, to regime's economic and political objectives.

No independent trade unions: There has been no change in Cuba's state policy of prohibiting the formation of independent trade unions and persecuting their founders, confining the scope of their action to supposedly dissident operations.

Dominican Republic



POPULATION: 10,000,000
CAPITAL: Santo Domingo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Freedom of association was seriously affected in 2010. Hundreds of workers lost their jobs and were subjected to a wide range of discriminatory practices purely because they took part in trade union activities.

TRADE UNION RIGHTS IN LAW

Basic trade union rights are secured, however there are some problematic areas in the law. The new Constitution that was proclaimed on 26 January 2010 did not improve this situation. Freedom of association is guaranteed in the Constitution, but is limited for public servants. In order to establish a public servants' union, 40% of the total number of employees in an institution is required. Also, to form a confederation, a federation must obtain a two-thirds majority vote by their members. The law does not establish effective sanctions to protect workers against acts of anti-union discrimination.

While the right to collective bargaining is recognised, a union must represent an absolute majority of the workers in an

enterprise or branch of activity to be able to bargain collectively. Furthermore, to call a lawful strike there must have been a prior attempt to resolve the conflict through mediation, and a majority of the employees in the company must vote in favour of the action, regardless of whether they are trade union members.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The Dominican Republic experienced weak economic growth in 2010, with a lack of decent work, institutional problems and the repercussions of the serious situation in Haiti. At the end of the year, the National Human Rights Commission highlighted in its report "Aberrant and outrageous official corruption, a sustained loss of quality in public and private services, an increase in drug trafficking, violent deaths and blatant official violations of the Constitution and the law". Other issues included institutional weaknesses, poor citizen security, lynchings, disappearances, migration and the labour situation. The country has not reached its own goal of allocating 4% of GDP to education and has announced that it will not meet the Millennium Development Goals.

Government indifference to freedom of association violations: The president of the National Trade Union Unity Confederation (CNUS) Rafael Abreau believes the Labour Minister is well aware that freedom of association is violated in the country but that he has done nothing to improve the situation. In June the CNUS lodged a complaint against the government for violation of freedom of association by obstructing the registration of trade unions.

CNUS denounces dismissals of trade union leaders: The National Trade Union Unity Confederation (CNUS) reported that an Afghan businessman, the general manager of Nestlé de San Francisco de Macorís, dismissed the leaders of the company's workers' union. It was yet another example of the lack of respect for the workers' right to organise freely in order to defend their rights. At a press conference the CNUS accused the Nestlé manager of organising a campaign of repression against the trade union leaders.

CNUS denounces obstacles to freedom of association: The president of the National Trade Union Unity Confederation (CNUS) Rafael Abreau complained that Barrick Gold had obstructed the formation of a trade union by his workers when all that remained was the approval of the Labour Ministry. The union's creation was not approved because Barrick Gold hired a firm of lawyers to bring a legal case against the creation of the union. New trade unions have to wait a long time to get approval from the Ministry of Labour. The majority of employers'

associations are opposed to freedom of association and more than half of workers' unions that obtain legal personality are not able to operate within their company.

Union representation obstructed: When the Lendestoy and Associates Call Centre learnt of the trade union campaign starting up, it initiated a process of disinformation and threats against workers to stop them joining the union. In December the company applied to the court for a lifting of "fuero sindical" (protection from dismissal for trade union officers) from a group of workers. Without waiting for the Labour Court's decision, the company dismissed the employees concerned as well as others who formed part of the union's management committee. The Court ordered their reinstatement. After the company was notified of the court ruling, the workers were prevented from entering the workplace.

Right to reinstatement denied: Several court rulings have denied workers the right to reinstatement that they have under the terms of "fuero sindical" (protection from dismissal for trade union officers). In the case of CIRAMAR, the Civil, Commercial and Labour Court of First Instance in the Pravia Judicial District ruled on 12 July against the reinstatement of the leadership of the workers' union, even though it was recognised that they were protected by "fuero sindical". The Civil Court argued that they only had the right to compensation. In the case of SAMEX Internacional S.L. – CODACSA, the Labour Court of the San Pedro de Marcoris Judicial Department rejected the request for the reinstatement of trade union leaders suspended by the company. The National Confederation of Dominican Workers (CNTD) lodged a complaint with the ILO's Committee on Freedom of Association.

Ecuador



POPULATION: 13,600,000
CAPITAL: Quito
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Anti-union practices persisted. A number of employers were fined for violating the rights of domestic workers. The United Nations noted the existence of child labour, forced labour and other contemporary forms of slavery, along with the threats and attacks levelled against trade union rights defenders.

TRADE UNION RIGHTS IN LAW

Despite recent improvements, many excessive restrictions apply to trade union rights. The 2008 Constitution guarantees workers' right to organise, however it also limits this right in the public sector by establishing that only one organisation can represent state employees. The membership threshold for forming a union is excessive, and the union has no role in an establishment where a works council has more members than the union. In addition, only nationals may hold union leadership posts, and the Constitution restricts the re-election of union leaders.

Furthermore, while the right to collective bargaining is recognised, minority unions are not allowed to negotiate, and workers covered by the Civil Service and Administrative Careers Act have no collective bargaining rights. Collective industrial disputes shall also, in all cases, be referred to conciliation and arbitration tribunals.

While the Constitution guarantees the right to strike, in the private sector strikes can only be called at the company or factory level. Solidarity strikes and boycotts are also restricted to a maximum of three days. In addition, any action that paralyses certain public services is prohibited, and public servants having participated in such activities can be dismissed. The law also imposes prison terms on people participating in illegal stoppages or strikes.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: On 30 September, a section of the police force attempted a coup d'état, attacking President Rafael Correa and

holding him hostage for several hours. At the same time, trade union organisations were holding a series of protests against government measures to cut public workers' benefits, including those of police officers.

The government remains hostile towards the trade union movement in the public sector. Numerous labour disputes during 2010 were linked to the discussion and approval of the laws on public companies and the public service, over which the National Assembly and public sector organisations had reached a consensus that the government subsequently ignored. The government did, however, offer some progress in terms of labour rights and announced the incorporation of the principle and elements of decent work as a key part of its social policy.

Employers block unionisation: Employers continue to support the creation and operations of *solidarista* associations. The establishment of these workers' associations is subject to the contribution of the employer they depend on, and are used in practice as a way of preventing the formation of trade unions or to weaken collective bargaining.

Child labour, forced labour: The Special Rapporteur on Contemporary Forms of Slavery, its causes and consequences, Ms Gulnara Shahinian, visited Ecuador from 25 January to 1 February. The Special Rapporteur highlighted the existence of child labour, practices akin to slavery, forced labour and servitude in Ecuador, especially on the banana and flower plantations, in the palm oil and gold mining sectors and the informal economy. Such practices largely involve people of African descent, indigenous peoples, children from poor families, women, asylum seekers, refugees and undocumented or illegally trafficked migrants. The Rapporteur welcomed the government's genuine commitment and efforts to implement policies to tackle these serious problems.

Protesting workers attacked at ERCO: Following trade union rights violations in 2009, ERCO, the Ecuadorian tire company, received a court order to reinstate the affected workers and pay them damages. The company, however, refused to recognise its obligations, leading to a protest being held in July by the 330 workers on the works councils at the plant based in Cuenca, in the province of Azuay. The national police blocked the workers' access to the factory then used pepper gas and violence to disperse the demonstrators.

Representation dispute within CEOSL: The representation dispute within the Ecuadorian confederation of free trade unions CEOSL (Confederación Ecuatoriana de Organizaciones Sindicales Libres) led to two leaders acting in the organisation's name for almost 14 months. In 2010, a section of the CEOSL's

membership initiated judicial proceedings against the decisions taken by the National Electoral Council regarding the drawing up of a new statute for the organisation, which, among other reforms, forced it to change the rules on the election of its executive members.

Amid these divisions and disputes, a section of the CEOSL membership (over 800 delegates from across the country and the various affiliated organisations, from grassroots unions to federations) attended, on 27 May, the founding assembly of a new trade union confederation, the Confederación Sindical del Ecuador (CSE). The Ministry of Labour Relations registered the new union.

Fines for violating domestic workers' rights: The Ministry of Labour Relations waged a campaign between March and July to monitor compliance with the labour rights of domestic workers. The campaign covered 24 provinces and four cities. A total of 46,820 people (employers and workers) took part and 13,592 inspections were conducted. Four hundred and fifty six notifications of non-compliance with the law on domestic workers' rights were filed.

El Salvador



POPULATION: 6,200,000
CAPITAL: San Salvador
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The anti-union culture among employers remains strong and continues to hamper the full exercise of trade union rights. Numerous municipal employees were dismissed, including union members, and a trade union leader was murdered.

TRADE UNION RIGHTS IN LAW

Despite some recent improvements, trade union rights remain excessively restricted. Decree No. 33 of June 2009, which modified article 47 of the Constitution, extended the right to organise to public servants. However members of the legal profession and those employed in the District Attorney's Office are still excluded. To form a union at least 35 members are required, and prior authorisation from the government is needed to register. Members of a union's leadership bodies must also be Salvadorian by birth.

While the right to collective bargaining is recognised, in order to engage in collective bargaining for the first time, a union's membership must represent at least 51% of the workforce in the establishment. Collective agreements concluded with a public institution must also be endorsed by the respective ministry, and are subject to prior consultation with the Ministry of Finance.

All strikes must relate to a collective agreement or the defence of the workers' professional interests. A protected strike must be backed by an absolute majority of the employees in a workplace, and unions must also wait four days after receiving the approval of the Ministry of Labour before beginning a strike. Public and municipal employees are banned from striking. Strikes in essential services are likewise prohibited. However there is no reference in the law indicating which services are essential. Finally, the Director-General of Labour has the power to determine the extent of the minimum service at the request of one of the parties.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: El Salvador continues to be plagued by criminal violence and the government has mobilised the army to assist the police in the fight against crime. The country has been hard hit by the economic crisis, undermining respect for trade union rights and their application, especially in the private sector. Workers formed 50 unions over the course of the year, including 18 in the public sector (36%); these organisations were registered by the labour administration.

Employers' organisations waged a campaign to increase working hours in the maquilas, which trade union organisations opposed. The labour administration also refused to approve the proposal.

Trade union rights crushed: The 67,000 workers, mainly women, employed in El Salvador's 15 export processing zones (EPZ) are faced with exploitation, mistreatment, verbal abuse, threats and sexual harassment. The textile maquila is characterised by its staunch anti-union policy, dismissing workers attempting to exercise their trade union rights, be it forming a union or joining an existing one. EPZ employees are considered to work in slave-like conditions. Many public employees are also denied the right to organise and there are so many restrictions on the right to strike that it is practically impossible to exercise it. Private sector workers are faced with heavy restrictions as well as excessive requirements and red tape when trying to form or affiliate with a union. Anti-union practices are extremely widespread and the public authorities do not take adequate

measures to stop them. Furthermore, the law does not provide for the reinstatement of workers unfairly dismissed on account of their union membership or activities.

Leadership of construction workers' union SUTC denied registration: Members of the construction workers' union SUTC (Sindicato Unión de Trabajadores de la Construcción) denounced the refusal of the Labour Minister, Dr Victoria María Velásquez de Avilés, to register the SUTC executive body freely elected by the workers in January, based on claims of legal flaws that have no juridical foundation. The minister's decision affected the working conditions of over 30,000 workers, as their collective agreement has expired and cannot be renegotiated until the union's leadership-elect is registered.

Municipal employees sacked: On 6 January, the municipal authorities in Ayutuxtepeque unfairly dismissed 12 male and six female workers, all members of the municipal trade union SITRAMAY. It was reported that the municipal authorities had established a reign of terror over its employees, dismissing workers, threatening them, increasing their working hours, docking their wages without justification and cutting their benefits.

Trade union leader murdered: On 15 January, Victoriano Abel Vega, general secretary of the municipal union in Santa Ana SITRAMSA, affiliated to the independent workers' confederation CATS (Central Autónoma de Trabajadores Salvadoreños), was murdered by heavily armed men. His murder came as action denouncing the dismissals of municipal workers was being taken. Trade union leaders reported that he had already received death threats linked to his trade union activities in the western part of the country.

Dismissed for forming a union: Luís Ortega, general secretary of the newly formed union of Legislative Assembly workers SITRAL (Sindicato de Trabajadores de la Asamblea Legislativa) denounced his "imminent dismissal" and the attempts by the current leaders in the Congress to "behead" this movement within the highest state body. Ortega was elected as general secretary of the union, however, ever since the organisation was recognised by the Labour Ministry, it has been faced with a series of obstacles from Congress leaders refusing to receive the union representatives at meetings to present their aims and work programme. When the dismissal was announced, the public workers' federation FESITRASEP (Federación de Sindicatos de Trabajadoras y Trabajadores del Sector Público), supporting SITRAL's Executive Board, joined with the union in filing an appeal with the Supreme Court of Justice to halt the decision to sack the general secretary.

Guatemala



POPULATION: 14,000,000
CAPITAL: Guatemala
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The number of trade unionists killed remained high in 2010. This illustrates the great vulnerability of workers who try to exercise their human, trade union and worker rights and the rights of the indigenous people of Guatemala. Trade union members carry out their activities under a constant threat of violence and fear of reprisal. The government does not do enough to guarantee the free exercise of trade union activities.

TRADE UNION RIGHTS IN LAW

Despite initial guarantees, a number of excessive restrictions apply to trade union rights. The Constitution and the Labour Code recognise both private and public sector workers' freedom of association. However, to establish industry unions, the unions must represent 50% plus one of the workers in a sector. In addition, all union leaders must also be of Guatemalan origin, and be employed by the company.

Although workers have the right to bargain collectively, unions must represent more than 25% of the workers in an enterprise to engage in bargaining. There are also provisions for imposing compulsory arbitration in the event of a dispute in the public transport sector and in services related to fuel.

Furthermore, while the right to strike is recognised in the Constitution, all strikes must have the support of 51% of the workforce in the company. All education, postal, transport as well as energy workers are denied the right to strike. Finally, the law provides for imprisonment of one to five years for persons carrying out acts aimed at paralysing or disrupting enterprises that contribute to the country's economic development.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: There was no change in the general situation in Guatemala. The International Commission Against Impunity in Guatemala (CICIG) stated that the biggest challenge it faces in all public ministries in the region is independence, because organised crime has tried to take over State institutions. Violence

continues to be a scourge. The journalist Anibal Archila, a reporter on Tele Noticiero Noti-7, was murdered. There was a fall in the level of union membership (2.2%) owing largely to the State's anti-union policies and the anti-union culture practiced by employers and tolerated by the State.

Unions operate in climate of violence: While the law contains provisions to protect trade union rights, in reality Guatemala's de facto power groups successfully use various practices to prevent the creation of trade unions, particularly in the private sector. The majority of trade union organisations have been the target of assassinations, violations, attacks, threats, smear campaigns, infiltration, parallelism and exclusion from all social dialogue forums. Despite these difficulties they have continued their socio-political work, operating as an independent trade union movement. Municipal authorities frequently violate trade union rights and working conditions, in an atmosphere of violence and threats.

Assassinations of trade unionists: The most serious violation of trade union rights in Guatemala is the assassination of leaders and members of organisations, purely because they are trade unionists.

Evelinda Ramírez Reyes was assassinated on 13 January after a meeting with members of the Congress to discuss the question of the electricity industry. She was the President of the Natural Resources Protection and Resistance Front (FRENA), an organisation that forms part of the National Front for the Defence of Public Services and Natural Resources (FNL) and the Trade Union, Indigenous Peoples' and Peasant Farmers' Movement of Guatemala (MSICG).

Pedro Antonio García was assassinated on 29 January following a strike that he led a few days earlier to protest against the Municipal authority's non-payment of salaries and non-compliance with the agreement on working conditions. He was Sports and Culture Secretary for the Malacatán Municipal Workers' Union in San Marcos, affiliated to the United Trade Union Confederation of Guatemala (CUSG) and the MSICG.

Héctor García was assassinated on 20 February during the dismantling of the union by the employers. He had refused management's offer of financial benefits in return for leaving the union. He was a member of the Hotel Workers' Union of the Americas, affiliated to the General Workers' Centre of Guatemala (CGTG) and the MSICG.

Luís Felipe Cho, a member of the Santa Cruz Municipal Workers Union, affiliated to UNSTRAGUA and MSICG, was assassinated on 6 March. He was tortured, dismembered and several

vital organs were removed. He had received death threats because of his trade union activities.

Samuel Ramírez Paredes, General Secretary of the Banana Workers' Union (SITRABI) in the Panchoy district, affiliated to CUSG and MSICG, was assassinated on 26 March.

Juan Fidel Pacheco Coc, General Secretary of the Directorate General for Migration Employees Workers' Union, was tortured then killed on 31 July after submitting an official complaint about the illegal trafficking of persons and influence to the Human Rights Ombudsman. He had repeatedly asked for security measures.

Bruno Ernesto Figueroa, who received several bullet wounds on 7 August, died on 10 August. He was Finance Secretary of the sub-branch of the Health Care Integration System, of the SNTSG, a part of the FNL and a member of the MSICG.

On 29 September David Pineda Barahona, Organising and Minutes Secretary of the subsidiary of the San Benito, Petén Vector Programme workers' union was assassinated.

On 30 September Carlos Enrique Méndez Ramírez from the subsidiary of the National Mental Health Hospital was shot dead by unknown assailants.

Also on 27 September, Fredy Geovani López Caal, Disputes Secretary of the National Health Workers Union of Guatemala at the Mechor de Mencos National Hospital in Petén was assassinated.

Trade unionist shot at by municipal official: The General Workers' Centre of Guatemala (CGTG) and UNSITRAGUA denounced the attack on Abel Barsilai Girón Roldán, a member of the Zaragoza Municipal Workers' Union, in the Chimaltenango department, on 20 January.

Employer interference: The Hotel Las Americas S.A. Workers' Union (SITPHA) reported that the employer, with the support of the Ministry of Labour and Social Welfare, had interfered in the affairs of the union and tried to destroy it. On 28 January Héctor García Véliz, a member of the union said that the employer, via their trusted employees, had asked him to leave the union because it was affecting the company.

Corporations denounced: On 30 July the United States trade representative presented a case against the Government of Guatemala, for the systematic violation of workers' rights enshrined in the free trade agreement between the two countries. The complaint concerned Alianza Moda where workers

were dismissed for trying to exercise their right to organise. According to the complaint, the government had done nothing to protect the workers' rights.

Intimidation of trade unionists on a farm: On 21 July, members of the La Soledad Farm Workers Union (SITRASOLEIDAD) in the Patulul municipality, Suchitepéquez department lodged a complaint with the Public Ministry about threats and intimidation against Rodrigo García Cunén, Carlos Anibal Ramírez Páiz and Carlos Enrique Serech, who were General Secretary, Finance Secretary and Labour and Disputes Secretary respectively. On 31 July, Rodrigo García Cunén was shot at and received a bullet wound to the stomach.

Employers' anti-trade union strategies: The union at the Textiles Modernos S. A. (TEXMOSA) company used to have 291 members. By 31 December 2010 it had just 34. The employer had put pressure on workers to leave the union, and on those who were not members to never join. During the year the union served proceedings against the company to prevent the dismissal of workers. TEXMOSA merged with two other companies, FABENSA and HITISA, which were under the same ownership. In September, wishing to affiliate workers from the other two companies and strengthen its organisation, the union submitted a proposed reform of its statutes to the Directorate General of Labour. The Ministry of Labour repeatedly sought to block the reforms. The reform of the statutes had not been decided on at the end of the year.

Banana companies not respecting trade union rights: The six existing trade unions on the nine plantations working for the company COBIGUA, a subsidiary of the fruit multinational Chiquita, affiliated to UNSTRAGUA and a part of the Trade Union, Indigenous Peoples' and Peasant Farmers' Movement of Guatemala (MSICG) reported a deterioration in the working conditions established in their Collective Agreement on Working Conditions. Furthermore, pressure is being put on trade union leaders with the publication of so-called productivity lists, showing their low productivity as a result of taking trade union leave. Against this background, death threats were made against Leonel Pérez Lara, a member of the UNSITRAGUA board of coordinators and of the MSICG Political Council. The companies have also implemented a system of worker exploitation, including sub-contracting to hide the employment relationship and avoid an increase in trade union membership.

Violations by the government: The Workers' Union of the President's Wife's Secretariat for Social Works (SITRASEC) lodged a complaint with the Social Welfare and Labour Courts, under the terms of ILO Convention 98, about a collective agreement on working conditions. Their aim is to improve the current

working conditions in Secretariat, which undermine workers' job stability.

Anti-union attitudes in the labour inspectorate: In 2008 a group of workers at the San Marcos National Hospital formed a trade union and presented their paperwork to the General Directorate of Labour and the General Inspectorate of Labour for registration. On 11 March, the General Inspectorate of Labour issued decisions that imposed prior conditions on workers wishing to register. The workers complied with the first two decisions. However, after the third decision was issued, the workers became disillusioned with the countless obstacles created by the Labour Ministry to the registration of a trade union and decided to proceed no further. This is common practice in the Labour Ministry which sets out preconditions for the registration of trade unions, the reform of statutes and the registration of new leaders. This discourages workers from organising and in the end they desist from forming trade unions.

Anti-union harassment and threats: Anthony Segura, General Secretary of the Tax Inspection Workers' Union (SAT) reported that high level authorities were intimidating employees and representatives of the recently created trade union. The union was formed after 12 years of injustice such as unfair dismissals, unpaid overtime and heavy pressure to work in customs. María de los Ángeles Ruano, a trade union leader, received death threats, which were also directed at her family.

Haiti



POPULATION: 10,000,000
CAPITAL: Port-au-Prince
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

In October, the police killed a member of an education trade union during a demonstration. Management suppressed the activities of the *Syndicat des employés de l'Office national d'assurance-vieillesse*. Two of the leaders were arbitrarily dismissed. The role of both the country's institutions and social dialogue have been virtually non-existent this year. Many categories of workers enjoy limited or no freedom of association and the right to strike is excessively restricted.

TRADE UNION RIGHTS IN LAW

Despite promises of reform, trade union rights are not adequately secured in law. While the Constitution provides for freedom of association, the Labour Code excludes many categories of workers from its scope. Any association comprising more than 20 people must also receive prior authorisation from the government in order to be recognised. Civil servants and agricultural workers are not covered by the Labour Code, and foreign workers are not allowed to hold union leadership posts. While the law bans anti-union dismissals, it does not provide for reinstatement.

Furthermore, the right to collective bargaining is not guaranteed as employers are not obliged to meet or negotiate with trade unions. The authorities also have the power to intervene in the drafting of collective agreements. In addition, the parties to a collective dispute must try to resolve their differences by using mediation, conciliation and arbitration, and it is a tripartite consultation committee that gives the final ruling on a dispute.

Although the right to strike is provided for in the Constitution, no strike may exceed one day. The Law also defines three types of strikes and any action that does not fit one of those definitions is considered illegal. Finally, strikes are illegal in public sector enterprises.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The earthquake on 12 January claimed the lives of 222,000 Haitians and left more than 1.5 million people homeless. The country's already weak infrastructure was ravaged. Approximately 90,000 stable jobs were lost. The catastrophe generated a large-scale humanitarian response. In March, during an international donor's conference, the international community pledged to donate 5 billion dollars over two years to rebuild the country. But many have criticised the lack of transparency in the management of the funds that have already been allocated and the lack of concrete results. Since October, a cholera epidemic has spread across the country, causing approximately 3,600 deaths and creating new needs. In November and December, trouble broke out during governmental and presidential elections.

Employer impunity: The government has never fined an employer for interference in a union's internal affairs, despite the fact that such acts are prohibited by the Labour Code. Enquiries into abuses committed against trade unionists rarely produce results.

Dispute resolution virtually non-existent: The institutions set up to resolve labour disputes are completely dysfunctional. The Tripartite Committee responsible for mediating and arbitrating disputes has been a failure, since the cases submitted to it are never resolved. The industrial tribunals system is also defective, since trials are rarely fair, judges are poorly trained and deadlines are not respected. Using a lawyer is often prohibitively expensive, resulting in the workers hardly ever using the industrial tribunals. When the tribunals do pronounce in favour of the workers, their rulings are not implemented.

Labour inspectorates ineffective: Charged with enforcing legislation, labour inspectorates are often short-staffed, poorly equipped and badly trained, or even directly threatened by employers.

Trade union roadmap for the rebuilding of the country: The large mobilisation by the international trade union movement following the catastrophe highlighted the urgency of addressing the current very mediocre respect for trade union freedom: the right to strike is excessively restricted, ineffective resolution of labour disputes and flagrant hostility by employers have characterised the social climate in recent years. In April, in Saint Domingue, an international conference brought together over 120 trade unionists from the four corners of the world. Haitian and global trade unionists focused on the agenda for decent work, strengthening the Haitian trade unions and social dia-

logue as the basis for rebuilding the country. The participants at the conference called on national and foreign employers as well as NGOs and international organisations to respect the fundamental ILO labour standards and the labour code.

Interference and persecution at the Office national d'assurance-vieillesse, two trade union leaders and one member dismissed: The Syndicat des employés de l'Office national d'assurance-vieillesse (SEONA) affiliated to the Confédération des travailleurs haïtiens (CTH) were put under constant pressure by Jean-Alix Boyer, the new director of the institution under the repeated and false pretext of administrative errors. Mr. Boyer proposed the establishment of an organisation that would operate in parallel with the trade union composed of two trade union representatives, four non-trade union workers' representatives and Mr. Boyer himself as chairman. On 18 February, the director forced the closure of the trade union office. A few days later, he confiscated the car that had been given to the trade union two years previously.

Reginald Petit-Homme, SEONA's president was the director's first target. On 1 April, he was demoted and transferred to an area in the capital which is considered very dangerous. He was then put on a 3 month unpaid leave of absence and subsequently dismissed. His life was threatened in August and December, the first time by thugs at his home and the second, by security guards with management links. John Joseph Chenier, the Assistant General Secretary was dismissed on 26 April. Another activist, Schiller Abellard was also dismissed.

Teacher killed during a demonstration: On 8 October during a demonstration in Port-au-Prince, Jean Filbert was struck on the head by a tear gas grenade thrown by Francine Desruisseaux, a police officer. He died from his injuries following 14 hours in intensive care. Jean Filbert Louis was a mathematics teacher, a member

of the Union nationale des normaliens d'haïti (UNNOH) affiliated to the Confédération des travailleurs/euses des secteurs public et privé (CTSP). The demonstration had been organised by a coalition of organisations involved in an awareness campaign for the education of thousands of children outside the education system due to poverty or the earthquake in January.

Two trade unionists killed in suspicious circumstances: On 16 November, Miguel Saint-Louis, leader of SOS Transport, a transport union, was killed. He was targeted by three armed motorcyclists. The Unité d'actions constructives des syndicats haïtiens (UACSH) also denounced the suspicious death two months previously of Marcellus André Louis another trade unionist from the transport sector.

Honduras



POPULATION: 7,500,000
CAPITAL: Tegucigalpa
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Honduras is caught up in a spiral of violence. Being a trade unionist or a member of the Resistance Front implies serious risks. Several social and trade union leaders have been confronted with death threats and attempts on their lives. On the first anniversary of the coup d'état overthrowing President Manuel Zelaya, the population took to the streets to call for the creation of the Constituent Assembly planned by the former leader. In August, the workers' confederations and teachers' organisations held massive demonstrations in the main cities of Honduras to demand an increase in the minimum wage. Three trade unionists were murdered in 2010.

The strategies deployed by employers, with the regime's support, to destabilise and weaken the trade union movement range from using hired killers to measures such as subcontracting.

TRADE UNION RIGHTS IN LAW

Numerous restrictions apply to trade union rights despite initial guarantees. The law recognises the right to form and join trade unions. However, at least 30 workers are required to create a union, and there can only be one union in any given establishment. Foreigners enjoy limited freedom of association as they can not be elected to union leadership positions, and the law requires that 90% of a union's members must be Honduran nationals. While the law awards some protection to workers trying to form a union and to the union's leadership, the provisions are lacking especially concerning anti-union discrimination and dismissal.

The right to collective bargaining is recognised, but the Labour Code restricts the themes that can be included in bargaining. In addition, public employees are not allowed to conclude collective agreements, and collective disputes even in non-essential public services are subject to compulsory arbitration.

The right to strike is also coupled with restrictions, and an inordinate two-thirds of the votes of the total union membership is required to call a strike. Federations and confederations may

not call a strike. Public employees may not take part in solidarity strikes, and employees of state-owned enterprises must give six month's notice or obtain government approval before striking. Finally, the authorities have the power to end disputes in certain services.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In May, the Supreme Court of Justice in Honduras dismissed four judges, an ombudsman and a public prosecutor after initiating proceedings against them for defending democracy and a judicial system that respects citizens' basic rights. In 2010, organisations tracking the human rights situation in Honduras pointed to serious violations, such as extrajudicial executions committed by police and state security officers, arbitrary detentions and the disproportionate use of force by security officers since the coup, limitations on the freedom of movement and trade union rights, people trafficking and the failure to effectively apply the labour and child labour laws. A large part of the population continued to be affected by poverty and the lack of decent work, pushing them into the informal economy as the only means of survival. Murders of social, trade union and human rights activists were frequent. The public sector was brought to a standstill by the protest held by workers in support of the demand for pay rises.

Companies shirk their responsibilities: The procedures to secure the reinstatement of an unfairly dismissed worker are lengthy, slow and costly. Even when courts order that dismissed workers should be reinstated, employers often ignore the decision and refuse to take them back. Reports indicate that employers use a wide range of tactics to destroy the unions, some legal (such as the filing of appeals for the dissolution of unions by the courts), others illegal (such as reprisals and threats against trade union leaders and members). The Department of Labour takes no action to protect workers' rights, arguing that it takes a non-interventionist approach to companies' internal affairs.

Discrimination and poor application of labour laws: The law prohibits discrimination on grounds of gender, disability or ethnic origin. However, women are concentrated in low skilled, low paid jobs and do not receive equal pay for work of equal value to that of their male colleagues. This constitutes a real and serious barrier to the unionisation of women. Indigenous peoples face discrimination in access to employment. Child labour is widespread, especially in agriculture, mining, workshops and domestic labour.

Inspections to ensure compliance with the labour laws, including those on child labour, are rare.

The labour legislation also applies to export processing zones, but it is nonetheless difficult to organise unions in them.

Temporary work: a strategy to undermine trade union rights: Trade union organisations denounced that the Work and Opportunities Activation Programme (PACTO) approved by the Legislative Chamber contains a number of provisions aimed at undermining labour and trade union rights. The bill is aimed at imposing and favouring temporary employment, denying permanent work and thus violating the right to job stability and trade union organising.

In the maquilas, transnational textile brands, producers, and retailers subcontract Honduran companies, which employ workers, usually temporary, for 59 days. Only 1.5% of workers are unionised and less than 0.5% are covered by collective agreements. The same is the case in the cement industry, where only 9% of the labour force is unionised. At INCESA, labour outsourcing has led to the loss of at least 220 permanent jobs held by workers belonging to a union.

The drinks industry is another example. At the brewing company Cervecería Hondureña as many as 34 intermediaries and contractors supply at least 733 workers; only 6% of these workers are affiliated to the social security system. In the sugar industry, only 6% of the labour force is unionised. The union membership rate in the port sector is 27%. In the banana sector, the traditional unions most affected include those representing workers at transnational banana companies. Union membership has fallen to 4,400 and the combined workforce at the two banana transnationals amounts to approximately 12,000.

Criminal violence against trade unionists and social leaders: On 3 February, Vanessa Zepeda Alonzo, an active member of the resistance and the social security employees' union, the Sindicato de Empleados de Seguridad Social, was found dead in Tegucigalpa. According to witnesses at the scene, her body had been run over by a car.

On 15 February, Julio Funes Benitez, another member of the resistance movement and an activist within the aqueduct and sewage workers' union SITRASANAA (Sindicato de Trabajadores del Servicio Nacional de Acueductos y Alcantarillados) was shot outside of his home in the department of Olancha.

On 14 March, Nahúm Palacios was shot several times and killed whilst driving his car. He was the news director at Aguán

TV, Channel Five, and had given wide coverage to the protests held by the resistance movement as well as politically sensitive issues, such as the agrarian dispute in Aguán.

On 23 March, Manuel Flores was murdered while he was working at his school, the Instituto San José de Pedregal. The act bore all the features of a hired killing. Flores was a member of the Central Executive Board of the middle school teachers' union COPEMH (Colegio de Profesores de Educación Media), affiliated to the national trade union centre CUTH (Confederación Unitaria de Trabajadores de Honduras).

On 12 June, José Luis Baquedano, deputy general secretary of the national union centre CUTH, was shot at by armed men. He escaped uninjured. The trade union leader is also a member of the National Resistance Front, FNRP. Shortly prior to this attack, Carolina Pineda, the finance secretary of the secondary teachers' union COPEMH (Coordinadora Nacional de Profesores de Enseñanza Secundaria) and a leader of the fight against the coup, suffered an attempt on her life by a group of men who attacked the vehicle she was driving. She had received a number of death threats.

Jamaica



POPULATION: 2,700,000
CAPITAL: Kingston
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

In 2010, there have been problems with the free exercise of the right of association because of the small number of trade unions and de-recognition or dismantling of existing trade unions. In addition there are difficulties in forming a new trade union. The trade unions that are recognised experience difficulties exercising the right to strike, as the right to strike is not recognised by law. Similarly, there continues to be a worryingly high level of human trafficking in the country.

TRADE UNION RIGHTS IN LAW

While basic trade union rights are recognised, some areas of concern exist in the law. Under the 2006 Labour Relations and Industrial Disputes Act, workers have the right to create and join trade unions. The law prohibits anti-union discrimination, and employees may not be dismissed solely for belonging to a

trade union. However, while the right to collective bargaining is guaranteed, bargaining is denied if no single union represents at least 40% of the workers, or if the union seeking recognition for collective bargaining does not obtain 50% of the votes of the total number of workers. The right to strike is not specifically protected in law, but neither is it explicitly prohibited except for workers in essential services. However, the Ministry of Labour has the power to refer an industrial dispute to compulsory arbitration and to terminate any strike if it is “likely to be gravely injurious to the national interest”.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Jamaica is a parliamentary democracy. The last parliamentary elections were held in 2007 and were won by the Jamaican Labour Party who later elected Bruce Holding as Prime Minister. The next elections will be held in October 2012. Jamaica is facing serious social problems as a result of their high unemployment rate, the 2nd highest in Latin America and violence, particularly in the capital, Kingston.

As a result of the recent financial and economic crisis, the Jamaican government announced that it has strengthened social dialogue mechanisms to deal with the consequences of the crisis.

Trafficking of women and children for sexual exploitation and forced labour: Human trafficking is a consequence of several factors affecting the country; Jamaica is a source, transit, and destination country for victims of human trafficking. Although the Jamaican government has taken some steps to prosecute those responsible for human trafficking, it does not fully comply with the minimum standards for the elimination this scourge.

Few unions and de-recognition of existing ones: It is estimated that 20% of workers belong to a union. In some companies, where a union already exists, managers have tried to get their recognition withdrawn. In the private sector, they have a tendency to dismiss unionised workers and then subsequently re-employ them on short-term contracts with lower benefits.

Anti-union practices are preventing the creation of unions in EPZs: It is common practice in companies in EPZs to threaten workers and create pro-employer “workers’ councils”, which interfere in the handling of complaints but are not allowed to engage in collective bargaining on working conditions or minimum wages. As a result, so far there are no unions in these zones.

Government intervention in labour disputes: Although the right to strike is not specifically protected by law, some strikes took place during the year. Nevertheless, workers that take part in strike action risk dismissal. The Ministry of Labour intervened directly in some labour disputes as the law allows the Ministry of Labour to terminate any strike.

Mexico



POPULATION: 109,600,000
 CAPITAL: Mexico City
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 100 - 105 - 111 - 182

Trade union activists were detained, injured and persecuted, including by state forces, for exercising their rights, particularly in the mining, oil and electricity sectors. Employers promoted yellow unions and continued to deny workers their fundamental rights, especially in the textile sector. “Protection contracts” are becoming increasingly widespread.

TRADE UNION RIGHTS IN LAW

Despite some initial guarantees, there are many restrictions on trade union rights in the law. While workers may join and form trade unions, to obtain legal status the unions must be listed in the Register of Associations. There is also a trade union monopoly in the banking sector, where bank workers may only belong to the National Federation of Banking Unions. The authorities may refuse to “take note” of the election of union officers if they consider that the union has breached or does not meet the requirements established in the Federal Labour Law.

Furthermore, while the right to strike is recognised in the Constitution, public service employees may only call a strike in the event of general and systematic violations of their rights. They must also have the support of two thirds of the workers in the public body concerned. In addition, the law enables the government to requisition workers in a national emergency, including when it is caused by an industrial dispute. The National Banking Commission determines the extent of the minimum service in the banking sector without any union involvement.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In 2010, Mexico witnessed a rise in the violence related to drug trafficking and organised crime but that also permeates the country's state institutions. The economy continued to flounder and workers saw their basic rights flouted. Corruption cuts across the state apparatus and the corporate sector. The violence against women remains widespread and diverse. The plight of migrants, faced with continual murders, attacks, rapes and abductions, is a major cause for concern.

Protection contracts: "Employer protection contracts" continue to exist. They have been described by the Trade Union Confederation of the Americas (TUCA) as the "most grotesque product of the Mexican labour model". These "protection contracts", that is, bogus collective agreements drawn up by the employers and negotiated behind the workers' backs, then filed with the Federal Conciliation and Arbitration Board, constitute a violation of trade union rights, as they prevent any real collective bargaining and the possibility of exercising the right to strike. The five sectors where these types of contracts are most common are the auto industry, supermarket chains, cleaning services, low cost airlines and the maquilas.

Employers and government systematically violate labour rights: Numerous independent trade unions suffered violent attacks, intimidation and the repression of trade union rights during 2010, such as the mine, metal and allied workers' union Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana (SNTMMSRM), the electricians' union Sindicato Mexicano de Electricistas (SME), the union representing professional and technical workers at the state oil company PEMEX, the Unión Nacional de Técnicos y Profesionistas Petroleros (UNTyPP), the tire workers' union Sindicato Nacional de Trabajadores de General Tire de México (SNTGTM), the union representing university staff at the UACM, the Sindicato Único de Trabajadores de la Universidad Autónoma de la Ciudad de México (SUTUACM), the telephone workers' union Sindicato de Telefonistas de la República Mexicana (STRM), the Frente Auténtico del Trabajo (FAT) and as many as 30 other organisations affiliated to the Unión Nacional de Trabajadores (UNT).

Employers, backed by the government, relentlessly devise and perfect mechanisms to suppress trade union rights. The aim of these widespread violations is to stop workers from organising and to crush or weaken their unions. The result is the proliferation of "protection contracts", repression, threats, and the hiring of thugs to attack organised workers.

Trade unions and "protection contracts" in the maquilas:

The maquilas, located on Mexico's northern border, often sign "protection contracts" before a multinational has even launched its operations. These contracts are agreements concluded between a company and a union that only exists on paper, as it has not been chosen by the workers, most of whom are women. As a result, the workers are not informed that they have a union and collective bargaining rights. The workers organising to improve their pay and working conditions find themselves faced with intimidation and repression at the hands of the "paper unions" and the government. Those attempting to defend their rights are labelled troublemakers and risk being blacklisted by the company.

Violence against strikers at Cananea mine: Some 1,200 workers occupied the Cananea mine following a legal ruling on 11 February granting Grupo Mexico (the country's largest mining company) the right to dismiss the striking workers and cancel their employment contracts, effectively suppressing the right to strike. The miners had been on strike since July 2007 in protest at the gross violations of health and safety standards at the infamously dangerous mine owned by Grupo Mexico.

On 6 June, hours after the Mexican government waged a verbal attack on the strikers at the Cananea mine, 20 patrol vehicles of the security forces in the state of Coahuila escorted Grupo Mexico bosses to shaft number eight of the Pasta de Conchos mine. A detachment of around 2,000 federal police officers entered the town of Cananea. Around 400 of them headed for the mine gates and fired tear gas at the union members who were defending them, allowing the company to retake the mine.

According to the national mine, metal and allied workers' union SNTMMSRM (Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana), three workers received bullet wounds and others were beaten or suffered the effects of the tear gas. Federal warrants were issued for a number of union leaders including Sergio Tolano Lizárraga, general secretary of Minero Branch 65, Juan Gutiérrez Ballesteros, a member of the National Executive Committee from the state of Sonora, and Jacinto Martínez, a member of the local Executive Committee. Tolano won an injunction against his arrest warrant. Federal police arrested five trade unionists: Rodolfo Valdez Serrano, Everardo Ochoa Ballesteros, Luis Alonso Borbón Pérez, Luis Alonso Torres and Marcelo Lara López.

On 12 August, the Ninth District Judge in the state of Sonora ruled that the strike organised by the union remained valid despite the forcible removal of striking workers by federal police on 6 June.

On 8 September, some 600 scabs and plainclothes federal police attacked members of the SNTMMSRM who were on strike at mine. The workers were guarding gate two of the mine under the provisional suspension granted to them by the Ninth District Court on 12 August to avoid being evicted from their workplace. The striking miners took refuge in the union hall, where the attack was then resumed. Several people were injured. Another 30 striking miners were illegally and arbitrarily arrested by the Sonora state police.

Trade union rights violations by Mexican maquilas denounced: On 22 February, the telephone workers' union Sindicato de Trabajadores de Teléfonos de Mexico, Coalition for Justice in the Maquiladoras (CJM), the Democratic Lawyers' Association (ANAD), and other labour organizations, unions, and allied organisation affiliated to the CJM, presented a complaint to the ILO regarding violations of maquila workers' right to freedom of association at companies such as Sony, Han Young (Hyundai), Custom Trim (GM, Ford and Chrysler), DURO (GAP), LAJAT (Levi's), and KSS (GM, Ford and Chrysler).

Violent attack against strikers affiliated to STRACC: On 23 March, striking workers from the commercial houses, offices, outlets and allied workers' union STRACC (Sindicato de Trabajadores de Casas Comerciales, Oficinas y Expendios, Similares y Conexos del Distrito Federal) were attacked by thirty hired thugs armed with sticks and other weapons at the Belem petrol station where they work. The workers were preparing for the launch of a legal strike that morning, in support of their demand for a better contract.

Complaint lodged with ILO against Mexican government: The ILO has urged the Mexican government to settle the dispute with the mine, metal and allied workers' union SNTMMSRM, and considers that the government has acted in violation of ILO Convention 87 on freedom of association. On 26 March, the ILO released the interim recommendations of its Committee on Freedom of Association to the Mexican government in response to a complaint on interference in union autonomy lodged by the SNTMMSRM and the International Metalworkers' Federation (IMF).

Solidarity with Mexican miners: The mine, metal and allied workers' union SNTMMSRM (Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana) has long been persecuted by the federal government. The union has made great efforts to secure real wage increases, but the government's policy of keeping wages low and repressing workers in order to attract foreign investors has led to widespread violations of workers' fundamental rights, such as the right to unionisation, to collective bargaining and

to strike. With the signing of a Strategic Alliance on 20 June 2010, SNTMMSRM and the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), have taken a step forward in strengthening the defence of Mexican workers' rights.

Agreement reached at Johnson Controls: On 16 August, unknown persons were allowed access, after midnight, to the Johnson Controls Interiors plant (Resurrección) in Puebla, where they threatened workers on the first shift and assaulted them with sticks and stones, leaving many injured. The plant manufactures interior parts for BMW and Ford. Two of the executive members of the newly formed branch of the mine, metal and allied workers' union SNTMMSRM, Cándido Barreucos and Vigilio Melendez, were beaten in a company office and forced to sign letters of resignation at gunpoint. The attacks led to a four-day protest strike, with workers picketing outside the plant.

On 20 August, SNTMMSRM and the local management reached an agreement offering reinstatement to the two workers who were forced to resign, compensation to six workers who were injured, and a pledge from the company to examine the case of two of the local Johnson Controls supervisors who were present during the beating of the two union leaders.

According to the SNTMMSRM, the assailants were linked to COS (Confederacion de Organizaciones Sindicales), the company-controlled union that had signed a "protection contract" with the company and was rejected by the workers after a three-day strike in May.

The agreement reached on 20 August also set out a timetable for the company to rescind the "protection contract" with COS and formally recognize the SNTMMSRM as the workers' legitimate representative.

Sackings, repression and intimidation at La Platosa mine: After being notified about the formation of a new union, a bitter campaign against its members was launched by the management at La Platosa mine in La Sierrita, Durango, owned by the Canadian company Excellon Resources Inc. One hundred out of the 123 workers at the mine had chosen to form a local branch union in November and to affiliate with the national miners' and metal workers' union SNTMMSRM (Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana). On 13 December, the management dismissed Jorge Mora, the leader of the local union, on trumped-up grounds. It also exerted pressure on his colleagues, offering them bribes to sign letters stating their disinterest in the newly formed union. Several workers who withstood the pressure and rejected the

bribes offered by management to sign the letters were threatened and penalised.

Napoleón Gómez Urrutia, general secretary of SNTMMSRM, still in exile: Napoleón Gómez Urrutia was re-elected for another four-year term at the 36th Ordinary Congress of the mine, metal and allied workers' union SNTMMSRM (Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana), held in Mexico City in May. Gómez is still living in exile in Vancouver, Canada, as the Mexican government continues to pursue its sham legal process against him. On 15 December, a federal tribunal definitively cleared Napoleón Gómez Urrutia of a charge filed by the Public Prosecutor's Office for alleged money laundering.

Various prosecutors in the country have filed eight charges against Gómez Urrutia over the past four years, only one of which now remains in force. He is still faced with an arrest warrant for an alleged banking offence. Gómez continues to receive death threats in Vancouver.

General secretary of new union at Honda dismissed: Honda workers at the Mexican plant in El Salto, Jalisco, producing CR-V trucks mostly for the U.S. market have struggled for years against a hostile company, a corrupt union and a subservient government. In 2009, they decided to create their own independent union, the united Honda workers' union, Sindicato de Trabajadores Unidos de Honda. The management instantly retaliated with repression and harassment. During 2010, the workers began building a real union to defend their rights, and elected an executive committee, but the local and federal authorities, under pressure from Honda, systematically refused, under whatever pretext, to recognise the democratic union. In December, the union went public with its battle, denouncing the violations of its rights. In retaliation, on 20 December, the management fired a number of union activists, including José Luis Solorio, the general secretary of the new independent union.

CAT members and rights advocates attacked: The "protection contract union" CROM (Confederación Revolucionaria Obrera Mexicana) continued to harass activists from the Workers' Support Centre (CAT), which defends and promotes labour rights in the state of Puebla, and supports a range of unionisation campaigns.

Enrique Morales Montañó, a labour rights advocate for CAT, and two other activists, were the victims of threats and verbal attacks by four individuals, who warned them to stop giving advice to union members. On the night of 20 December, the CAT office was broken in to and vandalised. The intruders painted threatening messages on the office walls and stole

the organisation's files as well as electronic and computer equipment. The CAT members called the municipal police, who scorned their appeal for help.

Morales explained that CROM sells "protection contracts" to Johnson Controls, allowing the company to ignore social benefits such as the Christmas bonus, seniority and holiday pay. The workers are not allowed to join the union of their choice and have no knowledge of the self-styled collective agreement, so cannot claim any benefits they may enjoy. The Confederación de Organizaciones Sindicales (COS) is also reported to be selling "protection contracts".

Repression instead of dialogue and respect: Trade union leader Mario García Ortiz was detained and then brutally assaulted by the police. A delegation of union leaders seeking an explanation for the detention were in turn beaten and threatened by the police. Workers at ArcelorMittal downed tools and marched in protest at this attack on their union, branch 271 of the national miners' and metal workers' union SNTMMSRM (Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana). They were attacked by the federal police in the city of Lázaro Cárdenas, in Michoacán.

Trade union rights trampled at PEMEX: The 30,000 technical and professional employees at PEMEX (Mexico's state-owned petroleum company) had won the right to join the newly registered union of technical and professional petroleum workers UNTyPP (Unión Nacional de Técnicos y Profesionistas Petroleros), but were subsequently told to leave the union if they did not want to lose their jobs. After various failed attempts to form an independent union, the PEMEX employees had finally succeeded in registering the union following a battle in the courts. Since then, however, the union members have been pressured, under threat of losing their jobs, to sign two documents, one calling for the union's deregistration and the other a resignation from the union.

Nicaragua



POPULATION: 5,700,000
CAPITAL: Managua
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Employers continue to exploit loopholes in the labour legislation to violate workers' rights, with virtually total impunity. Parmalat fired a trade unionist whilst another multinational was reported to have used labour outsourcing to undermine trade union rights. Unionised workers faced reprisals, discrimination and unfair dismissals in the public sector, and trade union organisations were eliminated from a number of government ministries.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are guaranteed, some problematic areas exist in the law. Workers have the right to form and join the trade union of their choice, as well as to bargain collectively. While union leaders have protected status, this is limited to nine executive members per union and three branch members. The Labour Code also allows the employer to dismiss any employee, including union organisers, provided that they have the permission of the Ministry of Labour and pay double the usual severance pay. The fines for interfering in trade union affairs are not sufficiently dissuasive.

Furthermore, while the right to strike is recognised in the Constitution, a trade union must receive the approval of the Ministry of Labour before engaging in strike action. Also, to be considered officially approved, a strike must have the support of at least 50% plus one of the members of the trade union, voting in an extraordinary general meeting. Finally, the Labour Code provides for compulsory arbitration of a dispute where 30 days have elapsed since the calling of a strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Nicaragua continues to be among the countries with the highest poverty indicators in Latin America.

In December, workers', employers', civil society organisations and the government signed a roadmap to eradicate child labour and its worst forms in Nicaragua. The union of carpenters, join-

ers, fitters and allied workers SNSCAASC (Sindicato Nacional de Carpinteros, Albañiles, Armadores Similares y Conexos de Nicaragua), along with various other trade union organisations, presented the bill to the National Legislative Assembly to regulate labour outsourcing, subcontracting and intermediation.

Trade unions continued to seriously question the working conditions at the Ingenio San Antonio sugar mill, owned by Nicaragua Sugar Estates Ltd (NSEL). Over 3,700 former workers are reported to have died, having suffered from chronic kidney disease due to the indiscriminate use of agro-toxic chemicals, the pollution of the water supply and the appalling working conditions.

Workers' rights violated in public sector: Unionised workers in the public sector witnessed a multitude of abusive practices by the authorities such as reprisals, discrimination, unfair dismissals, illegal suspensions, illegal contracts with mega salaries, the creation of new illegal posts, illegal promotions, arbitrary transfers and disregard for administrative and judicial decisions.

Contract labour used to undermine trade union rights:

According to Marcial Cabrera, general secretary the food, agribusiness, tourism, service, commerce and allied workers' union FUTATSCON, the use of contract labour remains widespread, reducing workers' guarantees to a minimum and leading to the violation of their fundamental rights. Nicaragua's workers are suffering the consequences: very low wages, appalling working conditions, poor social protection, and the denial of trade union rights.

Trade unions eliminated from various ministries: The public workers' union FEDETRASEP (Federación Democrática de Trabajadores del Servicio Público), affiliated to the CUS (Confederación de Unificación Sindical), denounced the unfair dismissal of over 21,000 public employees, and the elimination of 116 trade union organisations in several ministries, all as part of the anti-union reprisals taken by the government.

One of the institutions deploying the fiercest anti-union strategies was the Inland Revenue Department (DGI) within the Finance and Public Credit Ministry (MHCP), which sacked 774 public employees, disregarding the administrative procedure established by law, took reprisals, practised discrimination based on political ideology, violated the law protecting trade union representatives from dismissal, the right to organise and to collective bargaining, as well as breaching the collective agreements established in the institution.

The CUS reported that many of the DGI employees were dismissed for opposing and refusing to form part of the Sandinista

Leadership Councils (CLS), set up by the present government to hold political rallies and collect funds in the form of compulsory deductions from the wages of employees in the public institutions affiliated to the CLS.

Parmalat dismisses trade unionist: On 23 January, Paulino García, a Parmalat employee, the finance secretary of the “Armando Llanes” trade union and a member of the Education Committee of the food, agribusiness, tourism, service, commerce and allied workers’ union FUTATSCON, affiliated to the IUF (International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations), was fired. Parmalat applied Article 45 of the Nicaraguan Labour Code providing for dismissals without due cause, totally disregarding the law protecting trade union representatives from unfair dismissal. García denounced that his sacking was linked to the repeated demands for improved health and safety conditions at the company and the request made to the Labour Ministry for inspections.

Labour disputes and anti-union reprisals are nothing new at Parmalat Centroamérica. Since 2004, when the workers succeeded in forming a union, which cost many of them their jobs and led to a long fight to secure the signing of a first collective agreement, the members of the “Armando Llanes” union have repeatedly denounced violations of their labour and trade union rights.

Trade unionist keeps up her fight: Yahaira del Carmen Sánchez, a former executive secretary at the Transport and Infrastructure Ministry (MTI) and the minutes and agreements secretary of the “Andrés Castro” trade union at the ministry, was unfairly dismissed in February 2007. Two courts have since ruled in her favour, the District Labour Court and the Labour Chamber of the Managua Appeal Court. Both ordered the MTI to reinstate her to the same or equivalent position and to pay her the wages lost since her dismissal. However, the senior officials at the ministry refused to comply with the rulings.

In November, after battling for months in the face of official and institutional indifference, she turned to the Public Prosecutor’s Office, asking it to assist her in her case against the Minister of Transport and Infrastructure, Pablo F. Martínez, for contempt, discrimination and disobeying the authority of a public official.

Freedom of association denied: Between 2004 and 2007, the Pescanova Group acquired the services and contracting company SERVICONSA and Camarones de Nicaragua SA (CAMANICA). In 2008, it opened the largest prawn processing and freezing plant in Latin America, in the western department of Chinandega. The new plant was to employ two thousand

permanent employees. The company persistently violates its workers’ labour and trade union rights. A large part of the staff is hired and repeatedly rehired on temporary contracts. Under this system, the workers go for years without enjoying labour and social benefits. There is no freedom of association; those attempting to form a union were dismissed before starting the procedures to register it with the Labour Ministry.

Panama



POPULATION: 3,500,000

CAPITAL: Panama

ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Law 30 weakening trade rights gave rise to a number of protests, during which several people were killed and scores were injured. Many trade unionists were arrested or forced underground. The deputy general secretary of the national construction workers’ union SUNTRACS (Sindicato Único Nacional de Trabajadores de la Industria de la Construcción y Similares) was arrested and went on hunger strike.

TRADE UNION RIGHTS IN LAW

There are a number of problematic areas in the law despite basic trade union rights being recognised. Freedom of association is guaranteed in law. However, public sector workers do not have the right to form unions but only “associations”, and the minimum membership requirements for creating both associations and unions are excessive. There can only be one association per institution, and only one branch per province. While trade union protection is guaranteed to union leaders, it is only extended to 11 union members. Furthermore, while both private and public sector workers may engage in collective bargaining, new enterprises are not compelled to conclude collective agreements during the first two years of operation.

The right to strike is recognised in the Constitution, but a strike must be agreed upon by an absolute majority of the workers in an enterprise. Strikes can only be organised in relation to certain specific issues, and federations, confederations and national centres may not call a strike. In the public services, the law provides for extensive minimum service and also stipulates that compulsory arbitration can be imposed. For services that are deemed essential, the government can requisition at

least 50% of the employees. Finally, strikes are prohibited for employees governed by the Panama Canal Authority, in EPZs and in new enterprises.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: A climate of instability, social and political violence prevailed throughout 2010 in Panama. The country's relative stability and supposed democratic credentials were seriously affected by the government's violent conduct. The new legislation approved in 2010 includes the Imprisonment Act, popularly referred to by Panamanians as the "Jailhouse" Law, which criminalises social protest and under which those exercising the right to demonstrate can be jailed. Even the Ombudsman urged the government to reflect on the consequences of the bill.

First collective agreement with DHL in Latin America: In May, the airline staff union SIELAS (Empleados de Líneas Aéreas y Similares de la República de Panamá) managed to seal the negotiation of the collective agreement between SIELAS and DHL Aéreo Expreso S.A, which constitutes a major trade union breakthrough, this being the first collective agreement secured with DHL in the region.

Barriers to collective bargaining: The government continues to promote the negotiation of collective pacts with non-unionised workers instead of collective bargaining agreements.

Union appeals to ILO: The leadership of the national construction workers' union SUNTRACS (Sindicato Único Nacional de Trabajadores de la Industria de la Construcción y Similares) lodged a complaint against the government of Panama over the fundamental human and trade union rights violations suffered by SUNTRACS members and other citizens. The complaint details various trade union rights violations, ranging from acts of interference and fundamental human rights violations to physical assaults and persecution. These continual practices point to the fact that the acts of repression are not isolated incidents but a systematic strategy deployed by agents of the state.

Trade unions protest against Law 30, securing its repeal: On 12 June, Law 30 was passed then sanctioned by the president on the 16th of the month. It was popularly branded the "Chorizo" Law, being an attempt to stuff into one case the reform of six laws and three national codes without consulting any sector of society. In terms of amendments to the labour legislation, Articles 12 and 20 of the law were aimed at suppressing the check-off system (automatic deduction of union dues from salaries) and the payment of dues by workers covered by

collective agreements, rights that have been enshrined in the Labour Law since 1971.

It also attempted to undermine the exercise of the right to strike, authorising non-striking workers, managers and trusted staff to work during a strike, rather than requiring the total closure of operations, as previously provided for by law. In addition, under Law 30, the National Council of Organised Workers, CONATO, would have been replaced by a trade union structure dependent on the State Executive.

The trade union battle, which mobilised the entire country against the law, forced the government to table a dialogue that ultimately led to the legislation being carved up into eight separate laws, the content of which was negotiated and agreed on with civil society and trade union organisations. One of these laws was Law 68 of 2010, which repeals all the labour provisions of Law 30 and re-establishes the rights originally enshrined in the Labour Law; it also stipulates that only the management and trusted employees can enter the company during a strike and that production must be halted.

Repression and killings during strike against Law 30 in Bocas del Toro: In August, the Inter-American Commission on Human Rights (IACHR) expressed concern at the serious acts of violence perpetrated during a protest held on 8 July in Changuinola, Bocas del Toro. Banana plantation workers in the province of Bocas del Toro called a strike starting on 2 July to protest against the approval of Law 30 on 12 June, sanctioned by the President on 16 June.

On 8 July, the security forces violently crushed a demonstration organised as part of the protest against aspects of the law concerning trade union rights and the right to strike, killing at least six people, injuring around 700 and arresting hundreds more. The violence was targeted at the banana and construction workers from the Panama Canal in Colón. Trade union leaders from the construction union SUNTRACS and the National Council of Organised Workers (CONATO) were also arrested. Warrants for the arrest of trade union leaders were issued; some were illegally detained and later released after paying a fine. The persecution forced several trade union leaders underground. At the end of the year, 17 SUNTRACS leaders were still facing legal proceedings; eight are members of the current Executive Committee, and include Genaro López, Jaime Caballero, Marcos Andrade and Marcos Guzmán.

Deputy general secretary of SUNTRACS arrested: On 11 July, Jaime Caballero, deputy general secretary of SUNTRACS and a member of the National Executive of the National Front to Defend Social Security (FRENADESSO), was arrested in Ancón

during the police repression in Bocas del Toro, and taken to the prison of the Judicial Investigation Department (DIJ), where he was jailed alongside common prisoners. After being detained for several days, Caballero started a hunger strike. He was transferred in a military plane from Chiriquí to Panama City where he was denied access to a lawyer. On 15 July, he was released after the Supreme Court of Justice issued a ruling to the Assistant Prosecutor's Office.

Right to unionise violated at religious schools: Several workers were dismissed from religious schools during 2010 for having joined a union.

Civil servants' rights violated: There was little change in the situation already denounced by the civil servants' federation FENASEP (Federación Nacional de Servidores Públicos), as the government presses ahead with the imposition of laws and measures clearly aimed at weakening the legislation on the rights and freedoms of public workers. The laws passed have deformed the civil service career and eliminated tripartism by not allowing FENASEP to take part in dialogue. The minimum number of workers required to form a union in the public sector has been put back up to 50.

Paraguay



POPULATION: 6,300,000
 CAPITAL: Asunción
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

Strategies were frequently deployed to prevent the formation of trade union organisations during 2010, especially in the urban transport and maritime industries. Thousands of workers were affected by trade union rights violations in the metal, banking and meat sectors. The labour legislation does not encourage trade union activities.

TRADE UNION RIGHTS IN LAW

Despite initial guarantees, a number of restrictions apply to trade union rights. The Constitution allows both private and public sector workers to form and join unions. However, the procedures for registering a union are cumbersome, and an inordinate 300 workers are needed to form an industrial union. Employers can also file a writ opposing the registration of a

union. Furthermore, members of a union must belong to the respective occupation, and candidates for trade union office must work in the company and be active members of the union. Workers may not be members of more than one union either. Union activities are also restricted by the requirement that trade unions comply with all requests for consultations or reports from the labour authorities. While the law protects workers against anti-union discrimination, there are few genuinely dissuasive sanctions and the labour courts are not obliged to order the reinstatement of unfairly dismissed trade unionists.

Finally, the right to strike is guaranteed in law, but all strikes must be directly and exclusively linked to the workers' occupational interests.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: President Fernando Lugo's administration has encouraged social dialogue and has opened the way for better relations between the unions and the government. A number of unions backed a proposal to promote the creation of a Ministry of Labour, Employment and Social Security, but met with difficulties winning support for the initiative in Congress from sections of the government and the opposition.

The employment situation continues to be characterised by the sheer magnitude of the informal economy and the poverty wages - 60% of private sector workers earn less than the minimum wage. In 2010 the implementation of the tripartite agreement on decent work was launched. Trade union centres from Paraguay and Brazil signed a trade union cooperation agreement to protect the rights of Paraguayan workers migrating to Brazil.

Trade union rights violated at ACEPAR steelworks: The Acerpar workers' union SITRAC (Sindicato de Trabajadores de Acepar) staged a strike on 23 April to demand respect for their collective agreement and better safety conditions. The peaceful strike was violently suppressed by state security forces whilst the company recruited new staff to replace the striking workers. Meanwhile, the government ordered the arrest of the trade union leaders Hugo González Chirico, Hugo Cardozo, Mariano Velázquez and Daniel Ibarrola on charges of disturbing the peace. The labour dispute continued throughout the year. In August, the Constitutional Court of the High Court of Justice, showing no regard for trade union rights, declared the strike illegal, placing 750 workers at risk of being dismissed.

Obstacles to formation of maritime workers' union SOMUPA: On 15 October, maritime workers founded a union, SOMUPA

(Sindicato de Obreros Marítimos Unidos del Paraguay), to demand that shipping companies put an end to the ill-treatment and abusive labour practices, that they pay decent wages and overtime, and provide employment contracts guaranteeing their rights. Just after the union was founded, a number of companies in the sector launched a campaign of intimidation, drawing up blacklists and carrying out dismissals to pressure workers to leave the union. The Labour and Justice Ministry then retracted its decision regarding the temporary registration of SOMUPA on 10 November, claiming that it was made outside of the legal deadline of 30 days, without duly notifying the union.

Anti-union practices at Banco Regional S.A.E.C.A.: Since the merger in November 2009 of the Banco Regional-Rabobank and ABN-AMRO Bank, the new Banco Regional has carried out a multitude of illegal actions, including breaches of the collective agreement on working conditions, the persecution of executive union members and ordinary members supporting union actions, as well as the use of violence in the form of moral and labour coercion. In addition, José Bareiro Gulino, a member of the ABN-AMRO Bank employees' union was dismissed on 19 October. The bank claimed that he was dismissed to meet restructuring requirements, yet it continues to hire new staff, raising serious doubts as to its real motives.

Anti-union practices and breaches of collective agreements: In February, the workers at Frigoríficos Neuland formed a union. The company instantly dismissed the union leaders. The workers' unions at the Frigomerc and Friasa meat companies staged an extended strike between October and November to demand respect for the collective agreement and an end to the attacks on their trade union rights. Miguel Zayas Martínez and Jorge Alvarenga, general secretaries of the national trade union centres CNT (Central Nacional de Trabajadores) and CUT (Central Unitaria de Trabajadores), carried out hunger strikes in solidarity with the affected workers.

Obstacles to the formation of unions in the transport sector: Transport companies operating lines two and seven in the city of Mariano Roque Alonso, Central Department, were not hiring the workers involved in the activities to set up a union. Similarly, workers employed on line 59 in the city of Capiata, Central Department, were dismissed after forming a union. The company subsequently agreed to reinstate them following union action.

Peru



POPULATION: 29,200,000
CAPITAL: Lima
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

There was no improvement in the labour and trade union rights situation relative to previous years. Union leaders and members continue to face unfair dismissals. Unionisation has been seriously affected by increased labour market flexibility and precarious forms of contracting, promoted to a great extent by the State. Anti-union practices and violations of collective bargaining rights in both the public and private sectors were widespread during 2010. The labour authorities showed a lack of political will to prevent or take punitive action against workers' rights abuses.

TRADE UNION RIGHTS IN LAW

While fundamental trade union rights are recognised, certain problems exist in the law. Both public and private sector workers are free to form and join trade unions without prior authorisation, however the minimum membership required by law to create unions is too high. Temporary workers are not allowed to join the same union as permanent workers. The law does not protect workers against anti-union actions, as it allows employers to sack workers without any justification in return for payment of severance pay.

The right to collective bargaining is guaranteed in the Constitution, although the scope for bargaining is restricted for workers in public administration.

The right to strike is also recognised, but is undermined by the fact that authorisation from the Ministry of Labour is required to call a strike. Furthermore, the Ministry has the power to end a strike if it poses a serious risk to the enterprise or the sector of production or if it could have serious consequences due to its size. The Administrative Labour Authority – and not the courts – has the responsibility for declaring whether or not a strike is legal, and can also determine the extent of the minimum service if the parties fail to reach an agreement. Finally, a Ministerial Resolution provides for the creation of a national register of substitute teachers to replace striking teachers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: According to Labour Ministry figures, in 2009 almost 73% of employees did not have employment contracts, only 7% had indefinite contracts and 20% were on temporary contracts. The ILO pointed to the growth of the informal economy and underemployment, the fall in the real minimum wage and extremely high levels of child labour (42%). The government is still postponing the approval of the general labour law. Congress approved a new procedural labour law that, whilst offering progress in some areas, limits key trade union freedoms.

The violations of ILO Convention 169 continued. Following the deplorable events of 2009 a channel of understanding was opened between the state and indigenous peoples, leading to an agreement on legislation on prior consultation. On 13 July 2010, however, Congress approved the president's observations on the Consultation Act, rejecting the text agreed on and seriously limiting the right to prior consultation.

The measures to implement the free trade agreement with the United States have diminished trade union and workers' rights even further.

Temporary contracts used to avoid unionisation: Employers continued to make fraudulent use of temporary and other precarious forms of contracting as a means of preventing unionisation and avoiding the cost of labour rights and benefits. The figures on labour intermediation focus mainly on the property development, business services and rental sector, where almost 80% of employment intermediaries operate. Over 50% of the workers in this sector are employed on temporary contracts and the union membership rate does not even reach 1%.

Union busting at transport company EPP0 S.A.: During 2010, unionised workers at the EPP0 S.A. transport firm in Talara staged protests over the incessant dismissals of trade union leaders and members since the formation of their union in December 2009. In addition to opposing the organisation's structure, the company deployed a range of anti-union practices, such as changing the working conditions of unionised workers, making them wear different uniforms to be able to identify them, and threatening to dismiss them unless they left the union.

Collective bargaining rights seriously violated at Telefónica: Thirty seven collective negotiations with subsidiary companies created by Telefónica in Peru have been deadlocked since 2006. These parallel companies are in charge of various

operations owned by the Spanish multinational Telefónica, but outsource them so as to free themselves of any labour or social obligations. The companies and CONFIEP, the national confederation of private businesses representing them, are refusing to negotiate the working conditions of some 12 million workers. The Ministry of Labour and Employment Promotion (MTPE) has allowed this situation to persist, taking no action to protect the workers' rights. In 2010, the ITUC, TUCA and trade union organisations from Spain and other parts of the world launched initiatives to tackle the serious violations committed by the multinational.

Collective bargaining rights violated in public sector:

Although Peru has ratified ILO Convention 98, the government refuses to negotiate working conditions with state employees. The tax authority employees' union SINAUT-SUNAT (Sindicato de Unidad de Trabajadores de la Superintendencia Nacional de Administración Tributaria) has not been able to negotiate labour conditions despite regularly presenting lists of demands since 2007. In 2010, the ILO, in its conclusions regarding case 2690, determined that "the impossibility of negotiating wage increases on an ongoing basis is contrary to the principle of free and voluntary collective bargaining enshrined in Convention No. 98 and requests the Government to promote appropriate mechanisms so that the parties may conclude a collective agreement in the near future".

The administration also refuses to recognise trade union leave and to negotiate the conditions of public employees working in the Presidency of the Council of Ministers, who have not received a pay rise for over 18 years. Workers affiliated to the SITRA-ZRNXII union, representing tax employees at Registry Zone XII in Arequipa, faced similar problems. The tax authority has been refusing to hold collective negotiations since 2007, and is refusing to comply with the arbitration ruling of 2006. Likewise, members of SUTCORAH, the union of workers employed by the CORAH special project, linked to the Interior Ministry, faced anti-union dismissals and the government's refusal to hold collective negotiations on their working conditions.

Trinidad and Tobago



POPULATION: 1,400,000
CAPITAL: Port-of-Spain
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

The level of union membership remained very low in 2010. The laws preventing workers in so-called “essential services” from exercising their freedom of association rights contributed to this to a certain extent. Those who are organised had difficulties in exercising their union rights as obstacles to collective bargaining persisted. Strikes are still not recognised as a legitimate workers’ right.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are guaranteed, a number of excessive restrictions apply. The 1972 Industrial Relations Act allows workers to form or join unions of their own choosing. The right to collective bargaining is also guaranteed, but the law only provides for mandatory recognition of a trade union when it represents 51% or more of the workers in a specified bargaining unit. Furthermore, all collective agreements must be for a maximum of five years and a minimum of three years, which makes it almost impossible for workers on short-term contracts to be covered by such agreements. While the right to strike is recognised – except for members of the teaching service and employees of the Central Bank – it is coupled with many restrictions. Strikes can be prohibited where the government considers that the national interest is threatened, or at the request of one party provided that the strike is not declared by a majority union. Also, lawful strikes can only be called over unresolved “interest” disputes, i.e. concerning the formulation of terms and conditions of employment. All strikes are banned in “essential services”, the list of which exceeds the ILO definition by including, for example, the public school bus service.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Prime Minister Patrick Manning dissolved parliament in April and called early elections for 24 May. Manning’s People’s National Movement (PNM) faced a coalition of the United National Congress (UNC), el Congress of the People Party (COP) at the ballot box, together with several smaller parties. The coalition won the elections with 29 seats compared

to the PNM’s 12. Kamla Persad-Bissessar took over from Manning, becoming the first women Prime Minister in the history of the country. Unemployment is at about 6.7%. The government announced that it had begun to work on a Decent Work Policy and Plan of Action.

Right to organise limited in scope: Although the law states that workers can form and join trade unions, in practice everyone working in so-called “essential services”, which include domestic workers, drivers, gardeners and others, are not recognised as workers and so cannot legally join unions. It is estimated that just 20% of the workforce are union members. The problems with obtaining union recognition continued owing to the slow handling of cases by the state.

The effect of strike restrictions on workers: Despite the many formalities and restrictions on the right to strike, a number of unions did call work stoppages in several sectors, as they have done for the last few years. In some cases the State intervened to stop the strike, penalising the workers involved.

Collective bargaining hampered: Many unions had their collective bargaining blocked by employers’ delaying tactics. The state, too, repeatedly refused to negotiate collective agreements with public sector unions.

Government unwilling to reform labour legislation: The government still refused to reform the law on essential services and collective bargaining to bring it into line with ILO minimum standards.

Uruguay



POPULATION: 3,400,000
CAPITAL: Montevideo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Anti-trade union practices were frequent in the private sector in 2010. There were also several cases of anti-trade union discrimination. Violations in collective bargaining led to large mobilisations in the security sector.

TRADE UNION RIGHTS IN LAW

There are some areas of concern despite basic trade union rights being secured. The Constitution guarantees freedom of association and recognises the right to strike as a trade union right. Workers are adequately protected against acts of anti-union discrimination and dismissal, and the law also provides for reinstatement in the case a unionist is unfairly dismissed.

While the right to collective bargaining is recognised in law, it is mostly carried out by branch of activity, with Wages Councils regulating the minimum wage and working conditions for each category of workers. The Wages Councils are tripartite bodies, and the Ministry of Labour is one of the negotiating parties. The ILO has held that the possibility of a vote being held in the Councils for setting conditions of employment infringes upon the principle of free and voluntary bargaining.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Social measures to protect against the effects of the world economic crisis have been adopted through a process of social dialogue. The government and trade unions have put forward a wide-ranging programme for the promotion of collective bargaining, although some problems remain in the public sector, and some companies still violate trade union rights.

Mid-crisis, the Uruguayan economy has grown faster than the regional average, while unemployment has remained low, formal employment has increased and over the last three years the minimum wage has risen by 65%. The ILO noted that union membership and the number of workers covered by collective agreements has increased in Uruguay.

Anti union practices at companies subcontracted by UPM cellulose factory: Several companies that were outsourced to supply raw materials to the Finnish cellulose factory UPM engaged in anti union practices against their employees during the year, including anti-union dismissals and the failure to respect wage agreements with workers. The Cargo Transport and Related Industries Workers Union (SUTCRA) urged the multinational company UPM to ensure that the companies it outsourced to respected trade union rights and paid workers the full pay packet, under pain of ending their supply of raw materials to the factory, which was the real beneficiary of the contractors.

Anti-union discrimination at Prosegur: The Prosegur Uruguay Workers' Union (SITPRO) were the victims of anti-union discrimination by the company, which imposed a heavier workload on unionised workers than on the rest of its employees, obliging them to work in sub-human conditions. Similarly, there were delays in paying all the workers at the company, and salaries were reduced following the application of an illegal system for recording working time.

Demonstrations against failure of private security companies to negotiate: Employees of the multinational companies Prosegur, G4S y Securitas and of local private security companies in Uruguay held public demonstrations to demand compliance with the law on the creation of Wage Councils, a bargaining mechanism whereby both workers and employers agree on progressive wage adjustments in a specific branch of activity over a given period of time. The unions were waiting for collective bargaining to begin at the time of writing.

The 29 September general strike called by the UGT and CCOO and widely supported by other trade union and social organisations in response to the package of measures was met with a markedly anti-union campaign by the media on the radio, in the written press and on television.

USA



POPULATION: 314,700,000
CAPITAL: Washington
ILO CORE CONVENTIONS RATIFIED: 105 - 182

Employers are very hostile towards unions, and union-busting is a multi-billion dollar business. For example Deutsche Telekom continued its aggressive anti-union campaign at T-Mobile. Attempts to strengthen labour legislation and improve the National Labor Relations Board were counteracted by conservative forces. Public service employees have limited trade union rights.

TRADE UNION RIGHTS IN LAW

While most U.S. workers have basic trade union rights, there are serious gaps in the labour laws. The National Labor Relations Act (NLRA) provides for freedom of association, the right to collective bargaining and protection against anti-union discrimination in the private sector, but managerial and supervisory workers, agricultural workers, domestic workers and independent contractors are excluded. In the public sector most federal government employees are protected against anti-union discrimination and have some collective bargaining rights, although the matters that can be bargained upon are confined to non-wage subjects and limited by extensive management rights. At the state and local government level, most of the 50 states allow collective bargaining for at least some categories of public employees, but only about half allow it for all public sector employees.

Under the U.S. system of exclusive representation, employers have no obligation to bargain with a union unless a majority of the workers vote for union representation. Although the NLRA prohibits employers from interfering with workers' choice to form or join a union, they are permitted to campaign against unionisation and may utilise a wide range of tactics, including requiring employees to attend anti-union presentations. Unions have no right of access to employer property to communicate with employees and no right of reply to anti-union statements. Remedies for anti-union discrimination or dismissal are weak, and there are no meaningful penalties for employers who fail to bargain in good faith once the workers have voted for unionisation.

The right to strike, although protected for private sector workers covered by the NLRA, is circumscribed by the employers' right to permanently replace striking workers. Some forms of strike activity, such as intermittent or partial strikes or secondary strikes, are also banned. In the public sector, federal workers are prohibited from striking, as are state and local government workers in many states.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

A large and thriving union-busting consulting industry: Because of the latitude given to employers under U.S. law to campaign against unionisation and the weakness of the protections against anti-union discrimination, a USD 4 billion union-busting industry has developed in the United States consisting of consultants who advise employers on tactics both legal and illegal to employ during union organising campaigns to discourage and intimidate workers from exercising their legitimate rights to unionise. A recent study found that these outside consultants are hired by employers in more than 80% of all organising drives.

Legal and illegal anti-union tactics widely employed: Studies have shown that in the vast majority of union organising campaigns, usually at the direction of outside consultants, employers require workers to attend group "captive audience" meetings as well as one-on-one meetings with their supervisors to hear anti-union propaganda — tactics which are permitted under current law despite their intimidating effect on workers. These tactics are frequently combined with illegal retaliation or threats of retaliation against union supporters. Based on statistics compiled by the National Labor Relations Board, it is estimated that one out of every five union activists involved in an organising campaign can expect to be fired.

Although employers are required to bargain in good faith once a majority have voted for union representation, many employers use delaying tactics and other techniques to avoid reaching agreement. A study of union elections conducted between 1999 and 2003 showed that more than 50% of newly organised units had no collective bargaining agreement one year after the election, and 37% were still without an agreement two years after the election. As employers are aware, failure to achieve a first contract tends to foster a sense of futility about the benefits of unionisation and disaffection with the union and can cause workers to vote to decertify the union as their bargaining representative.

Ineffective remedies fail to punish or deter violations and compensate workers harmed: In contrast to other workplace

anti-discrimination laws, under which employers who violated the law can be required to pay compensatory and punitive damages, the remedies for violation of the National Labor Relations Act (NLRA) are weak, and often are not imposed until years after the violation. The typical remedy for an illegal threat by an employer to fire or otherwise discriminate against a union supporter or to close down a workplace in retaliation for unionisation is a requirement that the employer post a notice stating that it will not make such illegal threats in the future. The typical remedy for an illegal firing is a requirement that the employer reimburse the worker for lost wages, minus any wages the worker may have earned since the firing, offer the worker reinstatement, and post a notice saying that it will not fire workers for union activity in the future. The typical remedy for an employer's unlawful refusal to bargain in good faith for an agreement is a requirement that the employer bargain in good faith in the future.

Violations of ILO Standards not addressed: Over the years, in a number of cases before the ILO's Committee on Freedom of Association, the U.S. has been found to be in violation of freedom of association principles—for example, by permitting the use of permanent striker replacements (1991), by denying workers the right to meet with union representatives in the workplace to discuss organising (1991), by imposing restrictions on secondary boycotts (1992), by denying undocumented workers meaningful remedies for anti-union retaliation (2003), by denying collective bargaining rights to airport screeners (2006), by the maintenance of state laws that prohibit collective bargaining by public employees (2007), and by excluding low-level supervisors from the protection of the National Labor Relations Act (2008). None of these violations have been remedied.

Anti-union forces block efforts to reform the National Labor Relations Act: The Employee Free Choice Act, which would amend the National Labor Relations Act to strengthen remedies for violations, allow employees to demonstrate support for unionisation by signing written authorisation, and provide for mediation and binding arbitration if no agreement is reached for a first collective agreement covering a newly organised workplace, has been pending in the U.S. Congress for several years. The legislation has the support of President Obama, but anti-union forces have been able to use legislative manoeuvres to prevent the Act from coming to a vote in the Senate. In elections conducted in late 2010, Republicans regained a majority in the House of Representatives, dooming any chance that the legislation will be approved in the near future.

Abuses continue in Los Angeles carwash workers' campaign: In August two Los Angeles (LA) carwash owners, who had become the face of abusive operators in the carwash industry,

each pled no contest to criminal charges brought by the LA City Attorney - based on violations uncovered by the campaign - and were sentenced by a judge to one year each in county jail. In addition they will still have to pay workers in the case an estimated USD 1,250,000. Protective orders were also issued that prohibit the owners from attempting to intimidate or dissuade any employee or victim in the criminal case from participating in the prosecution of any legal action, and from unlawfully prohibiting these workers from engaging in union activities.

In October California Attorney General Jerry Brown filed a lawsuit in Los Angeles Superior Court against one of the largest carwash owners in California. The lawsuit is seeking USD 6.6 million in penalties and unpaid wages for carwash workers employed at 8 carwashes throughout California. The CLEAN Carwash Campaign brought the violations to the attention of the Attorney General after receiving reports of conditions from workers in LA.

Efforts to strengthen the National Labor Relations Board stymied: After eight years in which conservative employer lawyers appointed by President Bush controlled the National Labor Relations Board – the agency responsible for enforcing private sector worker rights to organise and bargain collectively – President Obama has named new appointees to the Board who are committed to vigorous enforcement of the law. However, in early 2010, following an intensive lobbying campaign by business groups, anti-union members of Congress were successful in preventing a Senate confirmation vote for Craig Becker, a highly qualified and well-respected attorney and legal scholar, because he represented trade unions and, as a law school professor, had written scholarly articles criticising U.S. law for failing to adequately protect worker rights. President Obama was able to use his executive powers to appoint Mr. Becker to the Board without a confirmation vote, but only for a short term that will expire in 2011.

In mid-term elections held in late 2010, conservative forces made considerable gains in Congress and Republicans regained a majority in the House of Representatives. Republican leaders made clear that they intended to use their new power to try to prevent the NLRB from functioning effectively on behalf of workers through budget cuts, refusals to confirm qualified persons appointed by President Obama and other forms of legislative pressure.

Newly elected conservative state governors and legislators vow to counteract unions: Following Republican gains in late-2010 elections, U.S. unions and their allies were bracing for legislative battles over attempts to eliminate collective bar-

gaining for public sector workers in several states. Conservative legislators and business-funded groups were also preparing state-level legislation and ballot initiatives that would prohibit unions from collecting service fees from workers whom they are required to represent but who have declined to join the union.

Deutsche Telekom continues aggressive anti-union campaign at T-Mobile: Deutsche Telekom, through its T-Mobile USA subsidiary, maintained workplaces hostile to workers' freedom of association in 2010. It disciplined workers for accepting union literature after T-Mobile workers publicly attended the annual general meeting of shareholders in Germany in May. In a Colorado call centre, company security guards engaged in surveillance of union hand-billing in public areas. Managers destroyed union literature at retail stores to demonstrate their hostility to the union. In the New York area, after employees expressed interest in the union, management held mandatory meeting in which it expressed the view that the company did not want a union. In San Diego, retail workers were told by managers not to talk to the union.

In September 2010, Human Rights Watch issued a report highly critical of Deutsche Telekom's labour practices in the U.S. According to the report, "Since entering the U.S. market in 2001, T-Mobile USA has lowered its parent company's standards of decency, meeting labor organizers with hostile practices that contradict Deutsche Telekom's track record of corporate responsibility in Europe. Instead of lifting American workers to the same level as its European employees, DT—via T-Mobile USA—has engaged in eight years of aggressive anti-unionism." The company continues to retain the services of the known union-avoidance lawyer Peter D. Conrad from Proskauer Rose LLP.

Airport screeners still without collective bargaining rights: The Transportation Security Administration (TSA) was created under the Aviation and Transportation Security Act (ATSA) in 2001 after the terror attacks of 11 September. The ATSA gives the TSA administrator control over conditions of employment, including the right to bargain collectively. With the exception of current TSA Administrator John Pistole, all TSA administrators have been former President Bush appointees and have denied bargaining rights. Furthermore, Transportation Security Officers (TSOs) are subject to unfair hiring practices, inconsistent agency regulations, and unjust leave restrictions and policies. They are not covered by the General Schedule System that regulates pay rates and pay increases for other federal employees.

TSOs have been organising with the American Federation of Government Employees (AFGE) since the TSA's formation

in 2001, and some 12,000 have joined the union despite their lack of collective bargaining rights. The AFGE regularly represents TSOs before the TSA Disciplinary Review Board, Equal Employment Opportunity Commission, and in the courts and media. The union was instrumental in getting TSA not to expand the privatisation of the country's airport screening function beyond the 16 airports that currently use a contract screening force.

On 22 February 2010 AFGE filed a petition with the Federal Labor Relations Authority (FLRA) for exclusive union representation at TSA. The petition was dismissed by the FLRA Chicago Regional director. AFGE appealed to the full FLRA, which on 28 July agreed with AFGE that the dismissal warranted a review. On 12 November the FLRA accepted AFGE's petition, clearing the way for a union election at TSA. There have been two election consent meetings involving all parties. The election is tentatively scheduled for 9 March – 19 April 2011, with ballot counting to begin 20 April.

John Pistole was appointed TSA administrator in June 2010 and said he would conduct a review of bargaining rights at the agency. While he has said in testimony and to TSOs in the airports that the review was completed, a decision on allowing for collective bargaining has not yet been made.

Rite Aid workers' campaign to win first collective agreement enters third year: For more than three years, workers at Rite Aid's giant distribution centre in Lancaster, California have been struggling to win their first collective agreement. Health insurance has become the major stumbling block in negotiations because management is insisting that workers pay up to 28 times more than the actual increase incurred for insurance premiums. Instead of negotiating in good faith with the International Longshore and Warehouse Union (ILWU), Rite Aid - the nation's third-largest retail drug chain - has wasted time hoping that its warehouse workers would just give up or give in.

The warehouse workers in California have been building a coalition with other Rite Aid workers across the country. That coalition, which includes United Food and Commercial Workers International Union (UFCW) and Service Employees International Union (SEIU) locals, has led to better information sharing and joint actions by workers at many Rite Aid stores and facilities.

Venezuela



POPULATION: 28,600,000
CAPITAL: Caracas
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138

There were frequent incidents of anti-union practices during the year, including dismissals, the denial of collective bargaining and obstacles to the creation of trade union organisations, in the public and private sectors. The law prevents trade unionists from carrying out their activities freely.

TRADE UNION RIGHTS IN LAW

Despite constitutional guarantees, trade union rights are not adequately protected. Workers have the right to form and join trade unions, however the law requires that the union submit full information regarding its members' identity, place of residence together with their signature. Furthermore, unions are not free to organise their internal administration. The Constitution requires union constitutions to make their leaders' mandates non-renewable, and foreigners are not allowed to belong to a union's executive body unless they have lived in the country for 10 years. The Constitution also provides that trade union elections shall be announced, organised, directed and supervised by the National Electoral Council (CNE), which is not a judicial organ. Finally, the Penal Code undermines, through the application of penalties, the right to hold peaceful demonstrations and the right to strike and block a company's production.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The economic crisis has had a strong impact on Venezuela with stagnating economic growth and a fall in average pay levels and the minimum wage. The government reported that despite the crisis and poor macro-economic indicators, social policies have led to progress in combating poverty and inequality. It also says that union membership has doubled in recent years with the creation of over 8,000 trade union organisations. However, several obstacles to the exercise of trade union rights remain in law and practice.

Violations of freedom of association and working conditions by magistrates governing body: On 24 January the National

Administration of Justice Workers' Union (Suontraj) complained that the Executive Directorate of Magistrates (DEM) had refused to negotiate collective working conditions since 2007, it had not implemented the pay rise, had not paid any social charges or trusteeships since 2006 and had not paid the full Christmas bonus for 2009. In addition to these complaints, demonstrations were held in protest at the dismissal of several union members and nearly 100 judicial workers from several districts during the year.

Dismissals to prevent union at Hidrobolivar, C.A.: On 26 February 2010, a group of workers from the Bolivar State Hydrology Company (Hidrobolivar) registered the Socialist Workers' Union of the Hidrobolivar Company (SINTRASHIDROBOL) with the "Alfredo Maneiro" labour inspectorate in Puerto Ordaz. The company learnt of the creation of the union on 3 March and dismissed 27 of the workers.

Anti-union dismissals at Mitsubishi: Mitsubishi dismissed nine trade union leaders and over 100 workers in violation of the employment stability decree which guarantees job security for Venezuelan workers. On 5 October the National Workers Union of Venezuela (UNT) organised demonstrations demanding compliance with the rights contained in the collective agreement as well as the respect of health and safety rules and job security. They also denounced the policy of outsourcing and the company's failure to comply with court rulings on the respect of workers' rights.

Collective bargaining denied and parallel union created in Libertador: On 27 October, employees of the town hall of the Libertador municipal district of Caracas, belonging to 14 trade union organisations and six retired workers' associations, protested at the refusal of the mayor, Jorge Rodríguez, to negotiate a collective agreement with the workers and at the creation of a parallel union that included members who were not even town hall employees.

Anti union practices at Makro: The Makro hypermarket in Puerto Ordaz deducted the time spent on trade union leave from the salaries of union members. The measure was taken in retaliation against the workers complaint to the Labour Inspectorate about the reduction in statutory leave payments. The company also made salary deductions when the unions in the company met to discuss merging. The union leaders have been persecuted by the employer.

Asia and the Pacific

Workers in Asia once again faced serious repression due to their trade union activities. Close to 1000 unionists were injured in 2010, and almost as many were arrested. Compared to 2009 there was also an increase in the number of labour activists murdered as well as the number of death threats directed against unionists. Organising remains difficult in many countries, and poor working conditions often spark protests and strikes. In some cases the working conditions are so appalling that workers commit suicide: a wave of suicides was reported in China in May, and in India hundreds of garment workers have taken their lives during the past few years.

Unrest in the garment industry led this year again to harsh repressions. In Bangladesh, protests were called throughout the year and were often met with police brutality. Six workers' rights activists were killed at the hands of the police and of company thugs, and scores were injured when the police broke the strikes. Garment worker leaders also had their homes raided and received death threats. An estimated 5,000 garment workers were fired due to their involvement in the protests.

In India garment workers were also attacked and severely beaten, and one garment union leader was kidnapped. Elsewhere in India massive strikes were called throughout the year, including two general strikes, the latter of which was followed by around 100 million workers. Over 500 trade union members were arrested for participating in the protests, and many were injured. The police also killed two workers who were protesting the death of their co-worker.

Killings of labour activists also took place in other countries in Asia. In Pakistan a textile union leader and a union activist were murdered in the union offices moments before a strike was planned to begin. In the Philippines three trade union leaders were shot and killed in separate incidents. Threats and death threats were also communicated to unionists in countries like Cambodia, Nepal and Sri Lanka. In Pakistan, a union leader was kidnapped and tortured for defending workers' rights.

Violence against workers and trade unionists is, as indicated, widespread in the region. For example, in China, where the number of strikes continued to increase, protests were often violently dispersed by riot police and hired thugs; in the Philippines picketing strikers were attacked, shot at and harassed; in Fiji where a dictatorial regime continues to harass and intimidate trade unionists; and in South Korea unions complained about unnecessarily provocative and disproportionately brutal police action.

In a majority of Asian countries, unionists and workers' rights activists were arrested, often in connection with protests and strikes. Of the approximately 900 arrests in the region in 2010, India accounted for more than half. Many arrests also took place in Bangladesh, South Korea and Pakistan. In Vietnam three labour activists were arrested for distributing anti-government leaflets and organising strikes, and were sentenced to seven to nine years in prison.

Unionists all over Asia also face a wide array of anti-union repression for their legitimate trade union activities, including dismissal, harassment, threats and discrimination. For example, in Cambodia, 817 workers were dismissed following a national strike for a minimum wage hike; in South Korea, unionised civil servants were harassed by the authorities to a point where their union was rendered unable to function; and in Thailand union members and leaders were dismissed on fabricated charges of theft and negligence. The government of Macau SAR is also believed to keep a blacklist of union activists, as are employers in the Maldives.

Union organising is often a difficult task. In Burma and North Korea trade unions are not allowed to operate at all. While the Burmese laws provide for a theoretical possibility to form unions, the restrictions that apply effectively nullify the lawful creation of a union. As a result all unions in Burma must operate underground. The North Korean Constitution similarly guarantees freedom of association, but in practice the government has totalitarian control over the workers.

In China, Laos and Vietnam, the laws provide for a single trade union system that prevents workers from forming and joining the union of their choice. Even where freedom of association and the right to organise are recognised by law, the rights are commonly flouted in practice. In countries like Hong Kong SAR, Malaysia, Macau SAR and the Maldives, unions have difficulties obtaining recognition from employers for the purpose of collective bargaining.

Organising in export processing zones (EPZs) is very problematic, especially in Southern Asia. Even where workers are allowed to form trade unions, employers persistently discourage them from unionising through various methods, for example in Fiji and Sri Lanka.

The difficulties to form a union are further aggravated by the fact that workers who try to organise are commonly reprimanded. Employers also try to bust existing unions in countries like Bangladesh, Cambodia, India, Indonesia, Malaysia and the Philippines. Sometimes workers are coerced into joining yellow unions, which happened in 2010 for example in the Philippines.

The labour laws of many Asian countries are also a cause of concern, as trade union rights are often not adequately protected. Especially the right to strike is subject to many restrictions, and participants in unlawful strikes may be liable for excessive penalties, including long prison sentences. The authorities in several countries also have the power to unilaterally end a strike. Public employees in Japan, India and South Korea have limited trade union rights and may not go on strike. Changes to the labour laws occurred in 2010 in Pakistan and South Korea to the detriment of workers. In Taiwan, however, amendments to the labour code brought a number of significant improvements.

Australia



POPULATION: 21,300,000
CAPITAL: Canberra
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111

There is growing concern at the prospect of an assault on workers' rights in Western Australia, with a recent report commissioned by the conservative state Government recommending that employers be given the power to insist their employees sign individual contracts and that unfair dismissal protections for employees in small businesses be removed. The unfair and punitive laws applying to workers and unions in the building and construction industry remain in place.

TRADE UNION RIGHTS IN LAW

While the Fair Work Act 2009 has improved respect for trade union rights, problematic areas remain. Freedom of association is guaranteed for both private and public sector workers. However, in order to register a union, an excessive 50 members is required, and in New South Wales, registration can be cancelled in case of a strike having a substantially adverse effect on public service. Employers and other unions also have the right to challenge changes to union "eligibility rules", which essentially outline the types of employees unions can represent. The right to collective bargaining is secured in the Fair Work Act but there are restrictions with regard to the content of the collective agreements.

The right to strike is limited as lawful industrial action can only be taken during the process of bargaining for a collective agreement, and cannot be taken when bargaining with multiple employers unless they form a single interest group (e.g. a joint venture). Protected industrial action can be suspended or terminated in a number of different circumstances by the Minister and/or by Fair Work Australia (such as where the strike is deemed to be causing significant economic damage to the parties or where the action is causing significant harm to a third party). Secondary action is also unlawful. Finally, separate and punitive laws continue to apply to workers and trade unions in the building and construction industry.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The Australian Labor Party returned to power at the 2010 federal election after forming a minority government with the support of the Australian Greens and independents. There was a change of government in the state of Victoria, with the incumbent Labor Government defeated by the Liberal/National Coalition at the November 2010 election.

Heavy restrictions on construction workers: Australian Building and Construction Commission (ABCC) inspectors continued to harass trade union members and officials in the construction sector, including by conducting secret interrogations of individual workers without a guarantee of legal representation of their choice. The ABCC has the power to impose fines of up to AUD 22,000 on workers, and those who refuse to submit to the interrogation procedure can face prison terms of up to 6 months.

Ark Tribe, a construction worker on a building site at Flinders University in South Australia, was charged with not attending an ABCC interrogation in 2008 and faced up to six months in jail. Workers at the site had been demanding that the company management fix a series of serious safety issues and it was only when the South Australian State authorities intervened that the safety breaches were rectified. The ABCC had visited the building site and interviewed the workers, but it did not interview the company managers over the safety breaches for which the company was responsible. Tribe was summoned for questioning by the ABCC, which subsequently charged him with failing to attend the interview at the appointed time. Tribe was found not guilty by the Adelaide Magistrates' Court in November 2010, with the court finding that the former ABCC Commissioner had failed to lawfully delegate his functions.

A bill introduced into the federal parliament by the Labor Government in 2009 – which sought to abolish the ABCC but to create a separate building industry inspectorate with coercive powers but with additional safeguards – would have represented some improvement on the current situation. However, it failed to pass through the Parliament. Australian unions have continued their campaign to ensure that the Government delivers on its promise to abolish the ABCC and to implement laws that recognise and protect the rights of workers and trade unions.

Rights of workers in Western Australia at risk: The conservative State Government in Western Australia – which when previously in office had provided a test-bed for the anti-union laws of the former Federal Government – commissioned a review

of industrial relations which recommended that employers be given the power to insist their employees sign individual contracts and that unfair dismissal protections for employees in small businesses be removed. The Western Australian Government has yet to respond to the report.

Collective bargaining agreements ignored in South Australia:

The Government in South Australia has used budget legislation to cut entitlements to long service leave and leave loading of public sector workers which had been agreed upon in good faith through collective agreements. The Government has also opposed the public sector union's notification of an industrial dispute in the state industrial tribunal on the basis that it is not the employer of the public sector workers, arguing that the employer is the Chief Executive of each Department and that, consequently, the Government is not bound to the collective agreements it was involved in negotiating.

Bangladesh



POPULATION: 162,200,000
 CAPITAL: Dhaka
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 182

Garment workers began protests in April to demand a minimum wage of BDT 5,000. These protests continued throughout the year, and many were met with violent repression: six workers were killed and many injured. Trade union leaders were arrested, tens of thousands of garment workers charged in connection with the protests, and the government closed hundreds of NGOs, including the Bangladesh Workers Solidarity Centre. The government deployed the army to Chittagong Port in order to bust a dockworkers' strike.

TRADE UNION RIGHTS IN LAW

Trade union rights are not adequately protected in law. While the Constitution provides for freedom of association, in order to register, unions must represent an inordinate 30% of the workers in an enterprise and must obtain authorisation from the government. No action can be taken prior to registration, and the Registrar may also cancel the registration with Labour Court approval. In general, only enterprise unions can be created and only current employees can be union members, which means that the loss of a job also leads to the loss of union member-

ship. Public sector workers are prohibited from joining unions, although there are a number of notable exceptions.

Furthermore, the right to strike is also limited. All strikes must be called within a specific time frame or the dispute will be considered terminated, and the decision to strike must be taken by a three-quarters majority. The government can ban any strike that continues beyond 30 days in "essential services" or if the strike is considered a threat to national interest, in which case the 1974 Special Powers Act can be used to detain trade unionists without charge. Offences such as "obstruction of transport" carry exorbitant penalties of up to 14 years' forced labour.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The garment industry was the focal point of labour unrest in the country with protests throughout the year. One union leader estimated that 5,000 garment workers had been fired because of their alleged involvement in protests. Although publicly sympathetic with the plight of the garment workers, PM Sheikh Hasina was convinced that an "evil force" was behind a conspiracy to foment unrest in the industry. To address the unrest a special police force for the garment industry was created. Commerce Ministry spokesman Faizul Haque noted that 25% of Bangladesh's garment factories do not comply with mandatory standards on pay, working hours and conditions. In addition, two tragic garment factory fires claimed the lives of 62 workers and injured many more. The government increased the minimum wage to BDT 3,000 on 29 July; however, serious issues remain.

Child labour still widespread: On 12 June Sharfuddin Khan, a Programme Officer (Social Mobilisation and Economic Development) of the ILO, said an estimated seven million child workers are presently involved in hazardous jobs with the majority working in urban areas in informal sectors like factory, transportation, battery recycling, small workshops, shoe factory and household work. Sharfuddin said more than three million children work in Dhaka alone and that some 1.3 million are engaged in hazardous work.

Dock worker unions dissolved: In February, the government dissolved 13 dock workers unions at Chittagong port. As a result, dock workers under the affected unions now work directly under the berth operators. A letter signed by Chittagong Joint Labour Director Mohammad Asaduzzaman stated that any kind of trade union activity under the banner of the dissolved unions would be absolutely illegal and treated as a punishable crime.

The leaders of the dissolved unions said that the dissolution order was illegal and that they would fight against it in court.

Water transport union leaders detained: On 8 May, members of the Nourjan Sramik Federation (NSF) went on strike after the union rejected a new pay scale that failed to meet their wage demands. The new pay scale was finalised in a tripartite meeting on 6 May among vessel owners, workers, and the government. However, representatives of the NSF were not at the meeting. Police arrested NSF acting President Shah Alam on 10 May along with NSF members Mohammad Taher and Monir. Police arrested Shah Alam on complaints of vandalism and causing a disturbance in front of Sadarghat launch terminal on 8 May. Complaints have also been filed against 125 striking workers. On 13 May, police arrested the NSF office assistant and the office janitor at the NSF office in Dhaka.

On 15 May, the NSF ended its strike after the government assured them of fulfilling some of their demands. Nur-e Alam Chowdhury, Chairman of the parliament standing committee on the shipping ministry, allegedly signed an agreement with the strikers. According to the agreement, all the cases filed against the strikers would be withdrawn and all detained workers' leaders released, Chowdhury said. On 17 May, thirteen NSF members, including NSF President Shah Alam, were granted bail by Metropolitan magistrate, Abdul Majid.

Union activists blacklisted in water transport sector: On 17 May, Launch owners in the Barisal region refused to allow more than 20 Nourjan Sramik Federation (NSF) strikers to return to work. Abul Hashem, NSF Barisal Unit President, said that Launch owners refused to allow him to work after he was released from jail on 17 May. Khorshed Alam, Vice-President of the Barisal Launch Owners Association, said that those who tried to create unstable conditions in the water transport sector have been marked, listed and would not be allowed to return to work so as to avoid further trouble.

Raids and death threats for labour activists: On 30 July plainclothes police raided the house of the Bangladesher Samajtantrik Dal General Secretary Khalequzzaman and that of the Jago Bangladesh Garment Workers' Federation President, Bahrine Sultan Bahar, in Dakha. The police arrested Bahar's elderly father in his absence. Police were also looking for Garment Workers' Unity Forum President Mushrefa Mishu; General Secretary of the Bangladesh Textile Garments Workers Federation Bazlur Rashid Firoj; President of the Bangladesh Textile and Garment Workers Federation Mahubur Rahman Ismail; Bangladesh Garment Sramik Trade Union Kendra General Secretary KM Ruhul Amin; Nasima Akher from the Garment Shramik Trade Union Center; and others, as they were accused

in complaints filed with the Tejgaon police. On 31 July, Garment Sramik Oikhya Parishad President Mushrefa Mishu said that she had received several telephone threats on the night of 30 July from a person named Mizan, who claimed to be a Special Branch officer who said that she would be killed in 'crossfire'.

Labour leaders arrested at Chittagong Port: On 11 October, members of the Dock Bandar Sramik Karmachari Federation (DBSKF) at Chittagong Port went on strike against six recently privatised berth operators to enforce their demands, which included the recruitment of scrutinised workers. DBSKF called off the work stoppage after the Chittagong Port Authority (CPA) assured them their demands would be met. But the private owners balked at the agreement, and Berth Operator Owners Association President Shahadat Hossain Selim said that it would not hire former CPA workers. In response, DBSKF resumed the strike. After the Shipping Minister intervened and was unable to resolve the dispute, the Government deployed the army to keep cargo moving at the port on 13 October. Port Security Director Lieutenant Colonel Kamrul Islam also banned all protests at the port. Despite the ban, DBSKF members attempted to demonstrate on 13 October. Police arrested 29 workers on the same day while 11 more were detained on 14 October. Three cases were filed against unidentified workers under the Speedy Trial Act for leading the protests in defiance of the ban, attacking police, and forced entry to the fourth jetty. During a special operation on 15-16 October, police arrested DBSKF labour leaders Biplob Majumdar, Maharram Ali, Akther Hossain and four others.

Pilot union leaders suspended: The Bangladesh Pilots' Association (BAPA) members who are pilots of the national carrier, Biman Bangladesh Airlines Ltd (Biman), went on strike on 28 October after launching an earlier protest on 22 October to protest the company's 9 September directive that changed the pilots' retirement age from 57 to 62. The decision would leave pilots without insurance and rehabilitation benefits after reaching age 57. The strike was called after Biman management suspended BAPA's acting President, Zakir Hossain; General Secretary Basit Mahtab; and pilots SM Helal, Farazi and Maksud on charges of leading the 22 October protest. Following the pilots' suspension, Biman Managing Director Mohammad Zakiul Islam said that striking pilots must return to work by 30 October or face legal actions including lay off.

BAPA pilots returned to work on 30 October after PM Sheikh Hasina's Assistant Private Secretary Saifuzzaman met with the pilots on 29 October and told them that the Prime Minister would look into their demands but that they would need to call off their strike without any condition. On 30 October, PM Sheikh Hasina said that international norms will be followed in provid-

ing benefits to Biman pilots whose service will be extended because of a change in retirement age. Hasina, who met with a 16-member BAPA delegation, said that the service age had been extended because of a shortage of pilots.

Mine union leaders dismissed: Nearly 300 workers at Madhyapara Granite Mining Company Ltd (MGMCL) in Dinajpur went on strike on 27 November to protest the company's dismissal and the filing of criminal charges against MGMCL Miners and Workers Union leaders. The union leaders terminated on 23 November were President Mominul Haque Momin; Vice-president Sadequul Islam; General Secretary Mostafizur Rahman; Secretary Mehdi Hasan; and Office secretary Safiur Rahman. The company alleges that the union officials stole company documents and assaulted company officials. However, the union claims that it only attempted to block newly appointed company officials from entering company premises. MGMCL General Manager Md Abul Bashar (Administration) filed a case against the five union leaders under the Speedy Trial Act with Parbatipur thana on 25 November. The workers have also been demanding regularisation of their jobs since the beginning of the year.

Six killed during protests: Four people were killed and at least 60 other people were injured on 12 December when police attacked garment workers who were protesting over decreased wages under the government's new wage schedule. Eight of the injured were treated for bullet wounds. Two of those killed were identified as rickshaw puller Ariful Islam, 35, and CM Superior Garments worker Ruhi Das, 45. Ruhi was fatally shot in front of the Chittagong export processing zone's (EPZ) main entrance. The protests started after 10,000 workers at Korean Youngone Ltd arrived at work only to find that the company had closed all 11 of its factories for an indefinite period. Chittagong Industrial Police Senior Assistant Director Rezaul Masud said that police fired a total of 519 live rounds and 96 teargas canisters at protesters. Police detained at least 30 people in connection with the demonstration.

On 10 April, one garment worker of Opex Knitwear Ltd, of the Opex and Sinha Group in Kanchpur, Narayanganj, was killed and at least 10 others injured when company thugs attacked a group of 2,000 workers. Workers were protesting inside the factory for higher wages, overtime, leave allowances and wage increments. The worker killed was identified as Ziaur Rahman Khan, 25, a resident of Kanchpur. He was critically injured during the attack and rushed to Dhaka Medical College Hospital, where he died.

Vertex Garments Ltd workers in Mirpur, Dhaka, stopped work on 23 July to demand the punishment of five company officials

believed to be involved in the killing of nineteen-year-old Vertex worker Beauty Akhter. A witness saw Beauty fall from the top of the factory a short time after she quarreled with company supervisor Jharna Begum. Police arrested 11 people during the protests.

Denial of medical leave causes death/stillbirth: Garment workers at Dress World, Ltd, Vertex Group, at Savar protested on 26 July over the workers' claim that the factory denied sick leave to Hamuyun Kabir, 25, a quality inspector, when he became ill at work. After the denial, Humayun lost consciousness and was rushed to Jamal Clinic, where he was declared dead. Garment workers from Hong Kong-based Uttara Sweater Manufacturing Company Ltd at Uttara export processing zone (EPZ) at Shangalshi in Nilphamari protested on 19 December at the Nilphamari Deputy Commissioner's over a number of work issues. One issue involved a recent incident where company officials refused to grant sick leave to a pregnant woman who later had a stillbirth in the factory's lavatory.

Police violence against protesting garment workers: Protests at garment factories were widespread throughout the year and were often met with police brutality. Workers protesting over wage demands or management were frequently injured due to the use of batons and rubber bullets by the police to break strikes. Some of the incidents included the following: in Ashulia, nearly 50 garment factories suspended operations on 11 January when 40 people were injured during a demonstration of about 9,000 garment workers from three factories of the Envoy Group; about 40 workers of Navana Textiles Ltd (Navana) were injured on 12 April during a demonstration of 2,300 protesting Navana workers; about 30 workers of six Nasa Group garment factories were injured during a demonstration of 8,000 workers on 15 April; about 20 workers at AJ Garments Ltd garment factory in Ashulia were injured on 22 May when company goons attacked factory workers who demanded the removal of two company supervisors, Biplob and Rubel, who assaulted two operators, Mizan and Nasrin workers, on 20 May; on 19 June, at least 100 garment workers, including 10 police, were injured in Ashulia when police attacked about 7,000 demonstrating workers of Nasa AG Super Garments Ltd; and 200 garment workers were injured on 21 June when Bangladeshi police fired tear gas canisters and rubber bullets at tens of thousands of garment workers protesting at Ashulia. Dhaka Police Chief Iqbal Bahar said that 26,000 workers walked out of one factory to protest low wages and working conditions and were joined by more than 100,000 from neighbouring factories when the factories sent their workers home.

Many more incidents were reported, in particular, when workers protested to demand implementation of the government's new

wage structure for garment workers. All involved workers being injured and the use of violence against the protesting workers.

NGOs closed over inciting workers' unrest: The government withdrew the registration for the Bangladesh Center for Workers Solidarity (BCWS) of its legal status on 3 June. Investigators alleged that BCWS was involved in creating instability among garment workers in Narayanganj, Savar, Gazipur and Ashulia. The NGO Affairs Bureau (NGOAB) Director (registration) AM Saiful Hasan ordered the Dhaka District Administration to seize the moveable and immovable property of BCWS and freeze its bank account. On 16 June, BCWS organiser for the Savar District, Aminul Islam, was detained by security forces, beaten and forced to sign a self-incriminating statement. Mr. Islam was told that if he refused to sign, he would be killed in a staged "cross-fire incident," his wife murdered and children orphaned.

On 5 August, it was reported that the Bangladesh government had cancelled the registration of 334 NGOs in the last four months for their involvement in corruption, misuse of foreign funds and patronisation of militancy. The move is significant, as the government had cancelled only 56 foreign-funded NGOs since 1990. On 30 July, police filed charges against BCWS Director Ms. Kalpona Akhter; Director of the Bangladesh Garment and Industrial Workers Federation (BGIWF) Babul Akhter; and Aminul Islam on charges of inciting worker unrest. Police arrested and detained Ms. Kalpona Akhter and Mr. Babul Akhter on 13 August. On 28 August, Babul Akhter was severely beaten in police custody by non-uniformed persons who also threatened to kill him in a staged incident. Aminul Islam surrendered to court officials on 29 August. Kalpona Akhter and Babul Akhter, as well as Aminul Islam, were released on bail on 10 September.

Numerous arrests of union leaders/workers: Numerous union leaders and workers were arrested in connection with garment workers' protests during the year. Some went into hiding. Among those arrested were Garment Workers Trade Union Centre adviser Mantu Ghosh on 31 July; Mohammad Shahidul Islam, President of the Kendriya Garments Sramik Dal; and six Florate Fashion Wear Ltd garment workers on 8 and 9 August; Jatiyatabadi Garments Sramik Dal President Haji Shahidul Islam was arrested on the morning of 9 August; Garment Labour Trade Union Centre (GLTUC) Vice-president Tuhin Chowdhury on 2 September; Garment Sramik Oikya Parishad President Mosrefa Mishu on 14 December; Baharane Sultan Bahar, President of the Jago Bangladesh Garments' Workers' Federation on 16 December; and Evergreen Products Factory (BD) Ltd factory workers Noor Alam and Motiur Rahman on 18 December.

Other arrests included nine garment workers on 5 August, four Shed Fashion garment workers on 7 August and 30 Shed Fashion garment workers at Zamgora on 10 August.

Garment factories close, dismiss workers amid protests: Numerous garment factories closed and dismissed their workers, citing "worker unrest" as the reason for such actions. Some of the factories that closed and/or dismissed workers include the following: Pearl Garments Company Ltd of Indian-owned Epic Group in Ashulia dismissed 148 workers out of its total workforce of 1,350 on 17 April; at least 25 people, including 10 policemen, were injured on 15 June when police attacked several thousand workers from Shomahar Sweaters, Ltd Focus Sweaters, and Waga Fashions in Tejgoan with batons, tear gas and rubber bullets; on 10 June, Shomahar officials suspended operations for five days after workers demanded a wage increase; on 20 June, garment workers at the Oceanian Sweater Ltd at Dendabar, Savar, Dhaka, protested over the payment of wages; and three Envoy Group factories also announced layoffs after their workers demanded release of their co-workers arrested in the 13 June protests.

Similar unrest occurred at several other factories including the following: Padma Poly Cotton Ltd in Dhaka's Tejgaon industrial area where management closed the factory in response to a workers' demonstration over the dismissal of 97 co-workers; Universe Knitwear Factory in Ashulia, where at least eight people were injured on 4 December when police attacked 1,700 factory workers who were demonstrating over the closure of their factory with no prior notice; and Meddler Apparels Ltd in Ashulia, which closed for an indefinite period on 2 December after workers protested on 1 December to demand the removal of abusive factory supervisors and an increase in the piece rate.

Burma



POPULATION: 50,000,000
CAPITAL: Naypyidaw (Pyinmana)
ILO CORE CONVENTIONS RATIFIED: 29 - 87

Numerous strikes occurred with workers demanding better working conditions and wage increases. Labour activists unsuccessfully attempted to register a trade union with the military regime, in a country where establishment of a trade union is still prohibited. Workers' rights are not respected and forced labour remains a significant issue.

TRADE UNION RIGHTS IN LAW

Trade union rights are not secured in law and are further limited by military orders and decrees. The 2008 Constitution stipulates that "necessary laws to protect the rights of workers" shall be enacted but is silent on the content of those laws. While a union can be formed if it represents 50% of the workers, it is conditioned on not being "contrary to the laws enacted for Union security, prevalence of law and order, community peace and tranquillity, or public order and morality". All organisations need to obtain permission to exist from the Ministry of Home and Religious Affairs, and union organising is further hampered by the single trade union system in place since 1964. In addition, trade union activities are seriously limited by Order 2/88, which bans any activity of five persons or more, such as gathering or marching in procession, and further stipulates that blocking roads, demonstrating en masse, and interfering with people carrying out security duties are prohibited.

The right to collective bargaining is not recognised, and industrial disputes are covered by the Trade Disputes Act, which includes a number of provisions that are not in conformity with international standards. The penalties for disregarding these laws are extensive and may entail imprisonment of up to five years.

There have been talks about a new draft labour law.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: On 7 November Burma held its first elections in 20 years to elect representatives to the two houses of the na-

tional parliament as well as state and regional parliaments. The elections were marred by massive fraud, threats, restrictions on freedom of speech, lack of independent monitoring, and the disenfranchisement of approximately 1,500,000 voters in ethnic areas. The Union Solidarity and Development Party, aligned to the military junta, won over 75% of available seats. When added to the 25% reserved for military appointees, this means the junta remains in firm control of Burma's affairs. As in previous years, the regime's military was responsible for ongoing abuses against civilians in conflict areas, including widespread forced labour, extrajudicial killings and forced expulsion of the population. On the positive side, on 13 November Daw Aung San Suu Kyi was released from house arrest.

No trade unions allowed: There is a complete lack of legally registered workers' organisations in Burma. Any workers' organisation has to function underground, and its members face constant threats of repression and reprisal, including detention, torture and criminal prosecution. This applies, for example, to the Federation of Trade Unions-Burma (FTUB), which is affiliated to the ITUC.

Forced labour still a major issue: At the ILO International Labour Conference on 5 June 2010, the Committee on the Application of Standards once again held a special sitting on the forced labour situation in Burma. The committee found that there were well-documented cases that Burma's military and civil authorities continued to exact forced labour from local villagers in 2009 in all but one of the country's States and Divisions. The committee concluded that the junta had failed to amend or repeal legislation that is contrary to the Forced Labour Convention; had taken no concrete actions to end the practice of forced labour; had failed to punish civil and military authorities responsible for exacting forced labour; and had not provided sufficient support and cooperation to the ILO Liaison Officer to make the forced labour complaint mechanism a meaningful process. The junta has also failed to implement recommendations made by the ILO Commission of Inquiry in eliminating the use of forced labour.

The committee also noted that Ms. Su Su Nway, Mr. Min Aung and the six labour activists Thurein Aung, Kyaw Kyaw, Wai Linn, Nyi Nyi Zaw, Kyaw Min and Myo Min remained in prison, despite repeated calls from the ILO Governing Body for their release.

Forming union "unlawful": On 2 June, 23 labour activists, including labour rights lawyer Poe Phyu, sent a letter to the State Peace and Development Council (SPDC) Chairman Senior General Than Shwe seeking permission to form a national labour union - the "Trade Union for the Protection of National Industrial

Workers' and Farmers' Interests". On 23 June, Poe Phyu and six others from Rangoon met with the Rangoon Division Police Department and the Minister of Labour. Western District Police Colonel Aung Daing told the seven union representatives that forming a trade union would be "unlawful". In addition, Aung Daing told the labour activists that they would face prosecution under the Unlawful Association Act and the Printers and Publishers Act if they continued their organising efforts or published any union material.

Labour activists released: Two labour activists who had assisted farmers in central Burma in filing legal proceedings against the seizure of their farmlands by local industry have been released. Myint Maung and Thura Aung, from Aunglan Township in Magway Division, were released from Thayat Prison on 24 August after winning an appeal through the Central Court in Mandalay Division.

Striking workers threatened with violence: On 31 January, government civil servants received a MMK 20,000 pay raise (about USD 20), leading to general unrest among workers in private sector enterprises who did not benefit from any wage increase. At the same time, prices for basic commodities and services increased as well. Numerous strikes took place with workers' demands including increased wages, better working conditions, overtime pay and paid holidays. The government responded in most cases with a show of force and threats of violence, dismissal and blacklisting.

Over 2,000 workers from several foreign-owned garment factories in Rangoon's Hlaing Tharyar industrial zone went on strike on 8-9 February. Government authorities sent 50 trucks packed with riot police carrying assault rifles and shields to secure roads surrounding the zone. Authorities warned the workers to disperse peacefully or face a violent crackdown. Workers ended their strike on 10 February after factory management agreed to a MMK 5,000 (USD 5) monthly wage increase.

Workers at South Korean-owned Lion City went on strike on 16 February, and the authorities sent ten riot police trucks to the factory. Also, about 100 garment workers at the Sky garment factory in Rangoon's Insein Township began a sit-in strike on 17 February. Authorities sent 15 riot police trucks to the factory. About 500 workers from shoe and garment factories in Rangoon staged sit-in strikes on 9 March to demand a wage increase. On 20 August, authorities warned factory workers that if they launched or participated in industrial protests, they would be fired and blacklisted.

While most strikes involved a government show of force, others were resolved by reaching agreement between striking workers

and management, such as that at the Grand Royal beverage factory, Super Garment and Kaunggyi Minglar garment factories in Rangoon's Shwepyithar Township or at the two garment factories owned by SGI in South Dagon Township's No. 2 industrial zone.

Cambodia



POPULATION: 14,800,000
CAPITAL: Phnom Penh
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138

Anti-union practices and obstacles to organising remain widespread. Collective bargaining is rare and difficult. Cambodia has still not established labour courts and impunity continues to be the rule when it comes to trade union rights violations. Eight hundred and seventeen workers were suspended or fired for taking part in a nationwide strike in September.

TRADE UNION RIGHTS IN LAW

Despite initial guarantees, many restrictions apply to trade union rights. Workers are free to form and join trade unions under the 1997 Labour Law, however civil servants and domestic staff are excluded from the law. All union leaders must have been engaged in the occupation their union represents for at least one year, and must be at least 25 years of age and have no criminal record. While the law recognises the right to collective bargaining and obliges employers to bargain, the authorities may refuse to grant most representative status to a union when the Labour Advisory Committee, the employer, or concerned third parties object to the union's petition. Trade unions are further undermined by the fact that each workplace with over eight employees must have a shop steward, who has the duty to perform functions that should be in the hand of elected union leaders – who lack similar enforceable rights. Furthermore, all industrial disputes are subject to cumbersome dispute resolution procedures. A minimum service is imposed in all enterprises, regardless of whether they are public utilities or not, and regardless of whether the minimum service exceeds the need to comply with statutory safety requirements.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Whilst the government attempts to promote a better image of the Cambodian judiciary through the Khmer Rouge trials, it is placing ever greater restrictions on the exercise of individual rights and freedoms. The increasingly autocratic rule of Prime Minister Hun Sen and his Cambodian People Party (CPP) is leaving very little space for opposition. It has become dangerous for civil society organisations to criticise the government.

Many people in rural and urban areas are being forced to give up their homes and land to make way for lucrative development projects. Hundreds of thousands of families are harmed in the process, as the legislation regulating land disputes is poorly applied or simply disregarded. Property developers, business interests and the authorities join forces to evict residents, forcing them to accept miserly compensation. Like trade unionists, activists fighting to defend land rights risk arrest and prosecution for “defamation”, “incitement to crime” or “material damages”.

Still no labour courts: Labour courts have still not been set up, despite being provided for in the Cambodian Labour Law (1997). Any legal action has therefore to be taken before a civil or criminal court, which is often a lengthy process (up to eight years in some cases).

The Arbitration Council, a tripartite body created under the labour legislation, has effectively taken the place of the Labour Courts. It is widely respected for its even-handed and impartial investigations and rulings. However, employers found to have engaged in anti-union discrimination usually appeal against the Council’s decisions in the provincial courts. Moreover, employers often choose not to apply the Council’s recommendations (see court decisions).

An important agreement was, however, signed on 28 September between six major union confederations and federations and the Garment Manufacturers Association in Cambodia (GMAC). It stipulates that in the absence of a collective agreement at a company, the parties shall accept the binding recommendations of the Arbitration Council in rights disputes, and where there is a collective agreement, any dispute regarding its application shall also be the object of binding arbitration. The agreement came into force on 1 January 2011.

In November, the ILO Committee on Freedom of Association called on the government to take action to provide capacity building for the judiciary and to institute safeguards against

corruption in order to guarantee the independence and effectiveness of the judicial system.

Trade union rights violated with impunity: In spite of some progress thanks to initiatives such as ILO projects and the efforts of certain international buyers, working conditions and respect for trade union rights in the clothing industry (Cambodia’s biggest sector) are still poor, particularly in subcontracted operations.

In many factories, trade unionists continue to face serious repression, including death threats, dismissals, blacklisting, false charges to bring them before the courts, wage deductions and exclusion from promotion, etc. The government very rarely prosecutes or imposes penalties on employers for anti-union practices. Labour inspectors are poorly trained and, given their low pay, are open to bribery.

The Coalition of Cambodian Apparel Workers Democratic Union (C.CAWDU) reported the suspension or dismissal of 257 of its trade union leaders during 2010. In the case of the Free Trade Union of Workers of the Kingdom of Cambodia, the total reaches 65 (32 of whom are women), and includes ordinary members. The FTUWKC also reported physical attacks and threats against six of its members and trade union representative during 2010.

Intimidation used to stop strikes and demonstrations: Unions planning to hold a strike or demonstration often face intimidation. They can, for example, be threatened with prosecution: there is a growing trend among employers of taking trade union representatives to court in the event of a strike and demanding the payment of astronomical sums supposedly in compensation for the losses incurred during the work stoppage. The heavy presence of armed police, ready to use force, is another method used to intimidate striking workers, even though violent strikes are very rare.

Collusion between some employers and the police can be enough to dissuade workers from going on strike. Many workers’ demonstrations are cancelled owing to acts of intimidation and harassment by employers or the local authorities, which are often closely linked.

Yellow unions: The establishment of yellow unions is another tactic deployed by some companies to prevent the emergence of genuine workers’ representation.

Short term contracts becoming widespread and weakening trade unions: Many permanent contracts are being replaced by short-term contracts (one to six months) allowing employers to

avoid having to respect a range of workers' rights guaranteed under the labour legislation (annual leave, maternity leave, etc.). Furthermore, workers are reluctant to join unions for fear of not having their contract renewed.

No civil service unions: Civil servants do not have the right to unionise. Teachers, for example, are only represented by an "association" that cannot engage in collective bargaining. The ILO has criticised this ban on many occasions. The Cambodian Independent Teachers Association has very limited scope for action. In October, for example, the Phnom Penh city authorities refused to let it hold a march to celebrate World Teachers' Day.

Phnom Penh waste collectors deprived of a union: Cintri, a waste collection firm in Phnom Penh, has been intimidating workers to prevent them from meeting with the Cambodian Food and Service Workers' Federation (CFSWF), which is trying to organise them into a union. CFSWF representatives tried to speak to the workers in the street at the end of their working day, but their superiors intervened, warning them not to speak to unions. In January, Cintri workers nonetheless elected a trade union representative, but the latter went on to leave the union a week later, probably under pressure from the management.

Anti-union repression persists at Naga World casino hotel: In February 2009, the management at Naga World casino hotel dismissed 14 leaders and members of the Cambodian Tourism and Service Workers' Federation (CTSWF), including two workers who were several months pregnant (see 2010 edition of the Annual Survey). In February 2010, the Arbitration Council adopted a non-binding recommendation calling for the reinstatement of the four people dismissed who had not given up their trade union activities, but the management at Naga World totally disregarded it. It continued down the path of anti-union repression in 2010: on 12 and 13 March it dismissed 44 members of the CTSWF. The union has reported acts of intimidation against its other members at Naga World. It tried to meet with management on numerous occasions in 2010, to no avail.

Police try to block trade union forum: On 25 July, the police attempted to stop the holding of a forum organised in Phnom Penh by the Cambodian Labour Confederation (CLC) and the Cambodian National Confederation (CNC). The forum was aimed at raising public awareness about the need for a pay rise in the garment sector, and discussing the possibility of strike action with workers in the event that their demands should not be met. The police blocked access to Wat Botum Park, where the forum was due to be held, but thousands of workers made their way on foot, covering long distances, to gather in front of the parliament. The police confiscated megaphones and

loudspeakers, but the trade union leaders were able to recover them and managed to go ahead with the forum.

E-Garment trade union representatives attacked and dismissed: On 31 July, as Coalition of Cambodian Apparel Workers' Democratic Union (C.CAWDU) representatives met with workers from the E-Garment factory in Kandal province to collect their signatures (in the form of fingerprints) in support of the campaign to demand a living wage, they were attacked by members of a union renowned for being close to the management, the Khmer Youth Union Confederation (KYUC). Two C.CAWDU representatives were seriously injured in the attack. Following this incident, E-Garment's management sacked eight C.CAWDU union representatives.

KC Gecin acts above the law: The Building and Wood Workers Trade Union of Cambodia (BWTUC) tried to organise a union at construction company KC Gecin Enterprises by inviting its workers to seminars on the labour legislation and trade union rights. As soon as it heard about the seminars, KC Gecin's managers threatened to dismiss anyone trying to form a union. It sought out the employees most interested in defending their trade union rights and, on 3 August, sacked 26 workers belonging to a union. This repression failed to dissuade the other workers: on 12 August, they notified the management that they had formed a union. The next day, the company fired 26 other workers, including the union's founders. A strike was launched on 16 August to demand the reinstatement of the dismissed workers and protest against the anti-union harassment, but KC Gecin once again responded by sacking 12 more union members. It also took six trade unionists to court, claiming as much as 75,000 dollars in damages for losses caused by the strike. The Arbitration Council adopted a recommendation that the employer should reinstate the dismissed workers, but the company refused to comply.

San Lei Fung suspends three trade unionists following strike: A strike broke out on 17 August at the San Lei Fung garment factory following the breakdown in negotiations between the management and the union. At the end of the strike, the company refused to let three of the workers back to work - the union's president, Ouen Pao, an advisor, Huy Bora, and an assistant, Nun Chamna. On 1 September, San Lei Fung accused them of having incited the workers to cause material damage to the factory, and filed court proceedings to claim 50,000 dollars in damages and 10,000 in compensation. The three men affirm that nothing was damaged during the strike. They in turn appealed to a court to demand their reinstatement within the company and on 3 November a municipal judge ordered their return to work. San Lei Fung refused to abide by the court order

and went to appeal. At the end of 2010, the workers continued to be suspended.

Threats against Ath Thorn: Anonymous phone calls were made to colleagues of Ath Thorn, president of the Cambodian Labour Confederation (CLC) and the Coalition of Cambodian Apparel Workers Democratic Union (C.CAWDU), threatening the union leader. The calls were made on 17 and 28 August, shortly prior to the holding of a nationwide strike in the garment sector. In the call made on 28 August, at 5.15 p.m., the anonymous caller told Ath Thorn's colleague to pass on this message: "Tell your boss not to be too strong, to watch out." In light of the three union leaders murdered over recent years in Cambodia, these threats have to be taken very seriously.

817 workers sacked or suspended after taking part in national strike in September: From 13 to 16 September, a national strike was held by the Cambodian Labour Confederation (CLC) and the Cambodian National Confederation (CNC) in support of their demand for the minimum wage to be raised to a living wage of 93 dollars a month in the garment sector. The numbers supporting the strike went from 63,000 on the first day to over 200,000 workers, from over 100 garment factories, by the last day on 16 September. Ten trade union leaders were briefly arrested during the strike, 28 workers were injured (following police intervention and, in three cases, after factory vehicles ran into striking workers). The strike came to an end when the government promised to bring trade unions and employers to the negotiating table. On returning to work, 817 employees were informed that they had been sacked or suspended for taking part in the strike. Four hundred and ninety nine of them were subsequently reinstated but at the end of 2010, 318 workers from 16 factories still had not been able to return to their jobs. Eighty two of them are trade union leaders. The government of Cambodia and a Court of Justice have, however, stated that the companies should reinstate the 318 workers. The employers have, moreover, filed dozens of legal complaints against union leaders, demanding compensation for losses linked to the strike.

Whitex fires 30 employees following strike action: In September, the Whitex garment factory in Phnom Penh suspended five trade union representatives and six union members, and dismissed 19 women workers belonging to a union. The workers are members of the Cambodian Federation for Workers' Rights (CFWR), as well as a union only represented within Whitex. The company paid no heed to the opinion issued by the Arbitration Council recommending that the 30 workers be reinstated.

Extremely violent attack against union president at International Generation: On the evening of 30 September, Phao Sak,

president of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) at the International Generation Co. footwear factory in Trapeang Ample (Samrong Tomng district, Kampong Speu province) was violently attacked by two individuals armed with batons. In the days prior to the assault he had met with the factory's management on several occasions to discuss demands related to leave days. No serious police inquiry was conducted. According to the FTUWKC, the attack was so violent that it could be deemed an attempted murder and is clearly linked to Phao Sak's trade union activities.

Four trade union leaders fired at Zhen Yun: On 15 November, the Zhen Yun garment factory in Phnom Penh dismissed four members of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC) who had been elected as union leaders four days earlier: the president, Seng Bora, the vice president, Kem Kimhuy, the general secretary, Moern Sina and the treasurer, Maul Srey. Following a three-day strike, the management agreed to reinstate them on the proviso that they cease all trade union activities. The four workers accepted this condition, but continued with their trade union work. On 12 December, on leaving the factory after working overtime, Seng Bora was attacked and hit in the head by a large stone. When his injuries had healed and he was able to return to work, he was once again dismissed (on 14 December), along with Kem Kimhuy (on 15 December).

Union leader framed after switching affiliation: On 18 November, the staff of around 1,000 workers at the United Apparel Garment factory affiliated to the Independent & Democratic Union Federation (IDUF) decided to leave the federation, considering it too close to the employers, and join the Coalition of Cambodian Apparel Workers' Democratic Union (C.CAWDU). Just over two hours after signing the documents indicating this change, the union leader, Sous Chantha, was stopped at a roadblock manned by military police as he made his way home by motorbike. The police searched his motorbike and found nine small packs of pills under the seat. Sous Chantha was immediately arrested and remanded in custody for drug trafficking. He was still being held in custody at the end of December. Inconsistencies in the military police report, however, point to the fact that Sous Chantha was framed as punishment for having switched union affiliation.

Union-bashing by two major breweries: In December, Cambodia Brewery Limited (CBL), in which Heineken has a 33.5% stake, used intimidation to stop beer promotion workers, commonly referred to as "beer girls", from taking part in a meeting their union had invited them to. The brewery refuses to negotiate with their union, the Cambodian Food and Service Workers' Federation (CFSWF). On several occasions, CBL beer promotion

workers were called in by their superiors to tell them that one or another union meeting was illegal and that the company is not responsible for their safety if anything happens to them. In the context of Cambodia, where three trade union leaders have been murdered in recent years, warnings of this kind constitute serious intimidation.

Cambrew Ltd, a brewery 50% owned by Carlsberg, also refuses to negotiate with the CFSWF. Cambrew Ltd promotes a yellow union and intimidates beer promotion workers wanting to join the CFSWF, telling them that if they do so they will “break the rice bowl”, an expression meaning they will lose their income (implying they will be dismissed). Several beer promotion women elected as CFSWF representatives at the brewery left the union under pressure from the management.

Police threaten trade unionist sacked by Kampot Cement: On 17 December, the newly elected president and treasurer of the union at Kampot Cement, Chhun Peou and Tep Mao, were dismissed after refusing to be transferred to much lower positions. The police visited Chhun Peou’s home on several occasions and threatened his family, insisting that no union action should be taken in protest at the dismissals. The workers at Kampot Cement are affiliated to the Building and Wood Workers Trade Union of Cambodia (BWTUC). The cement works is located in Kampot province.

Documentary on murder of Chea Vichea banned: On two occasions in 2010, the authorities prohibited the Cambodian Confederation of Unions from publicly showing the documentary “Who Killed Chea Vichea?”. The documentary covers the murder in 2004 of the FTUWKC (Free Trade Union of Workers of the Kingdom of Cambodia) leader, Chea Vichea. It raises awkward questions for the government, underlining that the murder would not have been possible without the highest levels of the political establishment being aware of it.

Murderers of three union leaders remain unpunished: In November, the ILO Committee on Freedom of Association reiterated its call on the government to immediately conduct an in-depth and independent inquiry into the murders of trade union leaders Chea Vichea, Ros Sovannareth and Hy Vuthy (see 2010 edition of the Annual Survey). As regards Thach Saveth, who is serving a 15 year jail sentence for the murder of Ros Sovannareth following an unfair trial, fraught with irregularities, the Committee called on the government to guarantee his right to an appeal before an impartial and independent judicial authority.

Assorted anti-union intimidation: Several other cases of anti-union intimidation were reported during the course of the

year. The Cambodian Federation of Independent Trade Unions (CFITU) denounced acts of intimidation against Put Kosal, the vice president of its branch union at the King Maker Foot Wear factory in Svay Rieng province. The Cambodian Workers Force Democratic Federation Union (CWDFDU) reported cases of intimidation against its members at the Cambo Handsome 1 garment factory. Threats against Phnom Penh Hotel workers showing interest in trade union activities were also reported by the Cambodian Tourism and Service Workers’ Federation (CTSWF).

China



POPULATION: 1,340,000,000
CAPITAL: Beijing
ILO CORE CONVENTIONS RATIFIED: 100 - 138 - 182

Labour activists are regularly harassed and groups shut down while internal migrant workers continue to be discriminated against. Child labour has been estimated to be on the increase as a result of the economic crisis and companies trying to evade recent law reforms. Health and safety legislation is routinely ignored and accidents covered up. Despite the threat of arrest and massive restrictions on freedom of association and the right to strike, many workers undertake industrial action to claim unpaid wages, end corruption, demand better working conditions and wages and increasingly to call for genuine company unions.

TRADE UNION RIGHTS IN LAW

Chinese labour laws fall short of international standards. There is no real freedom of association, as only one “workers” organisation is recognised in law, the All China Federation of Trade Unions (ACFTU). The establishment of any trade union shall be submitted to the union organisation at the next higher level for approval, and the latter shall “exercise leadership” over those at the lower level. The law also empowers the ACFTU to exercise financial control over all its constituents. Furthermore, the legal procedures for registering a union office in an enterprise can be completed without trade union officials even entering the workplace, and branches can be set up in some enterprises simply by carrying out administrative procedures.

There are no comprehensive national level regulations on collective bargaining procedures, but only on collective contracts. However, a collective contract established in line with the regulations is legally binding. There have also been considerable efforts to set up a dispute resolution system in the last decade. The right to strike was removed from the Constitution in 1982, and the revised Trade Union Law does not use the term “strike” (bagong) but instead refers to instances of “work stoppages” (tinggong) and “go-slows” (daigong).

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The year 2010 again witnessed an increased number of labour disputes and collective actions. A wave of strikes in the electronics and automobile industry took place in the summer with several major victories for workers. The economy continues to grow despite a major dip at the start of the financial crisis. Corruption remains endemic. Massive media and internet censorship as well as repression of critical civil society groups continued. In December the awarding of the Nobel Peace Prize to Liu Xiaobo, a veteran pro-democracy dissident, reportedly led to a crackdown on activists.

Forced labour - disabled workers enslaved in factory: Forced labour is prohibited but occurs in commercial enterprises and labour camps. China imposes forced prison labour as a form of “re-education through labour”, which is an administrative punishment often used for petty criminals, dissidents and labour activists. A similar forced labour system for “rehabilitation” is in force for drug addicts. Trafficking in human beings is also prohibited by law but remains a serious problem. There has not been much progress in prosecuting traffickers and in protecting and assisting victims of trafficking.

Reports of forced labour continued to emerge in 2010. For example, in May 2010 police rescued 34 people forced to work at a brick kiln in Hebei province, and in December media reported the discovery of 11 disabled workers at a building materials plant, Jiaersi Green Construction Material Chemical Factory in the Xinjiang Uighur Autonomous region. The workers had allegedly been beaten regularly and ate the same food as the factory dogs. None of those employed at the factory had ever been paid even though some had been working for four years. Workers attempting to escape had also been beaten. The company owner stated that he had paid an agency a lump sum of 9000 Yuan (USD 1,350) for the delivery of five of the workers and then an additional 300 Yuan per worker per month.

In 2007 a major investigation, instigated by the parents of missing children, found at least several hundred abducted

minors and disabled workers forced to work for little or no pay. Estimates state that some 53,000 migrant workers had been employed in more than 2000 illegal brick kilns in Shanxi alone.

Role of the official Chinese trade union: The All China Federation of Trade Unions (ACFTU) is the sole trade union body allowed to exist. Its role and the supervision of higher level branches over lower level branches was strengthened in the 2008 legislation, especially in resolving labour issues and helping promote the nationwide development of a “harmonious society” and a “harmonious workplace”. It works primarily on wage arrear campaigns, membership drives, pushing for wage increases, philanthropic work and encouraging collective consultation with employers and within industrial sectors.

The ACFTU played a significant role in the drafting of the 2008 Labour Contract Law and in implementing regulations, and it continues to focus its efforts on organising branches in private companies and Asian multinationals.

Attempts to establish independent trade unions repressed: No independent trade unions are allowed. Organisers of workers’ groups or protests are often arrested, and some are sentenced to terms of imprisonment (officially called “reform through labour”, or “lao gai”) after criminal trials that fall well short of international standards. Others can be assigned to terms of “re-education through labour”, an administrative process which bypasses the few safeguards of the criminal justice system. Strikers often are detained for a few days or weeks to avoid any risk of martyrdom for long-term detainees. The fear of detention also makes negotiations between workers’ representatives and the authorities and employers extremely difficult.

The continued use and abuse of extensive state secrets legislation including laws classifying labour-related statistics as state secrets means that labour activists can be charged with “disclosing state secrets” for their work. Despite the potential repercussions there are increasing numbers of grassroots enterprise unions either formed by the workers themselves or prompted by official organising campaigns that evolved into something resembling a trade union.

Trade union elections: Although the Trade Union Law states that trade union officers at each level should be elected, this is often ignored, and most officials are appointed. In addition, elected candidates are subject to approval by the provincial-level All China Federation of Trade Unions (ACFTU) committees. “Paper unions” essentially created by management and local ACFTU officials continue to be widespread with many workers unaware of the existence of a trade union in their enterprise.

However, many provinces have developed, or are in the process of developing, regulations concerning the obligation to hold trade union elections as stipulated in the Trade Union Law. Also, in the wake of its inaction during the strikes at Honda, the union there agreed to hold elections directly for its enterprise officials as demanded by workers.

Hong Kong businesses have lobbied hard against draft laws on collective bargaining in Guangdong and Shenzhen city despite increasing unrest there. Their lobbying reportedly led to major revisions in the Shenzhen legislation, including a rise in the proportion of workers needed for collective negotiation.

More strikes, and more violence and criminal charges: The number of strikes - both spontaneous and planned, but without the official recognition of the union - has continued to increase, especially among private enterprise workers. Privatisation and the ensuing redundancy it engenders is a major cause of labour unrest for state-owned enterprise workers while low pay, unpaid wages and poor working conditions are among the largest causes of strikes in the private sector. Figures suggest that each day around 1,000 workers are involved in industrial action in Guangdong Province alone.

Strikes and collective protests are often dispersed violently by armed police, and prominent strikers are picked up by the police and warned or charged with public order offences, traffic violations, breaking the law on parades and demonstrations, or more rarely serious political charges. Companies regularly dismiss and blacklist workers who have led or participated in strikes. In some instances, companies also hire men to beat and threaten workers protesting missing wages or taking other forms of industrial action, often with deadly results. Strike organisers and independent labour activists also face the administration threat of re-education through labour. Though in principle limited to three years, in practice these periods of forced labour can be extended without recourse to the criminal justice system.

The increasingly commonplace nature of strikes has meant that despite the ambiguity of their legal position, some local authorities have been less hostile towards strikes, and more strikes appear to be successful. In response to the labour unrest, there have also been increases to the minimum wage figures in many regions.

Support for workers' grievances including those of internal migrant workers: The All China Federation of Trade Unions (ACFTU) is not involved in the majority of disputes and collective actions in the major manufacturing zones where most private business is located and where most of the workers are internal

migrant workers. Only some workers know of the existence of trade unions in their enterprises, and very few would seek assistance from the trade union in cases of rights abuse. This visible lack of assistance is one of the most important factors behind the rise of civil society labour groups providing legal and other services for mainly migrant (internal) workers. This has led some ACFTU branches to offer legal-aid-related services while continuing to avoid direct engagement in workers' collective disputes and protests at the plant level.

Chinese workers overseas - no freedom of association: Reports continue of poor working conditions, including the denial of basic trade union rights and freedom of association in Chinese-owned enterprises, including major state-owned companies. This is of particular concern in the extractive industry and large construction projects in countries such as in Africa but also those in the Middle East. Chinese workers who complain of poor conditions have faced repercussions on their return to China.

Workers beaten during protest: On 15 January around 10,000 workers at a factory owned by United Win (China) Technology, in Jiangsu, a subsidiary of the Taiwanese company Wintek Group, went on strike in protest against a pay cut and poor work-safety environment. Hundreds of police officers in riot gear charged and beat the demonstrators, including the female workers. Over 100 workers were reportedly injured.

Local sources also noted that workers have shown signs of poisoning due to exposure to chemical substances during production without adequate protection. At least 40 of them were still in hospital by the end of the year. One worker stated that three workers had died while some were paralysed as a result of the poisoning. The company stated that it was not a strike but "a misunderstanding".

Labour activists detained and incarcerated: In late January 2010, Hunan authorities sentenced Luo Xi to two years' re-education through labour (RTL) for "disrupting social order." Luo Xi, a resident of Shaoyang city, Hunan province, was detained in Beijing on 8 January 2010 and reportedly held in criminal detention upon his return to Shaoyang for taking part in a December 2008 teachers' strike in Hunan to demand wages and benefits comparable to those given to civil servants. While in detention he was reportedly forced to work 16 hours per day and only allowed to sleep four hours per night.

On 8 February 2010, the Shenzhen Intermediate People's Court sentenced Xue Mingkai, a 20-year old factory security guard, to 18 months in prison on charges of "subversion of state power." He was first detained in Bao'an, Shenzhen on 9 May 2009 and

formally arrested on 15 June 2009. The charges claim that in the summer of 2006, Xue had planned to organise a “China Democratic Workers’ Party” online and that he had joined the overseas China Democracy Party (CDP) in 2009 and recruited other individuals.

On 30 March Xiao Qingshan, a labour activist, was accused of disturbing public order and detained for seven days of administrative punishment by the Yuexiu branch of the Guangzhou Municipal Public Security Bureau during an environmental protest. Xiao was previously detained in 2009 for attempting to commemorate the Tiananmen Square massacre anniversary, and in October 2007 he was detained for ten days in Dongguan reportedly for efforts to collect wages on behalf of migrant workers.

According to media reports, on 20 October 2010 Zhao Dongmin, another labour activist, was sentenced to three years in jail for “gathering a crowd to disrupt social order”. Zhao was first arrested in August 2009 after organising over 380 workers from about 20 state-owned enterprises (SOEs) to form a labour rights group (the Shaanxi Union Rights Defence Representative Congress) to monitor the restructuring of SOEs and report corruption and abuses of power. The group was officially banned in July 2009.

Labour unrest at car plants: Production lines were stopped in a strike at the Foshan Honda plant in May. The strike led to Foshan Honda eventually offering 1,900 workers in Foshan a 24 to 32% pay raise. The strikers were prepared to accept an increase of their monthly wage by 800 Yuan and nothing less. After an initial strike on 17 May Honda persuaded the workers to return to work the next day promising to consider the demands. However, when no deal had been struck by 21 May, the workers went back on strike. Anticipating retaliation and no support from the official trade union, the two workers who led the strike, Tan Guocheng and Xiao Lang, quit and left the workplace not long after the strike. The negotiation representatives elected by the workers were also subject to pressure from both management and the government. On 4 June, after negotiations involving the local government in Foshan and Japanese executives, Honda agreed to the large pay raise, though short of the workers’ demands.

In June some 1,500 workers at the Honda Lock factory in Guangdong disrupted production for a week over pay. The dispute was finally resolved with management agreeing to increase wages. Previous strikes at Guangqi Honda were also resolved. In July, strikes broke out at another Honda parts factory, Sumitec Co. in Foshan, after workers demanded higher pay rates which they had calculated after researching

comparative rates in the region. They also asked the company to apologise over its threats to fire 90 workers involved in the complaint and to promise not to lay off any employees for the next two years.

Strikers were also calling for the election of workers’ own representatives and the re-election of trade union officials after the union had done nothing to support them, siding instead with management. With the intervention of the upper level trade union, re-elections of the trade union officers were held at the Foshan Honda plant after the strike.

Hundreds of further strikes were reported during May, June and July in car manufacturing and electronics in the south but also in Shanghai and Tianjin, and included strikes at other Honda and Toyota factories.

Foxconn suicides and strikes: In May a wave of worker suicides was reported at the Foxconn Technology Group in Shenzhen, which manufactures for major computer companies including for Apple. Twelve workers jumped from the buildings or attempted to do so because of harsh working conditions and management practices. Ten died and the other two were seriously injured. The Foxconn group employs a total of nearly 800,000 workers in various plants in China. At least two more workers committed suicide later in 2010. Media reports state that Ma Xiangqian, the first worker to die in 2010, was 19 years old. He had worked an average of almost 10 hours a day with total pay averaging around USD 1 an hour.

In November up to 7,000 workers at the Foxconn Premier Image Technology (China) Ltd in Foshan staged a strike over low pay. Workers reported that they had been threatened with dismissal if they did not return to work.

A report based on interviews with over 1,700 workers found that Hon Hai, Foxconn’s parent company, had long working hours, a “militaristic” work culture and mass employment of low-wage vocational college students and interns on production lines to cut costs. In the last few years many companies and multinationals such as Hon Hai have recruited from Chinese technical and vocational schools, paying lower wages and skimping on benefits. Hon Hai and Foxconn both dismissed the report.

Since the suicides, Hon Hai has pledged to improve the livelihood of its Chinese workers, but workers continue to claim excessive work. Probably as a result of poor publicity and rising labour costs, Foxconn is shifting its manufacturing bases from the south to poorer inland provinces.

Short term contract work increasing – workers detained: The use of flexible work contracts and sub-contracting continues to increase. The 2008 labour contract law regulates this area, but many companies have begun to seek imaginative ways to circumvent the regulations. On 1 August 2010 four electric power workers from rural Hunan sat down near the entrance to a Beijing University, and each cut off the tip of his little finger. The action came after a year of petitions and protests by 19 workers protesting unfair dismissals by their de facto employer, the county Power Bureau. In order to avoid fulfilling the requirements of the 2008 law and avoid paying them the benefits owed to a state employee, the Bureau had transferred them from regular employment to temporary contract worker status without their knowledge. When the workers protested the move, the company fired them for allegedly using company time to protest this demotion. The workers had previously tried to take their case to various courts and official offices but had received no support. After the event in Beijing the workers were forcibly taken back to Hunan and detained for periods of seven to fifteen days for disturbing public order.

Representatives of Gold Peak Battery workers attacked: On 24 August over a hundred workers protested outside the Gold Peak battery factory in Huizhou over the company's inaction during negotiations for compensation of workers poisoned by cadmium during battery production. That night several worker representatives were surrounded and beaten by around 300 unknown thugs. Some of the leaders, including Yu Shaolan and Xian Fang, were seriously injured and had to be hospitalised. Workers at the factory reported that the men beating them claimed they had been paid 50 Yuan a day to do so.

Hundreds of workers involved in the manufacturing of cadmium batteries have been diagnosed with cadmium poisoning or excessive cadmium levels. Despite several years of worker action, Gold peak management has not reached a satisfactory agreement over compensation, treatment, prevention and support despite many promises.

Migrants protest after worker beaten to death: On 10 October in Sichuan Province, over 3,000 workers protested against the beating to death of at least one migrant construction worker asking for back pay by the employer. The workers clashed with some 1,000 police, and about a dozen protesters were arrested. The demonstration broke up following promises of action by the local police.

On 9 October, eight migrant construction workers had asked their construction company, Jiaxun Labour Service Company, for their back pay but were beaten as a response. One man, Lei

Yong, died as a result of the beating while another was sent to hospital.

Sanyo workers in Shenzhen stage strike – workers beaten: In November over 1,000 workers at the Sanyo Huaqiang Laser Electronics in Shenzhen held a one-day strike over poor working conditions and a planned merger. It was also claimed that the predominately female workforce was paid at least 50% less than male workers. The action blocked the adjacent highway. Anti-riot police were called in, and two workers were reportedly beaten and detained. The strike ended after management agreed to negotiate.

Migrant workers in construction abused with little chance of redress: Institutionalised discrimination against migrant workers from rural areas remains a serious problem despite recent legislation. They suffer from low wages and excessive working hours. This is especially holds for migrants working in construction sites and small construction venues where they have little avenues for redress in the event of non-payment of wages or other abuses.

For example, in December a group of over 30 young men attacked a group of migrant workers, one a woman in her 80s, with knives and iron pipes in Shanghai. The workers were seeking payment of unpaid salaries and had been occupying a third-floor office in the building for several days in protest against the owner, who they said owed them salaries totalling about two million Yuan (USD 300,548) from a construction project four years ago. Before the attack the case was being handled in a local court.

Fiji



POPULATION: 849,000
CAPITAL: Suva
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Commodore Bainimarama's government continues to restrict trade union freedoms to maintain control of the archipelago.

TRADE UNION RIGHTS IN LAW

Many excessive restrictions exist despite recent improvements. Freedom of association is secured in the Constitution, and the

Employment Relations Promulgation (ERP) 2007 adequately protects workers against anti-union discrimination. However, the Registrar has discretionary powers to refuse to register a union with an “undesirable” name, as well as to cancel the registration of a union in cases provided by the law. While the ERP promotes and encourages collective bargaining, the right to strike is limited. A strike can not be called in relation to union recognition, and must always be approved by more than 50% of the paid-up members. In addition, unions are required to give 21 days’ notice prior to calling a normal strike, and 49 days in “essential” industries. Furthermore, the names of all the strike participants must be communicated to the Ministry of Labour, which also has the right to declare an existing or proposed strike unlawful, in which case the dispute is referred to arbitration. Both the Ministry and the employers can also impose compulsory arbitration when the strike is not considered to be in the public interests or could jeopardise the economy. Trade unionists can face criminal charges and risk imprisonment if they persist with strike action.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Commodore Frank Bainimarama heads a civilian government that has no democratic legitimacy, having resulted from a military coup in 2006. Although elections had initially been promised in 2009, the government has announced its intention to remain in power until 2014 and perhaps longer. The government legislates by decrees which continue to restrict human rights and to repress dissenting voices. Increases in the cost of food, water and energy have caused new record levels of poverty.

Forbidden to challenge government decisions: Decree numbers 9, 10 and 25 of 2009 and decree no. 14 of 2010, forbid trade unions from challenging in court a decision taken by the government or a government controlled body. The UITA (International union of food workers and their affiliates) and the Fiji Trade Union Congress cite the case of a poorly planned closure of a sugar factory owned by the Fiji Sugar Corporation in the Ba district as a result of poor management. No subsistence provisions were made to lessen the social impact of this closure and soldiers intimidated workers in several factories. Given the laws mentioned above, trade unions and workers were not able to challenge this decision in the Courts.

A job or a role in the trade union: Civil servants who occupy a position of responsibility within their trade union had to choose between their job and their role in the trade union. For example, the Minister of Education informed a high level member of the Department of Education who had been appointed as head

of Second Level Education in Fiji but who was also Deputy General Secretary of the Fijian Teacher’s Union, that she would have to choose between her position within the Department or within the trade union. Trade union involvement can also have a bearing on the renewal of civil servants contracts.

Severe restrictions on collective bargaining in the public sector: The government has modified the law to severely restrict the opportunities for collective bargaining in the public sector and to award itself the right to unilaterally modify the terms and conditions of employment of civil servants. It forbids any Court challenge of a decision taken by the government or by Fiji’s Public Service Committee in relation to the terms and conditions of employment of civil servants, including their remuneration.

Recourse to individual contracts to limit collective bargaining: While the law does not promote individual contracts, in practice they are common and are promoted to the detriment of collective bargaining. Employers tend to offer advantageous packages to new employees, particularly graduates and skilled personnel in key industries as a means of promoting individual contracts. This practice greatly reduces the possibilities for collective bargaining and weakens the trade unions.

Public emergency regulations seriously infringe trade union freedom: Public emergency regulations adopted in December 2006 remain in place. They seriously infringe fundamental human rights, such as the freedom of assembly. In particular it allows military personnel to take up positions at the workplace which intimidates the workers. This was the case for example, during a restructuring at the Fiji Sugar Corporation.

These regulations also have a direct impact on the trade unions’ ability to freely organise their activities. A permit must be obtained to hold any trade union meeting or activity. On the 20 August, a police chief in Lautoka used these public emergency regulations to refuse authorisation to hold a trade union meeting of the sugar sector (Fiji Sugar and General Workers Union).

Lack of protection against anti-union discrimination: The Fiji Trade Union Congress reports that organising is becoming more and more difficult even though Fiji has ratified ILO Conventions 87 and 98; they are often not adequately applied. There is no protection for workers who set up a trade union or become members. This generates a certain anxiety amongst workers who are reluctant to join a union for fear of losing their job.

Lack of confidence in the courts: The Fijian trade unions denounce the increasing judicial abuses. The independence,

qualifications and the transparency in the nomination of judges are not sufficient.

Obstacles to organising workers in Export Processing Zones and for migrant workers: According to the Fiji Trade Union Congress (FTUC), numerous techniques are employed in the Export Processing Zones to discourage workers from setting up trade unions. Fear of employer reprisals is one of the major obstacles. The FTUC reports similar difficulties and obstacles in organising migrant workers who are brought to Fiji by their employers.

Attack on the freedom of movement of three trade unionists: On 9 July, the security forces prevented the President, Vice-President and the accountant of the Fijian Teachers Association (FTA) from boarding a plane for an island in the south of the archipelago where they were planning to hold a meeting and visit members. While this is the only incident of this type reported, it shows that the security forces monitor the movements of trade unionists.

Arrest of the General Secretary of the National Farmers Union: On 1 October, Mahendra Chaudhry, General Secretary of the National Farmers Union and former prime minister was arrested along with five others in Rakiraki in the west of the main Fijian island as he was speaking to a group of farmers. He was accused of not having requested authorisation to organise a public meeting, a violation of the public emergency regulations. Mahendra Chaudhry was released on bail on 4 October.

The Committee on Freedom of Association recommends the reinstatement of Mr. Koroi: On 10 December 2008 the Fiji Public Service Commission informed Tevita Koroi President of the Fijian Teachers' Association (FTA) and a member of the Council of Pacific Education that he was suspended from his position as principal. He was fired from the public service on 30 April 2009. The Commission criticised Mr. Koroi for speaking out publicly against the military coup. The ILO Committee on Freedom of Association recommended to the government in November that Mr. Koroi be reinstated immediately to his previous role as principal, with no loss of salary or benefits.

Hong Kong SAR (China)



POPULATION: 6,900,000
CAPITAL: --
ILO CORE CONVENTIONS RATIFIED:

Workers and unions continue to have little opportunity to defend their rights in practice, and collective bargaining rights are regularly ignored. Overall, the laws pertaining to trade union rights are lacking.

TRADE UNION RIGHTS IN LAW

Although the Basic Law, which is essentially the Constitution of Hong Kong, contains provisions guaranteeing freedom of association, the right to organise and the right to strike, no laws have been implemented to secure the effective application of these fundamental rights. While the law protects workers against dismissal for trade union activities, it does not cover other forms of anti-union discrimination. A trade union may not use its funds as it wishes, as particularly the use of funds for political ends or for transfer to foreign trade union organisations is restricted in law. Furthermore, only those currently or previously employed in the trade, industry or occupation of the union concerned are permitted to become union officers.

The right to strike is limited, as the Public Order Ordinance authorises the use of force to break up strike pickets and demonstrations, and employers can seek an injunction order to suppress workers' protests. There is also little protection for striking workers, as the law only ensures that, were a worker to be dismissed for participating in a strike, s/he would have the right to sue the employer for compensation. There is no legal entitlement to reinstatement.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In July a minimum wage bill was finally passed but disappointed most unionists in its final shape and also excluded migrant domestic workers. The economic crisis has increased lay-offs and pay cuts for many workers, and 2010 saw several high profile strikes. There was a marked increase in the number of reported wage violations in 2010 over 2009 and a refusal to consider legislating on collective bargaining. Wages continue to be determined by the employers and their associations.

Weak protection: While prosecution for anti-union discrimination by employers is theoretically possible under Section 21B of the Employment Ordinance, in practice successful prosecution is difficult. Instances of dismissal or harassment for union activity are reported each year.

No recognition of collective bargaining rights: Collective bargaining is neither promoted nor encouraged by the authorities, and employers generally refuse to recognise unions. Although almost 25 % of the workforce is unionised, unions are not generally strong enough to force management to engage in collective bargaining. Thus, less than 1% of workers are covered by collective agreements, and the collective agreements that do exist are not legally binding. Without legal protection to guarantee these rights, workers are also subject to arbitrary and unilateral actions by employers and are denied job and income security.

The Hong Kong Confederation of Trade Unions (HKCTU) is consistently excluded from the LAB, the tripartite consultative body established by the government, unlike pro-government union federations. This exclusion means it is denied the right to participate in tripartite negotiations on labour laws and policy and excluded from bodies such as the Committee on the Implementation of International Standards, which reports to the ILO. Employers often attempt to take advantage of the disparity and political divisions among staff unions including the divide between the pro-democratic HKCTU and the pro-Beijing Federation of Trade Unions.

Consultation rather than bargaining: The government has consistently claimed that there is no need for collective bargaining rights in the public sector because the administration “consults” civil servants over their pay and conditions. However, recent civil service reforms, involving transfers, reductions in wages and benefits, retrenchment and contracting-out to the private sector, have demonstrated very clearly that the government is free to act unilaterally without consulting the affected civil servants.

The same attitude is persistently held in the private sector, where companies such as Cathay Pacific substitute “consultation” for collective bargaining while unilaterally proposing and determining major labour policies. A strike lodged by the Flight Attendants’ Union was avoided in the last minute in April 2010 after the management scrapped the new roster policy that was introduced unilaterally in March.

Hong Kong passes minimum wage law – excludes migrant domestic workers: In July Hong Kong passed a minimum wage bill after many years of campaigning by unions and other

groups and despite resistance from businesses and the government. The law will take effect in 2011. However, pro-democracy legislators, whose numerous attempts to have the bill amended were blocked by their pro-government counterparts, said there were many loopholes in the new law including the fact that the legal framework for setting the minimum wage will be largely controlled by the government.

Unions had pushed for the minimum wage to be fixed at HKD 33 (USD 4.2) an hour to cover basic living expenses; however, the final amount set in November was only HKD 28. In 2009 the UN Development Programme estimated Hong Kong’s income gap to be the world’s biggest among wealthy economies.

Migrant domestic workers will also be excluded from the minimum wage and continue to have their monthly wage set separately by the government without reference to maximum working hours.

Bus drivers in pay rise dispute - bonuses to non-strikers: Bus drivers employed by various companies went on strike over pay increases in August. Bus drivers’ unions under the independent Hong Kong Confederation of Trade Unions (HKCTU) threatened to strike if their demands of a 2.2% wage increase were not met. Management of the New World First Bus and its subsidiary Citybus refused to meet the unions’ demand after securing the consent of the drivers in the pro-Beijing Hong Kong Federation of Trade Unions (HKFTU) to the company’s offer of a 1.8% increase. Kowloon Motor Bus and Long Win refused to negotiate with the trade unions despite the threat of work-to-rule.

After two days, drivers employed by New World First Bus suspended their strike but did not rule out future industrial actions. Another three unions from Citybus, Kowloon Motor Bus and Long Win drivers also announced that they will suspend their industrial actions. Despite this around 100 drivers and maintenance staff of New World First Bus refused to return to work and marched to the transport secretary offices calling for the right to collective bargaining. Police warned the bus drivers that they were liable to prosecution because they had not applied for a permit.

A union spokesperson stated that the companies had coerced drivers on days off to come to work by paying bonuses of HKD 300 to those who helped to break the strike.

Nepalese workers win concessions after lock-out of strikers: After unfulfilled promises to improve working conditions and wages, some 70 ethnic Nepalese construction workers went on a two-day strike on 11 -12 November. During negotiations management refused to meet any of the workers’ demands.

The workers at the Maeda-CREC-SELI Joint Venture were paid extremely low daily rates with none of the usual additional allowances which other workers received. They also were not given lunch or tea breaks. In addition, only one container was provided for workers to change and rest, contrary to Hong Kong hygiene standards.

Frustrated, the workers contacted the Nepalese Construction Workers Union and the Construction Site General Workers Union for assistance. Union officials went to the work-site, and as a result, on 13 November management locked the doors refusing entry to all of the Nepalese workers. The workers remained outside, but in response the management called the police and the Labour Department. On 15 November the workers went to work but were again refused entry. They then held a demonstration coordinated by the unions, after which Department of Labour officers came to arbitrate between the management and the workers. By 5:00 p.m. an agreement was reached with the company agreeing to provide one hour overtime pay for every eight hours of work, 20 minute breaks for all workers, back-wages for the two days the workers went on strike, and the reinstatement of all workers who chose to return following the agreement. Despite the wage not being increased, this was the first major victory for the Nepalese Construction union since its inception in 2007. The long established Nepalese community in Hong Kong often faces discrimination and low wages.

India



POPULATION: 1,200,000,000

CAPITAL: New Delhi

ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 111

There were many incidents of police and company-sponsored violence against trade union officials and workers. Numerous trade union leaders were arrested and harassed for their activities. Companies used lockouts against protesting employees. Two workers were killed when police opened fire on protesting workers at Norwera Nuddy Tea Estate in West Bengal. Thousands of workers were arrested or faced criminal charges for engaging in illegal strikes and protests to establish basic rights to bargain and have union recognition. Government employees went on strike for outstanding wages and benefits.

TRADE UNION RIGHTS IN LAW

While basic trade union rights are guaranteed, many restrictions apply in particular in the various states. Workers may establish and join unions of their own choosing; however, in Sikkim registration of a trade union is subject to a police inquiry and prior permission from the state government. The public also has an opportunity to object to the creation of a union and prevent its registration. In all of India, a union must represent an inordinate 100 workers or 10% of the workforce in order to register, and the law limits the number of “outsiders” to sit on a union executive committee.

While the right to collective bargaining is guaranteed, there is no legal obligation on employers to recognise a union or engage in collective bargaining. Public service workers enjoy very limited rights to organise and bargain. Furthermore, no government servant may resort to any form of strike, and the government may also demand conciliation or arbitration in certain “essential” industries. As the law does not specify which these industries are, the interpretation varies from one state to another.

While strikes are permitted in the special economic zones, a 45-day strike notice period is required. In Kerala, general strikes are illegal and organisers of such a strike can be held financially liable for damages caused to an employer, while in Tamil Nadu, the Essential Services Maintenance Act prescribes

imprisonment of up to three years and a fine of INR 5,000 for participation in strikes in “essential services”.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Despite barriers to organising and the recognition of trade unions in law and practice, two general strikes during the year challenged the policies of the ruling United Progressive Alliance (UPA) party. Over 90% of workers are employed in the agricultural sector and the informal economy where there is little union representation and where it is difficult to enforce legislation. The growing use of contract labour is also creating problems for organising workers. In June a court in Bhopal sentenced seven employees of Union Carbide to jail for neglect over the gas plant leak in 1984 that killed thousands in the world’s worst industrial accident.

Nestlé signs collective agreements: In the closing weeks of 2009, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF)-affiliated Federation of All India Nestlé Employees, representing more than 1,200 workers at Nestlé India’s factories in Moga, Punjab, and at Ponda and Bicholim, Goa, signed their first collective bargaining agreements after a year-long struggle. At the Nestlé Pantnagar factory in Uttar Pradesh, the Nestlé Mazdoor Sangh (Nestlé Workers Union) signed a first collective agreement on 5 January. As part of the final settlement, management withdrew the suspension of a founding member of the union who has now returned to work.

Child labour widespread: NGOs estimate that 70,000 children from Nepal, Bangladesh, Assam, Bihar and Jharkhand are working in the private mines of Meghalaya. There is no official survey, but the government does not contradict the figures. As Indian officials struggled to deal with mounting international criticism over the safety and security of Commonwealth Game athletes, on 24 September new evidence emerged that showed children as young as seven were being used in the construction of game venues. In an interview with CNN, Harvard fellow and trafficking expert Siddharth Kara said that child labour was a widespread and well-known issue in New Delhi. Kara documented children aged seven, eight, nine and ten years old working alongside their families to get the construction completed, describing the conditions these children were forced to work in as “sub-human”. Kara said that in just a few days she reliably documented 32 cases of forced labour and 14 cases of child labour all for construction related to the Commonwealth Games.

Suicides in the garment industry: In the two years ending in September 2010, 910 garment workers, including members of their family, in Tirupur, Tamil Nadu, committed suicide. Garment factories in Tirupur produce about 90% of all India’s cotton knitwear exports. Ignoring labour laws on overtime pay, many companies pay garment workers at the normal rate of pay for 12 and 16-hour shifts. The garment workers who pack finished goods receive only Rs.106 (USD2.35) per shift.

Protesters arrested during general strikes: There were two general strikes in India during 2010 called to protest price increases for essential commodities. The first was on 5 March and the second was on 7 September. On 5 March, protests were held in 200 centres. The strike was called by nine union federations that included the Centre of Indian Trade Unions (CITU), the All India Trade Union Congress (AITUC), the Indian National Trade Union Congress (INTUC), the Hind Mazdoor Sabha (HMS) and the All India Central Council of Trade Unions (AICCTU). According to media reports, thousands of protesters were arrested throughout India. In New Delhi, INTUC President Sanjeeva Reddy, along with CITU President MK Pandhe, AITUC General Secretary Gurudas Dasgupta and HMS General Secretary U Purohit, were taken into custody.

On 7 September, around 100 million workers across India went on strike against the policies of the United Progressive Alliance (UPA) government at the centre and state governments. The strike was called by the Coordination Committee of Central Trade Unions (CTUs) consisting of eight central trade unions including the INTUC, the AITUC, the CITU, the HMS, the All India United Trade Union Centre (AIUTUC), the Trade Union Coordinating Committee (TUCC), AICCTU and the All India United Trade Union Congress (UTUC) and the All India Bank Employees Association (AIBE). International Metalworkers’ Federation affiliates - the Indian National Metalworkers’ Federation (INMF) and the Steel, Metal & Engineering Workers’ Federation of India (SMEFI) - also participated. Besides protesting the rise in prices of essential commodities, other demands made by the CTUs included concrete measures to protect recession-stricken sectors by offering a stimulus package, strict enforcement of labour laws and punishment to those violating them, creation of a national fund for the unorganised workers to provide for social security, and dropping the proposal to disinvest shares in PSUs. In Karur, 287 persons, including 84 women, were arrested when they attempted to picket Central government offices. Those arrested included CITU District Secretary G. Jeevanandam and trade union leaders Ambalavanan and Ramachandran. All those arrested were later released the same day.

Air India—unions decertified, leaders suspended and dismissed over safety issue: On 25 May, about 25,000 Air India

(AI) workers represented by All India Air Engineers Association (AIAEA) and the Air Corporations Employees Union (ACEU) went on strike after the company issued a gag order concerning a 22 May air crash in Mangalore, Karnataka. The AI strike came to an end on 27 May after the Delhi High Court ruled that the strike was illegal. AI then dismissed 58 employees, including JB Kadian, ACEU General Secretary, and suspended 32 employees including 15 engineers. AI also withdrew recognition from the ACEU and the AIAEA and sealed the offices of both unions located near Mumbai airport. On 28 June, the Delhi High Court directed AI to de-seal the union offices. On 31 October, it was reported that AI had reinstated 25 of the 32 workers suspended for their participation in the May strike. Of these, 24 are engineers who are members of the AIAEA while one employee is from the ACEU. On 11 December, it was reported that AI had reinstated six of the employees it dismissed after they went on strike in May. The other dismissed employees will be taken back after they send AI management letters expressing regret for their action.

Hyundai union strikes to reinstate workers: Members of the Hyundai Motor India Employees Union (HMIEU) went on strike on 6 June at the Hyundai Motor's plant in Sriperumbudur, Tamil Nadu, to demand the reinstatement of 67 workers dismissed after a strike in July 2009. After the July 2009 strike, the union and the company signed an agreement to reinstate 87 dismissed employees after a case-by-case review. The company has since reinstated 20 of these employees. The union demands the reinstatement of the remaining 67 employees. HMIEU leader Edison Pereira said the union has demanded the reinstatement of the 67 workers and also wants the company to recognise the union. He contended that the company management had not recognised the union, a registered body that was formed in 2007. On 8 June, police arrested over two hundred striking workers. The strike ended on 9 June when the union and the company agreed to establish a six-member review committee with two representatives from the union, company management and the labour commissioner's office to consider the reinstatement of 35 dismissed employees on a case-by-case basis. The remaining 32 workers will have to seek legal remedies in court.

Violence against workers: On 25 August, at Viva Global (VG), a garment manufacturer, thugs attacked 60 VG workers while they were on their way to work. Sixteen women were severely beaten, and Anwar Ansari, a Garment and Allied Workers Union (GAWU) leader, was kidnapped and beaten before being dropped near his home over 12 hours later. He was treated for multiple injuries. One of the thugs involved in the attack was identified as a labour contractor used by VG. The attack follows an ongoing workers' campaign to improve working conditions

at the factory. On 23 August, VG management attempted to prevent workers from entering the factory and told union leaders and workers that they would be beaten or shot if they continued their campaign. In a separate incident on 22 January, police cane-charged protesting members of the Unemployed Elementary Teachers Training (ETT) Union in Kapurthala, Punjab. Two union members were injured in the attack.

State civil servant unions struggle to implement Sixth Pay Commission: On 22 January, in Uttar Pradesh, about 1,600,000 Uttar Pradesh State employees who are members of the State Employees Union, UP Karmachari-Shishak Mahasangh, went on strike to protest a police cane-charge on union members. Union members demonstrated in Lucknow the day before over the State's failure to implement the provisions of the Sixth Pay Commission. Around a dozen union leaders were taken into custody after the demonstration. The State government threatened to invoke Essential Services Maintenance Act (ESMA) against them if they continued their strike.

In Jammu and Kashmir, the Employees Joint Action Committee (JKEJAC) and Joint Consultative Committee (JCC) members started a series of strikes in January and February to demand the immediate implementation of the Sixth Pay Commission recommendations. Police used heavy force on striking union members and detained many of them. On 13 April, the Jammu and Kashmir High Court invoked the ESMA and instructed the state government to intensify its efforts to break the strike. Strikes were eventually ended, but on 29 December, JKEJAC and JCC leaders headed by Khursheed Alam reminded Chief Minister Omar Abdullah of his promise regarding issuance of an order pertaining to release of arrears of the Sixth Pay Commission by 31 July. Other government employee strikes over Sixth Pay Commission issues took place in Manipur, Gujarat, Nagaland, Bihar and Jharkhand.

On 14 August 2008, the Union Cabinet approved the implementation of the recommendations of the Sixth Central Pay Commission with revised pay scales that were to be effective on 1 January 2006 and revised rates of allowances on 1 September 2008. The Cabinet decided that arrears would be paid in cash in two instalments: the first instalment of 40% during 2008-09 and the remaining 60% in 2009-10. Since then, state civil servant unions in many parts of India have struggled to enforce the Cabinet's mandate.

Norwera Nuddy Tea Estate – protest, harassment and death: In a dispute that resulted in a lockout on 14 September 2009, the Norwera Nuddy Tea Estate in West Bengal reopened on 12 December 2009. However, eight workers who were involved in an August 2009 demonstration against the company to protest

the abusive treatment of a fellow worker remain suspended. In addition, estate workers have not received any wages or rations owed to them from the period of the lockout. On 15 February, the estate's General Manager told two members of the Nowera Nuddy Workers' Action Committee that he would declare another lockout if they continued their protest activities on behalf of the suspended workers. In late April, local police issued arrest warrants for Arti Oraon and 11 other workers, including the suspended workers.

On 28 May, a 25-year-old pesticide-sprayer Gopal Tanti collapsed and died while working on the plantation. Mr Tanti was denied medical treatment and left to die in the field. Up to 500 workers protested his death and the lack of safety and health measures at the plantation. Management called the police, who opened fire on the protesters. Two men, Deep Sona and Ranjit Paharia, were killed and 15 others were injured. On 6 July, the Progressive Tea Workers' Union, organised under the Akhil Bharatiya Adivasi Vikas Parishad, threatened to shut down the four gardens of Tata Tea if the eight suspended workers of Nowera Nuddy Tea Estate were not reinstated in the next few days. Fifty union members demonstrated at the Deputy Labour Commissioner's (DLC) office in Jalpaiguri and demanded immediate discussions.

Employers attempt to bust unions: Various incidents of union busting were reported during the year. On 8 September at its plant in Sriperumbudur, Tamil Nadu, Foxconn, a multinational subsidiary of Hon Hai Precision Industry Co Ltd, refused to recognise and bargain with the Foxconn India Thozhilalar Sangam (FITS) Union affiliated with the Centre of India Trade Unions (CITU). In response, about 1,500 FITS members went on strike on 22 September but returned to work the same day after Foxconn management promised to discuss the dispute in the presence of District Labour Commissioner on 27 September. However, on 23 September Foxconn informed the workers that it had already entered into an agreement with the Foxconn India Thozhilalar Munnetra Sangam (FITMS) union and imposed eight-day suspensions on workers who participated in the strike. FITS members resumed their strike on 24 September. The company called the police, who arrested 1,500 workers, and Foxconn suspended 23 union activists. Police released the workers on the same day. As the strike continued, police arrested 250 striking workers on 7 October and released them later in the day. On 10 October, police arrested and imprisoned an estimated 320 strikers along with CITU State Secretary A. Soundararajan and Kanchipuram District Secretary and FITS President E. Muthukumar. On 13 October, 307 arrested strikers were granted bail but the 12 union leaders remained in prison, including Soundararajan and Muthukumar. On 1 November, the

12 union leaders were finally released. On 17 November, CITU leaders called an end to the strike.

At BYD Electronic (International) Company Limited (BYD), BYD Electronics workers held a meeting on 9 October to form a union with the help of CITU. In response, BYD management announced plans to lay off around 100 workers. On 21 October, workers conducted a one-day strike that forced management into talks at the Assistant Commissioner of Labour's office. Talks broke down on 27 October when BYD management insisted that they would not discuss contract workers' issues. On 1 November, BYD locked out its workforce, terminated 2,500 contract workers, fired 37 permanent workers, and suspended another two. In addition, the company ordered 437 other workers to sign a letter of apology to keep their jobs. The lockout was imposed after 3,000 workers held a three-day strike on 28-30 October. BYD workers returned to work on 22 November.

In Jaipur, Rajasthan, officials at the SMS Medical College threatened to dismiss 2,000 striking contract workers on 31 January. Principal Secretary, Health Education, CM said that the workers' demands were unjust and that the College has already issued new tenders for contract workers. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)-affiliated Schreiber Dynamix Dairies Employees Union, which represents 350 members at the Schreiber Dynamix Dairy (SDD) in Baramati, Maharashtra, launched a campaign earlier this year to address discrimination faced by contract workers. Contract workers are not covered by the collective agreement because of their employment status. Shortly after the union posted a notice calling for a general membership meeting on 14 April to discuss the union's demand to make contract workers permanent, police entered the factory and warned the union's President not to hold the meeting. The union proceeded with the meeting, and union members declared their support for contract workers' right to permanent employment. The following day, the workers held a mass rally to support the demand for contract workers. On 17 April, SDD prohibited the current contract workers from entering the plant and immediately replaced them with 300 new contract workers.

Over 190 nurses from the UN Mehta Institute of Cardiology and Research Centre at the Civil Hospital in Ahmedabad, Gujarat, were detained by police on 10 August for protesting outside the hospital over the dismissal of three union leaders. When the nurses formed a union on 6 August, management suspended three union leaders. Nurses want the suspensions lifted and their union recognised.

In New Shakti Nagar, Ludhiana, Punjab, more than 500 textile factory workers who are members of the Karkhana Mazdoor Union (KMU) protested on 26 August outside the Labour Commissioner's office. The workers, who work at more than 20 textile factories in New Shakti Nagar, went on strike on 24 August for higher wages. However, on 25 August factory owners told the workers that they had been dismissed from their jobs. Lakhwinder Singh, a union leader, said that workers were told that they have to stop their union activities if they wanted their jobs back. On 31 August, the strikes ended after factory owners entered into a written agreement with the union.

On 11 August, more than 800 striking non-teaching employees of Patna University and Lalit Narayan Mithila University of Darbhanga were suspended for violating a 10 August return-to-work order issued by the state Human Resources Department. More than 2,000 striking non-teaching staff of different universities in the state have been suspended for their failure to obey return-to-work orders. On 12 August, the strike launched by the Bihar State University and College Employees' Federation in support of its demands entered its 44th day.

Union leaders and workers arrested: Labour activists faced arrest and detention in the pursuit of their activities throughout the year. Police arrested many hundreds of protesting workers and union leaders. Some incidents included the following, but the list is not exhaustive: Punjab police arrested more than 100 teachers across the state on 11 February including Elementary Teachers Training Union (Punjab) (ETT) Jalandhar unit President Beant Singh. The arrests came after the ETT announced plans for a 12 February protest in Lambi. Striking weavers, including 118 women, were arrested after they staged a demonstration in support of a wage increase at Sellur City, Tamil Nadu, on 15 March. Marumalarchi Labour Front State Secretary Mahaboob John led the protest. All those arrested were released the same day.

Police detained nearly 500 protesting members of the Indian Link Workers' Union of Ahmedabad on 1 May in Ahmedabad, Gujarat. Most of those arrested were women. Union leaders arrested included Akash Shah, Vinod Pilvaikar, Pallavi Solanki, Ramila Rawal, and Bhanu Makwana. The protesters were later freed. On 11 June, Amargarh police in Uttar Pradesh arrested 25 Didar Steel workers on charges of criminal trespass when the workers protested at the mill over the company's failure to pay them their full wages. At Ramanathapuram, Tamil Nadu, police arrested 73 contract workers of the Tamil Nadu Electricity Board on 20 June when they protested to demand regularisation of their jobs.

In Chennai, nearly 2,000 workers, most of them women, were taken into custody. In Chennai, Tamil Nadu, leaders and members of the Tamil Nadu State Marketing Corporation Employees (TASMAC) Liquor Shop Workers Union, AITUC and ITUC affiliates, were arrested on 11 August when they attempted to demonstrate in front of the District Collectorate. Forty people were remanded to judicial custody. Those arrested included TASMAC State Secretary (CITU) Mr. Soundarapandian, TASMAC Vice-President S. Jayaprakasan, and Anna Thozhirsanga Peravai Secretary R. Chinnasamy.

Protesting workers locked-out: Various companies used lockouts against protesting workers during the year. (The following list is not exhaustive.) Lockouts occurred at the Bosch plant in Naganathapura, Karnataka, in response to a strike by MICO Karmikara Sangha-Naganathapura (MKS-N) union workers. Company officials locked out workers on 8 March. On 13 March, the lockout ended after an understanding was reached between the management and the union. Apache Footwear India Private Ltd (Apache) locked out around 6,000 employees at its factory on 9 March after workers walked off the job and demonstrated outside the factory. Apache management informed the employees that they were suspended without pay until the factory reopened on 17 March. Apache workers had walked off the job earlier in the year to demand better wages and work conditions. At that time, management responded with threats of "serious consequences" against workers if there were future industrial actions.

Similarly, on 11 June, Apollo Tyres announced a lockout at one of its factory in Perambra, Thrissur, Kerala. The company cited labour unrest in initiating the lockout. The lockout ended on 21 August after the company and unions settled on new work agreement. The three-year agreement was supposed to have been signed in November 2009. Rajasthan Explosives and Chemicals Limited (RECL) in Dholpur, Rajasthan locked out its union employees on 3 October. Union leader Ramesh Chandra said the lockout was illegal. After meeting with company, the lockout ended on 4 October. And finally, over 400 workers at three pharmaceutical production plants of Orchid, Qualpro and Zephyr Systems (Rowtech) in Verna, Goa, were locked out on 27 December after demanding a wage increase and an end to the recruitment of contract workers. The pharmaceutical workers are members of the Orchid, Qualpro and Zephyr, Verna employees union.

Harassment of union members: The Int Bhattha Mazdoor Union, which represents brick kiln workers in Ahmedabad, Gujarat, went on indefinite strike on 15 January. Union leader Sudhir Katiyar said that kiln owners tried to assault a worker at Dhedral village near Bavla, and similar incidents were reported

in Chhatiyada and in Gandhinagar. Union Secretary Dinesh Parmar said that employers had filed false complaints against workers with police. In another incident, on 8 August, the Karnataka State Road Transport Corporation Staff and Workers' Federation alleged that senior officials of the North East Karnataka Road Transport Corporation (NEKRTC) were harassing its union leaders. Federation Vice-President, Shoukat Ali Alur said that NEKRTC officials were transferring union leaders in reprisal for speaking out against the harassment.

Indonesia



POPULATION: 230,000,000
 CAPITAL: Jakarta
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
 - 111 - 138 - 182

The prevailing issues are anti-union discrimination, with employers forming yellow unions, refusing to recognise unions, dismissing union officers and/or filing criminal charges against union activists; and refusing to negotiate in good faith with unions, or even ignoring agreements. Also, massive violations of the law pertaining to contract labour and outsourcing took place and discrimination against women is still common, and women are still fired when they become pregnant. Most employers that hire contingent workers are doing so in violation of the law.

TRADE UNION RIGHTS IN LAW

Despite initial guarantees, trade union rights are not adequately secured in law. Although private sector workers are free to form unions, in order to register, a union must represent or receive the support of more than 50% of the total workforce in the establishment. Unions must also keep the government informed of changes in their governing bodies, and failure to do so can result in the loss of official recognition. A court can dissolve a union if its basic principles conflict with the Constitution or "Pancasila", the national ideology which puts emphasis on consensus and national unity. Once a union is dissolved, its leaders are not allowed to form another one for three years. Furthermore, while the right to bargaining is recognised, all collective agreements must be concluded within 30 days after the beginning of negotiations or be submitted for mediation, conciliation or arbitration.

The right to strike is seriously circumscribed by the fact all strikes must be preceded by a lengthy and cumbersome mediation/conciliation procedure, and a lawful strike can only be called as "a result of failed negotiations". Failure is classified as a deadlock "that is declared by both sides", which gives the employers unilateral power to stop a strike. Strikes are also banned in "enterprises that cater to the interest of the general public" and in "essential services", but the types of enterprises covered are not specified, leaving it to the government's discretion to decide on a case-by-case basis.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: New allegations of security force involvement in torture emerged in 2010. The military consistently shielded its officers from investigations, and the government made little effort to hold them accountable. The government did little to curb discrimination against and attacks on religious, sexual, and ethnic minorities. Authorities continued to invoke harsh laws criminalising those who raise controversial issues. Indonesia has imprisoned more than 100 activists from the Moluccas and Papua for "rebellion" for peacefully voicing political views, holding demonstrations, and raising separatist flags. Indonesia's criminal libel, slander and "insult" laws prohibit the deliberate "insulting" of public officials and intentionally publicising statements that harm another person's reputation, even if the statements are true.

Contract labour increasing: On 23 December, Indonesian Prosperous Labour Union (KSBSI) Chairman Reksan Silaban said outsourcing and the contract system had sharply reduced the number of permanent workers in the country from 67% of the total formal labour workforce in 2005 to only 35% this year, citing reports from the World Bank and the ILO. Reksan said outsourcing would continue to hamper industrial relations if no legal solutions were made to address the problem. On 1 February, 500 contract workers from PT Jakarta International Container Terminal (JICT) staged a protest before the main gate of Tanjung Priok Port, North Jakarta, to demand permanent employee status. "We have been working at the firm's main division for 15 to 20 years, but we have yet to be made permanent employees," said Sutimanto, Chairman of the JICT contract worker association. The labour law bans a company from using contract workers at its main division, Sutimanto added. Contract workers earn IDR 1.3 million (USD 140) a month, 10% of the wages earned by a permanent worker.

Child labour still widespread: A survey released on 11 February reported that an estimated four million children in the country were in wage employment with 1.76 million working

long hours, some for more than 40 hours a week. The survey, conducted by the National Statistics Agency (BPS) and the ILO, showed that of the total number of children aged 5 to 17, about 58.8 million, 4.05 million were reported as children in employment. "The term 'children in employment' refers to children aged 10 to 17 who are considered as employed by the standard definition," the report states.

Workers win court battle, successfully conclude agreements:

Workers secured better conditions in terms of wage increases and recognition of their unions in different sectors during the year. On May 14, the International Metalworkers' Federation (IMF) affiliate, Federation of Indonesian Metalworkers Union (FSPMI), won a major court battle involving the bankruptcy filing of PT Kymco Lippo Motor Indonesia. The Special Regional Court ruled that the company's moveable and immoveable assets, including land and buildings, be auctioned off to pay wages owed to the workers. In the garment sector, after a three-year campaign, the Indonesian garment factory PT Mulia Knitting Factory signed an agreement with SBGTS union affiliated with the Gabungan Serikat Buruh Indonesia (GSBI - Federation of Indonesian Trade Unions) in May. The agreement recognises SBGTS as the representative of their members at PT Mulia and provides compensation for five former employees who were dismissed in 2007 as a result of their union membership. And in January, the International Union of Food (IUF) affiliate, Kirin Miwon Foods Workers Union (SPKMF), requested to start negotiations with Kirin Miwon Foods (Kirin). Kirin initially refused to negotiate with SPKMF and refused to provide SPKMF with information relevant to the bargaining process. However, in late May SPKMF successfully concluded negotiations with substantial increases in wages and benefits.

Dismissal of union leaders: On 14 June, the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) protested the recent dismissal of seven PT Kayan Putera Utama Coal Union leaders by PT Kayan Putera Utama Coal at its Desa Separi mine near Tenggarong in the Kalimantan Timur coal fields.

Dismissal for union activity: Muhamad Husen is a member of the Framas Plastic Technology (FPT) Ltd union and works at the German-owned company in Jakarta. On 23 July, Husan questioned FPT company officials about a leaflet being distributed by company supervisors that called on FPT union members to stop paying union dues. When Husen asked who was responsible for the distribution of the flyer, the only response was that "it came from the top." Because the company would not tell him who was responsible, he referred to company officials as "cowards". The company dismissed Mr. Husen from his job on 30 July without providing any reason.

Strike for back wages: Over a thousand workers of PT Newmont Nusa Tenggara (PT NNT), a subsidiary of US mining company Newmont Mining Corporation, went on strike on 1 August over a dispute on the payment of back wages for overtime and demands for improved work schedules. The workers are represented by Ketua Serikat Pekerja Indonesia (KSPSI), Pelaksana Unit Kegiatan (PUK) and PT Newmont Nusa Tenggara (KSPSI-PUK-PTNNT). The workers demand for the payment of overtime pay was based on a ruling by the Regional Workforce and Transmigration Office of West Nusa Tenggara issued last June. The ruling ordered PT NNT to pay IDR126 billion (USD13.8 million) in overtime wages, some of which has been outstanding since June 2008, to 1,919 employees. PT NNT, however, refused to comply with the order and said it would appeal the issue to court. On 6 August KSPSI-PUK-PTNNT withdrew its strike after reaching an agreement with PT NNT to settle their dispute over overtime pay in court. PT NNT operates the Batu Hijau copper and gold mine in West Sumbawa and employs approximately 7,000 permanent and contractual workers.

Union members dismissed for striking: Beginning on 24 June, PT Oceans Timber Products (PT OTP) unilaterally changed the policy on annual, maternity and menstruation leave. PT OTP workers, represented by the Federation of Wood, Forestry and Agriculture Union (PKF - Hukatan) Affiliated to Confederation of Indonesia, objected to the change and informed the company that the changes violated labour laws. As tensions on the leave issue heightened, PT OPT informed workers on 15 July that anyone who engaged in a strike against the company would be considered to have resigned. When workers called off the strike on 19 July, PT OPT conditioned the workers' return to work on signing a letter of apology. PT OPT also subjected union workers to various forms of discrimination and retaliation for engaging in the strike. PT OPT made false allegations of theft against union member Ms. Lisnawata on 21 July. On 20 August, PT OPT laid off Ms. Lisnawata and three other union members. The case was pending at the time the report was released.

Violence against workers: In Tenggarang City at the PT Panarub Industry (PI) factory, dozens of striking SBGTS-GSBI Panarub Industry members were injured on 2 September when police and company goons attacked the strikers using tear gas and firing warning shots. One of the injured was SBGTS Board member Turi Dahlia. PI workers have been on strike since 31 August to protest PI's decision to give only five days of Ramadan holiday and the elimination of the religious holiday allowance. SBGTS-GSBI Board member Sari Idayani said that PI's actions are in violation of the religious holiday allowance provisions in Ministerial Decree number 04/1994. The PI factory employs 11,000 workers, mostly females, and produces shoes for Adidas.

Union leader arrested: On 9 December, Nurimah, Chair of the SP Kahutindo (Indonesian Forestry and Allied Workers' Union), the union that represents workers at PT San Yu Frame Moulding Industries (San Yu), was arrested and detained at the Women's State Prison in Bulu, Semarang. Nurimah was arrested on charges related to the alleged assault on a fellow worker in 2006. The union claims that the charges have been fabricated by San Yu in an attempt to disrupt negotiations and intimidate the union. This incident is part of a series of acts by San Yu that started on 12 January to intimidate the union and its leaders, which included the San Yu's establishment of a company dominated union.

Employers attempt to bust unions, create yellow unions: Hundreds of workers demonstrated outside PT Sumi Indo Wiring System in Purwakarta, West Java, after the company dismissed and suspended workers in retaliation for their union activities. Workers were attempting to organise the factory with Federasi Serikat Pekerja Metal Indonesia (FSPMI). The company emphasises that the workers are already organised under the Konfederasi Serikat Pekerja Seluruh Indonesia (All-Indonesia Union of Workers – KSPSI) and claims that the workers were not dismissed for organising a new union, but rather for using company letterhead to distribute information about FSPMI.

The PLN Workers' Union (PLNWI), whose members work for PT Perusahaan Listrik Negara (PLN), a state-owned electric utility, filed a criminal complaint with the National Police against the PLN's board of directors on 26 July over claims of union-busting. The complaint alleges that PLN President Director Dahlan Iskan withdrew previously enjoyed employee benefits and reassigned and dismissed several union members who had publicly opposed the firm's decision to increase electricity rates. The board also established a new trade union.

Beginning on 31 August, officials of the New Zealand International School (KFNZIS) in Jakarta began a series of acts to harass and intimidate school employees after they joined the Federation of Education Training and Public Service Union (FESDIKARI - KSBSI). School officials interrogated union members about the reasons they joined the union, telling school employees that their grievances would only be heard if they resigned from the union. The union's Chairman, Ignatia Widihiarsanto, was harassed, as was the union's Vice-chairman, Ahmad Safatila. And renewal of the employment of the union's Treasurer, Ms. Mujiyati, employment was made conditional on her resignation from the union. KFNZIS culminated its actions to bust the union when it dismissed the union's Chairman and Vice-Chairman on 30 September. The case was ongoing at the time of this report.

Agreements ignored: On 21 January, Itje Julinar, President of Public Services International (PSI) affiliate Serikat Pekerja Angkasa Pura I (SP AP 1 - Airport Services Workers Union), called on State-owned Enterprises (SOE) Minister Mustafa Abubakar to settle unresolved industrial disputes with the union to prevent a strike. According to the collective bargaining agreement (CBA) signed on 1 June 2006, state-owned PT Angkasa Pura (AP), which manages all airports nationwide, agreed to adopt the same pay scale enjoyed by other civil servants, provide pension benefits based on the workers' last salaries and offer healthcare schemes for retired workers. None of the provisions had been implemented. On 12 August, PSI welcomed the news from SP AP 1 - Airport Services Workers Union that the long-running industrial dispute was nearing an end, following the appointment of a new Board of Directors to the State Owned Enterprise Angkasa Pura 1 (AP1).

On 28 July, 800 dockworkers, led by the International Transport Workers' Federation (ITF)-affiliated Serikat Pekerja Terminal Petikemas Koja (SPTPK Koja), the seafarers' union Kesatuan Pelaut Indonesia and other unions demonstrated outside government offices in Jakarta. The unions demanded that Hutchison Port Holdings (HPH) and state company Pelindo 2, which jointly own the TPK Koja container terminal, implement the terms of a four-point settlement that was negotiated in April 2009.

Japan



POPULATION: 127,700,000
CAPITAL: Tokyo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 138 - 182

The increased prevalence of atypical work makes union organising and collective bargaining difficult. After 23 years of struggle, workers of the former Japan National Railways finally received substantial compensation. Trade union rights are guaranteed in the law but are limited in the public sector.

TRADE UNION RIGHTS IN LAW

While the Constitution recognises the right to organise and to bargain collectively, these rights are restricted in particular for civil servants, for employees of state-run companies and for employees of private companies that provide essential services.

Members of the police force, of penal institutions, of the maritime safety agency and of the defence forces also cannot organise. In 2009 the government revised the law governing fire-fighters and established a system of liaison facilitation, although the right to organise is yet to be granted. In local government, trade union registration regulations for public employees require the creation of separate unions in each municipality. Moreover, administrative and clerical workers do not have the right to bargain collectively as their wages are set by law and regulations. In the private sector, workers bargain collectively mostly at the enterprise level.

Public sector workers are banned from striking, and the laws provide that public employees who incite strike action can be fined, sentenced to up to three years' imprisonment, dismissed, reprimanded with a pay cut or disciplined. Private sector workers have the right to strike except in services deemed essential by the government.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In June, Naoto Kan, leader of the Democratic Party of Japan, replaced Yukio Hatoyama as Prime Minister after the latter resigned after only nine months in power. Naoto Kan became the fifth prime minister in four years.

Increased use of atypical workers cause difficulties for union organising: The number of atypical workers, including part-time employees, indirectly employed workers, dispatched agency workers, and workers on fixed-term contracts is growing. A Labour Force Survey conducted by the Ministry of Internal Affairs and Communications found that 34.5% of Japanese employees were non-regular workers in the period between July and September 2010.

Inadequate legal protection of these workers has spurred the development. The law stipulates that fixed-term contracts can be concluded for up to three or five years – depending on the worker's skill level – but there are no other legal provisions regulating the use of these contracts. The increased use of atypical workers undermines regular employment and makes union organising difficult. In the manufacturing sector in particular, disguised contract labour also has negative implications for working conditions and the health and safety of workers. The practice of undertaking business through holding companies and investment funds, both of which are not recognised as employers under Japanese law, has also caused significant difficulties for trade unions seeking to bargain collectively in such companies.

Immigration law amended to combat abuse of “trainee visa” system: The right to organise is further undermined by the abusive use of the Industrial Training Programme (ITP) and the Technical Internship Programme (TIP), which provide three year visas to unskilled foreign workers to come to Japan and receive training. Work permits are required and while workers have the right to organise, that right is indirectly undermined mostly through agreements between the trainees and the employment agencies in the sending countries. Despite promises of training in technological skills, many of the workers end up in sweatshops where they are forced to work long hours under dangerous conditions and for as little as half the minimum wage. The government amended the Immigration Control and Refugee Recognition Act in July 2009 (which entered into force in July 2010), revising the ITP and TIP and including new provisions. The full impact of the amendments is yet to be seen.

Victory for workers of former Japan National Railways after a 23-year long struggle: The National Railway Workers Union (Kokuro) and the All Japan Construction, Transport and General Workers' Union (Zendoro, currently Kenkoro-Tetsudo Honbu) have led a bitter struggle against the Japan Railway Construction, Transport and Technology Agency (JRTT). The basis of their complaint has been that their members were not hired by the new Japan Railways companies at the time of the division and privatisation of Japan National Railways in 1987 simply because they were Kokuro members.

On 28 June the Supreme Court finally settled the dispute between the 1,047 former workers and the JRTT. The agency agreed to pay a total of 20 billion JPY (22 million JPY per worker) in settlement money to 904 plaintiffs. However, as the workers were not reinstated, it was not a full settlement.

Korea

(Democratic People's Republic of)



POPULATION: 23,900,000
CAPITAL: Pyongyang
ILO CORE CONVENTIONS RATIFIED: Not a member state

There is no freedom of association in one of the world's most totalitarian regimes. The only trade union organisation authorised to exist – the General Federation of Trade Unions of Korea – is controlled by the ruling party.

TRADE UNION RIGHTS IN LAW

While the 2009 Constitution guarantees freedom of association and pledges that the state shall protect human rights, in reality trade union rights are essentially non-existent. A repressive system of labour control exists in the country, as the Constitution stipulates that the state shall organise labour effectively, strengthen labour discipline and fully utilise labour's working hours. All citizens of working age must work in full compliance with work discipline and working hours, and anyone that fails to carry out an assigned task properly is subject to at least five years in prison. The law also provides for the death penalty for any individual who hinders the nation's industry, trade or transport system by intentionally failing to fulfil a specific duty.

However, employees working for foreign companies can form trade unions by virtue of the Foreign Enterprise Law, which also stipulates that foreign enterprises must guarantee conditions for union activities. Still, the law contains no provisions to protect workers against employer retaliation, does not penalise employers who interfere in union matters, and fails to provide any basis to guarantee the right to collective bargaining. Activities at the inter-Korean joint Kaesong Industrial Complex are governed by a special law, which does not recognise freedom of association or the right to bargain collectively.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Like every year since 2005, the U.N. General Assembly issued a resolution condemning the gross violations of human rights in North Korea. In March, North Korea allegedly sunk a South Korean warship and in November a South Korean island close to the border was bombarded by North Korean

artillery, causing serious tensions between the countries. At the same time the North Korean people faced devastating food shortages at home, and the situation looks to get even grimmer in 2011. During the year, the ailing Kim Jong-Il's son, Kim Jong-Un, was also officially appointed heir to the leadership of the country.

Kaesong Industrial Zone – government control and no unions: Approximately 40,000 North Korean workers are making clothes, shoes, watches and other light goods in this zone, which has about 115 factories. The North Korean government selects worker representatives in Zone workplaces, subject to the approval of the South Korean company management.

Recruitment of workers to work in the Zone is controlled by the North Korean government. While article 32 of the KIC Labour Law states that workers should be paid directly in cash, in practice this does not happen. Since the Zone was opened, the North Korean government has demanded that all salaries be paid to the government, and Zone employers have acceded to this requirement. After making deductions for a government-controlled fund, the North Korean government pays the workers their salary. The continued use of this indirect payment system violates an agreement on the operation of the Zone made between the governments of North Korea and South Korea.

No freedom of association: Independent trade unions are prohibited, and the only authorised trade union organisation, the General Federation of Trade Unions of Korea, is controlled by the ruling party, the Korean Workers' Party. It operates according to the old "Stalinist" model of trade unions, with responsibility for mobilising workers to meet production targets and providing health, education, culture and welfare services.

Bargaining futile as government has totalitarian control: The government controls all aspects of employer-worker relations, including assigning all jobs and determining the wages. Hence there is no right to bargain collectively. Joint ventures and foreign-owned companies have to hire their employees from lists of workers vetted for their "ideological purity" and drawn up by the ruling party.

Korea, Republic of



POPULATION: 48,300,000
CAPITAL: Seoul
ILO CORE CONVENTIONS RATIFIED: 100 - 111 - 138 - 182

Police violence and criminal sanctions against strikers continued, resulting in serious injuries and mass detentions. Since the 2008 election of the conservative government, the Korean trade union movement has noted increasing repression and worsening treatment of its members. Employers systematically engage workers on precarious employment contracts specifically to prevent them from forming and joining trade unions. Trade union rights are restricted in the public sector, and amendments to the labour laws in 2010 banned wage payments to full-time union officials.

TRADE UNION RIGHTS IN LAW

While basic trade union rights are guaranteed, many excessive restrictions apply in the public sector. Numerous categories of public officials, as well as personnel dealing with trade unions or industrial relations, are denied union rights. Dismissed workers are also prohibited from keeping their union membership. Furthermore, public officials and teachers are prohibited from engaging in “acts in contravention of their duties” when conducting union activities – a provision that is open to abuse – and may not be involved in any sort of “political activities”. The right to collective bargaining is also limited in the public sector as laws and budgets prevail over any collective agreement.

The right to strike is recognised, but strikes that are not directly related to labour conditions are easily considered illegal – article 314 of the Criminal Code bars “obstruction of business”. Public officials and teachers are denied this right, and the list of “essential services” exceeds the ILO definition.

With the amendment of the Trade Union and Labour Relations Adjustment Act on 1 January 2010, wage payments to full-time union officials by employers were banned. A time-off system was instead established to prescribe the maximum number of union officials and hours for union activities for each workplace depending on its size. The amendment also brought positive change by allowing union pluralism at the enterprise level from July 2011; however, only a single bargaining channel is allowed.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Tensions between North Korea and South Korea are the highest they have been for a long time due to cross-border clashes, bomb tests and the sinking of a South Korean naval ship in March 2010, in which 46 sailors died. Violations of trade union rights appear to be on the increase. The economic downturn has intensified conflicts in industrial relations as enterprises seek short-term policies of mass dismissals and unilateral cuts to wages and working conditions.

“Illegal” strikes and police violence: Collective action often becomes “illegal”, even when it is not in essential services, given the complicated legal procedures for organising a strike. The government continued to repress such action severely, including the imprisonment of hundreds of trade unionists. In the majority of cases, the principal charge was “obstruction of business”. Unionists striking “illegally” often receive a one-year prison sentence or heavy fines. Imprisoned trade unionists are generally isolated from one another in order to prevent them from taking collective action while in jail.

The authorities use the violence that takes place in some demonstrations and strikes to justify the detention of trade union leaders; however, unions insist police action is unnecessarily provocative and disproportionately brutal. Prosecutors are quick to issue arrest warrants as soon as workers go on strike, or sometimes the moment a strike is announced. Police or security agencies mount surveillance operations, some of a sophisticated nature, in order to capture the strike leaders. This surveillance is sometimes carried out on members of the trade unionists’ families. Unions’ offices and telecommunications are routinely monitored.

“Paper unions”: In a context where trade union pluralism is prohibited by law at the plant level, many employers have resorted to creating management-controlled unions, known as “paper unions”. As they are impossible to democratise from within, owing to management’s hostility, and since the law forbids the organisation of alternative unions, workers are left with few, if any, rights and cannot engage in genuine collective bargaining. The continued ban on union pluralism at the plant level reinforces the negative impact of these “paper unions” in denying workers their collective bargaining rights.

OECD criticises Korean government interference in unions: In May a senior policy advisor of the Trade Union Advisory Committee (TUAC) to the Organisation for Economic Co-operation and Development (OECD) stated that the Korean government is interfering excessively with labour-management relations and

that the policy of limiting wage payments to unionists did not conform to international standards. He also commented that the Korean time off system for union officials was introduced to weaken unions as was the fact that workers had to cover all union expenses unlike in other nations. The OECD was in South Korea to conduct an investigation into the deteriorating situation of labour rights and determine whether to include South Korea in its special monitoring.

Repression of migrants union and crackdown on illegal migrants: Migrant workers are subject to serious abuses of labour rights. While the laws offer them similar protection to local workers in terms of wages and basic conditions, in reality most are paid far less than their Korean counterparts, forced to work long hours and often have their wages withheld. They are tied to their employer and face restrictions in changing jobs, making them particularly vulnerable.

As of October 2009, there were about 680,000 migrant workers in South Korea, mainly working in factories producing textiles and electronics, but also involved in prostitution. In September 2008, the government announced it would halve the estimated 220,000 illegal migrant workers by 2012 and has increased the sometimes violent deportation raids in workplaces and homes.

The Migrants' Trade Union (MTU) was founded in April 2005 and is a member of the Korean Confederation of Trade Unions (KCTU). However, the government has consistently refused to recognise it as a legal union and has not let it engage in trade union representation or collective bargaining, despite the fact that Korean law allows all workers to organise and that in 2006 the Seoul Higher Court recognised MTU as a legal union. The government has appealed this decision and has arrested and deported MTU leadership several times since 2005.

In November, a day after the close of the G20 summit, Michel Catuira, president of the Seoul-Gyeonggi-Incheon Migrants' Trade Union, was summoned to appear before the Immigration Office for unlawful political activities.

Casualisation and restricted trade union rights: Korea already has very high levels (more than 50%) of labour casualisation, but according to unions, recent initiatives to privatise and merge public utilities are leading to increases in this figure, a rapid rise in laid off public employees, increased job instability and lowered working conditions for those remaining in employment. Casual workers have restricted rights to organise.

In February 2010, estimates showed that more than five million workers, or one-third of the South Korean workforce, have

already been made contract workers, receiving just 60% of the average wages of permanent workers. According to the Korean unions, the new "National Employment Strategy 2020", a government initiative to raise employment, includes provisions that will further deregulate private employment agencies, expand indirect employment, and increase precarious employment.

Unilateral cancellation of collective agreements: The current legislation allows for the unilateral cancellation of a collective bargaining agreement, a clause which is often used by employers. As of May 2010, 41 enterprises had unilaterally cancelled collective agreements.

HSBC bank workers denied the right to bargain collectively: HSBC bank workers and their union have been negotiating with HSBC Korea since June 2009, but management reportedly refused to continue to meet with the bank union since 7 January 2010 despite the national labour office calling the bank to compulsory meetings at the start of January.

Court rules in favour of arrested Ulsan Construction Plant workers: On 15 January 2010 a South Korean court ruled once again in favour of the Ulsan Construction Plant Union members who had peacefully participated in a protest in Seoul on 23 May 2005. At the time, over 700 union members took part in the protest to highlight an ongoing general strike the union had launched on 18 March 2005. Even though they had an official permit to conduct the protest, the police declared the demonstration to be illegal and arrested everyone present. The union members were eventually released after agreeing to pay fines. The court decision is final, and union members can now seek repayment of their fines – estimated to KRW 30,000,000 (EUR 19,700).

Civil servants union harassed and refused recognition: The newly organised union of civil servants, the Korean Government Employees' Union (KGEU), has been struggling for official recognition as the labour ministry has three times refused to recognise it because its membership reportedly contains dismissed public workers and non-civil servant staff. The union denies having dismissed workers as members and says staffers account for only eight of some 100,000 members. A lawsuit has been filed against government officials for abuse of authority.

In March 2010 a rally planned by the KGEU was termed an "illegal collective action". After the rally the Ministry of Public Administration and Security said that KGEU had violated the law by pushing through with a launching ceremony and that it (the Ministry) would fire 18 union leaders, including 13 headquarter heads including the KGEU Vice Chairman Park Yi-jae and

Secretary General Ra Il-ha. The authorities also stated that they would punish all government employees who attended the rally after confirming their identities and ban all the union's activities including establishing an office, picketing and leafleting. It would also impose up to KRW 5 million (EUR 3,270) in fines.

By banning all activities under the KGEU name, the Ministry has virtually rendered the union unable to function. According to the KGEU, the union is not an illegal group but a union undergoing the formation process according to the law; notification documents of a new union have been filed with the Labour Ministry, but these have been returned.

Korean Railways deny chances of scholarship to children of strikers: In May it was reported that Korea's railway operator Korail and its subsidiary railway scholarship foundation decided to reinstate a provision which disqualifies the children of employees who have been given internal disciplinary action over the past five years from receiving scholarships. This provision drew protests from the workers' union.

Korail said that this was a previous provision of its scholarship foundation, abolished in April 2009 but reinstated from December 2009. The Korea Railway Workers' Union (KRWU) said that the provision was specifically established when Korail was taking disciplinary action against unionists who had participated in an eight-day strike in November 2001 to punish the children of the 12,000 union members who joined the strike. The scholarship program offers a maximum of KRW one million per semester for university students. Korail refuted the union's claim, saying that the provision has been on the books since 2004 and was only removed accidentally.

Media workers fired for striking: Workers at MBC TV went on strike for 40 days after a conflict over editorial independence. In the run-up to local elections the workers decided to return to work to help with the workload. Despite this Lee Keun-Haeng, president of MBC TV union, was dismissed on 4 June just after the elections. Forty other union members, producers, reporters and technicians were given disciplinary notice of suspension, wage reductions and warning letters by the management as a result of their participation in the strike.

Three Ssangyong Motor union leaders remain in jail while others freed: According to the Korean Metalworkers' Union (KMWU), on 9 August 2010, following a KMWU appeal, the Seoul High Court reduced the sentence of Mr. Han Sang-kyun, former Chair of the KMWU Ssangyong Motor Company Union, from four years to three years. The court also freed 21 other trade unionists imprisoned in the same case. However, they are all released with a three- or four-year suspended sentence,

which means that if arrested during this period they will have to serve the full term of their court sentences, inevitably resulting in severe restrictions of their union activities. Mr. Kwon Sun-man, a KMWU vice president, was set to be released in October while KMWU executive member Mr. Kim Hyuk, is still serving a four-year sentence.

The unionists were imprisoned in 2009 after a 77-day strike by the Ssangyong Motor Company Union started after the company ordered mass dismissals without notifying the union and thus in violation of the existing collective agreement. In August 2009 Ssangyong Motor management also broke off negotiations and organised riot police to storm the plant's paint shop where around 700 workers had held a sit-in strike since May. Most of the strikers have had difficulties finding new jobs because they have been blacklisted in the local community.

Korean metalworkers protest dispersed by riot police: On 21 October 2010, the Korea Electronics (KEC) factory local union branch of the Korean Metal Workers Union (KMWU) began a sit-in to protest lay-offs and union repression. However, the company as well as local authorities and the government mobilised 1,000 riot police to contain the protest. The police prevented solidarity groups from bringing food and first-aid to the factory and deployed water cannons to harass the workers. Five union members were seriously injured when a police helicopter flew over them at low altitude. Kim Joon-il, the president of the regional branch of KMWU, was faced with police hoping to arrest him when he turned up to the place the company had said was the negotiation venue. He then set himself on fire in protest and was later taken to hospital in a serious condition.

On 3 November, the company promised to resume negotiations, and workers suspended their action. However, by the end of the year no negotiation session had taken place and instead four union members were detained.

Contract workers hired after strike: In November the Korean Metal Workers' Union (KMWU) reached an agreement with Kiryung Electronics over a strike concerning contract workers. Precariously employed women workers at Kiryung Electronics had formed a union in July 2005. On 24 August 2005, the KMWU members started a strike when the company, contrary to promises, had failed to directly employ and had instead sacked dispatched workers that the company claimed were sub-contracted. In the November 2010 agreement, the company promised to hire the remaining ten union members on strike into permanent positions and both sides agreed to withdraw their lawsuits. The case is particularly significant as it is the first time in Korea that an employer has agreed to directly hire dismissed irregular workers into permanent positions.

Hyundai Plant refuses to negotiate with union – strikers dismissed: On 22 July 2010 the Supreme Court ruled on a case filed by former in-house subcontracted workers at Ulsan Plant of Hyundai Motors and essentially stated that when an in-house subcontracted employee had been employed for longer than two years under the employers supervisions, s/he shall be treated as being directly employed by the contractor employer (Hyundai Motor). The court thus confirmed Hyundai Motor's responsibility to employ in-house subcontracted workers directly. Shortly after the ruling, the Korean Metal Workers' Union (KMWU), representing the in-house subcontracted workers at Hyundai Motors, asked the company for collective bargaining on direct employment, but management refused, saying that the union is not its bargaining counterpart.

On 4 November the KMWU filed a lawsuit demanding that in-house subcontracted workers with the service period of two years or longer should be moved to a regular job and compensated for the differences in lost wages – they earned around 50-60% of the wages of direct employees. The KMWU also submitted an application for mediation of an industrial dispute over collective bargaining with Hyundai Motors to the National Labor Relations Commission. The union also conducted strike votes among the unionised non-regular workers in several plants, with the majority voting for a strike.

On 15 November subcontracted workers from one plant were unexpectedly dismissed due to the sudden closure of the subcontractor. Hyundai Motor refused to hire the workers directly and instead asked them to sign a contract with a new contracting firm when and if they withdrew their membership from the KMWU. Forty of them then held a protest, stopping production. They were all immediately arrested by the police after only one hour of protest. After that, 500 workers gathered, and an overall strike was called.

On 9 December the workers agreed to end the strike after facing mounting pressure and a reported KRW 16.2 billion in damage suits. The Central Labour Relation Committee had decided the strike was illegal, and the police issued arrest warrants for 16 union leaders and members. Three unions, including one representing the contract workers, met and agreed to halt the strike on the condition that management would negotiate in good-faith to make the workers full-time Hyundai staff. The strike had been met by beatings and tear gas by local police – scores of contract workers were arrested, and one contract worker attempted to set himself on fire during a rally on 20 November.

More than 1,500 especially subcontracted workers have been unionised since the Supreme Court ruling in July.

GM Daewoo workers hold high altitude protest against anti-union behaviour: On 1 December 2010 two members of the GM Daewoo Irregular Workers Chapter of the Korean Metal Workers' Union's Incheon Local Branch climbed the arch that stands ten meters above the entrance to the factory in Bupyeong and began a 'high-altitude sit-in' that lasted beyond the end of the year. In addition, on 20 December, Sin Hyeon-chang, president of the GM Daewoo Irregular Workers Chapter, began a hunger strike, camping out overnight near the factory.

The workers are demanding the reinstatement of 15 union members among those laid off under the pretext of disciplinary action directly after the union chapter was founded in September 2007. Despite the fact that the Labour Standards Act protects the right of all workers to form trade unions, GM Daewoo response was to fire all the officers. The workers are also asking management to recognise the union and regularise irregular workers. Management has refused to address these issues and has continuously rejected negotiations.

Police officers stationed near the protest site have also prevented supporters from lifting weatherproofing equipment up to the workers living on the arch. They are now suffering from hypothermia and frostbite.

Bus workers' strikes met with violence: On 8 December, some 7 local union chapters of the Bus branches of Korean Transport Workers Union (KTWU) went on strike demanding union recognition, minimum wage, working time reduction, and fair allocation of buses. The companies immediately dispersed thugs and substitute workers to break the strikes, and the police arrested 76 union members on the first day of the strikes.

183 members of the Korean Teachers and Educators Union dismissed for supporting opposition: On 23 May 2010, 183 members of the Korean Teachers and Educators Union (KTU) were dismissed from their posts for allegedly joining the Democratic Labor Party (DLP), an opposition party, based on the fact that the individuals made private donations to the DLP. Jeong Jin-Hoo, president of the KTU, began a hunger strike in protest. The Ministry of Education, Science and Technology made its decision to dismiss the teachers for breaching a political neutrality clause that teachers and civil servants are expected to follow under the Civil Servants' Law.

The decision was postponed awaiting legal judgement, but in October the Ministry again ordered each provincial education office to proceed with the immediate dismissal of 134 of the teachers as from 1 November, before the official court's verdict. Four others would be suspended. Of those fired, 50 teachers who publicly denounced the government would be dismissed

without benefits, depriving them of pensions and other perks given to civil servants. The dismissal process was expected to take about 60 days. Some unionists began hunger strikes and were planning anti-government demonstrations.

Unionists state that school principals who have made donations to the ruling political party, on the same basis as the 183 teachers, have never been subject to the same harsh disciplinary measures from the political authorities and that there is a catalogue of disproportionate disciplinary measures taken against KTU leaders and members who take part in trade union activity, amounting to union discrimination.

In 2009, 16 KTU officials had been detained after a march denouncing the government's decision to punish 88 KTU teachers who were considered to be the instigators of a "Declaration of State Affairs" signed by 17,000 teachers.

Laos



POPULATION: 6,300,000
CAPITAL: Vientiane
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 111 - 138
- 182

Trade union rights are severely restricted. The only trade union organisation in Laos is closely linked to the Lao People's Revolutionary Party, the only political party recognised in law.

TRADE UNION RIGHTS IN LAW

While the Constitution guarantees some freedoms to Lao citizens, there is little room for trade union activities in the law. All unions must belong to the Lao Federation of Trade Unions (LFTU), which is directly controlled by the ruling party. The law further prohibits union members from organising an "illegal group, gathering, or protest and acts" that are found to damage the union as well as the interest of the state or the collective interest. Those who join an organisation that encourages protests, demonstrations and actions that might cause "turmoil or social instability" face imprisonment of between one and five years. Furthermore, the law meticulously regulates the internal organisation of unions, and stipulates that only Lao nationals can become union members.

While protection against anti-union dismissals is secured, the law does not protect workers against retaliation short of dismissal, e.g. transfers for "disciplinary reasons". In the Labour Law, unions are only acknowledged in the context of identification of workers for redundancy, the possibility to negotiate on wage levels and to assist individual workers in settling disputes. Finally, the dispute resolution system fails to provide any possibility of legal strike action, as all disputes must be settled by negotiation, mediation, arbitration or by the People's Court.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Despite a progressive opening to the outside world, Laos remains a one-state party, run by the Lao People's Revolutionary Party (LPRP) which exercises strict control over the whole of society. Investors are taking control of large parts of the territory for hydro electric projects, mines, forests and plantations but the compensation given to the dispossessed inhabitants is too low and this is a source of tension.

Union and party hand in glove: Given that the Lao Federation of Trade Unions (LFTU) and the Lao People's Revolutionary Party (LPRP) are so closely knit, the LFTU effectively enables the party to control the workers. In its official declarations, the LFTU frequently speaks of its collaborative role with the government to ensure enforcement of the labour law so that the rights of both workers' and employers' are protected and as a formulator of future labour laws. This LFTU's quasi-state function means it has a dual role as both a controller as well as a potential protector of labour.

Factory level LFTU representatives are usually LPRP members and/or part of the management of state-owned or private companies. There is little evidence that the union is able to effectively protect workers' rights in particular in private sector companies where the LFTU has admitted having limited access to workers.

In practice, the International Federation for Human Rights criticises the systematic non-application of labour law which deprives Lao workers of their rights.

Repression of the freedom to demonstrate and of association: Four leaders of the "Student movement of 26 October" remain in prison, 11 years after organising a peaceful protest in Vientiane in October 1999 for social justice, democratic reform and the respect of human rights. They are Thongpaseuth Keua-koun, Sengaloun Phengphanh, Bouavanh Chanmanivong and Keochay (their comrade Khamphouvieng Sisa-At died in prison in 2001 as a result of torture and ill treatment). Nine other

people, one a mother of three children, remain in prison for taking part in a demonstration to Vientiane demanding justice and respect for their fundamental rights.

Macau SAR (China)



POPULATION: 476,700
CAPITAL: --
ILO CORE CONVENTIONS RATIFIED:

While a new labour law was passed in 2009, Macau remains without universal freedom of association. Strikes are rare and difficult to organise successfully, and there is little practical protection against the blacklisting and sacking of strikers. Collective bargaining is weak, and the power of pro-establishment, pro-Beijing unions remains strong despite new and independent trade unions. In 2010, migrant workers complained over a new and potentially discriminatory law for migrants while concern remains over trafficking. A May Day rally turned violent after police intervened and one unionist was arrested.

TRADE UNION RIGHTS IN LAW

Problematic areas remain in the legal framework for trade unions despite the adoption of a new labour relations law in 2009. Freedom of association is guaranteed under local law, and the law prohibits the dismissal of workers on grounds of their membership of a union or their union activities. However, the new labour relations law fails to provide adequate protection for part-time workers and migrant workers whilst providing excessive flexibility to employers. The Guidelines on the Professional Ethics and Conduct of Public Servants also appear to require civil servants to seek prior permission from managers before joining a trade union. Furthermore, while Macau legislation provides that agreements concluded between employers and workers shall be valid, it does not explicitly state that such agreements should be concluded or that they should involve collective bargaining.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: While economic growth slumped sharply in the wake of the global financial crisis, the casino construc-

tion boom has restarted again. Unrest over the importation of migrant workers at low wages has increased along with worker protests. National security laws passed at the end of 2008 could lead to the restriction of union activity on grounds of subversion, sedition or succession. Corruption remains a problem, and the government is still very much under the influence of the central government.

China's influence over union activity: It is widely believed that the central government of the People's Republic of China has a strong influence over local trade union activities, including the direct selection of the leadership of the largest private sector union, the Federation of Trade Unions. Nearly all of the six main private sector unions belong to this pro-Beijing federation. This has undermined the independence of trade unions, since support for central government policies, such as the minimisation of workplace disruption, overrides the protection of the rights and interests of trade union members. There have been reports of intimidation of those who do speak out against the Beijing government both politically and in terms of labour rights. Civil society is weak, but there has been a growth of smaller and more vocal trade unions, alongside a growth in civil society associations.

Difficulties in registering organisations and trade unions: In practice, many labour groups and unions find it difficult to register as organisations, and informal worker groups are not permitted to exist. In many cases organisers are asked to submit the names of potential members before registration. However, due to fears of retribution and blacklisting, many supporters are unwilling to provide full details.

Employment relationships one-sided: It is common practice in Macau for workers not to have formal employment contracts with their employers. The power of employers to unilaterally change the wages and working conditions of employees or to terminate employment is therefore unchecked. In the context of this employer power and with no legal-institutional framework for collective bargaining or for employment contracts, workers are easily victimised and discriminated against for their union activities. The use of temporary contracts has also been increasing, making workers even more vulnerable to abuse and intimidation.

Migrant workers denied rights: Migrant workers are denied basic forms of protection and have no right to collective bargaining and no effective legal recourse in the case of unfair dismissal. Most generally earn less than half the wage of local workers employed at the same job, and contracts are between labour recruitment agents and the employer, rather than directly

between the employee and the employer. There is also little supervision of recruitments agencies and their fees.

The new law on the Employment of Foreign Employees from October 2009 remains discriminatory and is too vague. The bill imposes a levy on employers of non-resident workers, gives a six month re-entry ban on workers who terminate their contracts and prohibits the transfer to other job categories. In May 2010 migrant workers held a protest against what they see as anti-migrant policies.

Rising wage arrears and lengthy procedures for remedy:

With more foreign investment in the SAR, the increasing use of sub-contractors and the use of less-protected migrant workers, wage arrears has become a common problem, especially in the construction sector. The procedure to get wage arrears in front of the Labour Bureau is lengthy and cumbersome. According to the Civil Servants Union, a simple labour dispute could take one year to process by the Bureau followed by another two years in court. The majority of migrant workers cannot afford to wait this long, and many leave within this period.

Blacklisting unionists and denial of re-entry to Macau: The Macau SAR Government is believed to keep a blacklist of local workers who have supported local strikes and regularly denies entry to "trouble-makers".

Six-month ban on migrant workers discriminatory: In April 2009 the Law for the Employment of Non-residential Workers, or the Law on Imported Labour, came into force with the aim of safeguarding the employment of local workers and restricting the hiring of migrant workers. The law means that migrant workers who lose or end their contracts face an effective six-month ban from seeking new employment in Macau, and many believe the law could be used by employers seeking to unfairly get rid of employees. Migrant worker groups in Macau have expressed concern over reports that some 382 migrant workers have already been affected by the law and banned for six months. They have also expressed dismay at the way the law is being implemented: without due process and with an appeal process that can take up to a year. Visas may not be extended during this time.

One example given is that of an Indonesian sacked by her employer after taking the mandatory statutory holiday (1 May) despite being told she could not. The employer told immigration she had absconded, and she was then banned from the territory for a six-month period. However, even though she appealed the decision, she was only given a ten-day visa and thus had to leave Macau before her appeal was heard. Even if the appeal was upheld, she would not be able to find new

work in Macau, as she would have to re-enter on a tourist visa and the Macau authorities have announced that they would not allow such persons to be granted working permits.

Union leader arrested during violent May Day protest: Lei Sio-kuan, president of the Macau Workers Power Union - one of the five protest organisers - was arrested for assaulting an Australian during a May Day rally attended by around 1,000. Lei himself denies the assault. According to official reports some 41 people, including 32 policemen and two journalists, were hurt, although these figures were given at a later stage. Four were hospitalised.

Some 350 riot police used water cannons and pepper spray when marchers tried to force a way through barricades while the protesters reportedly responded with rocks and bottles. The protest continued until early the next morning. One unionist later said police used excessive force and anti-riot tactics. Workers also reported that the authorities had rejected their proposed march route on short notice and that they had had no time to develop a new proposal. May Day rallies have become increasingly large and volatile in the past few years as complaints over corruption, low pay and migrant workers have increased.

Malaysia



POPULATION: 27,500,000
CAPITAL: Kuala Lumpur
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105
(denounced) - 138 - 182

Anti-union attitudes still persists among private employers and collective bargaining agreements are not always respected. Abuse of migrant workers is widespread and forced labour remains a serious issue. The authorities continue to have far-reaching powers to regulate trade unions, which operate in a restrictive legal environment.

TRADE UNION RIGHTS IN LAW

The restrictions that apply to trade union rights are extensive. While freedom of association is guaranteed in the Constitution, the Director General of Trade Unions (DGTU) within the Ministry of Human Resources has vast powers to refuse to register a union or withdraw union registration, and her/his decisions can-

not be appealed in court. In addition, a union must also obtain recognition from the employer, and may be suspended by the authorities for up to six months if deemed in the interest of national security or the public. Trade union membership is limited to workers in similar trades, and the DGTU can determine the sector and category in which a union may organise.

The right to collective bargaining is restricted and many important issues fall outside the scope of bargaining. The Minister of Labour can also initiate compulsory arbitration at her/his own volition. Unions in the public sector have merely a consultative role, and can only “express their point of view”.

Furthermore, the right to strike, although not specifically recognised, is very limited, and the procedures prior to a strike are cumbersome. Unions may not strike over disputes relating to trade union registration or illegal dismissals, and both sympathy strikes and general strikes are forbidden. Participation in an unlawful strike carries hefty penalties.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Malaysia still enforced the Internal Security Act (ISA) and other detention-without-trial laws. The Barisan Nasional (BN - National Front) government continued to use repressive laws to repress civil society and the media. Over 60 individuals, including Selangor state assemblyperson Dr Nasir Hashim and other state law-makers, were arrested for exercising their right to assemble peacefully on 5 December. Police continued the arbitrary use of lethal force in their duties killing 17 and two cases of custodial deaths. The trial of Anwar Ibrahim, a key figure in the Malaysian opposition, started with doubts over it being independent and fair. The Malaysian Trade Union Congress (MTUC) protested against proposals to introduce amendments to existing labour laws, urging the government to implement minimum wage laws. The only group that benefited from the setting of a minimum wage was the Ikatan Relawan Rakyat Malaysia (RELA) when RELA members work as part-time security guards. RELA is regarded as a vigilante arm of the government that arrests, detains, and harasses migrant labourers.

Ban on general confederations: Because of the ban on forming general confederations of trade unions, the Malaysian Trades Union Congress (MTUC), which covers both private and public sectors and has 500,000 members, is not recognised as a trade union confederation in law. Instead, the MTUC is registered under the Societies Act and therefore does not have the right to conclude collective bargaining agreements nor to undertake industrial action.

Vague laws open up to abuse by employers: The law forbids managers and workers in executive positions from organising, but a definition of this category of workers is not provided in the law. This has led to extensive abuse by most employers to deny union membership rights and remove experienced union leaders, often by interpreting the managerial and executive category as including supervisors, assistant supervisors, section leaders and lower-level supervisory personnel. Another legal provision that is widely misused by the employers concerns the requirement that trade unions apply for recognition from the employers. The latter use this to delay union recognition and thwart efforts by unions to organise and bargain collectively.

Union recognition is arbitrary and extremely slow: Obtaining a response from an employer to a request for union recognition should take a maximum of 21 days. However, in reality this takes much longer if a dispute occurs, because the matter must be taken to the Director General of Industrial Relations, the Director General of Trade Unions (DGTU) and then the Minister of Human Resources, who has the final say, unless that is challenged in the High Court. Some applications take as long as three to five years.

In a previous complaint to the ILO, the Malaysian Trades Union Congress (MTUC) listed cases in which the DGTU had arbitrarily denied organisational and collective bargaining rights to more than 8,000 workers in manufacturing companies. Longstanding complaints from the MTUC and its affiliates over the cumbersome process to obtain union recognition and collective bargaining have also remained unresolved despite changes to the Industrial Relations Act. The amendments stipulated specific measures to resolve the unions’ claim for recognition within a period of six months. Unfortunately, government authorities have claimed that they cannot enforce the amendments because of the absence of appropriate regulations.

Inefficient labour courts: So far, the government has failed to apply any sanctions against employers who have opposed its directives granting trade union recognition or who have refused to comply with industrial court orders to reinstate illegally dismissed workers. In some cases, companies have used tactics such as changing their name to thwart workers’ legal efforts.

Government must act on abuse of migrant workers: On 24 March, Amnesty International released a report urging the Malaysian government to act to combat widespread abuse of migrant workers and reform labour laws to give them better protection. Michael Bochenek, Amnesty’s director of policy, said “There is no effective system either of workplace inspection... nor is there any effective redress for workers who want to bring individual complaints.” Malaysian firms depend on foreign

labourers, with migrants making up more than a fifth of the country's work force. Around two million labourers are thought to work legally in the country with another one million working illegally.

Throughout 2010, the Malaysian Trade Union Congress (MTUC) received more than 400 complaints from migrant workers relating to non payment of wages, arbitrarily and unexplained wage deductions, breach of the labour laws on working hours, overtime pay, annual leave, paid public holidays and weekly days of rest. In a number of cases, MTUC found that affected migrant workers were repatriated before labour court proceedings could decide on the complaint. The government maintains contradicting regulations on the right of migrant workers to join a trade union. The Ministry of Human Resources says that migrant workers can join a trade union but the Immigration Department under the Home Affairs Ministry continues to maintain a condition in the work permit prohibiting union membership.

On 18 May, Malaysia's Prime Minister Najib Razak said that officials had failed to settle a dispute over working conditions for Indonesian maids in his country after Jakarta banned the flow of such migrants. Najib said the two sides still had to agree on a minimum wage after talks with Indonesian President, Susilo Bambang Yudhoyono.

Government frustrates union recognition: In early January, the Electrical Industry Workers' Union (EIWU) highlighted a series of recognition claims pending since 2007 and 2008. They cited the case of Panasonic Communication that has been pending for over 14 months and the case of Panasonic AVC Networks since February 2007.

FBC fails to abide by CBA: Federal Power Cables (FBC) has failed to abide by provisions of its collective bargaining agreement (CBA) with the International Metalworkers' Federation (IMF) affiliated Electrical Industry Workers' Union (EIWU) when it refused to grant the contractually required bonus and annual wage increments to more than 300 EIWU members. After EIWU attempts to negotiate with FBC on the wage issues failed, about 200 EIWU members began a peaceful picket in front of the company plant on 19 May. Maniyan Poovan, General Secretary of EIWU, said that FBC has overtly engaged in illegal actions in an attempt to bust the EIWU. The FBC's Managing Director has openly stated that he does not like national unions like the EIWU, but preferred in-house unions. He has also offered incentives for EIWU members to leave the union by granting them conditions of employment more favourable than those contained in the CBA. FBC management officials started issuing 'show-cause' letters to workers who took sick leave and approved annual leave. EIWU shop stewards have also received

the show-cause letters which could lead to disciplinary action, including dismissal. Maniyan said the picket would continue in an effort to resolve the pending disputes.

Employers attempt to bust unions: Since a labour dispute between Airod and the Airod Executives Union (AEU) was referred to the Industrial Court two years ago, Airod officials have harassed and retaliated against the union and its members in an attempt to bust the union. First, Airod unilaterally withdrew the union's dues check-off provisions that have been in effect since 2001. Airod then announced annual salary increments for all employees, including management staff, but specifically excluded all members of the AEU. In January, AEU filed unfair labour practice charges with the Director General of Industrial Relations (DGIR). The DGIR has done nothing for six months to resolve the problem.

French-owned Clipsal, an electrical plug manufacturing company in Shah Alam, withdrew the union dues check-off provisions for the EIWU which has been in place for more than 25 years in an attempt to bust the union. Clipsal officials stopped the check-off for union dues after EIWU increased union dues, despite EIWU members being in favour of the increase. The Malaysian Trades Union Congress (MTUC) will submit a complaint to the Paris-based OECD to contest Clipsal's actions.

Migrant workers unfairly dismissed: On 28 April, a supervisor of Maxter Glove Manufacturing Sdn Bhd at its factory in Selangor, Malaysia, (Maxter) dismissed Thu Maung, a Burmese migrant worker. Thu Maung's dismissal was in retaliation for filing a complaint over his working conditions with the Labour Department on 23 March. The complaints alleged that Maxter: 1) had wrongfully deducted the fee that employers have to pay when they employ migrant workers from the worker's wages; 2) had unlawfully deducted the medical check-up fees of RM1000 from the worker's wages; 3) had wrongfully withheld 2 months wages; 4) had failed to provide migrant workers with accommodation; and 5) had not been giving the workers one rest day per week. According to Thu Maung, about 1 month after he lodged the complaint, Maxter officials started intimidating workers.

The Malaysian Trade Union Congress (MTUC) successfully intervened to assist 26 Burmese migrant workers who were dismissed by Jogoya Restaurant based in Starhill Shopping Centre in Kuala Lumpur on 2 March without reason. With the MTUC's assistance the workers were able to secure a large back pay settlement and pay for air tickets to return to Burma.

Anti-union attitudes persist: Putrajaya Holdings Sdn (PJH), a subsidiary of Petronas, attempted to remove members of the

recently organised Union of Employees in the Construction Industry (UECI), a Malaysian Trades Union Congress (MTUC) affiliate. After UECI submitted its claim for recognition on 13 March, PJH officials attempted to coerce the 120 UECI members to resign and then be rehired as outsourced employees. All workers refused to comply with management's demands. MTUC was due to file a report on the unlawful activities of PJH Management to the Director General of Industrial Relations (DGIR).

On 27 December, the MTUC wrote to Minister of Human Resources, S. Subramaniam to register MTUC's objections to the conduct of a union representation election at Spenser Gloves Manufacturing Bhd (Spenser), formerly known as Seal Polymer Industries Bhd. The letter documented Spenser's illegal conduct prior to the election and the government's long delay in holding the ballot.

Migrant workers die, suffer abuse: A three-day protest by more than 5,000 migrant workers over the death of a Nepali co-worker ended on 17 August following a four-point agreement between JCY SDB BHD Company, a computer parts manufacturer in Johor Baru, and the company's workers. According to fellow Nepali workers, Karna Bahadur Gharti Magar of Rolpa died on 14 August due to a delay in getting treatment for a serious illness caused by company negligence. On 4 August, another Nepali worker, Buddi Lal Mahato, also died due to lack of timely treatment. He was working at Lii Hen Furniture Company and suffered from a high fever.

On 18 September, Malaysian police in the northern state of Penang arrested a man and his wife for burning their 26-year-old maid from Indonesia with a hot iron and scalding water. The police also charged the man for repeatedly raping the woman. Of the estimated 300,000 maids in Malaysia, Indonesians make up 90% while Filipinas constitute 8%. Indonesian Embassy second secretary (consular affairs), Susapto Anggoro Broto, said Malaysia was the most problematic of all the Asian countries that take in Indonesian maids.

Human trafficking and forced labour: In July, 63 women from Indonesia were rescued from the house of businessman Lee In Chiew, 49, in Perlis State. The women, none of whom had working permits or visas, were forced to work long hours cleaning houses, often without pay, for over two years. Three of the women escaped and called for help.

On 25 October, Malaysian police rescued eight women enslaved at a tearoom and a massage parlour in Kuala Lumpur. Initial information showed that the women were hired from Vietnam to work for a Vietnamese woman and her Malaysian

husband. The women were promised good pay and working conditions, but the couple confiscated all their documents upon arrival in Malaysia and forced them to work without pay.

Maldives



POPULATION: 309,000
CAPITAL: Male
ILO CORE CONVENTIONS RATIFIED:

Tourism is a major source of income for the Maldives, but workers in the hotel industry remain unable to exercise their trade union rights free from employer repression.

TRADE UNION RIGHTS IN LAW

Progress has been made to secure trade union rights and ensure conformity with international labour standards, however the labour legislation is still rudimentary. The 2008 Constitution guarantees freedom of association and the right to strike, but does not contain an explicit right to collective bargaining. Still, article 30 of the Constitution protects the right to participate in trade union activities. The main labour law, the Employment Act of 2008, does not regulate workers' collective rights and merely refers to trade unions in the context of protection against dismissal.

A draft Ministerial regulation on strikes was presented in August 2010. While the regulation appears to be drafted ultra vires, i.e. beyond the authority granted by law, if enacted it effectively risks nullifying the right to strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Mohamed Nasheed, a former political prisoner, has been in power since the first multi-party presidential elections in 2008. The Parliament blocked a judicial reform package which caused the government to resign on 29 June and several days of arrests of some opposition members of parliament ensued. President Nasheed re-appointed the former government in July.

The right to strike is generally ignored: The right to strike, guaranteed by the Constitution is generally ignored in the hotel

sector, the life's blood of the country's economy: workers who strike are threatened, arrested and sometimes thrown in prison by order of the employers.

Failure to recognise the TEAM trade union and suspicions of a black list: Employers systematically refuse to recognise the union TEAM (Tourism Employees Association of the Maldives) or to negotiate with its members. The employers are strongly suspected of compiling a black list of active members of trade unions in order to prevent them from finding a job.

The Shangri-La fires 14 trade union members: On 16 April, 14 employees of the luxury Shangri-La Villingili Hotel Resort were fired for protesting against the arbitrary firing of four colleagues. These 14 workers were all active members of TEAM (The Tourism Employees Association of the Maldives).

19 workers at the Hotel Kurumba were thrown in prison following a strike: On 21 August, more than 150 workers at the luxury Kurumba Resort, not far from Male, went on strike to denounce a series of recurrent problems in the sector: low salaries, poor accommodation, management's refusal to negotiate, excessive workload etc. The strike was halted on 24 August following intervention by the police and the army. Even though this was a peaceful protest and there was no damage caused to the hotel during the strike, 19 workers were arrested and detained for 24 hours in Dhoonidhoo. A tribunal recognised that this arrest was illegal.

An employee told the local media that during the occupation of the site by the army and the police, the employees were forced to sign a document committing not to undertake any further strike action even though this right is recognised by the Constitution.

Mongolia



POPULATION: 2,641,000

CAPITAL: Ulan Bator

ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

While the right to collective bargaining is excessively regulated in the law, trade union rights are generally respected. Problems exist with implementing and monitoring the law, and corruption remains endemic. Trafficking, forced labour and child labour remain widespread.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are protected, there are a number of areas of concern. Freedom of association is guaranteed in the Constitution, the Labour Code and in labour laws, but is only extended to "citizens". The laws also fail to guarantee trade union rights to government administrative employees. Furthermore, while the right to collective bargaining is secured, the government may participate in the bargaining at all levels, and only certain items can be bargained upon at each specific level. All collective disputes are also subject to a compulsory conciliation procedure. While the right to strike is recognised, it can only be practised in connection with collective bargaining, and only when the dispute is not being negotiated or conciliated. A number of provisions further limit the right to strike, including the requirement that a decision to strike be taken in a quorum of two-thirds of the membership, and that the organisers of a strike indicate the duration of the strike in advance. Sympathy strikes are also prohibited.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Accelerated development in Mongolia over recent years along with a rapid increase in foreign investment has led to improved infrastructure and the growth in large mineral and power plants. However, trade unions are facing increased pressure from privatisation as the government and employers are attempting to create a more "flexible" labour market. Public concern has grown over the lack of visible benefits for the public from major mining deals, leading to several protests in 2010. Mongolian journalists are reportedly facing increased levels of repression. Some 3,000 school and university teachers protested in April over low wages while on 8 April some

4,000 medical workers demonstrated in front of Health Ministry to call for salary increases.

Child labour: Child labour remains a problem and sources suggest that some 77,000 children are forced to work to support themselves or their families. Up to 90% of these are believed to be involved in traditional animal husbandry. Many children are also involved in informal mining operations, with the average age of mining children being 14 years. Over 30,000 children work as jockeys each year.

Strike by Mongolian Airline staff ends with dismissals: In April a two-day strike at MIAT Mongolian Airlines ended with the dismissal of its chief executive officers as well as the strikers. The strike was called by some 100 ground engineering and technical inspection staff who refused to undertake pre-flight checks and instead reportedly all signed a voluntary resignation. The strike came as a response to the employer's statement that around two-thirds to three-quarters of the current technical inspection department would be laid off due to overstaffing and that new staff would be hired.

Another group of aviation officers at the Mongolian Civil Aviation Authority, who claimed to represent more than 1,000 workers, joined their voice in the protest demanding a management reform at the authority. The government reportedly hired South Korean staff to allow the airport to resume normal operations.

Trafficking, forced labour, and migrant workers: Despite legislation against trafficking and forced labour, Mongolia remains a source country for trafficking, primarily of women, mostly to China and other Asian countries. Local NGOs have also reported an increase in internal sex trafficking and forced prostitution. The authorities have done little to prevent and prosecute offenders.

Mongolian law specifically prohibits forced labour but reports continue to emerge regarding the situation of some 250 North Korean workers mainly employed in mining, factory work, utilities, transportation, construction, customer service, and health service. It is believed that they are prohibited from leaving work and are unable to complain about working conditions.

There are 200,000 Chinese workers estimated to be working in Mongolia. In September, twenty Chinese workers, previously reported missing, were uncovered to have been staying without work visas and were to be repatriated. According to local media a total of 84 migrant workers from Huarong went to Mongolia through a Chinese labour agency. The first group of them, holding tourist visas, left China in mid August, and on arrival in Mongolia their passports were taken away. According

to some of the workers, they were then effectively 'bought' by Mongolian employers for around RMB 4,000 RMB (around EUR 450) and worked as slaves. One report stated that several tens of thousands of Chinese migrant workers were being brought into Mongolia to work in the construction and mining sectors under similar circumstances.

Nepal



POPULATION: 29,300,000
 CAPITAL: Kathmandu
 ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 138 - 182

Members of democratic trade unions suffered threats and assaults at the hands of the Maoist trade union members. Collective bargaining is hindered by non respect for the laws regulating it.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are guaranteed, excessive restrictions apply. The right to freedom of association is established in both the interim Constitution of 2007 and the Labour Act, but non-nationals may not be elected as trade union officials. The thresholds for union formation as well as for the creation of federations and confederations are excessively high, and a maximum of four unions are allowed per enterprise. Workers, including civil servants, have the right to join a union and to bargain collectively, and the latter right has also been extended to federations and confederations. However, the right to strike is limited, and the government may stop a strike or suspend a trade union's activities if the strike disturbs the peace or is deemed to adversely affect the interests of the nation. Also, to call a strike, 60% of the union's membership must agree on the action in a secret ballot, and the union must announce the strike at least 30 days in advance. Strikes are banned for workers in charge of security or surveillance teams in a company and for workers in "essential services", which are broadly defined to include sectors such as banking and hotels.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Nepal saw political instability in 2010. The prime minister, Madav Kumar, resigned on 30 June under pressure from the Maoists, who were demanding a reshaping of part

of the government. At the end of December he had still not been replaced and Nepal was still being run by a transitional government. The Constituent Assembly was not able to meet the 28 May deadline to draft a new constitution, one of the most important stages in the peace process. Negotiations were stalled by tensions between the parties over issues such as power sharing and the integration of Maoist fighters into the state security forces. A last-minute deal was, however, reached to extend the mandate of the Constituent Assembly for another year. The many human rights violations committed during and after the civil war remain largely unpunished.

Weak collective bargaining: In most companies, the election of collective bargaining agents is fraught with irregularities. Neither the employers nor the government officials in charge of labour matters take the action needed to ensure respect for the legal procedures. Worker inexperience and employer reluctance are among the many obstacles to the holding of collective negotiations. As a result, less than 10% of formal economy workers exercise their collective bargaining rights.

Threats and attacks levelled against members of democratic trade unions: Members of the ITUC-affiliated organisations continued to face relentless threats and a number of attacks at the hands of members of the Maoist trade union ANFTU (All Nepal Federation of Trade Unions) or the Young Communist League, a branch of the Maoist party. The leaders of the ANFTU union centre recognised they have some difficulty controlling their members on the ground, but have expressed their will to evolve toward a peaceful trade union movement.

The General Federation of Nepalese Trade Unions (GEFONT) reported, for example, that during the second week of April, Singh Lama, president of its affiliate in the textile sector, was attacked by Maoist trade unionists over his union's refusal to take part in a Maoist party activity. On 21 April, members of the Maoist union vandalised the office of the NICIWU (Nepal Independent Chemical Iron Workers' Union) affiliated to GEFONT. On 6 May, during the general strike, armed Maoists stormed the Gorkha district office of another GEFONT affiliate, the ITWA (Independent Transport Workers' Association), leaving behind a trail of damage. In November, two GEFONT members were dismissed by the management at the Hyatt Kathmandu hotel under pressure from the Maoist union following their refusal to join their organisation. GEFONT took this case to court and secured the reinstatement of its members in December.

The NTUC-I (Nepal Trade Union Congress - Independent) also reported several cases of violence and intimidation by Maoists. The president of its union at the Hyatt Kathmandu hotel, Rajendra Khadga, was forced to become a member of the

Maoist union or lose his job. Bipin Sahi, president of the NTUC-I affiliated union at the Radisson hotel in Kathmandu suffered the same fate. Ram Bahu Sah, a member of the NTUC-I at the Triveni Simpex factory in Birgunj was also threatened by Maoist trade unionists when formulating demands on behalf of the workers. The NTUC-I also reported an attack by Maoist trade unionists against several of its members who were taking part, on 10 October, in a trade union activity held by its affiliate, NTHCRWU (Nepal Tourism, Hotel, Casino and Restaurant Workers' Union), at the Himalaya hotel in Lalitpur. Several trade union leaders had to be hospitalised following this assault. A social event held by the union affiliated to the NTUC-I at the Yak and Yeti hotel in Kathmandu was disrupted by members of the Maoist trade union movement.

Judicial rulings ignored and unionists discriminated against: The General Federation of Nepalese Trade Unions (GEFONT) reported that Khimti Servisage, a firm supplying labour to Himal Power Limited, ignored a court order issued during the first quarter to reinstate two union members, Dhruva Prasad Fuyal and Maghraj Dahal, sacked in 2008.

GEFONT also reported discrimination against its members at the Gaida Wildlife Camp in Chitwan National Park and at the Mahashakti company, which closed down on 13 February.

Teachers Union of Nepal denied recognition: The government continues to undermine the negotiations and agreements concluded with organisations representing teachers, especially the Teachers Union of Nepal. This union is not recognised as such and is denied collective bargaining rights. Over 20 teachers' organisations have been formed since 2006, weakening the trade union movement.

Courts order reinstatement of unionists: Legal battles occasionally succeed in combating the anti-union practices deployed by employers. In July, for example, the General Federation of Nepalese Trade Unions (GEFONT), secured the reinstatement of 13 of its members who had been fired by the Self-Help Development Bank in 2001, shortly before they registered their union. They were reinstated in line with a Supreme Court ruling. In October, GEFONT also obtained a court ruling ordering the reinstatement, with back pay, of Bhim Bahadur, who had been dismissed on false grounds from a women's centre in Lalitpur. GEFONT is convinced that the real grounds for his dismissal was his union involvement.

New Zealand



POPULATION: 4,500,000
CAPITAL: Wellington
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 182

In 2010 the Government made a number of amendments to the Employment Relations Act 2000, the effect of which is to reduce workers' rights. The Government also specifically removed the right of film industry workers to organise and bargain collectively. Unions face difficulties in accessing workplaces, and anti-union employers are not uncommon.

TRADE UNION RIGHTS IN LAW

While trade union rights are secured in law, legal amendments in 2010 brought undue restrictions. The principal industrial relations law, the Employment Relations Act 2000 (ERA), establishes freedom of association for workers, including those in the public sector, the right to bargain collectively, and the right of union access to workplaces. Social, environmental and economic factors are excluded as grounds for industrial action.

The 2010 changes to the ERA, which will come into force on 1 April 2011, stipulate that all new employees will lose protection against unfair dismissal during their first 90 days of employment. Similar legislation came into effect for employees of companies with fewer than 20 employees on 1 April 2009. Employers do not have to provide any reason for the dismissal. The changes also include a requirement for unions to give one working day notice of their intention to visit a worksite, and employers will be able to legally refuse access if they have a reasonable cause to withhold access. However, the law does not define the term "reasonable", which opens up the door to abuse. Finally, in 2010 the ERA (Film Industry) Amendment Act was also passed to ensure that workers in the film industry are contractors unless they have specifically negotiated an employment agreement. Contractors are not covered by provisions of most New Zealand employment law nor are they able to join unions.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The centre right Government elected in late 2008 responded to the 2009 financial crisis by conducting broad

discussions with employers and some union leaders on how to minimise economic impacts. Unions at that time cooperated with employment initiatives such as a subsidised nine day working fortnight, but the lack of investment in job creation, cuts in public services, and employment law changes that restrict employment rights reflect the Government's pro-employer agenda. The general unemployment rate is 6.8% and 25% for those under 20 years.

Increased use of contract workers: Private and public sector employers are increasingly hiring workers as contractors rather than employees. Contractors are not covered by provisions of most New Zealand employment law including the right to organise, the right to take collective action, and the right to lodge personal grievance cases for wrongful dismissal. They are also not entitled to sick or holiday leave or overtime payments.

Difficulties with union access: In theory unions can access workplaces and can sign up workers as members. In practice, many employers oppose this and prevent easy access to members including requiring union officials to be accompanied at all times in entering a workplace and controlling the space and circumstances for union meetings with members. Some unions have already reported obstructive attitudes by employers prior to new access requirements coming into force on 1 April 2011. One employer Pacific Flight Catering blocked union access to the workplace for over two years until being required to grant access following legal action. Union visits to that workplace are still heavily monitored and supervised and a police check of the union official was required. Open Country Cheese attempted to prevent access to the Dairy Workers Union (DWU) union officials in June 2009 until the Employment Relations Authority ruled that access should be permitted. Other unions report oversight or impediments to workplace visits. The amendments to the Employment Relations Act in 2010 will only aggravate the situation (see "Trade union rights in law").

Pressure not to join a union: Some employers have pressured workers not to join unions by offering individual employment contracts at similar or better rates than those stipulated in the collective bargaining agreements. There have also been reports of workers being treated unfairly after joining a union, which discourages other workers from joining. In addition, employers have assigned union members to less favourable rosters or have dismissed them during the 90 days probation period.

It is difficult to take effective legal action against employers, and few employees are willing to risk their employment to do this. There have, however, been successful cases. In a significant case in 2008 a worker at McDonalds challenged her employer for trying to influence her not to join the Unite Union.

The union took the matter to the Employment Relations Authority and won NZD 15,000 in compensation from the company for breaching the undue influence provisions of the Employment Relations Act.

Collective bargaining obstructed: In September 2009 the Dairy Workers Union (DWU) sought agreement from Open Country Cheese to negotiate a collective employment agreement for their employees. The company opposed collective bargaining at the site and responded by locking out the employees when the union lodged notice of strike action. The lock-out was ruled illegal by the Employment Relations Authority on the basis that the company was not engaging properly in the bargaining process. The DWU won the right to collective bargaining but the company which had announced restructuring during the dispute did not re-employ all the workers. Some workers took redundancy in confidential settlements. Only 6 of 34 workers retained employment with the company. Continued opposition by the employer to collective bargaining through 2010 has resulted in the workers leaving the collective agreement and taking up individual contracts. Open Country Cheese is now fully de-unionised.

As a result of the ERA (Film Industry) Amendment Act 2010 which came into force immediately, film industry workers were denied the opportunity to bargain for a collective employment agreement or be represented by a union in employment negotiations.

Pakistan



POPULATION: 180,800,000
CAPITAL: Islamabad
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111

The right to strike is circumscribed by excessive restrictions, and many workers enjoy limited trade union rights. In practice, trade union rights are often violated. Several trade union activists were arrested, beaten, detained or discriminated against during the year, while at least one was murdered. Private employers often refuse to recognise unions and commonly use union-busting tactics along with police violence.

TRADE UNION RIGHTS IN LAW

The labour law situation in Pakistan was brought into a limbo on 30 April 2010 after the Government enacted the 18th Constitutional Amendment, which transferred the responsibility in labour matters from federal to provincial governments. In addition, in June the High Court of Sindh (Karachi) confirmed that with the enactment of the amendment the Industrial Relations Act 2008 was repealed and that the Industrial Relations Ordinance 1969 was now again in force. As a result the provinces enacted interim Industrial Relations laws.

The Constitution guarantees freedom of association, but many workers are denied this right by virtue of the 1969 Ordinance, including forestry, railway and hospital workers as well as some public servants. Union activities are hampered by the requirement that any gathering of more than four people is subject to police authorisation. The Registrar also retains wide powers to inspect the accounts and records of registered trade unions.

While the right to collective bargaining is recognised, employees of state administration, government services and state enterprises – all of which are covered by the 1952 Essential Services Maintenance Act – are not allowed to bargain, nor are workers in EPZs. Workers covered by the 1952 Act are also excluded from the right to strike, and with the re-entry into force of the 1969 Ordinance, the Government can issue orders to prohibit strikes in any public utility service.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Floods in July devastated practically the whole of the country. Over 20 million people were affected, and a reported 80% of the country's food reserves were destroyed, further weakening an economy that had been hard hit by the economic crisis. Poverty has continued to rise along with prices of basic foodstuffs, and there has reportedly been a rise in child labour. Missile attacks and suicide bombers continued to kill and injure innocent civilians - Pakistani authorities said at least 21 attacks by U.S. drones in the northwest killed about 120 in September alone. The Pakistan Federal Union of Journalists (PFUJ) also reported that the period 2009-2010 was the worst in the history of Pakistani journalism, since as many as 21 journalists lost their lives and more than 45 were wounded at the hands of terrorists and bombs.

Weak labour law enforcement by local governments: The Factories Act of 1934 provides for inspection of enterprises, but this authority has been increasingly devolved to provincial and lower level governments with the net result that labour inspections are hardly ever performed, and that employers are able to violate key provisions of the law on wages and conditions of work with impunity.

Employers circumvent legislation: Employers often strongly resist the unionisation of their employees, with management resorting to intimidation, dismissal and blacklisting. If an employer is opposed to the formation of a union, the procedure for union registration and the appeals process can take many years. Sometimes the employers artificially promote workers to managerial status, usually without the concomitant salary increase, so that they no longer qualify for union membership. The economic crisis resulted in an increasing numbers of businesses ignoring the law with the sometimes overt support of the authorities. This has led to reduced wages and benefits as well as weaker rights, since workers are more afraid to claim their rights in case they lose their jobs.

Strikes: illegal and dangerous: The strikes that do occur are, given the complications attached to organising a strike, usually illegal and short. They are often broken up by police and used by employers to justify dismissals. Union leaders are often arrested. Marches and protests also occur regularly despite the repercussions.

For example in September, Pakistan International Airlines (PIA) pilots from the Pakistan Airline Pilots' Association (PALPA) began a work-to-rule action as part of a demand to ensure that safety measures were adhered to and that overwork was

reduced. The government then invoked the Essential Services Maintenance Act 1958, often used to intimidate workers and to prevent industrial action in the name of ensuring that essential services are maintained. One month later, on 25 October, PIA management dismissed two senior pilots, one of whom was previously the union's joint secretary, reportedly without any notice or hearing for their part in the action.

Anti-union discrimination in banks: In recent years, hundreds of trade union leaders have been dismissed under the terms of the Banking Companies (Amendment) Act, 1997. In 2009 in an effort to lift the restrictions on trade union activities in banks, the Deputy Secretary General of the Pakistan Peoples Party filed a private members bill against the legislation.

Unionists at Pearl Continental dismissed: Four elected union leaders at the Pearl Continental Hotel in Karachi were illegally dismissed in February. Together with some 200 union members the dismissed officers remained in the hotel basement, and several went on hunger strike. Union members and supporters maintained a vigil outside the hotel, refusing to leave until the dismissals were withdrawn and negotiations begun. On March 1, police assaulted and detained some of the supporters outside the hotel - they were later released following a protest action outside the prison. Workers from the Pearl Continental union in Rawalpindi held regular daily rallies and boycotted meals in the workplace in solidarity with the Karachi struggle.

On 20 March workers ended their occupation after a representative of the hotel's owner directly intervened in the conflict for the first time ever and agreed to reinstate the four union officers. One of the ill hunger strikers and three other union members were hospitalised. The workers of the Pearl Continental Hotel in Karachi have been fighting for over seven years for recognition of their rights to freedom of association and collective bargaining. Workers have been dismissed and detained as a result of the struggle, and the ILO has called for a full investigation into the abuses against unionists.

Union vice-president kidnapped and tortured for protest: The Mari Gas trade union hung banners at the company premises calling for the regularisation of workers and an end to contract work. Administrative officers and contractors asked Usman Mahar, vice-president of the Mari Gas trade union, to remove the banners, but he refused. After the protests, on 9 March, as he was returning home, five masked men in a car stopped him, shoved him into the car, blind-folded him and drove away. He was allegedly taken to an undisclosed place and tortured. The men threatened to kill him if he did not withdraw the demands for the regularisation of contracts. He was kept for two days until 11 March when the kidnappers ran into the police as they

were changing hideout. After an exchange of fire, they fled leaving him behind.

Usman has since filed an official complaint against several persons at the company, but the police has not yet taken any action. An accused contractor stated that Usman had made the kidnapping up to protect his job.

Gadani ship breaking workers strike: On 16 June 2010 some 15,000 workers in the Gadani shipyards went on strike over appalling working conditions, low wages and difficult working hours. The workers belonged to the Gadani Ship Breaking Democratic Workers' Union, which had been deregistered by the Labour Commissioner - a move which the union is contesting in court. The ship breaking workers then formed the Progressive Workers' Union of Gadani Ship Breaking. The Gadani employers, with the help of local police and the Anti-Terrorist Task Force (ATTF), arrested the Progressive Workers Union of Gadani Ship Breaking President Bashir Mehmood Dani and the other officers when the strike began on 16 June. They were released without charge after workers held a protest and management agreed to negotiate with the union. However, management had also agreed to meet the workers' demands by 30 June 2010 in return for the union calling off its strike on June 17 but failed to follow through. The ship breaking workers then went on another strike from 5-7 July. In response to this strike, the employers again agreed to start negotiations with the union and the district court.

Coca-Cola union finally recognised: A 25 July 2010 agreement negotiated between the International Union of Foodworkers and Coca-Cola successfully resolved a long and bitter conflict over employment and trade union rights at Coca-Cola Beverages Pakistan. Under the agreement, all unfairly dismissed workers were to be reinstated with full compensation. The company recognised the People's Employees' Union (PEU) and guaranteed that there would be no harassment or victimisation of union members and officers. 187 workers with precarious jobs were converted into permanent employees. Two weeks after the agreement a new union at Coca-Cola Pakistan's Faisalabad plant was also recognised, marking another breakthrough.

Since forming the union in the Mulatan Plant in 2009, members had been met with death threats, harassment, abduction and dismissals.

Telecom unions under attack: In April 2006 Pakistan Telecommunication Company Limited (PTCL) was taken over. Under an agreement all 61,000 PTCL workers were to have their wages increased, and there were promises of no layoffs. However,

since then over 35,000 workers have lost their jobs, and the pay rise was never implemented. Since 2 August 2010, PTCL unions held nationwide strikes for two hours each day in order to press for the wage increase, and on 16 August this was increased to a total strike. PTCL management offered a 30% wage increase with another 20% increase linked to worker productivity by December 2010, but this offer was refused.

On 3 September, after 17 days of striking, union leaders met the Federal Minister of Labour and asked him to intervene. They were told that within three days the main demand - a 50% wage increase - would be met. However, that evening hundreds of policemen attacked the strike camp. It was reported that the police were bribed and that one police superintendent told officers involved that injuries should be severe enough so no one would be able to walk to jail. Over 50 strikers were arrested, with three central leaders charged under anti-terrorist laws and 35 others under 7ATA (Anti Terrorist Act). The arrests continued for the next 24 hours as homes were raided. As a condition for receiving their wages, PTCL workers were forced to sign a statement disassociating themselves from the strike. Over 250 workers were fired.

Since the September crackdown management has stopped annual bonuses for over 2,000 employees and has refused to pay wages to more than 500 others. The Secretary General of Pakistan Telecom Employees Union and several other leading unionists were unlawfully dismissed and some 250 more fired. The National Industrial Relation Commission suspended the termination orders, but management has not accepted the reversal.

Textile leader shot dead during strike: Mustansar Randhawa, founder of the Labour Qaumi Movement (LQM) for loom workers and President of the National Trade Union Federation in Faisalabad, was shot dead on 6 August by two unknown people while in the union offices. His older brother Naseer Randhawa, an active member of the LQM, was also killed. Mustansar Randhawa had been receiving death threats from loom and textile mill owners since the LQM announced a strike in the textile sector on 6 July. The strike was called off after last minute negotiations. The negotiations were due to begin again when the news of the murders came.

Most loom workers work 10 to 12 hour days for less than the minimum wage and without benefits, and many have reported victimisation in the form of beatings, extortion and fabricated cases. The aggressors reportedly operate on the estate grounds with impunity and claim the patronage of the mill owners. Mustansar Randhawa had spoken of being threatened and

intimidated by mill owners and their supporters during the past few years.

After the death of the two men, some 200,000 workers went on strike and picketed the offices of the Commissioner until it was announced that the strike for a 17% wage increase and social security coverage had been successful and that their demands were to be met. In addition, four workers who were detained during the strike were released without charges.

Dalit cotton picker tortured to death, sparking protests:

On 16 November, Roop Chand Bheel, a Bheel (Dalit) cotton picker, was tortured and then set on fire at the instigation of a landlord. He was accused of stealing 25kg cotton. He later died in hospital after struggling with his life for four days. Scores of Bheel (Hindu Dalit) community people carrying his body held a demonstration outside the press club while others protested at the police office demanding the arrest of the landlord. Police have reportedly arrested three men but not the landlord due to his reported influence.

Over 60% of the workforce is engaged in cotton sector, but agricultural workers including cotton workers are not recognised as workers by the labour law. As such they do not have the right to form a union and negotiate collectively, nor do they have the right to appeal to labour courts in disputes.

Bonded and forced labour continues, kiln workers protest: Estimates state that between 750,000 and 900,000 people from 200,000 families work in Pakistan's 11,000 brick kilns (bhatta). This number includes some 250,000 children, or around two-thirds of all working children in the Pakistan. Many children work alongside their families to pay off debts that are so much beyond their means that they will remain unpaid even after decades of continuous work. Employers advance money to workers who cannot leave until they repay the whole amount, and most workers are illiterate and do not know how much money is being repaid. The employers take advantage of this and also impose many "fines" on the workers. The Bonded Labour System (Abolition) Act of 1992 defines this as bonded labour. Efforts to halt this practice have failed to make an impact, as only less than 6,000 bonded labourers have been freed and thousands remain working in appalling camps.

In September 2010, dozens of brick kiln labourers staged a protest in Islamabad. Their leader Inayatullah, president of All Pakistan Bhatta Labour Union, said that the minimum wage of PKR 517 for every 1000 prepared bricks was not prevalent in brick kilns in Punjab.

Merck workers continue to face difficulties: On May Day 2010 the Pakistan Workers' Federation and the Pakistan Trade Union Defence Campaign in Quetta protested the 2009 sacking of 265 workers from Merck Serono Quetta who were dismissed for protesting against low wages and other issues. The May Day protest continued until the evening when a representative of the Balochistan government came to negotiate with the workers and promised that the 265 workers would be reinstated soon. By the end of the year this had not yet happened.

Since 2009 workers have been holding protests and several have been on hunger strike. During the protests, workers have been detained and questioned. Criminal charges have also been brought against union officials.

Philippines



POPULATION: 92,000,000
CAPITAL: Manila
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Violence against union leaders and union members, outsourcing of work, collusion between company and labour officials, and company efforts to use "yellow" unions to undermine legitimate union organisations remained the key issues affecting trade unions. Union representatives were murdered, while other members were injured while striking. Trade union activities are hampered by excessive legal restrictions, especially concerning the right to strike.

TRADE UNION RIGHTS IN LAW

While basic trade union rights are guaranteed in the Constitution, they are limited by numerous provisions. Foreign nationals may not form or join a union unless there is a reciprocal agreement between the countries. The conditions for obtaining union recognition are too strict, and the names of all the members the union seeks to organise must be provided. All foreign assistance is also subject to prior permission by the Secretary of Labour. While the right to collective bargaining is secured, a number of categories of workers are not allowed to exercise this right, including prison guards, fire-fighters and managerial employees. Collective bargaining in the public sector is also limited as government employees are not permitted to bargain over the appropriation of funds.

Furthermore, in order to call a lawful strike, all conciliation procedures must have been exhausted and prior notice must be given 30 days in advance in the event of bargaining deadlocks. Both the President and the Secretary of Labour and Employment have broad powers to stop strikes in industries that are "indispensable to the national interest", which seriously limits the right to strike. Strikes are banned in the public sector, and the law prescribes heavy penalties for participation in an illegal strike: Union leaders are liable to imprisonment of up to three years.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Benigno Aquino III, the son of the late president Corazon Aquino, became the new president in May and ran on a platform of fighting corruption and promoting justice for victims of crime. However, political violence continued after the elections as more than 20 activists, journalists, party members, and politicians were killed after Aquino took office on 30 June – three of them union leaders. In September, Andal Ampatuan Jr. and 18 others went on trial for the 23 November 2009 massacre of 58 people, including more than 30 media workers in Maguindanao on the southern island of Mindanao. Almost 300 political prisoners and political detainees are still in jail. The Philippines lost 34 places in the Press Freedom Index and now ranks 156th out of the 178 countries surveyed, down from last year's ranking of 122.

Flagrant anti-union tactics: Trade union leaders continued to face harassment, arrest, and the loss of their jobs by the filing of false criminal charges. One of the most common tactics used by private employers and government, alike, was to label union leaders and members as terrorists. Faced with a legal system that offers little assistance or due process, trade unions persisted in their efforts.

Labour inspection abandoned in favour of voluntary compliance: The Labour Standards Enforcement Framework essentially abandons the principle of government labour inspection for workplaces with more than 200 workers. Instead of a formal inspection, the order only requires self-regulation of labour standards among large companies and in companies where there is a union that has registered a collective bargaining agreement.

Terrorist act concern to unionists: The Human Security Act classifies a wide range of crimes as terrorist acts if they are committed to "create a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand". Mandatory

sentences are set at 40 years without possibility of parole for terrorism or conspiracy to commit terrorism, and similarly heavy penalties are created for lesser crimes. There are significant concerns among human rights organisations and trade unionists that the overly broad language in the law leaves it open to abuse by local police and judicial authorities. Arrests without warrants are allowed, and indefinite detention is made possible in instances where authorities find there is an "actual or imminent terrorist attack".

Alta Mode settles with striking workers: On 12 February, the Alta Mode Workers Union (AMWU) filed a strike notice against Alta Mode, Inc. (Alta Mode), a garment factory in the Mactan Export Processing Zone II, Lapu-Lapu City, after the company announced it would close on 15 March for financial reasons. On 16 February, AMWU began picketing Alta Mode to protest the company's decision. AMWU also said that Alta Mode's financial statements do not support its position that it is in financial distress. After maintaining its picket camp for three months, AMWU settled with Alta Mode when faced with legal harassment and an adverse arbitration decision concerning an AMWU sit-in at the factory the year before. As a result of the settlement, Alta Mode workers will receive a generous severance package and Alta Mode will move its factory to Vietnam.

Goldilocks attacks union pickets: Bukluran ng Independeng Samahan na Itinatag sa Goldilocks, affiliated with the Association of Genuine Labour Organisation and the Bukluran ng Manggagawang Pilipino (BISIG-AGLO-BMP), started a formal strike action on 11 March against two plants of Goldilocks Company (Goldilocks). One hundred fifty BISIG picketers and their supporters were attacked on 19 March. Goldilocks officials driving two vans filled with strikebreakers tried to ram through the BISIG picket line. When the vans were unable to cross the picket line, the strikebreakers pelted the strikers with stones. Goldilocks security guards followed and attacked the picketers with truncheons. According to BISIG President Joel Lachica, eight BISIG members suffered leg and arm injuries as a result of the attack. The 11 March strike was preceded by a protest picket when the company illegally dismissed 127 workers on 8 February. The dispute ended in October with BISIG successfully concluding negotiations on a collective bargaining agreement.

DOLEFIL wants 'yellow' union: An audit conducted by Societe Generale de Surveillance (SGS) during 23-27 March on the labour policies of Dole Foods Incorporated indicates that the company risks losing its Social Accountability (SA) certification. This follows a finding of 'non-conformity' with SA8000 requirements on freedom of association and collective bargaining against DOLE Philippines (Dolefil) for its workers in Polomolok, an Agro-Industrial Sub-Urban Municipality of South Cotabato.

The audit cited Dolefil management for violating workers' right to freedom of association by discriminating against Amado Kadena (AK-NAFLU-KMU), the certified union of workers at Dolefil, while favouring another union, UR-Dole, and assisting the latter to "lodge harassing litigation against AK-NAFLU-KMU leadership". UR-Dole held a company-sponsored union assembly on 13 February in an attempt to oust all 31 duly-recognised officers of the AK-NAFLU-KMU. As a result of this meeting, Dolefil recognised UR-Dole as the workers' representative on 18 February. On 1 July, the Department of Labour and Employment's Bureau of Labour Relations rejected Dolefil's decision to recognise the UR-Dole, rebuked the UR-Dole for conducting an unconstitutional change of leadership of the union and found the 13 February assembly to have been illegally conducted.

ABS-CBN efforts to bust union fail: On 15 June, ABS-CBN Chairman and CEO Gabby Lopez issued an ultimatum to workers represented by the ABS-CBN Internal Job Market Workers' Union (IJMWU) to accept the company proposal on changing their status to regular employees or face dismissal. On 16 June, ABS-CBN terminated, delayed, or rearranged the work schedules of dozens of IJMWU workers who refused to accept the company's proposal on regularisation. IJMWU claimed the company only offered "regular" status to selected workers, and that the offer entailed waiver of all complaints by the workers against the company, no back-pay or recognition of the delayed regular status that was supposed to have been granted for those who had already served many years with the company. In essence, the company's offer of regular status was designed to validate its argument that employees were individual contractors. When IJMWU filed for a certification election in 2009, the company claimed that there was no employee-employer relationship with the workers represented by IJMWU and that IJMWU workers were individual contractors - not regular employees. On 18 August, the Department of Labour and Employment (DoLE) ruled that the IJMWU are regular employees of ABS-CBN. As a result of DoLE's decision, IJMWU is seeking a certification election and the reinstatement of 114 members who were terminated by the company.

Supreme Court decision favours workers: On 26 July, the Supreme Court unanimously ruled that the sugar mill owned by President Aquino's family had acted in "bad faith" when it reduced its workers' 13th month pay following a violent strike that left 14 people dead. The court ordered Central Azucarera de Tarlac (CAT), which operates the sugar mill and refinery in Hacienda Luisita, to honour its long-established formula in computing the bonus. Noting that the benefit enjoyed for 30 years was only reduced after the strike in 2004, the court declared that "this act of petitioner in changing the formula at this time cannot be sanctioned as it indicates a badge of bad faith."

On 6 November 2004, workers staged a strike to demand the reinstatement of some 327 union members and leaders fired by CAT. The strike led to a violent dispersal that killed 14 people, including young children, and wounded scores of others.

Three union leaders killed: On 2 June, in Santa Rosa City, Laguna, two unknown assailants shot and killed Eduard Panganiban while he was on his way to work at Japanese-owned Takata Philippines, Inc. (Takata), where he worked as a maintenance worker. Panganiban served as the elected Secretary of Samahang Lakas ng Manggagawa sa Takata Philippines - Salamat-Independent (United Strength of Workers in Takata or SALAMAT- Independent), a union that represents Takata workers. Co-workers reported that Panganiban had been receiving threats before the incident. Takata workers had been picketing since March in support of their demand to recognise the union and negotiate a collective bargaining agreement. Union President Fidel Panis said that union officers and members had been threatened and harassed. Panis also reported that agents of the Intelligence Services of the Armed Forces of the Philippines had visited some union officers to dissuade them from pursuing their union activities.

On 14 June, National Federation of Sugar Workers (NFSW) organiser, Benjamin Bayles, was also shot and killed in Paman-dayan Subvillage, Barangay Buenavista Himamaylan City, Negros Occidental. On 28 June, it was reported that two suspects were detained at the Himamaylan City jail. The two suspects were members of the Armed Forces of the Philippines.

On 12 November, in Calamba City, Laguna, Carlo "Caloy" Rodriguez, President of the Nagkakaisang Lakas ng Manggagawa ng Calamba Water District (Water District Union), an affiliate of the Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), was shot and killed while on his way home from work. Rodriguez worked as a meter reader.

Philippine Airlines attacks its unions: On 19 April, Philippine Airlines (PAL) announced plans to outsource its non-core operations to third-party service providers effective on 1 June. The plan affects nearly 3,000 PAL employees who are represented by the PAL Employees Association (PALEA), an International Transport Workers' Federation (ITF) affiliate. In response to the PAL announcement, PALEA President Gerry Rivera said the union would file a strike notice. Rivera said that PAL aimed to outsource work to companies where workers will be non-union and thus receive cheaper wages, fewer benefits and no job security. Regular workers will be retired and then rehired as contract employees.

Various attempts to resolve the dispute were made over the coming months. On 9 December, PALEA announced the result of a vote in which over 86% of its membership agreed to authorise the union to strike. On 10 December, PAL President Jaime Bautista said that PAL would fire and cancel the benefits of all ground employees who engaged in any strike. On 15 December, President Aquino assumed jurisdiction over the matter, staying earlier decisions of the Secretary of Labour that would allow PAL management to outsource PALEA workers. The staying of the orders also meant that PALEA could not strike. The dispute had not been resolved by the end of the year.

PAL was also involved in an ongoing dispute with the airlines' 1,600 flight attendants represented by the Flight Attendants and Stewards Association of the Philippines (FASAP). On 9 September, FASAP filed a strike notice with the Department of Labour and Employment (DoLE) because of outstanding and unresolved issues in negotiations with PAL. FASAP filed complaints of gender discrimination on 20 September with the government's Commission on Human Rights. On 5 October, the DoLE-National Conciliation and Mediation Board (NCMB) announced that it had been unable to reconcile the differences between PAL and FASAP. Due to the collapsed talks, FASAP wished to strike. However, on 6 October, Labour Secretary Rosalinda Baldoz issued an order barring FASAP from striking. "If the cabin crew go on work stoppage as planned, it will be considered as an illegal strike since I have already assumed (jurisdiction) over the PAL labour dispute," Baldoz said. Eventually, on 23 December, Baldoz issued a decision in favour of FASAP.

Striking workers assaulted on various picket lines: On 25 May, members of a vigilante group called the Pasig Action Line attacked the picket line of 4D Employees Union (4DEU) in San Miguel, Pasig City. The 4DEU has been on strike against the 4 Dimensions Sleep Product Manufacturing Corporation (4D) since September 2007 when 4D announced that it would close because of financial reasons. Also in May, Phil Bless Inc. Workers Union-National Workers Brotherhood (PBIWU-NWB) went on strike against Phil Bless Inc. (Phil Bless) over the company's persistent unfair labour practices. A day after the strike started, factory security guards fired two gunshots at the picket line. On 15 October, 50 officials from the Metro Manila Development Authority (MMDA) rammed the picket line and destroyed the striker's encampments.

Triumph workers in the Philippines were violently evicted from their picket line on 4 May when more than 200 security forces invaded the former factory grounds, removed the protesting workers and destroyed their action camp. Security forces also harassed and injured five workers of the independent Bagong

Pagkakaisa ng mga Manggagawa sa Triumph International (BPMTI). The workers set up another picket line further down the street, continuing their protest against their dismissals since summer 2009. Triumph International (Philippines) Inc. and Star Performance Inc. factories in Taguig City closed last year, and on 3 December BPMTI filed an OECD complaint against the company. In February, the Swiss National Contact Point (NCP) for the OECD conducted an initial assessment and accepted the case as a specific instance. Currently the NCP is consulting with the parties to establish the terms for handling of the case.

Labour union leader, workers released: On 13 October, by order of the Regional Trial Court Branch 8, Tacloban City, labour union leader Vincent "Bebot" Borja was released from the Tacloban City Jail. Borja was arrested and imprisoned in May, 2007. Borja was freed from prison after the government's lone witness admitted he did not recognise Borja and that he was not involved in the crime the witness was supposed to have seen.

On 19 March, the remaining three imprisoned workers of Rizal-based Karnation Industries and Export Inc., Joseph Atienza, Pulido Baguno, and Claro Claridad, were released on bail. The accused are facing charges under the Serious Illegal Detention provisions of Article 267 of the Revised Penal Code following a strike in May 2007. The 2007 strike was precipitated because of Karnation's labour rights' violations.

Singapore



POPULATION: 4,700,000
CAPITAL: Singapore
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105
(denounced) - 138 - 182

The government ratified the ILO Tripartite Consultation Convention in October. Migrant workers' rights at work are still not fully regulated and foreign domestic workers remain particularly open to abuse. Trade union activities are strictly regulated, and the authorities have broad powers to intervene.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are recognised, they are subject to restrictions. The Constitution guarantees the right to join and form trade unions, however Parliament may impose

limitations on formation on grounds of security, public order or morality. The Registrar also has vast powers to refuse to register a union or cancel registration, and may decide whether to approve a new union's rules or changes to an existing union's rules. While government employees are prohibited from joining trade unions, the President has the right to make exceptions to this provision and 16 public sector unions have been granted such exemptions. Foreign nationals' access to union official posts is subject to permission by the Minister of Manpower. Furthermore, unions may not freely determine how to use their funds.

While the right to collective bargaining is recognised, all collective agreements must be certified by the tripartite Industrial Arbitration Court. The court can refuse certification on grounds of public interest, although it has never done so. Union democracy is limited by the fact that union members no longer have the power to accept or reject collective agreements negotiated on their behalf.

In addition, in limited situations, the law provides for compulsory arbitration by the request of only one of the parties to an industrial dispute. To call a strike, 50% plus one of all the trade union's members must vote in favour, and there is no specific legal protection for striking workers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The ruling People's Action Party (PAP) has been in power since 1959, and occupies 82 of the 84 parliamentary seats that have full voting rights. Current Singaporean laws and policies on freedom of expression, assembly and association sharply limit peaceful criticism of the government. Of particular concern is the 2009 Public Order Act. With the exception of five unions, the rest of the country's 60 unions are affiliated with the National Trades Union Congress (NTUC), which has close ties with the PAP. The NTUC Secretary General currently serves on the PAP Central Executive Committee and holds a seat in the Cabinet as a minister in the Prime Minister's Office. The NTUC-PAP relationship, which dates back to the founding of the NTUC in 1961, is described as "symbiotic" and was formally endorsed in 1980 at the NTUC Ordinary Delegates Conference. Currently, there are 18 PAP MPs with direct or former ties to the NTUC while another 48 PAP MPs serve as appointed NTUC advisors. In October, Singapore ratified ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

Migrant workers' rights still restricted: While restrictions on migrant workers' rights to serve as an officer, trustee or

staff member of a union (without prior written approval by the Minister) are still in place, all migrant workers, including foreign domestic workers, are allowed to join unions. A government-mandated standard contract for migrant workers provides some protection to foreign domestic workers.

The National Trades Union Congress (NTUC) advocates for the rights of foreign domestic workers and other migrant workers through its Migrant Workers' Forum. It has also set up the Migrant Workers Centre (MWC) together with the Singapore National Employers' Federation in April 2009 to champion fair employment practices and the well-being of migrant workers in Singapore. The MWC provides employment-related advice, advocacy services and representation to migrant workers.

Need to update labour laws: The government's tight rein on industrial action, the tradition of non-confrontational industrial relations and the adequate dispute resolution mechanisms have meant that there have been only two officially recorded days of strike action since 1978. There were no strikes in 2010. However, practice suggests that many of Singapore's labour laws are outdated, as in reality many of the potential restrictions on trade union rights are not applied. The unions have called for these outdated restrictions to be removed from the country's legislation.

Sri Lanka



POPULATION: 20,200,000
CAPITAL: Colombo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Sri Lanka has ratified all the ILO core conventions, but does little to implement them. Trade union rights continue to be restricted, especially in the export processing zones.

TRADE UNION RIGHTS IN LAW

Despite initial guarantees, trade union rights are limited by excessive restrictions. The right to form and join unions is recognised, however a number of workers are excluded or enjoy limited freedom of association, including agricultural workers. Furthermore, public service unions are not allowed to form federations or engage in collective bargaining. While the right to bargain collectively is guaranteed for other trade unions, they

must represent over 40% of the workers at a given workplace in order to be recognised. The right to strike is seriously circumscribed. The long list of services defined as “essential” was removed in 2006 and replaced by a broad unrestricted definition. The regulations allow the President to ban any organisation s/he considers to be impeding, obstructing or delaying the production and delivery of any service “which is of public utility or is essential for national security or for the preservation of public order or the life of the community and includes any department of the government or branch thereof”.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Strengthened by the military victory in 2009 over the Liberation Tigers of Tamil Eelam (LTTE), President Rajapaksa and his party won the presidential and parliamentary elections in January and April. The main opposition candidate, the former army chief Sarath Fonseka, was arrested two weeks following the presidential election, then condemned to 30 months in jail on corruption charges.

Sri Lanka has been placed under review for abuse of workers rights under the U.S. Generalised System of Preferences. In August 2010, the European Union reacted to human rights violations by partially withdrawing trade benefits previously granted under its generalised system of preferences.

In September, the parliament passed an amendment to the Constitution removing limits to government control over bodies such as the police, the judiciary and the National Human Rights Commission.

Public sector trade union federations tolerated: Although the law prohibits federations of public sector trade unions, there are a few such federations operating openly such as the Public Service National Trade Union Federation (PSNTUF) and the Ceylon Trade Union Federation (CTUF). These federations do not engage in collective bargaining, however, as they are not legally recognised as trade unions.

EPZs - A long tradition of anti-unionism: Export processing zones (EPZs) are managed by the Board of Investment (BOI), which sets wages and working conditions. In many cases, union members or officials are suspended, demoted or dismissed. In addition, new workers, often women, are warned not to join unions. Union activists not employed by one of the firms operating in an EPZ are not allowed to access the zone unless their entry is expressly authorised by the employer. This ban is one of the main barriers to organising in the EPZs.

Derisory fines: The maximum fine for employers found guilty of anti-union discrimination is 20,000 rupees (around USD 174), which is far too little to be dissuasive.

Poor enforcement of legislation on union recognition: The recognition of unions for collective bargaining purposes is dogged by excessive delays. Employers try to delay the holding of union elections for as long as possible and use this time to identify, victimise and, very often, fire the union activists concerned. As a result, workers generally refrain from voting, for fear of being identified, and the union fails to secure the number of votes required for it to be recognised. Employers go as far as to change their staffing figures to ensure the 40% representation target (deemed excessive by the ILO) is even harder to reach.

Where an employer refuses to recognise a union for collective bargaining purposes, the union can complain to the Commissioner General of Labour, who organises a referendum at the workplace. There is generally a very long wait, however, before such a referendum is actually held.

Poor rights enforcement in export processing zones: Labour inspection is clearly inadequate in the Export Processing Zones (EPZs), as government inspectors are not allowed to carry out unannounced visits to EPZ factories. In addition, when complaints are received by the competent government body, employers rarely turn up to the hearings, and, when they do so, they often flout the rulings with impunity. The government has proved incapable of enforcing these rulings. This was the case for the decisions by the General Labour Commissioner regarding New Design Manufacturing Ltd. and Ceyenergy Electronics (Pvt) Ltd.

Employees' Councils: Employees' Councils are promoted by the Board of Investment (BOI) as a substitute for trade unions in the export processing zones (EPZs). Employees' councils are, however, structures funded by and functioning under the aegis of the employer and can influence workers' choices much more easily than a union (where the workers elect their leaders and can act independently as the organisation is financed by the dues paid by its members). In some cases, management refuses to recognise an emerging trade union and will “negotiate” directly with the Employees' Council as if it were the workers' legitimate representative body. In other cases, it will offer employee council members certain advantages if they do not join a union and threaten them if they do.

EPZ employers have so far recognised 134 Employees' Committees and only 10 trade unions.

Unions denied access to Magistrates' Courts: There are many cases of anti-union discrimination. As with other unfair labour practices, such cases are heard by the Magistrates' Court, but only the Commissioner General of Labour can file a complaint with it. Trade unions can try to obtain a summons from a higher court, but this is a long and costly procedure. In the absence of a maximum deadline for bringing cases before the Magistrates' Court as of the moment a union reports a violation, the legislation on unfair labour practices serves little real purpose. The Commissioner General of Labour has only filed two cases since 1999.

Summit Industries sacks trade unionist: Srimathi, head of the National Free Trade Union (NFTU) at the Summit Industries (Pvt) Limited textile factory in Lellopitiya (Ratnapura district), was suspended on 12 January, then dismissed on 21 June after presenting wage demands. Summit Industries dismissed the trade unionist on the pretext of disciplinary grounds. The NFTU members were called by the company one by one and were pressed to leave the union, whilst other workers received threats to stop them from joining it. The union filed a complaint with the Commissioner General of Labour.

Bratex workers intimidated by advisor to the president: In early 2010, the women's undergarment factory Bratex (Pvt) Limited, based in the Katunayake export processing zone, was at the centre of a discussion over pay between the management and representatives of the Free Trade Zones & General Services Employees Union (FTZ&GSEU) and the Employees' Committee. On 16 and 17 February, the factory was visited by Siripala Amasaringha, accompanied by armed personnel, who introduced himself as an advisor to the president on labour matters. He pressed the workers not to engage in trade union activities. The FTZ&GSEU also reported that some of its members were intimidated by management executives.

Trade union representative assaulted: The Free Trade Zones & General Services Employees Union (FTZ&GSEU) intervened in early 2010 to help resolve a dispute between the management and workers at the Courtaulds Clothing (Pvt) Ltd garment factory in Katuwellegama. On 12 March, when a FTZ&GSEU representative for the Katunayake EPZ, Asela Dharmapriya, met with workers to collect trade union membership forms, he was assaulted by a group of thugs who threatened to kill him if he came back. The union informed the factory's management about the incident, threatened to call strike action, and was able to distribute membership forms to the workers. The FTZ&GSEU, however, believes that the management at Courtaulds, which supplies Marks & Spencer, was behind the assault.

Wheel Work Ltd. still fiercely anti-union: The management at the Wheel Work (Pvt) Ltd factory in the Biyagama EPZ formed an Employees' Committee after a branch of the Free Trade Zones & General Services Employees Union (FTZ&GSEU) was set up there. Since the union was formed at the end of 2008, its members have faced relentless victimisation (frequent changes in working hours, demotion to unskilled jobs, etc.). On 6 May 2009, the assistant secretary and a member of the union were suspended, supposedly for negligence. The union member was reinstated the following day after resigning from the union. On 18 March 2010, the company dismissed the assistant secretary, Mr. Karunathilaka. The management refuses to engage in any form of dialogue with the FTZ&GSEU.

President of Employees' Committee beaten up: Irregularities in the payment of wages in 2009 and 2010 led workers at the Everest Industries bottle cooler factory in the Katunayake EPZ to contact the industrial relations department of the Board of Investment (BOI). The BOI advised them to form an Employees' Committee. At the end of the working day on 23 March, after 10 pm, when the president of the Employees' Committee was being taken home by the company transport, the vehicle took a different route and left him in an isolated spot. A few minutes later he was attacked by a group of men. He had to be hospitalised for several days.

The workers demonstrated in front of the police station to demand that the aggressors be brought to justice. Everest Industries responded with repression: 90 employees were suspended; 70 of them were later reinstated, some after having been forced to sign a humiliating letter recognising their wrongdoings. Of the 20 other workers suspended, 19 were dismissed. The workers had contacted the Progress Union with a view to forming a genuine trade union at the company, but the project was brought to a halt by the dispute with the management.

Discrimination in the nomination of delegates to the International Labour Conference: The Trade Union Confederation, which brings together nine trade unions representing workers in the public and private sectors, denounced that it was discriminated against in the nomination of delegates to the International Labour Conference in June 2010. It underlined that the Labour Ministry lacks impartiality in its selection of delegates and gives more weight to political considerations than to the "most representative union" criterion.

Anti-union discrimination at the National Paper Factory: On 23 October, G. L. Jonshon, secretary of the Free Trade Zones & General Services Employees Union (FTZ&GSEU) at the National Paper Factory in Valaichenai, lost his job after refusing to

transfer to Colombo. His transfer was supposedly a disciplinary sanction, but according to the FTZ&GSEU he had not infringed any disciplinary rules. The union filed a complaint with the Commissioner General of Labour who, following an inquiry, recommended that G. L. Jonshon be reinstated to his post at the Valaichenai factory.

Nurses intimidated following stoppage: The Government Nursing Officers Association (GNOA) called a three-hour stoppage on 25 October following the Labour Ministry's failure to respond to their demands. The GNOA took every step necessary to ensure that the emergency services would continue to operate during the stoppage. Nonetheless, on 26 October, the director general of health services ordered all the hospital directors to draw up a list of the nurses that had taken part in the union action and force them to set out the reasons behind their acts, deeming they had committed an offence and that disciplinary action could be taken against them. On 22 November, the GNOA filed a complaint with the ILO denouncing the intimidation of workers exercising the right to strike.

Taiwan



POPULATION: 23,000,000
CAPITAL: Taipei
ILO CORE CONVENTIONS RATIFIED: Not a member state

Trade unionists are particularly targeted for dismissal as was the case in Young Fast Optoelectronics. Recent changes to the labour law have however strengthened trade union rights.

TRADE UNION RIGHTS IN LAW

Changes to labour laws have strengthened the protection of trade union rights. Most recently, the Labour Union Law was amended on 1 June 2010 and brought a number of significant improvements. Teachers are now allowed to join unions and migrant workers now also have the right to take part in unions' director and supervisor elections. A number of workers, including fire-fighters and medical personnel are still denied the right to organise, and civil servants may only form associations.

In 2009, the Settlement of Labor-Management Dispute Act was also amended to better secure the right to strike. The procedures for calling a strike, including the voting system,

were facilitated, and the conditions and areas under which a strike can be called were clearly specified. While strikes are not allowed in the case of "rights items", which are defined as items already agreed upon e.g. in collective agreements, the Act provides for judicial procedures to resolve such disputes whereas previously only mediation was available. In addition to teachers, civil servants and public employees are not allowed to go on strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Taiwan and China signed a free-trade agreement on 29 June. It should greatly increase bilateral trade but opponents of this pact in Taiwan fear the flooding of their market with cheap Chinese products and an increase in unemployment.

Limited collective bargaining: Barely 5% of the work force is covered by the 49 collective agreements in force, the majority in large companies. The content of these conventions rarely exceed the minimum stipulated by law.

Trade union members are first in line when it comes to dismissals: Even if the 1929 law on trade unions prohibits anti-trade union discrimination, it does not provide for penalties in case of the wrongful dismissal of leaders or members of trade unions. Many trade unionists are amongst the first to be dismissed during a restructuring or are dismissed for minor reasons.

Limited intervention from labour inspections in the Export Processing Zones: The law is in force in the two Export Processing Zones of Kaohsiung and Taichung but the inspectors rarely intervene because they are largely controlled by an authority under the supervision of the Ministry of Economic Affairs.

Wave of anti-trade union dismissals at Young Fast Optoelectronics: On 12 March, a company which manufactures touch screens, Young Fast Optoelectronics (YFO), who supply equipment to Samsung, LG, HTC and Google, fired five leaders and ten members of the trade union which had been set up within the company in 2009. The dismissals took place after the trade union had criticised serious violations of the law and indecent working conditions. The management justified these dismissals using the pretext that their manufacturing line had been transferred to China, but the Taiwanese trade unionists are convinced that this was a deliberate act to disband the trade union and a serious breach of labour law. The YFO factory is located in Tao-Yuan.

Thailand



POPULATION: 67,800,000
CAPITAL: Bangkok
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 138
- 182

The legal framework is not conducive to trade union activities. Union members suffered discrimination due to their union activities, and there were overt indications that the government would support employers over workers in labour disputes. Employers remained fiercely anti-union. Government attacks on migrant workers continued.

TRADE UNION RIGHTS IN LAW

Despite initial guarantees, trade union rights are coupled with numerous excessive restrictions. The 2007 Constitution guarantees freedom of association and specifically mentions unions as one of the organisations that can be formed. Several categories of workers enjoy limited or no freedom of association, however, including civil servants, teachers, and government officials. A law drafted in 2010 would allow civil servants to organise.

Non-nationals may not form a union, and may not be elected to union leadership posts. Loss of employment also means loss of union membership. A union's right to have advisors is limited, and these must be approved by the Ministry of Labour. Furthermore, a union can be dissolved if its membership dips below 25% of the eligible workforce. Only one union can be formed at each enterprise, and state enterprise unions may not affiliate with private sector labour congresses or federations.

While the right to collective bargaining is secured, only unions that represent at least 20% of the workforce may present bargaining demands, which must be voted on at the union's annual meeting or the union loses its right to engage in bargaining. Strikes are prohibited in state enterprises, and civil servants do not have the right to strike. The 2010 civil servants draft law would not alter this situation. The government can also restrict any strike that would "affect national security or cause severe negative repercussions for the population at large". Finally, the list of "essential services" significantly exceeds the ILO definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In March, the United Front for Democracy against Dictatorship (UDD) began large demonstrations in Bangkok calling for the dissolution of Parliament and new elections. In April and May, Thai military forces used lethal force to disperse protesters from rally sites near Parliament and a Bangkok shopping district. In the attacks, 91 people were killed. Two journalists were among the dead, and another 15 reporters were wounded. A preliminary state probe into the violence indicated that Thai Special Forces fired into a Buddhist temple grounds where several thousand protesters had taken refuge on 19 May. Due to protests, the government proclaimed the Emergency Decree on Public Administration in Emergency Situation in Bangkok and other provinces on 7 April. The decree allowed the Centre for Resolution of the Emergency Situation (CRES) to detain anyone without charge for up to 30 days in unofficial places of detention and gave officials effective immunity from prosecution for most acts committed while implementing the decree. Free-speech activists said authorities had blocked at least 110,000 internet sites. Thailand slipped 23 places to 153rd (out of 178) on the press freedom index.

The government implemented a National Verification (NV) and registration process for all migrant workers in Thailand who were already working in Thailand with valid work permits. Under the NV program, migrant workers were required to verify their nationality with their home country before they were re-issued legal work permits in Thailand. Those workers who failed to comply with the NV program were subject to deportation.

ILO decision on compensation for migrant workers: The State Enterprise Workers Relations Confederation (SERC) submitted a complaint to the ILO in June of 2009 that alleged that Thailand's current policy of denying compensation to migrant workers for work-related accidents and illnesses violated domestic and international labour standards. In February 2010, the ILO Committee of Experts on the Application of Conventions and Recommendations in its deliberations at the 99th International Labour Conference upheld the SERC complaint and directed the Thai government to provide migrant workers the same benefits and entitlement to work-related illness and injury as enjoyed by Thai nationals.

AutoAlliance attacks Ford-Mazda Thailand Union: AutoAlliance (Thailand) Co. Ltd. (AAT), a joint venture between Ford Motor Company and Mazda Motor Corporation, based at the Eastern Seaboard Industrial Estate (ESIE), locked out its Ford-Mazda Thailand Union (FMTU) employees on 5 January after negotiations broke down over wages and bonus issues. The

plant's 2,200 full-time workers were given until 6 January to either report to work and accept the AAT's offer on wages and bonus or face a lockout. Employees accepting the offer would be guaranteed full pay and benefits and receive a full-year bonus. During the lockout AAT utilised uniformed and non-uniformed police and Thai military personnel to intimidate workers demonstrating against the lockout. The owner of the ESIE filed charges against six union leaders for damages caused by blocked traffic during the union picketing. The lockout ended on 10 February when AAT and FMTU negotiated a settlement to the dispute.

In a related matter, subcontracted workers at the plant, whom AAT hires through a HR Digest Co., Ltd. (HRD), and who work on the production line with FMTU members, joined the FMTU during the lockout and requested that HRD enter into negotiations for a collective agreement. In response, AAT locked out the subcontracted workers and HRD dismissed 108 employees. On 15 November, the Labour Relations Commission ruled against 80 dismissed HRD workers who had filed a complaint that alleged they were illegally dismissed for their union activities after they joined the FMTU. The workers plan to appeal the decision to the Provincial Labour court.

Government ignores labour committee findings: On 16 January, Transport Minister Sohpon Zarum rejected the State Enterprise Labour Relations Committee's (SELRC) order to reinstate six former State Railway of Thailand (SRT) employees. The employees, all members of the State Railway Workers' Union of Thailand (SRWUT), were dismissed after a strike in October, 2009. Sophon directed the SRT to appeal the decision to the Labour Court.

Hicom hits new low in retaliating against union members: After Hicom Automotive Plastics (Thailand) Co., Ltd. (Hicom) in Rayong Province, a company that manufactures auto parts and plastics, ended a lock-out against its union on 29 January, the company retaliated against members of the Hicom Workers' Union of Thailand (HWUT) when they returned to work. Hicom removed 50 HWUT members from their regular jobs and ordered them to clean and paint the factory. Another group of 27 HWUT members were removed from their factory jobs and directed to work in an isolated warehouse. On 16 February, the union filed a complaint to contest Hicom's actions. In an act that the union believes to be connected to the ongoing dispute with the company, a union leader was stabbed in the stomach by an unknown assailant on 26 February while travelling home from work.

Tycoons evicts striking workers: Over 400 workers from Tycoons Worldwide Group (Thailand) Public Co., Ltd. (Tycoons)

in Rayong Province who are represented by the Tycoons Workers' Union of Thailand (TWUT) went on strike on 18 May in support of their demands for increased wages, better health and safety provisions, and improved working conditions. In response to the strike, the company hired members of the Thai Navy to guard the plant. In addition, one union striker and his wife were seriously beaten by an unknown assailant, believed to be a company-hired thug, when they travelled home from a union meeting. As the strike continued through the month of June, Tycoons evicted strikers from company dormitories and hired strike-breakers. Tycoons is headquartered in Taiwan and manufactures metal wire, rods, bars, and fasteners, as well as other specialised metal parts.

Arrest of former ICEM leader: Former ICEM (International Federation of Chemical, Energy, Mine and General Workers' Unions) Projects Coordinator and human rights activist Somyot Pruksakasemsuk was detained on 24 May under the provisions of the Emergency Decree on Government Administration in States and held in custody at the Royal Thai Army Cavalry Center, Saraburi (Adisorn Army Camp). No charges were ever filed against Somyot, but an arrest warrant was issued for Somyot and Suthachai Yimprasert from Chulalongkorn University after the two held a press conference on 21 May for the 24th of June Democracy Group, an organisation critical of the ruling government. Somyot was released on 13 June after an outpouring of protest against his confinement from the international trade union and human rights community.

Michelin continues discrimination against union members: The Tripartite Industrial Relations Committee (IRC) ruled on 24 June that France-based Michelin Tyre Company's (Michelin) management at its plant in Laem Chabang, Chonburi Province, violated the provisions of the Industrial Relations Act of 1975. The decision was in relation to a dispute that arose in March 2009 when plant workers signed a petition to protest the company's unilaterally imposed 35% wage cut. Management locked out employees who refused to remove their names from the petition. Twenty-two union members were arrested, suspended from their jobs, and faced criminal charges filed with police by company officials.

The IRC noted that Michelin discriminated against 12 union members of the International Federation of Chemical, Energy, Mine and General Workers' (ICEM)-affiliated Petroleum and Chemical Workers' Federation (PCFT-ICEM) whom it had previously reinstated on 18 January – but not to their former jobs. The IRC had ordered management to reinstate the 12 workers to jobs inside the factory equivalent to those they held previously within ten days of the decision. Michelin did not comply fully with the court decision when it reinstated the 12 workers

on 18 January, and the 12 refused their new job assignments, filing a complaint with the IRC. With respect to the criminal charges filed against union members, a Chonburi Provincial court set a hearing for 4 November 2011 to address the company's charge that the workers blocked the exit to the factory.

Severance for illegal dismissal: On 21 July, the Thai Labour Court ordered True Corporation (True), a large Thai conglomerate involved primarily in telecommunications, to provide compensation to nine workers terminated over three years ago because of their activities to form a union at one of True's subsidiaries. Although the court ruled the terminations violated the law, it did not order the employees' reinstatement. Instead, the court directed the company to provide severance pay. After the ruling, True announced they would appeal the decision to the Supreme Court. The dispute dates back to 28 February 2007, when the nine employees were laid off before being able to register their newly formed union with the government.

Human trafficking: According to a federal indictment that the FBI has called the largest human-trafficking case in US history, six recruiters have been accused of luring 400 Thai labourers to the US and forcing them to work. The indictment alleges that four employees of labour recruitment firm Global Horizons Manpower Inc. and two Thailand-based recruiters orchestrated the scheme. It states the recruiters lured the workers to the US with false promises of lucrative jobs, then confiscated their passports, failed to honour their employment contracts and threatened to deport them. The six defendants include Global Horizons President and CEO Mordechai Orian, 45; Director of International Relations Ms. Pranee Tubchumpol, 44; Hawaii regional supervisor Shane Germann, 41; and onsite field supervisor Sam Wongsesanit, 39. Two of the defendants were arrested on 2 September. The Thailand recruiters were identified as Ms. Ratawan Chunharutai and Ms. Podjaneer Sinchai.

Government gives training on union surveillance: In a document presented to employers at a management roundtable on 23 September in Rayong Province, the Deputy Commander of Rayong Provincial Police presented procedures for both the police and employers to follow in labour disputes. The document advised employers to have closed-circuit surveillance cameras (CCTV) to monitor employee meeting places and, in the event of a labour dispute, to use the system to record worker activities. The procedures also direct employers to set up a command centre to observe workers and deploy guards if there is a labour dispute. The procedures state both uniformed and plainclothes police will be assigned to all demonstrations and the police will videotape and photograph worker activities. If workers hold a peaceful public protest, employers are requested to provide background information on leaders and

the names of those joining the rally. The procedures further state that the police will provide a negotiation team to work in conjunction with an employer's team provided in negotiations with the workers. Lastly, if police file a court petition to restrict the actions of strikers, the procedures require employers to assign legal counsel to work with police on the petition. Rayong Province includes the large Hemaraj Eastern Seaboard Industrial Estate with over 220 auto assembly and parts manufacturing plants.

Company targets union members with bogus theft charges: The G4S Security Service (Thailand) Co. Ltd. (G4S) in Bangkok terminated 30 members of the Security Cash Transportation Workers' Union (SCTWU) on 11 November on fabricated charges of theft and negligence after THB 12,000,000 (USD 400,000) went missing from the company's vault. Seven of the fired workers serve as SCTWU executive committee members. The union claims the company is using the alleged theft to bust the union because the vault was not under the care of any of the fired workers at the time the money went missing. SCTWU has contested the dismissals by filing a complaint with the Pathumtani Provincial Labour Court.

Goodyear locks out striking workers: The Goodyear Tyre Makers' Union (GTMU), which is part of the PCFT-ICEM and represents workers at Goodyear (Thailand) Public Co. Ltd. (Goodyear) in Pathumthani Province north of Bangkok, went on strike from 18-23 November in support of its demand for equal pay for workers doing the same job, improved benefits and shorter working hours. The strike was called after numerous meetings with the company and government mediation efforts failed to achieve a new agreement. Management informed workers that if they did not end the strike and return to work, they would lose their benefits. Goodyear locked out the striking workers and told the union that it would not end the lockout unless the union agreed to separate the work rules from the collective bargaining agreement, which would give Goodyear more flexibility to dismiss workers. Goodyear has locked out 620 GTMU members since 22 November.

Employers show anti-union attitudes: Union leaders and members were dismissed on numerous occasions during the year as they attempted to form unions or negotiate bargaining agreements. Employers remained anti-union. The list includes the following: Thai Sobhi Kohgei Company (Sobhi) dismissed 11 Thai Sobhi Workers' Union (TSWU) leaders and members on 18 February, after the union submitted its proposals for a collective bargaining agreement; Chintana Apparel Company (Chintana) dismissed all eight members of the Chintana and Affiliates Workers' Union (CAWU) Executive Committee on 27 February, with the charges stemming from the union's holding

of a membership meeting to provide an update on negotiations with the company; Japan-based Nikon (Thailand) (Nikon) dismissed 34 members of the Nikon Workers' Union of Thailand (NWUT) on 28 February after union leaders presented bargaining demands for a new collective bargaining agreement (CBA); at Nikon (Thailand) Co the chairman of the Nikon labour union, Thongchai Sitthidet, said management suspended nine labour union board members on 24 March after they encouraged fellow workers to demand better benefits from the company; Thai Fukoku Co. Ltd (Fukoku) dismissed 13 union leaders on 21 June after they formed a union on 14 June; TFO Tech (Thailand) Co. Ltd. dismissed eight Thailand Autoparts and Metal Workers' Union (TAM) negotiating team members on 22 June after the TAM submitted bargaining demands for a new CBA; SKB Tech (Thailand) Co., Ltd., (SKB) dismissed the President and Secretary General of the SKB Connection Labour Union that recently formed at the SKB factory; B. Mayer Thailand and T.G. Technology Co., Ltd dismissed 15 members of the B. Mayer and T.G. Worker's Union's Executive Committee and 13 other union members on 2 October, shortly after the union had formed; and Sumitomo Rubber Co., Ltd, dismissed four workers on 12 October after they formed a new union and submitted collective bargaining proposals to company officials.

Migrant workers still face exploitation: While the government introduced a National Verification (NV) and registration process for migrant workers, little changed at the level of exploitation at the hands of Thai authorities or in the workplace. In July, the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) called for an independent investigation into the deportation of Burmese migrants because those deported under the government's NV program suffered human rights abuses at the hands of regime-backed ethnic armies in Karen State. Other repressive measures against migrant workers were also implemented with the Labour Ministry issuing a regulation requiring migrant workers to contribute to a repatriation fund starting on 1 January 2011. Under the regulation, Burmese and Laotian workers are required to pay a total of THB400 a month while a Cambodian worker needs to pay THB350 a month through payroll deductions by their employer. The money will be used to cover the government's expenses in the event a migrant worker is deported. Authorities also decided that migrant workers should not have children. The Labour, Social Development and Human Security ministries want to impose contraception on migrant workers. The Labour Ministry said it was focusing on the boom of children born to migrant workers, with the Social Development and Human Security Ministry saying such children were prone to be victimised by human trafficking due to their illegal residence.

Migrant workers strike: About 300 Burmese migrant workers went on strike at Asian Seafood on 21 August when the company changed the payment of overtime from the legally required method to a production/piece rate based on each kilogram of shrimp the worker cleaned. Thai authorities arrested and detained eight workers in connection with the strike. More than 1,000 Burmese workers at the Dechapanich Fishing Net Factory (Dechapanich), one of the largest nylon fishnet factories in the world, went on strike on 9 September to support their demand for reinstatement of six co-workers dismissed by the company the day before. The company dismissed the six workers for taking more than three days of leave each month. When the six dismissed workers demanded the return of their work documents, they found that the company had written the word "cancelled" next to their work visa. Also, the workers' overseas workers identification card, issued by Burma's Ministry of Labour, had been altered by putting photos and information other than that of the worker. Without proper work documents, the workers could not look for other work and were subject to deportation. The workers also complained that they were receiving THB 140 (USD 4.65) per day while the statutory minimum wage for Khon Kaen was THB 157 (USD 5.30) per day and that they did not receive any overtime pay. On 14 September, local immigration authorities reinstated the work visas for the dismissed workers, and on 15 September, Dechapanich agreed to return work documents to all employees. However, as of 8 October, there were still about 369 migrant workers who had still not received their documents.

Timor Leste (East Timor)



POPULATION: 1,200,000
CAPITAL: Dili
ILO CORE CONVENTIONS RATIFIED: 87 - 98 - 182

The right to strike and the application of labour legislation remain limited. The US Mission gave a bad example by refusing to recognise the right to organise of one its employees.

TRADE UNION RIGHTS IN LAW

Although fundamental trade union rights are guaranteed, areas of concern exist in the labour law. Freedom of association is secured in the Constitution and the Labour Code, and in 2009 Timor Leste ratified the two ILO core conventions on trade

union rights. However, foreign nationals are not allowed to participate in the “administrative or social organs of a union”. While termination of employment for union activity is explicitly prohibited in law, the protection is partly undermined by another provision which allows for financial compensation in lieu of reinstatement if the employer refuses to reinstate the worker.

Furthermore, trade union activities are hampered by provisions in the Freedom, Assembly and Demonstration Act. Protests are not allowed within 100 metres of certain buildings, including government offices and diplomatic missions, as well as of infrastructure such as ports and key parts of transportation. The Minister has an absolute right to prohibit or restrict a strike in “essential services”.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: East Timor, independent since 2002, is one of the poorest countries in the world, despite its oil and gas reserves. The President José Ramos-Horta and the Prime Minister José “Xanana” Gusmão remain in power but the apparent failure of the government in the fight against corruption and nepotism are eroding the stability of the four-party coalition. At the end of December, the Prime Minister stated that the UNMIT troops (United Nations Integrated Mission in Timor-Leste) should leave the country because the national forces are capable of keeping the peace.

Mainly unstructured economy is a barrier to organising: More than 80% of the active population of East Timor work in the informal economy. Given the difficulties that workers face to find paid employment, few dare to speak out against employers. The problem is compounded by their limited knowledge of trade union rights.

US Mission to East Timor opposes the right to organise of one of its employees: On 22 November, the US Mission to East Timor refused to meet with the General Workers Union of Timor-Leste (SJTL) to discuss the wrongful dismissal of one of its members, Mario Baretto on 16 July. Mr. Baretto had been employed in the Security Services of the Mission since 3 May 2004. The reason given by the Mission for refusing to meet the union was that “according to his terms of employment, Mr. Baretto did/does not have the right to be a member of a trade union and we therefore do not recognise any representative acting in his name”. The US Mission had previously refused to meet with the union and also to attend a Labour Council mediation session, falsely claiming diplomatic immunity.

Vietnam



POPULATION: 88,100,000
CAPITAL: Hanoi
ILO CORE CONVENTIONS RATIFIED: 100 - 111 - 138 - 182

The government continued to repress independent unions. Four workers' rights activists were condemned to heavy prison sentences. The official trade union confederation is criticised on all sides for its ineffectiveness.

TRADE UNION RIGHTS IN LAW

There are many obstacles to the free enjoyment of trade union rights. Workers may not organise or join unions of their choosing, as all unions must be approved by and affiliate with the Vietnam General Confederation of Labour (VGCL) and operate under its umbrella. The VGCL, on its part, is under the leadership of the ruling party. Individual unions can only affiliate with, join or participate in international labour bodies if approved by the VGCL.

While VGCL-affiliated unions have the right to bargain collectively, the right to strike is severely restricted. The voting thresholds for calling a strike are prohibitively high, and all strikes must relate to collective labour disputes or concern industrial relations. Furthermore, strikes that involve more than one enterprise are illegal, as are strikes called in public services or state-owned enterprises. Strikes are also banned in sectors considered important to the national economy and defence, a definition which currently covers a total of 54 sectors. The Prime Minister can suspend a strike considered detrimental to the national economy or public security. Finally, if a strike is ruled illegal, the union and the individuals involved are liable for compensation to the employer for “losses and damages”.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Vietnam held the presidency of ASEAN (Association of Southeast Asian Nations) in 2010. The country remains under the single party rule of the Communist Party. Some of its members are advocating an opening, but repression of any sign of dissidence was stepped up in the run-up to the party's congress in January 2011.

No freedom of association: Workers do not have the right to form or join a trade union that is not affiliated to the Vietnam General Confederation of Labour (VGCL), the official labour confederation controlled by the Communist Party. A new generation of trade unionists is emerging however, who do not have such close links to the party, notably in the post and telecommunications sector.

Union representatives often co-opted: The ability of unions that are affiliated to the Vietnam General Confederation of Labour (VGCL) to effectively bargain with management is handicapped by the fact that at many private enterprises, VGCL representatives are either considered by the workers to be close to management or are actually management officials.

Internet under surveillance to prevent calls for strike action: The government blocks access to politically sensitive sites. Internet cafe managers are required to monitor and record their customers' online activity. In April, the Hanoi People's Committee (the city's executive organ) issued a legal decision that all internet cafes must install monitoring software approved by the authorities, prohibiting the use of the internet to "call for illegal demonstrations, boycotts, unlawful gatherings for grievances and complaints".

Court proceedings lead to impasse: Workers wanting to claim respect for their rights in court face numerous obstacles, including the slowness and cost of the proceedings, or the absence of an employment contract.

Tran Khai Than Thuy condemned to three-and-a-half years in prison: Tran Khai Than Thuy, a renowned journalist and writer, has been subjected to several periods of detention and house arrest since becoming one of the founders of the Independent Workers' Union in 2006. According to Human Rights Watch, she was arrested once again in 2009 after trying to attend the trials of other dissidents in Hanoi and Haiphong. On 5 February, she was sentenced to three-and-a-half years in prison on trumped-up charges.

Le Thi Cong Nhan harassed following release: Le Thi Cong Nhan is a lawyer and multi-party democracy campaigner. She was imprisoned in 2007 for having "conducted propaganda activities against the State". During her trial she was accused of "fallacious interpretation" of government policies on labour unions. The articles she posted on internet criticised the national legislation that allows for arbitrary arrests as well prohibiting the formation of independent trade unions and the exercise of the right to strike. Le Thi Cong Nhan was released on 6 March but will remain under probation for another three years. Human Rights Watch reports that she has been arrested

three times since her release: on 9 March, when she was interrogated by the police after meeting with a foreign journalist; on 28 May, when the police dragged her out of a Hanoi cafe where she was going to meet two foreigners, then kept her in detention for five hours; and on 4 November, when plainclothes police officers arrested her at a restaurant where she was eating with friends and took her to the police station where they interrogated her for over six hours.

Seven to nine year imprisonment for three workers' rights activists: In February, police arrested three activists for distributing anti-government leaflets and organising strikes in Tra Vinh province. They were Doan Huy Chuong, aged 25, arrested on 11 February, Nguyen Hoang Quoc Hung, aged 29, arrested on 24 February, and Do Thi Minh Hanh, aged 25, arrested on 23 February. They were also accused of sending photos of a strike to a Vietnamese workers' support committee based in Poland. Witnesses reported that Do Thi Minh Hanh was slapped on the face by the police officers during her arrest. Nguyen Hoang Quoc Hung was condemned on 27 October to nine years in prison by a court in Tra Vinh province and the two others were each sentenced to seven years for "disturbing law and order".

One of the activists, Doan Huy Chuong, is a founding member of the United Workers-Farmers Organization (UWFO). He had already spent 18 months in prison in 2007 and 2008 for "abusing democratic freedoms". His father, Doan Van Dien, had been arrested on the same charges in 2006 and is still in jail after being condemned to four-and-a-half years in prison in December 2007. The UWFO spokesperson, Tran Quoc Hien, has also been in prison since 2007, and is not due to be released until 2012.

The two other activists sentenced on 27 October, Nguyen Hoang Quoc Hung and Do Thi Minh Hanh, are members of the Victims of Injustice movement, which assists impoverished workers and landless farmers.

These activists are among the thirty or so prisoners of conscience identified by Amnesty International at the end October in Vietnam. Along with a number of independent trade unionists, the list also includes supporters of banned political groups, bloggers, journalists, writers and businessmen.

Europe

Many European governments imposed austerity measures in 2010 to combat the large public deficits that resulted from the financial crisis, affecting millions of workers. Wage cuts, pension reforms, and budget curtailments spurred massive protests across the region, with general strikes in Spain, Greece, Portugal and France. In Brussels over 50,000 workers protested during the European Day of Action.

The harsh economic climate has also made some workers wary of reporting violations of trade union rights, as they fear losing their jobs. Union organising all over Europe has also been hampered by the increased use of precarious work and short-term contracts. The situation is most pronounced in Belarus, where over 90% of all workers employed on short-term contracts, but it is also a significant issue in countries like Georgia and Croatia.

In Turkey, even if partial amendment of the Constitution may yield some positive developments for workers, many substantive problems remain. About 350 trade unionists were dismissed in 2010 because of their union activities, by far the most in Europe. A second high-level ILO mission visited Ankara in March to assist the country to take meaningful steps towards adequately protecting trade union rights, but the mission was not received by the Minister of Labour. Reforms are in dire need, as unions face constant pressure from both private and public actors.

As exposed during an International Conference on Freedom of Association held in December in Moscow, the trade union rights environment is also difficult in Russia. Not only do employers try to limit workers' rights by seeking amendments to the Labour Code, but the legal authorities often exacerbate the challenges that unions face. Trade unions' appeals to prosecutors' offices may not only go unanswered, but may even result in increased pressure on the unions. In one case in 2010, instead of verifying trade union rights violations, the prosecutor examined the legality of the union. While it is prohibited by law to deny registration, unions also often face difficulties when trying to register. Trade unions in Ukraine face similar difficulties when dealing with the authorities.

Despite consistent pressure from the ILO, no improvement could be discerned in Belarus, where the trade union rights situation remains very problematic. President Lukashenko was elected to a fourth term in December, sparking protests where hundreds of protesters were arrested, including ten union activists.

All across Europe, trade union rights were flouted as employers retaliated against union members, in particular in multinational corporations. Some of the more severe cases include Turkey, where public sector unionists were harassed by the authorities, arrested and incarcerated; Serbia, where union leaders were subjected to physical and psychological abuse; Moldova, where union leaders who claimed unpaid wages were arrested, charged with criminal offences and placed under house arrest for weeks; and Bosnia and Herzegovina, where the public authorities deregistered a local union following a strike over unpaid wages and where the union leaders were subsequently dismissed.

In a number of countries trade union members were pressured or forced to leave their union and join employer-friendly unions or yellow unions. This was especially the case in Turkey, Serbia, Montenegro and Belarus. Employers also did not refrain from targeting workers who sought to establish a union: in Moldova, Poland and Georgia, several activists were dismissed after trying to organise.

Remedies for dismissed unionists are not always readily available. For example, in Poland the court proceedings can take up to two years, and the courts are increasingly awarding only compensation instead of reinstatement; in Estonia the court procedures are slow and expensive, and reinstatement is difficult; in Lithuania there are no labour courts or judges specialised in labour disputes; and in Albania the law does not foresee reinstatement for victims of anti-union dismissals.

Trade unions' work is made more difficult by the decline of social dialogue in many European countries. In Croatia, the Czech Republic and in Hungary, the trade unions were deprived of the opportunity to comment on changes to the labour laws. Also in Croatia the government did not respect the procedure for consultation in the tripartite Economic and Social Council, and in Georgia, where the unions worked out a draft Labour Code to supplant the much-criticised 2006 Labour Code and collected signatures of more than 100,000 citizens, their initiative was ignored by the authorities. The Georgian authorities have for years sought to undermine unions in the country through different manoeuvres.

While the right to strike is recognised in Europe and is even included in some countries' Constitutions, restrictions apply in particular to "essential services" where strikes are prohibited. In some countries the procedures for calling a lawful strike are cumbersome and can be used by employers to counter industrial actions. This especially applies to the United Kingdom, where employers can seek injunctions against unions before a strike has even begun. In other countries in the region, for example Bosnia and Herzegovina, Croatia, Montenegro and Serbia, strikers were retaliated against and even dismissed during the year. Strikebreaking occurred in Portugal.

Furthermore, the labour laws of many European countries unduly restrict the trade union rights of civil servants. There is little room for collective bargaining in countries like the Czech Republic, Latvia, and Portugal, and the right is denied for civil servants in Bulgaria. Public servants also do not enjoy the right to strike in Estonia, Ukraine and Germany; although in Germany some progress was made after a court held that teachers should not be punished for going on strike.

Also in 2010, the European Union (EU) initiated talks with the Council of Europe concerning the EU's accession to the European Convention on Human Rights, as required by the Treaty of Lisbon.

Europa

European Austerity Packages Negatively Impact Workers' and Trade Union Rights and Pose a Threat to the European Social Model

Grigor Gradev, ITUC - Pan European Regional Council (PERC) Executive Secretary

The most distinctive development in the field of labour rights and labour standards in Europe in 2010 can be broadly defined by the massive shift in the pattern of exercising power in the labour relations systems towards government unilateralism and away from the proactive search for negotiated, consensus-based policies.

The measures to contain the destructive impact of the crisis have been largely forced through the social dialogue machinery in the form of temporary "anti-crisis" pacts involving the social partners. But as the end of the recession was announced "exit" strategies based on tough "austerity" packages have been used across the region to apply strong pressure for a change in labour relations, social protection, and pension schemes in particular. The practices of negotiating particular restrictive measures or "concessions" for a definite period to stabilise certain economic, financial or fiscal parameters have been increasingly replaced by initiatives to revise labour and social legislation. The most common effect of this practice is the reduction of workers' rights in both individual and collective labour relations.

The pressure to curtail workers' rights has been applied to different extents and in various combinations in different countries.

Changes in the legal framework primarily aimed at: making certain temporary concessions permanent; introducing further flexibility in contractual relations in an already uncertain and precarious working environment (particularly in relation to working hours, hiring and firing procedures, fixed-term contracts); decentralising existing and working collective bargaining mechanisms at different levels; leaving social partners without clear definitions of their status and scope of activity; and complicating rules and procedures for collective actions and conflict resolution.

These changes inevitably will in the long term result in the restructuring of collective bargaining systems as well as the restriction of the scope and coverage of the agreements, i.e. to further diminish the efficient exercise of collective bargaining rights, already a problem in the public sector in many countries. This will also have an impact on the nature and logic of established rules and procedures including shifting the burden of proof to the worker in cases of violation of fundamental right such discrimination at the workplace or illegal dismissals.

The tendency was further fuelled by the ideas floated at the end of the year by the EU institutions concerning a new framework for “economic governance” to secure future economic stability in the Eurozone. The ideas have raised the danger of the EU institution’s interference in wage setting policies and mechanisms, thus depriving the collective bargaining process of a substantial part of its content. Such ideas seem to be at odds with the provisions of the EU treaties and will definitely undermine the “European Social Model”. They will eventually have wide-reaching consequences across the entire EU and beyond. The emerging strong opposition to these EU policies will most probably take centre stage in 2011.

Albania



POPULATION: 3,200,000
CAPITAL: Tirana
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

A law on nationalisation of trade union property was revoked, but anti-union practices remain widespread. Basic trade union rights are guaranteed by law. However, all civil servants are prohibited from taking strike action.

TRADE UNION RIGHTS IN LAW

Although the labour law does not contain areas of serious concern, problems still exist. Workers are guaranteed freedom of association in the Constitution and the Labour Code, except for senior government officials. Whereas anti-union dismissals are prohibited by law, workers are not awarded effective protection as the burden of proof lies with the victim and reinstatement can only be ordered for public administration employees.

The right to strike is restricted, as civil servants, regardless of their function, are not allowed to strike. Furthermore, solidarity strikes are only permitted where the employer of the solidarity strikers has been actively supporting the other employer. The list of "essential services" where strikes are banned exceeds the ILO definition by including workers in the prison service. Also, if a strike is considered unlawful, the employer can order strikers to return to work within three days or face dismissal.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Massive demonstrations were organised in May 2010 in Tirana by the Socialist opposition, which contested the 2009 election results and demanded a transparent recount of the ballots. In November, the EU rejected Albania's request for candidate status and put forth a list of requirements to be fulfilled before accession negotiations could be opened. However, the Schengen visa requirement for Albanian citizens was scrapped.

Anti-union employers: The Confederation of Trade Unions of Albania (KSSH) reports that employers' anti-union behaviour is widespread, and includes transfers, demotions, wage cuts and dismissals. While the victims of anti-union dismissals have

been able to challenge the employers' actions in court and have received compensation of up to one year's salary, the law gives them no right to be reinstated or re-engaged in their previous jobs. Earlier, Albanian trade unions had reported that courts were overloaded and that it took around three years to review cases of anti-union harassment.

Trafficking and forced child labour: According to the ILO, Albania is one of the countries in Central and Eastern Europe that is most seriously affected by the problem of labour exploitation of children and trafficking. The law allows employment of children over the age of 14 for "easy work", without, however, providing a definition of the term. Most children work in the informal sector – many of them in extremely hazardous occupations and under dangerous conditions in sectors such as agriculture, construction, shoe and clothes manufacturing and services.

Law on nationalisation of trade union property revoked: Two trade union confederations, the Union of the Independent Trade Unions of Albania (BSPSH) and the Confederation of the Trade Unions of Albania (KSSH), were evicted from their headquarters in 2006 following a court decision on property restoration. A law was subsequently adopted in 2009 which nationalised all the property of the Albanian trade unions and prohibited them from owning any real-estate. In June 2010 the Constitutional Court of Albania declared the law illegal and in violation of property rights. However, trade unions have called for a new law which would regulate the issue of trade union assets.

Azerbaijan



POPULATION: 8,731,000
CAPITAL: Baku
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

While the labour laws protect trade union rights, union activity in multinational companies like McDonalds is difficult and often reprimanded.

TRADE UNION RIGHTS IN LAW

Trade union rights are adequately protected in the law. Unions are recognised as social partners at all levels, including when adopting social and labour laws and regulations. Freedom of association is secured, and the law prohibits anti-union discrimination. Employers can also in general not dismiss

employees without the written consent of the trade union within the enterprise. The right to collective bargaining and the right to strike are guaranteed. Unions may not carry out purely political strikes, but are allowed to protest against the state's socioeconomic policies. Finally, workers in essential services as well as employees of legislative authorities, relevant executive authorities, courts and law enforcement authorities may not go on strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: On 7 November parliamentary elections were held with President Aliyev's New Azerbaijan Party (NAP) winning 73 out of 125 seats. Outside observers reported that the elections were marred. A tripartite General Agreement was also signed for the first time since 1994.

Labour rights violated: Even though the Labour Code of 1999 has improved the legal guarantees for workers, labour rights are often violated in transnational companies. The most common violations include conclusion of fixed-term contracts for 1-3 months, deprivation of vacation granted by law, overtime without extra payment, and failure to transfer social insurance taxes. Private employers and international companies operating in Azerbaijan also prevent the creation of trade unions, threatening employees with dismissals.

Unionists at McDonalds forced to leave union, Chair dismissed: Since the beginning of 2009 local trade unions have been organised by the Federation of Trade Unions of Azerbaijan "Khidmat Is" in four McDonalds restaurants in the city of Baku. During 2009 the membership increased from 18 to 165. In December 2009 the union called for collective bargaining and suggested a draft collective agreement to the executive manager of the company, M.Mirzoev. In the beginning of 2010 a delegation from McDonalds' Moscow office visited the restaurants in Baku, after which the pressure on the unions increased significantly. All union members have been called for individual conversations with management and have been forced to sign documents to leave their union. Since almost all workers were employed under temporary contracts, they signed the documents. The union refused to accept the documents, which have been kept by management. By the end of 2010 just 10 employees confirmed that they indeed wanted to be members of the unions. The Chair of the union, Arif Babaev, was also dismissed.

Belarus



POPULATION: 9,600,000
CAPITAL: Minsk
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

After a brief period of renewed dialogue between the authorities and the Belarusian Congress of Democratic Trade Unions (BKDP), the situation has again deteriorated. Trade union members have been harassed, blackmailed, arrested and dismissed. New presidential decrees undermining trade union rights have also been adopted.

TRADE UNION RIGHTS IN LAW

Trade unions operate in a harsh legal environment. The 1996 Constitution transferred all powers to the President, giving him the right to enact decrees that carry the weight of law. While the Constitution technically recognises freedom of association, union registration is extremely difficult. The minimum membership requirement is prohibitively high, and a letter from the employer confirming the address of the union is needed. Trade unions can be deleted from the register by a decision of the registrar, without any court procedure, if the organisation is held to violate legislation or its own statutes, or if the union's recorded data is no longer correct. Foreign assistance may not be offered without the consent of the authorities.

Furthermore, while the right to collective bargaining is recognised, disputes that arise during bargaining and that cannot be settled by the parties must be referred to conciliation, or, failing conciliation, to the National Labour Arbitrage. Strikes can only be held within three months after conciliation has failed, and the length of the strike must be announced in advance. Furthermore, the President has wide powers to cancel or suspend a strike. A minimum service must also be ensured during all strikes. Finally, "Discrediting the Republic of Belarus", meaning giving "false statements" on the country's political, social or economic situation, is punishable with arrest or imprisonment for up to two years.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: On 19 December Mr. Lukashenko, President since 1994, was elected for a fourth five-year term. Mass

protest actions followed the elections, many participants were arrested, and criminal investigations against over 30 people were initiated. The EU Foreign Ministers Council imposed travel restrictions and froze the assets of Belarusian officials responsible for the elections and the subsequent crackdown on the opposition, on civil society, and on independent media.

Extensive right to draft short-term contracts: The entry into force of Presidential Decree No. 29 of 1999 gave the employers the right to sign one-year contracts with all workers. The conclusion of these contracts is completely at the employers' discretion, and workers previously employed on permanent contracts can be dismissed if they refuse to accept the new ones. In case a one-year contract is signed, the employer has no obligation to renew it, even if the position and the work remain. The introduction of these measures has resulted in a situation where nearly 90% of all employees in Belarus work under short-term employment contracts.

On 31 March 2010 Presidential Decree No.164 concerning short-term contracts was signed. It gave an employer the right to conclude a longer contract with a worker who had not violated labour discipline and who had already been employed for not less than five years. It did not, however, envision the transformation of a short-term contract into a permanent one. Furthermore, while considered an improvement to working conditions, employers were able to sign such contracts in the past too.

ILO recommendations still not implemented, EU trade benefits are withdrawn: Since 21 June 2007 the decision of the European Union's Council of Ministers to withdraw Belarus' benefits under the system of generalised special preferences (GSP) is in force. The European Commission has confirmed that the EU position can only change once the ILO conventions are fully implemented, and that the EU will follow the ILO appraisal of the situation. In June 2009 the ILO International Labour Conference (ILC) concluded that, while the measures already taken were duly appreciated, the Government was to "redouble its efforts" so that the ILO would be in position to note significant progress at its meeting next year.

Despite the ILO Commission of Inquiry recommendations, as well as numerous conclusions by the Committee on the Application of Standards (CAS) of the ILC and of the ILO Governing Body, the government of Belarus has failed to improve the trade union rights situation. An Action Plan for the implementation of the ILO Commission of Inquiry recommendations was prepared by the government in 2009 (see the 2010 edition of the Annual Survey), but it only contained general words and expectancies and has till now not been complemented with concrete content.

There are also no proposals to amend Presidential Decree No. 2 on registration, the Law on Mass Actions, and Presidential Decree No. 24 concerning the use of foreign gratuitous aid, as requested by the ILO Commission of Inquiry. On the contrary, in 2010 legislation further limiting trade union rights was adopted.

As a consequence trade unions continue to operate in a difficult environment. Independent trade unions still face obstacles when registering under Presidential Decree No. 2. Members of trade unions affiliated to the Congress of Democratic Trade Unions (BKDP) suffer from anti-union discrimination, including dismissals and the non-renewal of employment contracts, as well as pressure and harassment. National legislation also does not guarantee the right of unions to organise their activities free from interference by the public authorities.

Pro-union decision revoked: On 18 November 2008 the State commission for managing state-owned buildings took a decision to decrease tenfold the rent for public organisations, including all trade unions, compared to the rent for commercial organisations. Immediately afterwards, at the 303rd Session of the ILO Governing Body, the Vice-Prime Minister of Belarus V.Potupchik declared this was a measure to eliminate anti-union discrimination in the country.

However, on 23 October 2009, Presidential Decree No. 518 "On some issues related to renting and gratis using of state property" was issued and the State commission for managing state-owned buildings abolished. During 2010 when determining the rent payment, a 0.1 reduction factor could be applied to organisations in compliance with a list approved by the Council of Ministers of the Republic of Belarus and agreed to by the President.

On 5 November 2010 Presidential Decree No. 569 was issued, allowing all trade unions to use the 0.1 reduction factor when renting state property. The decree is set to come into force in February 2011.

Access to workplace limited: On 22 January 2010 Yuri Shvets, Chairperson of the independent union at "Mozyr oil refinery" LLC, had his permanent admission card - which gave him access to the company premises - blocked electronically by the employer. The employer then demanded to substitute it with a temporary and limited admission card, though even the legal address and the location of the decision making body of the union was registered at the company.

Trade union leaders dismissed: The "Lavsanstroi" JSC construction company in Mogilev refused to renew the employment contract of Nikolai Rasiuk, an activist of the Belarusian Free

Trade Union (SPB). On 2 February 2010 he was brought to the chief engineer's room and interrogated by three KGB officers concerning the organising of mass protest actions.

On 26 February 2010 a young worker named Viacheslav Reut, member of the Free Metalworkers' Union (SPM), was dismissed by his employer "LES", a company making instruments. The dismissal came one day after an application to have the union dues transferred for newly affiliated members of the union.

On 23 November 2009 Yury Loban, an employee of the Belarusian heavy-duty truck manufacturer "BelAZ", saw his contract terminated despite protests by his team members and by other employees. On 4 January 2010 the Zhodino court of the Minsk region considered the claim for reinstatement by Mr. Loban but refused to satisfy the claim.

On 4 May 2010 Leonid Gaishun, a member of the Belarusian Free Trade Union (SPB) and operator of automated and semi-automated machines at the Bobruisk Tractor Parts and Components company, was dismissed upon expiry of his contract. He was a highly qualified worker and had been employed at the company for more than 36 years, including more than five years as specified by the Presidential Decree No. 29, 1999. The real reason for his dismissal was his affiliation to the SPB.

Trade union leader dismissed after new trial: On 18 December 2009 the Chashniki district court in Vitebsk Oblast reinstated Alexey Gabriel, leader of the Free Trade Union (SPB) at the Lukoml Hydroelectric plant. The court ordered the employer to renew Gabriel's contract for the duration of his term as a trade union officer. It was the first time when a worker was able to convince the court to overturn an anti-union dismissal (see the 2010 edition of the Annual Survey).

On 1 January 2010 Mr. Gabriel returned to his work. However, the employer appealed against the court decision, and the Chashniki Prosecutor's office also protested against the decision. As a result the case of Gabriel was put to a new trial in the Oktyabrski district court in the town of Vitebsk. On 5 March 2010 during the new trial the claim for reinstatement was dismissed, and the court of appeal agreed with this decision. On 21 May 2010 Gabriel was finally dismissed.

Union activist kept on standby after appeal to Prosecutor:

The chairperson of the local union of the Belarusian Free Trade Union (SPB) at "Minsk automated line production" company, Alexander Surov, appealed to the Partizanski Prosecutor's office of Minsk after the chief of the company, in violation of the collective agreement, unilaterally reviewed the time rate and wage scale in the pattern-shop, decreasing the employees'

salary. After making this appeal, A.Surov was persecuted by management. During 2010 he was not admitted to his work but was kept on standby - a measure involving reduced pay during temporary halts in production - with a miserable pay below USD 100 per month. In February he had been notified of redundancy starting 17 May, but his dismissal was postponed throughout the year.

Trade union leader detained and found guilty for meeting with members: Natalia Mikhnyukevich, the Chairwoman of the Soligorsk regional organisation of the Belarusian Independent Union (BNP), was detained by police on 4 August 2010 when she tried to meet union members of "Delta Style" JV near the entrance to the company. She had earlier tried to secure a meeting with "Delta Style" at the company but had been refused. Natalia Mikhnyukevich was taken to the Soligorsk police station and was requested to explain her presence near the company gates. She was subsequently accused for holding an illegal trade union meeting near the company premises. On 27 August 2010 she was called before court and was found guilty and handed an administrative fine.

Trade union members pressured to leave their union:

Since the beginning of 2010 mass pressure has been put on members of the free trade union at Bobruisk Tractor Parts & Components. Managers and shop foremen have forced members of the local organisation affiliated to the Belarusian Free Trade Union (SPB) to fill in forms requesting management of the company to exclude them from the union affiliated to SPB and to join the Automobile and Agricultural Machine Building Worker's Union (AAMBWU), which is affiliated to the state controlled Federation of Trade Unions of Belarus (FPB).

Members of the local union affiliated to the Belarusian Independent Union (BNP) at the "GrodnoAzot" chemical company were also subjected to pressure by management from 2006 to 2009. In February 2010 persecutions of the unionists started again. In a move to force the workers to leave their union, shop managers threatened them with dismissal, deprivation of bonuses and failure to pass the workers' qualification exams. Furthermore, in February the administration of the Bobruisk tractor parts and aggregates plant warned the SPB of early termination of its office space lease, which was scheduled to end in 2012.

Union activists arrested for participating in peaceful protest:

Ten activists of the Belarusian Radio and Electronic Workers' Union (REPAM), the Free Trade Union of Metalworkers (SPM) and the Free Trade Union of Belarus (SPB) were among the hundreds of protesters arrested during the peaceful protest against the results of the presidential elections in Minsk on

19 December 2010. They were sentenced to 10-15 days of administrative arrest for participating in the rally. Among those sentenced were Mikhail Kovalkov, Chairman of the SPB, Alexei Kovtun, a member of the SPB, Alexander Tysevich, a member of the REPAM, and Vladimir Sergeev, a member of SPM.

Belgium



POPULATION: 10,600,000
CAPITAL: Brussels
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Protection of the right to strike is weak. Employers exploit the possibility given them in law to claim an “emergency” in order to break strike pickets. A complaint by the three national centres to the European Committee of Social Rights was being examined at the time of writing.

TRADE UNION RIGHTS IN LAW

Basic trade union rights are guaranteed, however there are some areas of concern. Workers have the right to form and join unions of their choice. While special protection is awarded to workers' representatives on works councils and health and safety committees, freedom from anti-union discrimination is not adequately secured as union representatives are not fully protected against dismissal. Collective representation of workers in small and medium-sized enterprises (SMEs) is not fully protected either, although the situation improved with the adoption of a law in 2008 which secured consultation and information rights for trade union representatives in SMEs.

The right to strike is recognised, although there is no clear legal definition of this right. Civil courts have also weakened the right, in particular by restricting strike pickets. An appeal was lodged in 2009 with the European Committee of Social Rights. Also in 2009, the Brussels Industrial Court refused to recognise the seriousness of the grounds for dismissing a delegate during a collective action. In the same judgement, the industrial court said that the right to strike was not limited to strikes as such but could cover other types of actions (occupations...).

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Since the last legislative elections on 13 June, the political crisis of several years became even more acute. The Dutch- and French-speaking parties have been unable to reach a compromise on the institutional reforms needed before a government can be formed. The caretaker government has little margin for manoeuvre or decision-making powers. Major socio-economic policy decisions have been put on hold.

Non-respect of the 2002 “gentlemen’s agreement” on the peaceful settlement of industrial disputes, right to strike flouted: Despite an informal agreement signed by the social partners in 2002, aimed at encouraging conciliation and mediation over all other forms of dispute settlement, employers have often and abusively called for the courts to intervene, claiming an “absolute emergency”. Rather than enter into negotiation, enterprises file an ex parte application which results in the courts taking a decision before the workers have had an opportunity to plead their case. Heavy fines are foreseen if they ignore these rulings. Appeals are possible, but usually fail. As a general rule, the courts consider that it is not acceptable to prevent employees or third parties gaining access to the workplace, regardless of whether violence is used in doing so, but judges have issued “preventive” orders even when there is nothing to indicate that such acts would be committed. Furthermore, if trade unions call off a strike, the courts consider that the dispute is settled and refuse to rule on the grounds for or possible infringement of the right to strike. The European Trade Union Confederation, ETUC, and the three national trade union centres ACLVB-CGSLB, CSC-ACV and FGVB-ABVV lodged a complaint with the European Committee of Social Rights against this undermining of the right to strike.

Employers still free to dismiss union representatives by paying compensation: A special procedure must be respected when dismissing workers' representatives on works councils and health and safety committees, failing which the workers' representatives can ask for reinstatement. However, in practice, workers' representatives are never reinstated. Employers prefer to pay out legal compensation, even large sums, rather than respect the special procedure or reinstate wrongfully dismissed workers' representatives.

Attempted strike breaking at Inbev: On 12 January, further to strikes at the Liege and Louvain plants of AB Inbev (the brewing giant had just announced restructuring plans that would mean cutting 300 jobs) the employer applied to the courts to have the strike pickets considered as “assault and battery”. The courts of first instance ruled that the request was unfounded.

In an appeal concerning the Louvain site, a judge ruled in the employer's favour, ordering the entrances to be cleared to allow goods to enter and leave the plant, a decision challenged by the local authorities. On 20 January the parties to the dispute reached a compromise.

Delta Lloyd banking company shows contempt for social dialogue: On 15 March, following a strike and an ex parte application, the banking company Delta Lloyd issued a summary of a court ruling in its favour on the company's intra net. A union representative who asked for a copy of the court order to examine the possibility of an appeal was refused by the employer on the grounds that a full copy of the order would only be of use in the event of a new strike. On 28 April a tribunal ordered Delta Lloyd to pay legal costs, considering that the employer's behaviour was contrary to the spirit of social dialogue.

Compensation for 26 protected former employees of Forges de Clabecq: On 3 May, at the end of very lengthy proceedings, the metals company Duferco was ordered to pay compensation to 26 former employees of Forges de Clabecq. When the forge went bankrupt in 1997, the unions and the buyer (Duferco) signed an agreement on the re-employment of 800 workers who had lost their jobs. During the proceedings however, nearly all former union representatives were ruled out (only three protected workers out of a total of 160 were invited to submit job applications). Forty two of them lodged a complaint on the grounds of discrimination, believing the arguments given by the employer (absenteeism, involvement in too many workplace accidents, etc.) were fallacious. The tribunal did not uphold the charge of discrimination.

Preventive arrests and physical force against Euromanifestation demonstrators: When the European Day of Action, "Euromanifestation" was held on 29 September in Brussels, organised by the European trade unions, the police made 250 arrests, at least 150 of which were preventive (i.e. before the demonstration). Belgium's Human Rights League and many trade unions also deplored the fact that physical force was used against demonstrators who were not disturbing public order in any way and did not display any real or potential violence.

Bosnia and Herzegovina



POPULATION: 3,800,000
CAPITAL: Sarajevo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

In a country with an almost 50 per cent unemployment rate and weak law enforcement, employers' pressure and occasional dismissals of trade unionists effectively discourage many workers from joining the union. A fragmented legislative framework and restrictive laws on trade union registration and strikes amplify the problem, including the fact that the Government continues to refuse registration to a state-level trade union confederation.

TRADE UNION RIGHTS IN LAW

Despite recent improvements, excessive restrictions on trade union rights figure in several areas of the law. Registering a trade union is cumbersome, as the time limits prescribed in the legislation are very short and exceeding the limitations may even lead to dissolution of the organisation. Furthermore, the authorities have the right to reject a request for union registration, and a trade union can be dissolved by the authorities if it has failed to convene its assembly. The right to strike in the Federation of Bosnia and Herzegovina is seriously undermined by the requirement to ensure "production maintenance" during strikes. The union and the employer must agree on this at least ten days before the strike is due to start, which effectively gives the employers discretionary powers to prohibit lawful strike action.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Since 1995 the Dayton Agreement, which brought an end to the war in Bosnia and Herzegovina, has subordinated the country's national administration to supervision of the international community. Elections held in October 2010 did not bring much prospect of institutional reforms that would allow the country to establish full sovereignty and be considered for EU candidate status.

Anti-union multinationals: The Confederation of Trade Unions of Bosnia and Herzegovina (KSBIH) reports that multinationals, especially in the commerce sector, strongly oppose trade unions. Workers in large shopping malls are threatened with dismissal if they join a trade union. Dismissals of trade union officials and reprisals for strike organising are not infrequent, and in a country where the official unemployment rate is close to 50%, such cases discourage many workers from joining a union. However, the situation did improve in Interlex, where the workers were previously threatened with a 50% wage cut if they formed a union. In October, the Trade Union of Workers in Commerce and Services of BiH (STBIH) held a trade union assembly in the company and elected five shop stewards.

Ministry of Justice deregistered trade union: The workers of Radio Herceg Bosne, in Mostar, went on strike on 30 November 2009 due to unpaid salaries. The employer tried to get the strike declared illegal by appealing to court, but on 20 March 2010 the Municipal Court of Mostar decided that the strike was legal and justified. However, on 2 April the Federal Ministry of Justice took the decision to deregister the company organisation of the Independent Union of Professional Journalists of BiH (NNS) and delete it from the trade union register, on the grounds that the union did not comply with its own statutes. As a consequence the workers had to terminate the strike, but on 13 April they registered a new trade union organisation. The next day Mijo Kelava, leader of the both the old and the new union, and three other trade union members were dismissed without a formal explanation. The Labour inspector initiated a court procedure against the employer in May, and the County Court in Mostar decided in June to return Mijo Kelava to work until the court procedure was concluded.

Manager assumed role of shop steward and demoted unionists: The General Manager of the tobacco factory Fabrika duhana Sarajevo, Edin Mula Hasanović, illicitly convened and presided a meeting of the trade union committee in September 2010, following which he assumed the rights and obligations of the company shop steward. The legally elected shop steward of the Independent Trade Union of workers in agriculture, food, tobacco, water management, commerce, catering and tourism activities of Bosnia and Herzegovina (PPDIVUT), Aziz Mrdić, had been demoted from a position of jurist to that of assistant non-skilled production worker. Another member of the same trade union, Hasib Kepeš, was also demoted to the same position without regard to his poor health, which resulted in his hospitalisation due to a severe psychological condition.

Dismissed during strike: Twenty-four workers of Urbanistički zavod Republike Srpske, in Banja Luka, were dismissed in June 2010 during a legally organised general strike that started 4

April. The Ministry of Labour and Veteran-Disability Protection of Republika Srpska considered the dismissals as illegal in August and ordered that the workers be allowed to return to work.

Trade union confederation still denied registration: Despite pressure from the ILO, the Government has since 2002 been refusing to register the Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBIH) under various pretexts. In 2010, SSSBIH was again denied registration, among other reasons on the grounds of its statute not being in line with the Law on Associations. The Government subsequently asked for all rules on organising at the company level to be deleted from the statute.

Trafficking of workers: The case of 700 workers from Bosnia and Herzegovina (BiH), Serbia, Macedonia, Moldova and Pakistan who had been recruited by SerbAz to work in Azerbaijan and who were later heavily exploited is still waiting for its court epilogue in Azerbaijan. While the police of BiH failed to find any irregularities in the work of the recruitment company SerbAz, Bosnian citizen Saša Lipovac, who was in charge of the workers' camp site in Baku, was sentenced in January 2011 to ten years imprisonment for war crimes committed in BiH in 1993. Offers for well-paid work abroad are popular in BiH due to the harsh existential situation of the majority of the population, but there is concern that a number of the recruitment companies are using such arrangements as a cover for trafficking and exploitation of workers.

Bulgaria



POPULATION: 7,500,000
CAPITAL: Sofia
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 105 - 111 - 138 - 182

The poor economic situation provided a difficult climate for unions in which to operate in 2010. Violations of trade union rights were reported in both domestic and international companies. Public servants are excluded from many trade union activities, and the right to strike is limited.

TRADE UNION RIGHTS IN LAW

Despite decisions by the ILO and the Council of Europe, trade union rights are still not fully guaranteed. The Constitution

provides for freedom of association, however foreign workers need prior authorisation to form a union. Furthermore, although workers are protected against anti-union discrimination, the burden of proof rests with the employee. There are also no provisions that protect trade unions against acts of interference in their internal affairs.

Collective bargaining is allowed, but not for public servants.

The right to strike is limited by several restrictive provisions. The duration of the strike must be announced in advance, strikes can only be called in connection with collective disputes and after the exhaustion of all dispute resolution procedures, and public servants may only engage in “symbolic strikes”, which means displaying signs and protest banners. In sectors where the right to strike is banned, there are no alternative dispute resolution mechanisms. Also, the right to strike is circumscribed by requirements on the establishment of a minimum service, which in the railway sector amounts to an inordinate 50%.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Economic growth was stagnant in 2010 and by the end of the year the budget deficit was running at 3.9%. The centre-right government has sought to reduce the deficit and there has been opposition to these measures. In March the parties in the National Council for Tripartite Cooperation unanimously agreed on 59 measures for economic stability, relating to fiscal policy, reducing public expenditure, supporting households, labour market reforms and measures within the social insurance system.

Still no labour courts: In March 2004, the government announced it was examining the possibility of setting up specialised labour courts. The process has continued with ILO assistance.

Frequent harassment: In recent years, unions have reported frequent cases of discrimination and harassment against trade union activists and members, who have been relocated, downgraded or sacked. This has created fear and insecurity, often making workers reluctant to join a trade union. The legal proceedings for the reinstatement of dismissed workers can take a long time, sometimes years, while the sanctions against employers for unfair dismissal are too weak to be dissuasive. In the private sector, some employers have simply banned trade union membership within their enterprise and have forced newly employed workers to sign declarations that they will not establish or join trade unions. Temporary employment contracts

are increasingly being used to prevent workers from demanding their rights.

Organising problematic in multinationals: Organising is especially difficult at new sites of multinational companies. Although some workers in the more recently opened establishments of the Metro commerce chain and plants of American Standard have joined trade unions, it is still very difficult to obtain real union recognition. Multinationals also rarely respect applicable sector-level collective agreements.

Ending the viability of a union branch in Silistra: At the Sava Dobroplodni theatre in Silistra the entire trade union committee, comprising the head and two secretaries, was dismissed. The subsequent interventions of the Labour Inspectorate were rejected by the employer, who then went on to dismiss more than 90% of the union’s members, effectively removing the branch of the trade union from the theatre.

Freedom of association under threat at IBM Bulgaria: NFTINI Podkrepa, representing workers in the IT sector in Bulgaria, has reported on serious violations of freedom of association at IBM’s global delivery centre in Sofia where workers involved in trade union activities have been subjected to intimidation and harassment. The trade union founded within IBM Bulgaria complies with local legislation and is recognised by the appropriate public administration, and is therefore entitled to full recognition by IBM’s Bulgarian management. Podkrepa has demanded that IBM Bulgaria apply IBM’s internal regulations stipulating the strict application of local legislation, and more broadly to respect internationally recognised workers’ rights to join and form trade unions and to collective bargaining.

Hampering union activity in Kostenets: At the Kostenets Stock company in the town of Kostenets, the majority owner has since May 2010 put pressure on the head of the trade union branch in the enterprise with the aim of running down trade union organisation in the factory. Attempts have also been made to prevent the enterprise’s trade union leader from accessing the factory.

Croatia



POPULATION: 4,400,000
CAPITAL: Zagreb
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Flexible working relations and anti-union pressure from private employers make trade union organising difficult. In spite of some improvements, law enforcement through the judiciary system remains slow and labour inspection capacities weak. At least four shop stewards were illegally dismissed, and three union activists lost their jobs after organising a strike.

TRADE UNION RIGHTS IN LAW

Fundamental trade union rights are guaranteed, although with some limitations. Workers are entitled to form or join unions of their own choosing without prior authorisation, and union representatives are protected against anti-union discrimination. The right to collective bargaining is recognised by law. Public sector unions jointly negotiate the basis for all wages in the public sector, but unions may also negotiate their salaries separately with the government. However, the Act on the Basis for Wages in Public Services stipulates that if a collective agreement is not concluded before the adoption of the state budget, the government can decide on the wages unilaterally.

The Local and Regional Self-Government Wage Act of 19 February 2010 also restricts the right to bargain collectively for employees of local and regional self-governments. The right to strike is secured, however the strike provisions in the 2010 Labour Act do not apply to employees in state administration and public services, and the special law that will regulate this matter has not yet been adopted.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Former Prime Minister Ivo Sanader was arrested in December 2010 and will face charges for organising a wide network of corruption in state administration and in public companies. A number of other former high level Government officials, including two ministers, are also facing corruption charges in court. The country is expecting to finish EU accession negotiations in 2011 and become a member state in

2013, although some of the key problems, including restructuring of the shipbuilding sector, are still to be solved.

Short-term contracts complicate organising: The majority of recently employed workers are on fixed-term contracts for up to three years, with some contracts being as short as three months. This situation especially affects young workers and women. Facing the threat of their contracts not being renewed, workers do not dare to form or join a union.

Reprisals for trade union activities: It is not uncommon that shop stewards and union activists face reprisals, including dismissals, for organising industrial actions or for publicly speaking about illegalities in companies' businesses.

Government ignores social dialogue: In May 2010 the Government proposed further changes to the Labour Code, recently harmonised with the EU standards, which would allow for an easier cancellation of collective agreements. The amendments were sent to Parliament without prior consultation with the social partners. In order to prevent the amendments, five trade union confederations managed to collect more than 800,000 signatures for a referendum on the issue. Trade unions also temporarily suspended their participation in the Economic and Social Council (ESC) in May, as the Government did not respect the procedure for prior consultations in this body either. The dispute over the Labour Law was eventually resolved through negotiations, but trade unions remain outside the ESC.

Management denies union existence and dismisses shop stewards: The management of Tankerkomerc, in Zadar, dismissed two shop stewards, Danica Lenkić and Matko Perica, without the consent of their union. The management also tried to deny the existence of a trade union organisation in the company, although they had received information on the registration of the Autonomus Union Tankerkomerc in February 2010. In November, the union submitted a complaint to the Municipality Court in Zadar over the dismissal of the two shop stewards and over salary arrears of more than ten months.

Journalists denied right to strike: In the local daily Glas Istre, in Pula, the employer has repeatedly violated the Labour Law and the company-level collective agreement. In August 2010, the Municipality Court ruled that the collective agreement in the company had been illegally cancelled. A strike was legally announced for 7 November. Prior to the strike, the employer exercised pressure on the workers not to strike and engaged journalists from other publications to write for the paper during the strike. As the employer and the strike committee did not reach an agreement on the extent of minimum product maintenance during the strike, the decision was left to the court.

The judge of the County Court in Pula, Ondina Vidulić Matijević, ruled that the production of newspaper is an activity that cannot be terminated during a strike and issued a working obligation for 20 workers, thus effectively restricting the right to strike for the journalists of Glas Istre. However, in a different procedure, the same court upheld on 29 December the decision of the Municipality Court from August on the illegal cancellation of the collective agreement. The right to strike was also contested at the local radio station Radio 101, in Zagreb, where the management claimed that a warning strike organised on 7 November 2010 due to unpaid salaries was illegal.

Two shop stewards dismissed: Ante Buljan and Branko Norac, shop stewards of the Trade Union of Drivers and Traffic Workers of Autoprijevoz, in Sinj, were dismissed in April 2010 without the consent of their union. Both shop stewards then started a hunger strike. Later that month they were received by the President of Croatia Ivo Josipović and by the Head of the Prime Minister's Office. In July, the Municipal State Attorney's Office in Sinj initiated a procedure in the Municipality Court against Managing Director Joško Jerkan for the illegal dismissals. An investigation was also under way for a wide range of other criminal activities in the company.

Dismissed for organising a strike: Workers of the brewery Osje ka pivovara in Osijek, Tomislav Topalovi , Tomislav Vranješ and Goran Redži , were dismissed in April 2010 following a ten-day strike in connection with a dispute over a collective agreement. The dismissed workers are members of the Independent Trade Union of Osje ka pivovara, affiliated to the Croatian Trade Union Association (HUS), which organised the strike. The trade union has filed a lawsuit.

Czech Republic



POPULATION: 10,400,000
 CAPITAL: Prague
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The government excluded trade unions from dialogue on new labour legislation. Austerity measures were introduced. Numerous anti-union practices were reported, with multinational companies often amongst the offenders. The right to strike is limited.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are secured, they were set back in 2008 when the Constitutional Court repealed several provisions of the 2007 Labour Code. The right of everyone to associate freely with others to protect economic and social interests is guaranteed in the Constitution. The 2009 anti-discrimination law provides for equal treatment with regard to trade union membership and activities, but does not sufficiently protect workers against anti-union discrimination. Furthermore, while the law recognises the right to collective bargaining, there is little scope for negotiations on pay in the public sector. Finally, the right to strike is coupled with a number of restrictions. To call a strike, a two-thirds majority of the votes cast in a ballot is needed. Strikes are only allowed in the event of disputes over the conclusion of a collective agreement, and are only possible after all mediation and arbitration procedures have been exhausted, which lasts at least 30 days. The list of "essential services" exceeds the ILO definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Following elections to the Chamber of Deputies in May a new centre-right coalition government took office in June under Prime Minister Petr Nečas. The Czech Republic has not been immune to the economic problems in Europe and despite a rebound in economic growth in 2010 the government pushed through a series of austerity measures. Some 40,000 civil servants, including policemen, firemen, doctors, teachers and military protested on 21 September in Prague against the planned cuts by the government. Of particular concern to the trade unions is the planned 10% reduction in state spending on wages in the public sector.

Lack of consultation hinders social dialogue: According to the country's labour code, bills relating to employment, economic and social conditions should be put before the competent trade union and employer organisations for consultation. However, the government's perfunctory approach to social dialogue was illustrated by its handling of new labour legislation in the autumn, when trade unions were effectively deprived of the opportunity to influence proposals that have important consequences for workers.

A one-day protest strike was declared by the unions on 8 December 2010 and was directed against restrictive measures implemented by the government and against wage cuts in the public services and public administration. Sweeping changes in the pay systems of public services and public administration were introduced with effect from 1 January 2011.

Failure to fulfill collective agreement: The Czech Metalworkers' Federation KOVO reported that the Kovošrot Group CZ a.s. hindered the work of the union through refusal to collect trade union contributions at its Děčín branch despite the company agreeing to do so in the current collective agreement. The company's stance towards working in partnership with the union was further highlighted by the fact that in Prague unsuitable facilities were provided to the union to carry out its activities.

Carmaker seeks to brush aside union representation: The Hyundai motor manufacturing company in Nošovice has also sought to eliminate trade union activities, particularly in relation to representation of workers. Examples include not seeking the required consent of unions when amending internal rules and not inviting union representatives into investigations of occupational accidents.

Hotel group fires union officers: The Zámecký Hotel Sychrov, part of the S Group Hotels s.r.o, terminated the employment of all officers of the Czech Moravian Trade Union of Catering, Hotels and Tourism. In total seven staff were dismissed, six of them trade union members. Organisational changes were cited as the reason. These dismissals coincided with the end of a monitoring period connected to an EU subsidy granted in respect of the hotel construction.

Anti-union discrimination in the health-care sector: At the Podebrady spa resort Lázně Poděbrady, a.s. five rounds of negotiations took place from March to June between the management and the Trade Union of Health Service and Social Care in the Czech Republic with a view to concluding a collective agreement for 2010. No consensus was reached even though certain partial issues had been agreed orally. When bargaining was finally closed without result, most members of the

negotiating team did not receive their share in the profit of the company, although they were entitled to it in accordance with the previous collective agreement.

The poor atmosphere led to both the former and present chairpersons of the union deciding to terminate their employment relationship on 30 September 2010. Although officially by mutual agreement, this was in effect the end result of discriminatory treatment of them by the company management.

Poor industrial relations in the forestry sector: A serious and persistent problem was registered at Lesy České republiky (Forests of the Czech Republic) by the Trade Union of Workers in the Woodworking Industry, Forestry and Management of Water Supplies. There have been repeated complaints regarding violation of trade union rights, including absence of information and consultation, as well as obstruction during the collective bargaining process. In this latter case, the employer failed to respond in due time to the union's proposal; the situation only changed when the union's confederation advised them to initiate an arbitration procedure. The collective agreement - concerning wages - was eventually signed after six months of bargaining. A complaint was lodged at the regional labour office in Usti nad Labem.

Estonia



POPULATION: 1,300,000
CAPITAL: Tallinn
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

A difficult economic climate has made it problematic for trade unions to protect employee rights, and high unemployment has acted as a deterrent to joining and establishing unions. Several violations have been reported against trade union officials. The main area of concern in the law is the ban on strikes for public servants.

TRADE UNION RIGHTS IN LAW

Fundamental trade union rights are guaranteed, although problems still exist. The trade union law, adopted in 2000, recognises the right to organise, and collective bargaining and collective dispute resolution are also provided for in law. However, all civil servants and employees of government

agencies, other state bodies and local governments are denied the right to strike. The ILO, the Council of Europe and even the Estonian Chancellor of Justice (ombudsman) have criticised this situation. Despite initial promises, in 2008 the Ministry of Justice confirmed that the government planned to keep the strike ban for all civil servants under the new Public Service Act. Furthermore, for over 15 years, the government has failed to produce a list of "essential services" as stipulated by the Collective Labour Dispute Resolution Act.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The effects of the economic crisis continued to be felt in Estonia in 2010. Unemployment continued to rise to 15.5% in the 3rd quarter of the year. The budget deficit came down to 1% ahead of the country's accession to the Euro zone on 1 January 2011. Much debate centred on employment rights with attention focused on the revised Employment Contracts Act, which included changes introduced unilaterally by the government without tripartite consultation.

Difficult to defend workers' rights: The Confederation of Estonian Trade Unions reports that unions often encounter general problems in defending employee rights. These often relate to the legal processes: establishing discrimination in employment tribunals is a new phenomenon and there is little experience in handling such cases. It remains relatively easy to dismiss trade union activists in the work place as there is no obligation under the Employment Contract Act (ECA) to reinstate a fired trade union representative if it is not reasonable once both parties' interests have been taken into account. Compensation is often reduced by courts or tribunals even though there is provision for it at a reasonable level in the ECA. Court procedures are slow and expensive, whilst claims for compensation in case of unlawful termination of an employment contract are subject to relatively high fees.

Shop steward made redundant without consultation: An EMAF (Estonian Metal Workers Trade Union Federation) shop steward, Mr Zeleznjakov, was made redundant by his employer, Stellabalt OÜ, without the requisite prior consultation with the trade union. Mr Zeleznjakov was reinstated at an employment tribunal with immediate effect. However, the employer provides work now to the exact letter of the employment contract, which means considerably reduced income. At the same time the employer has appealed against the decision of the tribunal and the case continues in court.

Long-serving shop steward sacked: EVR Cargo Ltd sacked a Locomotive Drivers trade union shop steward, Mr Sochka, for

breach of trust and for breaking his employment obligations. Mr Sochka had worked for the same employer for 24 years. The employer did not take into account the opinion of the trade union nor did it give any reasons for not taking the opinion into account. In a subsequent tribunal the ruling went in favour of Mr Sochka and he was awarded compensation.

A case of discrimination not upheld: At the company Lasbet Tootmine Ltd, a shop steward with the service sector trade union ETKA, Mr Tolmatšov, worked in a shift where all workers were warned for not complying with rules regarding the use of personal protective equipment. The employment contracts of Mr Tolmatšov and another trade union activist were terminated. It was decided to apply to a tribunal as the employer had not complied with the principle of equal treatment. The employer had been notified of the establishment of a trade union organisation one week before the above infringement by the workers took place. It was felt that there was clear discrimination based on trade union membership as not all workers were treated equally. The tribunal found that the termination of the employment contract was unlawful and awarded compensation. However, it did not establish discrimination and that claim was not upheld; the shop steward did not appeal.

Shop steward in lengthy battle for reinstatement: The employment contract of Estonian Metal Workers Trade Union Federation shop steward, Mr Sõtnik, was terminated by his employer, Paljasaare Kalatööstus Ltd, for various offences. Mr Sõtnik applied to an employment tribunal and in 2009 the tribunal found in his favour, reinstated him and ordered the employer to pay the wages for the time he was on forced absence from work. To avoid re-employing Mr Sõtnik the employer made him redundant, a move that was later contested in an employment tribunal. The employer appealed against the tribunal decision and in October 2010 a court decided in favour of the shop steward. A further appeal has been made by the employer and a hearing is scheduled for May 2011.

France



POPULATION: 62,300,000
CAPITAL: Paris
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

An excessive use of requisition orders, the sometimes brutal intervention of police in strikes and demonstrations, and more broadly the authorities' refusal to negotiate were denounced by many trade unions during the huge protests against pension reform. The right to collective bargaining and the right to strike are guaranteed by the constitution, but there are restrictions.

TRADE UNION RIGHTS IN LAW

Freedom of association, collective bargaining and the right to strike are fundamental rights enshrined in the Constitution. While enterprise-level agreements cannot be less favourable for workers than higher-level agreements, "derogation clauses" introduced through amendments to the Labour Code in 2004 allow for the waiving of this principle in numerous instances.

Certain types of strike action are prohibited, such as go-slows, sit-ins and work-to-rules. The 2007 Act concerning public transport introduced a number of controversial clauses, such as requiring workers to give notice of their intention to take part in a strike 48 hours before it commences. In addition, as of day eight of a strike, workers can be called on, including by the employer, to vote whether the action should continue. Finally, in the absence of an agreement, to be signed by the end of the year, the employer is entitled to establish the minimum level of services to be provided during a strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Highly unpopular pension reforms led to three months of strikes and demonstrations. Despite a level of mobilisation not seen in over 15 years, with between 1.2 and 3.5 million demonstrators out on the streets at the height of the movement, the unions failed to get the authorities to modify their plans. The law was promulgated on 10 November. It raises the retirement age from 60 to 62 years, and from 65 to 67 years (to get a full pension). Those worst affected will

be women, whose careers are often irregular, and those who began work young.

Support grows in campaign for the regularisation of undocumented workers: Throughout the year undocumented workers in many towns organised strike pickets and occupied public buildings or the premises of small enterprises to demand regularisation. Several local temporary employment agencies were occupied. Often they were evicted, sometimes brutally, following court orders. Support from trade unions and many associations had an impact in terms of government commitments on the criteria and procedures for the regularisation of undocumented workers. The national trade union centres are very attentive to the situation of migrant workers. Those who do not enjoy the protection that would come from having legal status are exposed to very low quality and low paid jobs. Their situation makes any trade union involvement particularly difficult, and therefore strongly impacts on their access to the rights guaranteed by ILO Conventions 87 and 98.

Fear of reprisals a barrier to organising: Despite the failure of the unions' efforts to change the pension reforms, they did prove their great capacity to mobilise the population. According to analysts, the unions' image has been improved by this crisis. The unions appear to the French to be more pragmatic than in the past. However the "fear of reprisals" is even greater than it was a few years ago, preventing workers from joining the unions.

Heated controversy over requisitions in refineries: In October, the requisitioning order directed at workers in the refineries was denounced by the trade unions as undermining the right to strike. An excessively broad interpretation of the notion of public order led to highly controversial requisitioning measures and in some cases police violence, such as on Friday 22 October when access to the Grandpuits refinery was unblocked by the police. The unions lambasted the "scandalous" police charge that left three people injured and briefly hospitalised. The trade unions criticised the preventive measures taken on often erroneous grounds: shortages yet to be proved, maintaining minimum activity in vital public services, etc.

Trade union activity recorded on police files: On 17 December the Council of State rejected an appeal by several trade unions and human rights organisations asking that two 2009 decrees on the creation of two central police files be examined by the Constitutional Court. The files record data concerning, inter alia, trade union involvement and are therefore considered a serious threat to trade union rights (see 2010 Annual Survey).

Frequent cases of anti-union discrimination: Despite legal protection, numerous cases of anti-union discrimination occur every year. To take just one recent example reported by the General Confederation of Trade Unions (CGT), on 29 December, Isri France, an Alsace-based subsidiary of the German group Isringhausen, instituted dismissal procedures against three employees in retaliation for a four hour stoppage. The four were considered to be the leaders of the strike, held in mid-December in support of a pay demand. The 23 other strikers were laid off for five days.

Georgia



POPULATION: 4,300,000
 CAPITAL: Tbilisi
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The unchecked ability of employers to terminate employment contracts has made the work of unions very difficult. Courts do not apply laws that prohibit anti-union discrimination. The Labour Code is not conducive to trade union activities and undermines collective bargaining.

TRADE UNION RIGHTS IN LAW

While the Constitution and the 1997 Law on Trade Unions recognise basic trade union rights, union activities are hampered by vast employers' freedoms. The minimum membership required to create a new union is set at an inordinate 100, and where a union is already operating, it can be suspended by a court decision for reasons such as causing a social conflict. The 2006 Labour Code vests employers with the right to dismiss a worker without any reason, provided that compensation equivalent to one month's salary is paid. The Labour Code also gives the employers the right to bypass a functioning trade union and bargain directly with non-unionised workers, to refuse altogether to engage in collective bargaining, and even to decide unilaterally on certain issues that should normally be subject to bargaining. The right to strike is also limited, as all strikes must be preceded by a warning strike while the right to solidarity strikes is not guaranteed. Furthermore, no strike may exceed 90 days, and violating the rules on strikes can cost the organisers up to two years in prison.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Georgia is on the eleventh place among former Soviet republics in terms of the level of economic development. Economic growth in 2010 was 6%. The average salary is only about USD 318, and the bulk of the population is poor. The economy is supported by substantial external borrowing; external debt reached USD 3.9 billion by the end of 2010.

No protection against anti-union discrimination: Although anti-union discrimination is prohibited in Georgian legislation, courts do not apply these provisions. Under the Labour Code the employer has the right to terminate an employment contract for any or no reason and without giving advance notice. The Law on Trade Unions has not been abrogated and is formally in force, but Article 23 of the Law, which states that employers can dismiss employees elected as chairpersons of trade union organisations only with the consent of the union, is ignored in practice.

Short-term employment contracts widely used: The use of short-term employment contracts is widespread in practice. The Labour Code does not contain any criteria or restrictions to determine under which circumstances a fixed-term contract is permissible.

Labour Code not amended despite ILO recommendations: The Georgian Trade Union Confederation (GTUC) has on several occasions complained to the ILO about violations of freedom of association stemming from the adoption of the 2006 Labour Code. The ILO Committee of Experts on the Application of Conventions and Recommendations was very critical of the Georgian Labour Code in its 2007 annual report, as was the ILO Committee on Freedom of Association in March and June 2010. They urged the Government to amend the Labour Code so as to ensure effective protection against anti-union discrimination.

The GTUC worked out a draft with amendments to the Labour Code, collected signatures of more than 100,000 citizens in support of it and presented it to the Parliament of Georgia in 2009. This initiative was ignored and has not been discussed since. Furthermore, the tripartite National Social Dialogue Commission that was established in 2009 with ILO assistance to rectify certain provisions - including on discrimination - in the Labour Code had one meeting. In May 2010 the Minister of Labour stated that an anti-discrimination law would be drafted by the Ministry of Labour itself and only when ready sent to the GTUC. There had been no developments in this regard by the end of the year.

Activists still not reinstated at BTM Textile and Poti Sea Port:

After nine newly elected members of the trade union committee at BTM Textile (Autonomous Republic of Adjara) were dismissed in 2008, and after union leaders and activists were dismissed at Poti Sea Port after a strike in 2007 (see the 2009 and 2010 Annual Survey), the Georgian Trade Union Confederation (GTUC) filed a complaint with the ILO CFA (Case No. 2663). The case was discussed on 11 March 2010, and it was clearly concluded that Georgian labour legislation does not provide sufficient protection against anti-union discrimination. After the conclusion of the case, the Prime Minister of Georgia requested the Minister of Health, Labour and Social Affairs of Georgia to carry out an independent inquiry into the matter. Nevertheless, the GTUC have not been made aware of such an investigation nor of any conclusions that were made.

Activists dismissed after organising a union at Geo-steel:

In May 2010 up to 400 workers at the Geo-steel metallurgical plant in the city of Rustavi went on strike. In the beginning of June, after the strike had ended, over 100 workers decided to become members of the Metal and Mining Workers' Union (MMWU) and submitted applications for affiliation. On 16 June 2010 Mr. Urushadze, one of the union activists, was informed by the President of the Geo-steel company that his employment contract had been terminated as a result of his organising efforts. The following day five other employees (Manuchar Akhvelidiani, Gocha Kratsashvili, Levan Chunashvili, Giorgi Badashvili and Irakli Nikabadze) were dismissed on the same grounds. The activists did not lodge a complaint because their relatives worked in the company and they did not want to jeopardise their jobs. As a result of the dismissals, a local union was not established at the plant, as other workers were also intimidated and afraid to lose their jobs.

Unionists sanctioned at Tbilisi Gynecological Clinic:

In July the Director of the Tbilisi Gynecological Clinic unilaterally cut down the duration of the employment contract from five to one year for Mr. Noe Lejav, a local trade union leader, and for Mr. Shalva Kherodinashvili, a trade union activist. The action took place after the employees refused to let the Director of the clinic participate in the creation of a local union in the clinic. The union members also rejected her candidature for the position of chairperson of the union. Mr. Noe Lejava and Mr. Shalva Kherodinashvili filed a complaint with the Tbilisi City Court, and on October 19 the court found that the action of the Director was illegal.

Teachers' union harassed: Since 2008 the Educators' and Scientists' Free Trade Union of Georgia (ESFTUG) has suffered from the Ministry of Education and Science favouring the Professional Education Syndicate (PES) (see the 2009 and

2010 Annual Survey). The Georgian Trade Union Confederation (GTUC) filed a complaint with the ILO Committee on Freedom of Association (CFA) in 2008 (Case No. 2678), and in June 2010 the CFA requested the Government to re-establish check-off facilities at a few schools, to conduct an independent inquiry into allegations of dismissal in 2008 of eleven workers from Public School No. 1 in the Dedoplistskaro district (see the 2010 Annual Survey) and to amend the Labour Code. GTUC also raised the issue before the National Social Dialogue Commission, and in March 2010 the Georgian Government confirmed its willingness to address the issue. A special commission, with GTUC representative, was established to settle the conflict. Social dialogue with the Ministry of Science has intensified for a while since then, and collective agreements have even been signed in two regions.

However, since June collective agreements on check-off systems were signed with the PES, by instructions from the Minister of Education. ESFTUG members were forced to quit the union and join PES or risk being fired. In Zugdidi (Samegrelo region) almost 1000 teachers resigned from the ESFTUG during one day alone, and in Kutaisi around 550 teachers left the ESFTUG. The Ministry of Education and Science also tried to promote their candidate to be elected as president of the ESFTUG during the union's Executive Council in October 2010. After the ESFTUG thwarted this attempt, the check-off system re-established shortly before in the regions of Ajara and Samegrelo, was abolished in November by request of the Minister. At the same time the system remained in place for the PES.

In October the ESFTUG Congress was organised, and again the Ministry of Education interfered. Regional Resource Centers (local representatives of the Ministry of Education) urged delegates not to participate in the Congress. One of the delegates, Ms. Cherkezishvili, referring to support by the Minister of Education, called on the other delegates to break up the elections of the president, organise another congress and elect her as president. She promised that the Minister of Education would then restore the check-off system. Nevertheless, a trade union delegate was elected as president.

Transfer of union membership fees unilaterally stopped

by Georgian Railways: In July 2010 a representative of the state-owned company Georgian Railways sent a note to the Railway Workers' Union (RWU) of Georgia calling for a number of changes to the collective bargaining agreement (CBA), in particular concerning the transfer of union membership fees. Without waiting for the union's response, the next day the company unilaterally stopped transferring the fees.

The RWU, together with the Georgian Trade Union Confederation (GTUC), attempted to resolve the issue at the national level. A special commission was created by the union to negotiate a new CBA with the company. In August the employer expressed its readiness to start the collective negotiations, but no further steps were taken. The same month the RWU also appealed the order to suspend the transferring of membership dues to the Tbilisi civil court, but in November the court rejected the union's lawsuit.

Despite repeated requests by the GTUC to organise a special session of the National Social Dialogue Commission (NSDC) to discuss the case, the Government did not act until late in the year. The case was discussed at the NSDC on December 28, but the discussion was mostly superficial.

Germany



POPULATION: 82,200,000
 CAPITAL: Berlin
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The main reason for concern is still the fact that civil servants do not generally have the right to strike, even if some initial success has been achieved. Despite solid industrial relations, some employers continue to be hostile towards unions. As a result, union members experience discrimination while some negotiations are held with yellow and unrepresentative unions with only limited membership.

TRADE UNION RIGHTS IN LAW

The German Basic Law guarantees the right of association and recognises the right to collective bargaining. Implementing legislation regulates the right to union activity within a company, the general conditions for collective bargaining and compliance with collective agreements. Collective agreements are binding on the members of the corresponding union and employers' association. Civil servants, including teachers, do not enjoy the right to strike. The ILO has been calling on the German Federal Government since 1959 to grant the right to strike to those civil servants not fulfilling a role of authority in the name of the state. In this connection, employees with civil-servant status continue to be denied the right to collective bargaining, despite criticism from the ILO. However, civil servants covered by collective agreements are granted full freedom of association.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

First important victory in the battle for civil servants' right to strike: Some significant headway has been made in the fight against the strict ban on strikes by civil servants. In an individual case, the Düsseldorf Administrative Court decided that teachers who gain tenure as civil servants should not be punished if they go on strike. With that, it set aside the disciplinary punishment in late 2010 of a teacher who had participated in a demonstration.

Collective bargaining: Germany has a long tradition of collective bargaining. However, over time opening clauses have been established in many sectors between the collective bargaining parties, making it possible for companies to deviate from collective agreements under certain preconditions, for instance to secure jobs. Where wage concessions have been made, it has been mainly in exchange for job security. One problem is wage and social dumping through collective agreements that were concluded by yellow unions with limited membership and hence little means to assert themselves. Slowly, doubts are being cast on this practice by the courts. The Collective Bargaining Association of Christian Trade Unions (CGZP) has for many years set low-wage standards in the temporary employment sector. In December 2010, the Federal Labour Court of Germany denied the CGZP the right to conclude collective agreements, on the grounds that it claims to regulate interim work for all sectors but does not have member unions covering all sectors.

Anti-union employers: Systematic discrimination by the state is unheard of in Germany. But despite a long tradition of unions, collective bargaining and co-determination, numerous companies show a lot of hostility towards unions. In such cases, external union representatives can be denied access to companies and employers can engage in anti-union propaganda. Moreover, employers are regularly discriminating against unions, resulting in dismissals, degradations, transfers and discrimination in the employment of active union members, especially those involved in establishing works councils.

In some cases, the 2010 works council elections were blocked by employers, e.g. at the concrete factory of Westerwelle in Herford. Ultimately, this backfired on the company Westerwelle. With voter turnout of 95%, the employees of Westerwelle clearly showed how important their voting rights for the works council were to them. Legally, such a blockade is not merely a petty offence but rather a criminal act, and one that is punishable with up to one year's imprisonment.

Hungary



POPULATION: 10,000,000
CAPITAL: Budapest
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Consultation with the social partners has been almost completely neglected by the new centre-right government, which has a large majority in parliament. Several violations have been reported from multinational companies. There remain many restrictions on the right to strike.

TRADE UNION RIGHTS IN LAW

Despite a fairly solid legal framework, some problematic areas exist. The Constitution and the Labour Code recognise the right to organise, and the right to collective bargaining is also secured. However, the thresholds for unions to be recognised as bargaining agents are excessively high. Many public sector workers are exempted from the right to bargain collectively, and the final decision on increasing public service pay rests in any case with Parliament.

The right to strike is excessively restricted in the law. Employers and employees must cooperate during strikes, and "abuse of the right to strike" is prohibited. With the amendment on 31 December 2010 of Act VII of 1989 on strikes, a strike that runs counter to these vague provisions is now unlawful. Furthermore, the right is restricted for public sector workers, as a strike can only be exercised in accordance with special regulations contained in an agreement signed between the government and public sector unions in 1994. While employers are not allowed to hire temporary workers during a strike, temporary workers already hired before the strike are allowed to continue working.

A process to modify the Constitution was initiated in 2010, but the social partners were not invited to participate. Contrary to the present Constitution, the new draft contains no reference to trade union rights.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: With the economy in poor shape, a major political change took place in April 2010 when the conservative

centre-right party Fidesz won the country's general election by a landslide, removing the socialist party from office. With a two-thirds majority in parliament Fidesz has sought to make many big changes.

Protection in court cumbersome: The National Confederation of Hungarian Trade Unions MSZOSZ reports that if a trade union refuses to agree to a shop steward's dismissal, and the employer appeals against this in court, defending the trade union position becomes very difficult. A 2005 amendment to the Labour Code eased the trade union's burden of proof, but it has not yet resulted in more effective protection of trade union officials.

Neglect of social dialogue damages industrial relations: In parallel to the changes to the law on the right to strike, which were adopted in just one week by the Hungarian Parliament following an initiative by an individual MP, it should be further noted that there had been no previous consultation with the social partners. The institutions of social dialogue have been neglected by the new government in other matters as well: it failed to convene the National Interest Reconciliation Council for more than half a year and in a questionable manner – using individual MPs' motions as a basis for action - it amended other laws concerning workers' rights without any consultation.

Tyre manufacturer fined for obstructing union activity: The Hungarian Labour Inspectorate levied a fine on the Hankook Tyre Magyarország Kft. for obstructing the duties and activities of a branch of the Federation of Chemical, Energy, and General Workers' Unions (VDSZ). Although the fine was small in monetary terms, it was significant in the fact that Hankook, at its growing tyre factory in Dunaujvaros, was again proven to be unwilling to accept a trade union. The violation comes on top of the company's poor record; it had earlier fought recognition of the union at the factory and dismissed union activists.

Tesco hinder trade union activities: At Tesco Global Zrt. the employer has continued to hinder the activities of the Independent Trade Union of Commercial Workers (Kereskedelmi Dolgozók Független Szakszervezete). In the summer of 2010, the employer unilaterally terminated the employment of two trade union officers within a few days. The trade union's president and a leading officer were let go after they had informed an employee of the legal opportunities available to him regarding compensation from the employer after suffering a car accident. The employer declared this behaviour anti-employer and unethical, and terminated the unionists' employment contracts. There is an ongoing labour law trial related to this case. Another officer of the same trade union (who had a leading position at

the company) was practically banned from all the premises of Tesco Global Zrt. after carrying out trade union activities.

Airline discriminates against union officer: The contract of an officer in the United Trade Union of Aviation was not renewed by Malev GH because of his union activities. Although he had all the necessary qualifications, his wages were reduced by downgrading his position. The company argued that "the representative was too active in the area of interest representation". This argument backfired with the Equal Treatment Authority, which after a lengthy process decided against Malév GH and ordered the company to pay HUF one million for discriminating against the trade union officer.

Anti-union tactics used by Bridgestone: Continued obstruction of union activity at the Bridgestone tyre manufacturers has been reported by the Rubber Workers Trade Union in Tatabánya. Manoeuvres surrounding elections to the Works Council resulted in the election of only management representatives. Management seeks to provoke conflicts between the union and the works council, and only consults the works council. Approaches and letters from the union tend to go unanswered, and the local union president is not permitted even to bring his own laptop to the factory. Negotiations with the local union are also rejected by management.

Union officer let go at Elektrolux: The employment contract of an officer of the Independent Trade Union of Refrigerator Makers was terminated by Elektrolux Kft. by means of dismissal with immediate effect. The circumstances of the case suggest that the reason behind the dismissal was the officer's trade union activity – employees had granted him the right to represent them against the employer in a case relating to working time and annual leave.

Italy



POPULATION: 59,604,000
CAPITAL: Rome
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The government does not foster good industrial relations in the public sector, and migrant workers in Italy face a difficult situation. The laws protect trade union rights.

TRADE UNION RIGHTS IN LAW

Trade union rights are adequately protected in the law. Freedom of association is guaranteed both in the Constitution and in the Workers' Statute - the country's main labour law - and the law also prohibits anti-union discrimination. However, the right to reinstatement is only available where the employer employs more than 15 workers in a unit or more than 60 workers in total. The right to collective bargaining is also secured, and concluded collective agreements are legally enforceable.

The right to strike is enshrined in the Constitution, which stipulates that the right shall be exercised according to law. Nevertheless, the right is mostly interpreted by case law since the only law on strikes that exists regulates public essential services. The right to strike is problematic in these essential services as the duration of and the reasons for a strike must be announced in advance.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Recovery from the economic crisis has been slow, with growth in 2010 estimated at only 1%. Unemployment has risen, especially among young adults in southern Italy. The Italian government also hiked the pension age for female public servants from 60 to 65.

Migrant workers in precarious situations: Italian legislation does not guarantee equal rights, conditions and protection to migrant workers as compared to Italian citizens. Migrant workers are excluded from public sector jobs, and there are differences in reciprocity agreements on pensions as well as access to social housing. With regard to welfare safety nets and policies for re-employment there is equality of rights, but migrant workers face a limitation of six months due to the term

of the permit to stay in the country while seeking employment. The three Italian trade unions have appealed to the ILO to examine possible violations of ILO conventions 143 on migrant workers. The Confederazione Generale Italiana del Lavoro (CGIL) has also requested the ILO to examine possible violations of conventions 29 and 105 on forced labour with regard to undocumented migrant workers in the agriculture sector in Rosarno, in the Calabria region in southern Italy.

Lack of collective bargaining in the public sector: Since 2009 the government has clamped down on public sector employees, imposing changes to the employees' working conditions without proper consultation with the unions. In 2009 it froze public salaries for the following four years and also introduced job cuts, cancelling all precarious contracts in public education, in public research and in public administration in general. For the public education sector only this meant a job loss of about 150,000 employees. In 2010 the government also proceeded to extending the retirement age for female public servants from 60 to 65, again without prior consultation with the social partners. The government also introduced a new general system to put off the retirement age for one or two years for everyone reaching the legal pension age.

Government hinders election of workers' representatives: The government has also blocked a scheduled re-election of workplace representatives in the public sector. According to the law these elections shall be held every three years, and so they were scheduled for November 2009 for the public education sector and for November 2010 for the other public sectors. The elections also have the purpose of measuring the general representativity of national unions, which is useful when determining the authorised working hours to spend on trade union activities and the right to participate in the collective bargaining process. As the elections are not general national elections but elections at the level of any local unit held on the same day, the Confederazione Generale Italiana del Lavoro (CGIL) asked the government to confirm the scheduled dates. The government failed to respond to the CGIL's request, thus hindering the elections.

Kosovo



POPULATION: 2,000,000
CAPITAL: Priština
ILO CORE CONVENTIONS RATIFIED:

Until the recent adoption of the Labour Law in November 2010, union organising in the private sector was virtually impossible as the employers did not allow trade unions and there were no legal grounds to oppose the employers. Workers' rights are widely violated, including physical assaults and human trafficking.

TRADE UNION RIGHTS IN LAW

With the adoption of the Law on Labour on 1 November 2010 an important step was taken to solidify the trade union rights situation in Kosovo. The new Law recognises the right to freedom of association – a right already guaranteed by the 2008 Constitution – as well as the right to strike, but provides that these rights shall be further regulated by special laws. A Law on Trade Union Organisations and a Law on Strikes have been drafted to this end but have not yet been adopted. The Law on Labour also regulates the conclusion of collective contracts at the enterprise, branch and state level, but fails to explicitly prohibit anti-union discrimination.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In a procedure initiated by Serbia the International Court of Justice in Hague decided in July 2010 that the Kosovo declaration of independence did not violate international law. In November Serbia supported a compromise UN resolution on Kosovo that opened a way for EU-backed mutual dialogue. The economic and social situation remains extremely difficult, with an employment rate of less than 30%.

Anti-union employers: Due to the non-existence of a Labour Law before November 2010, employers have had vast freedoms to threaten workers with dismissals or other forms of anti-union measures if they join a union, resulting in an almost complete lack of unionisation in the private sector. Only a small number of companies respect rules prohibiting anti-union discrimination. A large number of violations of workers rights, including physical assaults, continues to occur in all sectors

including in international organisations, although the situation is most severe in the private sector.

Human trafficking: According to the EU 2010 Progress Report, Kosovo remains a place of origin, transit and destination of victims of human trafficking, most of them being women and children. State efforts to fight this phenomenon are still rudimentary, with only a small number of identified victims and often not an adequate punishment of perpetrators.

Latvia



POPULATION: 2,200,000
CAPITAL: Riga
ILO CORE CONVENTIONS RATIFIED: 87 - 98 - 100 - 105 - 111

Economic conditions have made it difficult for trade unions and members to fully utilise their rights. The rights to collective bargaining and to strike are limited. Thresholds for forming unions are set high.

TRADE UNION RIGHTS IN LAW

Certain limitations apply despite basic trade union rights being guaranteed in the Constitution. Every union must have at least 50 members, or not less than one quarter of the workers employed in the unit, profession or sector. Collective bargaining is recognised except for special service ranks in the Ministry of the Interior and Prison Administration, however there is little scope to bargain on employment conditions in the public administration.

The right to strike is restricted as the decision to initiate strike action must be taken by a three-quarters' majority at a quorum where ¾ of the employees or members are present. Furthermore, solidarity strikes are illegal unless the dispute concerns a sectoral level collective agreement, and political strikes are prohibited. Some categories of workers are unduly excluded from the right to strike, and the list of "essential services", in which a minimum service must be established, is somewhat too elaborate.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Latvia was one of the countries worst hit by the global financial crisis with unemployment rising to more than 22% and GDP dropping 18% in 2009. As a result the government has continued to implement wide-ranging austerity measures backed by the International Monetary Fund, involving large cuts in wages and in public expenditure. The centre-right coalition government led by the Unity party leader Vladimir Dombrovkis was nonetheless re-elected in parliamentary elections in October 2010.

Collective bargaining hampered: The law "On the Remuneration of State and Local Government Institutions Officials and Employees" has created problems for collective bargaining agents in the public sector, since it outlaws all monetary benefits under collective agreements unless they are directly provided by law. Some public employers also refuse to bargain collectively.

Harsh economic climate results in non-reporting of anti-union activities: Unofficially, there have been many reported cases on employers spreading anti-union propaganda and cases of dismissal and demotion or relocation of activists who plan to establish a trade union in an enterprise or of existing trade union representatives in order to break trade union activity. However, these cases have no official evidence and the dismissal or relocation of workers is always supported by contrasting evidence demonstrating the guilt of the employees. In the current economic climate with high unemployment, employees often opt to be silent in order not to lose their jobs. These cases are mostly reported in the trade union branches in the wood manufacturing, civil aviation and industry sectors.

Educationalist unfairly relieved of her duties: The Rezekne division of the Education and Science Workers Trade Union (ESTWU) became embroiled in a dispute when the local education authority tried to dismiss the headteacher of Rezekne secondary school Nr.4. In May the ESTWU refused to agree to his dismissal and subsequently the local authority attempted to put pressure on the union. This took the form of refusing to transfer union subscriptions from the salaries of its employers. In addition, Janina Staudza, chair of the ESTWU in Rezekne, was unilaterally relieved of her duties as chief education methodologist at the Rezekne Education Board and lost free use of premises to carry out her union work.

No collective bargaining for the police: In 2010, the Unite Trade Union of Policemen sought a collective bargaining agreement, but this was rejected. It was argued that the police are

in the civil service rather than in a contract of employment and thus any provisions for collective agreement are not applicable.

Lithuania



POPULATION: 3,300,000
CAPITAL: Vilnius
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

2010 was dominated by the state of the economy. Temporary changes were made to the labour code to aid recovery. As a result the issue of trade union rights remained in the background but concerns remain, especially over the right to strike.

TRADE UNION RIGHTS IN LAW

Despite recent amendments to the Labour Code, a number of restrictions to trade union rights still apply. The law recognises the right to form and join trade unions, but at least 30 members or one-fifth of the total workforce is required to create a union. Workers who are dismissed cannot keep their trade union membership. The right to collective bargaining is secured in both the private and the public sector, except for certain government employees.

The right to strike is rather limited: strikes are only possible if all dispute resolution procedures have been exhausted and can only be called in connection with collective disputes. Solidarity strikes and sympathy strikes are thus not covered. Furthermore, employers have the right to employ other persons to perform the work of striking workers in certain sectors, including public transport and waste disposal. The authorities can decide on the minimum service to be established during a strike if the parties fail to reach an agreement.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Lithuania has been through an extraordinarily difficult period as a result of the economic crisis. GDP declined by 14.7% in 2009, a stagnant 0.4% growth rate was forecast for 2010, whilst unemployment at the end of the 3rd quarter was more than 18% of the labour force. The social partners acted in solidarity with the government during this time and negotiated amendments to the country's labour code,

including the lowering of some minimum standards in collective agreements. This agreement expired at the end of 2010.

Ineffective legal protection: The judicial system is slow in dealing with unfair dismissal cases. There are no labour courts or judges specialised in labour disputes. Furthermore, the trade union organiser has to prove that s/he was dismissed due to trade union activities, which is impossible in most cases.

Issue of trade union rights eclipsed by economy: As a result of the severe economic climate, attention in 2010 was focused on the wider issues of the economy, growth and jobs. Changes were made to the country's labour code with the backing of the trade unions in order to aid recovery. However, the unions also raised concerns over trade union rights: Debates took place on trade union law and representations were made by the Lithuanian Trade Union Confederation (LPSK) to international organisations, with particular concerns relating to the right to strike and the inherent difficulties in the procedures to call for strike action.

Violations of collective agreements at the Kusiju Nerija National Park: Several violations of collective agreements have been reported at the Directorate of the Kursiju Nerija (Curonian Spit) National Park, including changing the place of work from Klaipeda to Nida (50km away) without consultation. In addition pressure has been exerted on the chairperson of the national park's trade union branch.

Macedonia, the former Yugoslav Republic of



POPULATION: 2,000,000
CAPITAL: Skopje
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Despite some positive developments in tripartite social dialogue and in the improvement of the Labour Relations Act's provisions on trade union registration, anti-union discrimination including dismissals exist in practice. Law enforcement through the judiciary system may take several years.

TRADE UNION RIGHTS IN LAW

A number of excessive restrictions apply despite basic trade union guarantees. The Labour Relations Act was amended in 2009, however some trade union organisations deplored the lack of social dialogue during the process and considered that some new dispositions have a negative impact on trade union rights. Furthermore, collective bargaining is restricted to the union representing 20% of the employees at the level it wishes to bargain, except at the state level where the union must represent 10% of the total labour force.

The right to strike is circumscribed, as unions must specify the length of a strike in advance, and the participants can be dismissed and sued for damages if a court declares the strike illegal. The Labour Relations Law gives employers the right to suspend up to 2% of the participants of a strike throughout its duration if they exhibit violent or "non-democratic" behaviour, a provision that can be widely abused.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Having a status of EU candidate country since 2005, the former Yugoslav Republic of Macedonia continues to gradually implement reforms, but official accession negotiations remain closed due to a lack of progress in the country's name dispute with Greece. In August 2010 the social partners finally signed an agreement on establishing a tripartite Economic and Social Council, which became operational and held three sessions before the end of the year.

Collective agreements not respected in the public sector:

The EC Progress Report notes that there is no effective social dialogue in the public sector and that collective agreements are not respected. The legitimacy of the signing trade union can also be questioned by other trade unions. Until the third quarter of 2010, the number of temporary posts within public administration was disproportionately high, even though the hiring of temporary staff is not compliant with the laws on civil and public servants.

Anti-union discrimination: While the law prohibits anti-union discrimination, anti-union dismissals exist in practice, and dismissal cases usually take two to three years to resolve in court. Some companies have allegedly tried to interfere in trade union elections.

Moldova



POPULATION: 3,600,000
CAPITAL: Chisinau
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Unionists were sanctioned during the year. Law enforcement remains a problem, and the legal framework is not conducive to trade union activities.

TRADE UNION RIGHTS IN LAW

A number of limitations on trade union rights apply despite initial guarantees. The right to form or join a trade union is recognised by the Constitution, and the Trade Union Law of 2000 provides for trade union independence. However, unions may only acquire legal status if they are members of a national branch organisation or national cross-sectoral trade union organisation, which unduly limits the freedom of the unions. The Labour Code also stipulates that either party to a collective dispute may submit the conflict to judicial tribunals for settlement if negotiations fail or if the party disagrees with the decision of the reconciliation commission. The right to strike is prohibited for government workers and workers in essential services, the list of which exceeds the ILO definition. Furthermore, workers having participated in an unlawful strike may face serious fines and even imprisonment.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Moldova is one of poorest countries in Europe: the average salary in 2010 was only around EUR 180. Due to unemployment and low salaries, people leave the country in search of work, and incomes of emigrant workers continue to be significant for Moldavian families. In 2010 they sent over USD 1.1 billion to the country. In September a referendum to change the Constitution to allow for direct presidential elections was held, but it failed due to a low participation rate. On 28 November 2010 early parliamentary elections were held.

Trade union activity difficult: The creation of new unions remains a problem due to the employers' resistance. Collective agreements are mainly signed at enterprises having a long history of collective bargaining and conclusion of collective agreements.

Weak enforcement: Law enforcement remains weak. Neither labour inspectorates nor prosecutors' offices have been effective in monitoring and enforcing labour standards, especially the right to organise.

Activist dismissed after forming union: Konstantin Bely had been working as a guard for three years in the network of Supermarkets "#1" ("47 Parallel") in the city of Kishinev. Facing numerous violations of workers' rights, he formed a trade union affiliated to the trade union of Commerce, Catering, Restaurant, Hotel, Service and Consumer Cooperatives Workers' Union (SindLUCAS), and was elected its Chair. After appealing to Labour Inspection, unlawful withdrawals from the employees' salaries were stopped. The trade union also tried to negotiate collectively with management on overtime and the employer's refusal to provide vacation to the employees, as provided for by legislation.

At the end of July Mr. Bely was disciplinarily punished for agitating workers to join the trade union. On 27 September Bely was dismissed without the approval of a higher-level trade union as required by Moldavian law. Bely appealed to the courts, and the case is currently under consideration. The Director of the company reportedly said that she was ready to pay any amount of money to prevent the return of Bely and the union to the supermarkets.

Union leaders arrested for claiming unpaid wages: On 14 December five union leaders from the Glodeni sugar plant workers' union - Chair Vasili Guleac, Vice-Chair Valentina Semeniuc and activists Anatolie Furtuna, Fiodor Svoevoloin and Victor Colibaba - were charged with criminal offences and

placed under house arrest for several weeks in a move to prevent them from claiming wages and benefits for the union's members.

The workers at Glodeni had not been paid since June 2009. The arrests followed more than a year of campaigning by the union to defend jobs and get wage arrears paid after the plant owners were declared bankrupt. The workers had set up a round-the-clock vigil in front of the plant's gate to prevent the removal from the plant of sugar that had been impounded by a court.

The bankruptcy administrator tried to load trucks and remove the sugar from the plant, but the workers prevented it. The administrator then filed a lawsuit against the union activists to claim MDL 228,020 (USD 18,500) to cover the costs of the unused trucks. On 17 December the Court of Appeal of Moldova rejected the prosecutor's request to keep the activists in detention and ordered the immediate release of the five union leaders.

Trade union leader dismissed: Since 2007 management of "La casa nouă" JSC in the city of Kishinev has impeded the activity of the local union at "La casa nouă", affiliated to the trade union of Commerce, Catering, Restaurant, Hotel, Service and Consumer Cooperatives Workers' Union (SindLUCAS). In September 2007 the local union's documents were snatched from its office. In July the union Chair Vasiliy Pozhoga, whose position of lawyer at the company was made redundant, was transferred to a position of seller-consultant with a salary that was three times lower than for those newly recruited into the same position. Mr. Pozhoga also faced numerous acts of discrimination and intimidation. In 2009 transfers of trade union dues were suspended by the company.

On 30 April 2010 Vasiliy Pozhoga was dismissed for absence from the workplace. On 16 December 2010 he was reinstated by the Botanika sector court of the municipality of Kishinev, but the decision was appealed by the employer and was not executed. Another member of the union, Gangan Maria, was dismissed 30 March 2010 without the approval of a higher-level trade union as required by Moldavian law. In August 2010 she was reinstated, with the decision coming into force in December 2010. However, she had not been reinstated by the end of the year.

Montenegro



POPULATION: 624,000
CAPITAL: Podgorica
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The right to strike is limited both by restrictive legislation and by pressure from employers. In at least one case the employer refused to comply with court orders to reinstate illegally dismissed workers.

TRADE UNION RIGHTS IN LAW

Although the Labour Code provides for basic trade union rights, it contains excessive restrictions. The 2007 Constitution and 2008 Labour Law recognise the right to form and join trade unions, and the Law on Civil Servants and State Employees grants that right to said categories of workers. Collective bargaining is hampered by the fact that only the most representative unions, that is unions with the largest membership, can be parties to collective agreements. Furthermore, the law stipulates that the right to strike may be limited for persons employed in state bodies and public service on grounds of protecting the public interest. A minimum service must also be established in a number of services following consultations with the relevant trade union. Albeit the 2005 Law on Strikes improved the situation, the employer can still decide on the minimum service unilaterally if negotiations with the union fail.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The European Council granted Montenegro EU candidate status on 17 December 2010, but the opening of accession negotiations will have to wait until the country fulfils a list of set conditions. Long term Prime Minister Milo Đukanović unexpectedly stepped down only a few days after. Although the resignation was explained with private reasons, the opposition saw it as result of international pressure due to corruption and organised crime in the country.

Anti-union discrimination: Dismissals, demotions and discrimination of trade union activists are not uncommon. The right to strike is often limited in practice, and trade unionists face reprisals including threats of dismissals for their union activism. Restrictive laws on strike and highly flexible employment relations amplify the problem.

Pressure and intimidation before strike: Prior to the strike announced for 5 May 2010, the management of Kombinat aluminijska Podgorica distributed questionnaires to the workers, asking them about their satisfaction with the work of the trade union and asking them to certify that they would not join the strike. Management also put pressure on two members of trade union committee, Sandra Obradović and Radovan Tošković, issuing them written warnings with threat of dismissal on the grounds of absence from the workplace, although the absence was due to trade union activities. Other workers were threatened with dismissals too. The strike was cancelled on 30 April after the management accepted to comply with the collective agreement and withdraw the planned dismissals.

Right to strike violated: Crnogorski Telekom, in Podgorica, restricted the right to strike of its workers who went on strike on 15 March 2010 due to violations of the collective agreement. The employer unilaterally imposed a requirement for 300 workers to work despite the strike and prohibited them from wearing badges or other symbols of solidarity for the strike action. On the fourth day of strike, the employer also brought in strikebreakers from two other companies, GVD Mont and Network.

Trade unionists repressed and discriminated against: The construction company Novi Prvoborac, in Herceg Novi, has refused to bargain collectively, has violated the right to strike and has illegally dismissed workers since 2008. At least nine workers, including Zdravko Stevović, then president of the trade union AD Novi Prvoborac, have been dismissed since 2008 because of participating in a strike. Harassment of trade union leaders have also been reported, and prohibiting trade union meetings has also been a recurring practice.

Between 2008 and 2010, the courts have overruled a total of 71 dismissal decisions in the company as illegal, including the mentioned cases, but the employer has still not complied with the judicial decisions and allowed workers to return to work. Due to the above mentioned reasons, in June 2010 the company trade union organisation filed a criminal complaint against the management with the State Attorney's Office.

Workers forced to join employer sponsored union: The Trade Union of Post of Montenegro claimed in November 2010 that the management was forcing the workers to leave their union and join a new union organised by the company directors. The management was also said to violate the collective agreement by unilaterally reducing the working time for certain categories of workers.

Poland



POPULATION: 38,100,000
CAPITAL: Warsaw
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Hostility towards union activity remains commonplace. As illustrated by many cases, undue pressure is often exerted by employers on trade unions and their members. Restrictions on the right to strike are excessive.

TRADE UNION RIGHTS IN LAW

Trade union rights are guaranteed in the law but are limited for a number of categories of employees in the public services. While all workers have the right to form and join the trade union of their choice, a single trade union system applies to policemen, border guards and guards in penitentiary institutions and the employees of the Highest Supervision Chamber. Protection against anti-union dismissals is limited for small unions, as the number of union officials awarded protection is dependent on the size of the union.

While the right to collective bargaining is secured, a number of workers in the civil service including key civil servants, appointed or elected employees of state and municipal bodies, court judges and prosecutors, do not enjoy that right. Furthermore, the right to strike is seen as an element of collective disputes, can in general only be called if the parties do not reach an agreement through negotiations, and must be preceded by conciliation or mediation. The list of "essential services" exceeds the ILO definition, and includes workers in state administration and in local government. These workers can only use alternative forms of protest.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Politics in Poland were overshadowed by the death of President Lech Kaczynski and a large swathe of the country's elite in a plane crash in April. Despite this shock and the ongoing effects of the global financial crisis, Poland recorded one of the best rates of economic growth in the EU. However, the unemployment rate remained above the EU average.

Reinstatement difficult after anti-union dismissals: Forming a trade union, asking for collective bargaining or fighting for workers' rights is frequently followed by a summary dismissal of the union's leaders. The victims can ask for reinstatement, but court proceedings can take up to two years. Moreover, the courts are increasingly awarding just three months' salary as compensation in lieu of reinstatement, regardless of how long the activist has been out of work. Employers also claim that workers cannot be reinstated as the victim and the management would not be able to co-operate, and more and more judges are convinced that employers should not be forced to take back unfairly dismissed unionists as this could create a "conflict".

Dismissal of union leader: The employment contract of Miroslaw Kitowski, head of the NSZZ Solidarnosc trade union branch at the company PPG Polifarb Cieszyn S.A., was terminated by the employer under the pretext of a gross violation of his duties. This took place without the legally required consent of the company trade union organisation. The move followed an industrial dispute relating to wages and a ballot in November in which 346 of 453 participating workers voted for strike action.

Workers dismissed for establishing union: The contracts of nine workers at the company Gerda 2 sp. z. o. o. in Starachowice were terminated on the day following submission of an official notice informing the company president of the establishment of a trade union organisation in the company, together with a list of the members of the establishing committee. The people on the list were those whose contracts were ended.

JMD SA discount stores pressurise union members: Workers have been pressured by managers at JMD SA discount stores in 22 different cities to leave their trade union or risk not having their contracts of employment prolonged. The NSZZ Solidarnosc union has also been hindered in its activities: The union has been prohibited from holding trade union elections and its members have not been allowed to perform their trade union functions.

GDF SUEZ Energia Polska excludes union from negotiations: The NSZZ Solidarnosc trade union has sought to negotiate with GDF SUEZ Energia Polska SA on work guarantees for company workers, but repeated requests to the company management over the past two years have been rejected.

Discrimination against union presidents: A case of discrimination against the Powiatowa Stacja Sanitarno- Epidemio-logiczna in Ustrzyki Dolne has been reported by the NSZZ Solidarnosc. Since November 2010, the employer has been applying different rules on working matters to the president of

the branch union, Magdalena Lochman, than have applied to other workers.

Discriminatory actions have also been taken against the branch president of the NSZZ Solidarnosc trade union by management at Walcownia Rur "Andrzej" Sp. z o.o. in the town of Zawadzkie have hampered trade union activity at the company. The actions have included bullying, harassment, threats and ridicule.

Portugal



POPULATION: 10,700,000
CAPITAL: Lisbon
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Widespread fears about the state of the economy provided the backdrop to the year, with many demonstrations against cuts in public services. The right to collective bargaining is limited in the public service.

TRADE UNION RIGHTS IN LAW

Freedom of association is guaranteed in the Constitution and the 2009 Labour Code. There are no predetermined and precise criteria to evaluate the representativity of unions, but it is considered that only unions having a seat in the Permanent Commission for Social Partnership are representative. These unions are also referred to by name in law, which serves as an impediment to new trade unions. Although the right to collective bargaining is secured, bargaining in the public service is defined as "appraisal and discussion". Negotiations do not result in legally binding collective agreements, and can only concern pay and pay-related issues. Furthermore, where a situation is considered to be sufficiently grave, the government has the power to issue a ministerial order to bring a wide range of activities into temporary, obligatory public service, including pharmaceutical production and banking. Although not specifically regulated in law, political strikes are also prohibited.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Politics in Portugal in 2010 were dominated by the state of the economy with the government seeking to reduce the budget deficit from its 2009 high of 9.3% whilst

stimulating growth and employment. Widespread strikes took place in May. On 24 November the country's two largest trade union confederations, CGTP-IN and UGT-P, called a general strike two days in advance of the parliamentary sitting at which an austerity budget was adopted for 2011. At the end of the year the prospect of an EU-led bailout still hung over the country.

Anti-union climate: According to the trade union confederation UGT-P, labour and management relations at the company level are tainted by severe pressure on workers not to join a union, considerable interference in trade union activities, and fierce opposition to external trade union representatives.

Excessive definition of minimum services: The UGT-P reports infringements relating to the general strike on 24 November. When calling a strike in Portugal minimum services to guarantee vital social needs have to be agreed in advance. The decision of the arbitration court regarding the definition of minimum services to safeguard these needs was regarded as excessive in two cases: one relating to urban trains of Portuguese railways and the other to the SOFLUSA ferry company in Lisbon. In both cases the unions have appealed to the Court of Appeal.

Replacement of strikers: EDP (Electricity of Portugal) brought in external providers to carry out work during the November general strike. RTP (the government TV channel) similarly replaced workers with externally hired staff. The UGT-P affiliate in the energy sector (SINDEL) immediately complained to the Authority for Working Conditions, whilst its affiliate in the audiovisual sector (SMAV) plans to do so too. Both complaints focus on the definition of minimum service.

Breach of neutrality in Guarda: UGT-P has reported the director of the Social Security District Centre in Guarda to the Secretary of State for Social Security and the President of the Board of the Social Security Institute for sending an internal e-mail thanking all those workers who did not join the general strike on 24 November. The union believes the director breached rules of impartiality as their action implicitly reproached all those workers who used their legal right to strike.

Collective agreement rendered void in banking sector: The main trade union in the banking sector, SBSI (a UGT-P affiliate), reported a case that has occurred with the Portuguese Business Bank (BPN), which was nationalised during the financial crisis. A pre-agreement that had been reached at an earlier stage between the trade union and the negotiating group representing several banks, including BPN, was rendered obsolete after the government directed the bank board not to proceed with a wage adjustment.

Romania



POPULATION: 21,300,000
CAPITAL: Bucharest
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 -
105 - 111 - 138 - 182

The country's legal framework remains inadequate in its guarantee of trade union rights, particularly of unions' internal administration, collective bargaining and the right to strike. Protests at the government's austerity measures have been frequent, and there are fears about further reforms of the labour code.

TRADE UNION RIGHTS IN LAW

Trade union rights remain inadequate, although revisions of relevant labour laws have been initiated with ILO assistance. The 2003 Trade Union Law recognises the right of workers to establish and join a trade union, but the procedure for registering a union is long and cumbersome. Unions' internal freedom is limited, as the law requires prior approval of amendments to unions' internal rules, and state administrative bodies have wide powers to control unions' economic and financial activities.

Trade union officials have by law a right to a shorter work schedule for trade union activities without loss of pay, but in a recent ruling, No. 1276/2010, the Constitutional Court declared this provision unconstitutional. The law also provides for sanctions for obstructing union activities; however, those sanctions cannot be applied in practice due to loopholes in the Penal Code. The right to collective bargaining is only secured in workplaces where there are at least 21 employees, and the scope of bargaining in the public sector is limited. Furthermore, collective disputes can be referred to compulsory arbitration by virtue of the Labour Disputes Settlement Act.

A lawful strike can only be called in defence of workers' economic interests, and the law provides for compulsory arbitration where a strike lasts more than 20 days. Should a court declare a strike illegal, the trade union has to pay damages and its leaders may be dismissed. A minimum service of one third of the normal activity must be provided in the event of a strike in a number of sectors, including public transportation.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country's continuing economic problems remained the key issue in Romanian politics in 2010. Financial cuts, agreed by the Romanian government and the International Monetary Fund, took effect from 1 June 2010. These measures cut public sector wages by 25%, unemployment benefits and subsistence allowances by 15%, and included widespread job losses. The trade unions set up a crisis committee, and numerous protests took place.

Concerns over law on retrocession of trade union assets: At the beginning of the year, Romania remained the last new EU member state from Central and Eastern Europe not to have settled the issue of trade union assets. In December 2009 the Romanian senate had rejected a bill on trade union assets proposed by a commission composed of members of the government and representatives of trade union confederations. In January 2010 the international trade union movement called on the Romanian government and President to promulgate the law on retrocession as adopted by the commission in order to solve the issue of distribution of trade union assets, and thereby enabling trade unions in Romania to pursue their activities freely and securely.

Concerns over functioning of National Agency of Integrity: The Romanian trade union confederations, including CNSLR FRATIA and Cartel-ALFA, have protested against the provisions in the Law 144/2007 on the creation, organisation and functioning of the National Agency of Integrity. These provisions require senior officials of trade union federations and confederations to publicly disclose their personal assets. There are concerns that this law would enable the Agency to be used as an instrument to put political pressure on trade unions, and the confederations urged that the provisions be withdrawn.

Reform of the country's labour code continues to be discussed with the IMF: Measures to reduce workers' protections are being implemented on top of the massive cuts to wages, pensions and public services that form part of the current adjustment programme implemented by the Romanian government to comply with public spending limits specified in the loan agreement with the International Monetary Fund (IMF). Concerns have been voiced that efforts under way with IMF backing to achieve legislative changes would bring about increased precariousness in the labour market. These reforms have not been discussed or agreed nationally on a tripartite basis.

Media company in breach of legal obligations: A dispute in the media industry arose when the Romanian Journalists

Federation (FRJ) MediaSind asked the Adevarul Press Trust management to observe national and international labour legislation in force in the country as well as the existing collective labour agreement. After MediaSind complained to the country's Labour Inspection Authority, the Authority discovered that the company ignored provisions of the collective labour agreement. At the same time the Parity Commission in the News Media (composed of MediaSind, the Romanian Press Employers' Association ROMEDIA and the National Union of Romanian Employers) revealed that Adevarul was in breach of the country's labour laws. The Commission called on the company to abide by the law. In response, Adevarul unilaterally terminated copyright agreements covering six journalists who were members of the union and then fired them.

Refusal to enter into collective bargaining: The Agency for Social Benefits of Bucharest refused to enforce the law in relation to collective bargaining. On 17 February the trade union "Postman" had registered a demand with the Agency to the effect that the National Romanian Post Company S.A. should invite them to the mandatory annual round of collective bargaining, but the Agency refused to agree to their demand.

Russian Federation



POPULATION: 140,900,000
 CAPITAL: Moscow
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Trade unions suffer from pressure and harassment by employers, which are often supported by local law-enforcement bodies. Mechanisms for protection against trade-union discrimination are poor and ineffective. The right to strike is limited, and the 2003 ILO recommendations on the right to strike and collective bargaining have only been partially implemented. In January 2010 VKT and KTR submitted a complaint to the ILO about systematic pressure on trade unions and lack of protection.

TRADE UNION RIGHTS IN LAW

Despite initial guarantees, trade union rights are coupled with many restrictions. While freedom of association is enshrined in the Constitution and the Labour Code, in November 2009 the Constitutional court withdrew the requirement that consent of

a higher trade union body is required in case of dismissal of elected, but not full-time, trade union officials.

The right to collective bargaining is also circumscribed as only one collective agreement can be signed in each enterprise on behalf of all the workers. Bargaining can be initiated by "primary group" trade unions that represent at least 50% of the workforce, or a group of unions if no primary group union exists.

Furthermore, the right to strike is limited, as strikes can only be held to resolve a collective labour dispute, and solidarity strikes as well as strikes related to state policies are not recognised. Railway workers do not have the right to strike, and the categories of workers employed in the internal affairs agencies who are prohibited from striking have not yet been specified. The duration of a strike must always be announced in advance. Finally, the right to strike is also weakened by the employers' right to hire replacement workers during a strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The consequences of the financial crisis are still felt by workers. Around 205 labour protests took place in 2010, including around 90 work stoppages. On 14 May a grave accident took place at the "Raspadskaya" mine in the city of Megdurechensk, and 90 coal miners perished. Several hundred people subsequently blocked the arterial railroad in protest. In November the Russian Union of Industrialists and Entrepreneurs suggested amendments to the Labour Code, including a prolonged working week of up to 60 hours and a right for employers to unilaterally change the working conditions for economic reasons.

Trade union leaders face problems with access to workplace: The law grants external trade union representatives and inspectors the right to access workplaces, but this right is often ignored in practice. Some employers refer to governmental instructions regulating access to enterprises in their sectors to refuse to issue workplace passes, and when issued the trade unionists have to pay for them. Attempts to enlist the help of the public authorities have yielded little result. In 2009 the Federation of Independent Trade Unions of Russia (FNPR) addressed a request to the Prime Minister of Russia, Vladimir Putin, to draft a Federal Act providing for a procedure for access to workplaces. This petition was redirected to the Ministry of Health and Social Development, which eventually replied that the question requires additional discussions. An act has yet to be adopted.

Recourse to dispute resolution and strikes undermined:

Official statistics only indicate that a few strikes took place in 2010, but according to unofficial monitoring at least 205 protest actions occurred, including at least 88 collective work stoppages. The majority of these actions were held without observing the procedures and requirements of the Labour Code concerning collective labour disputes.

The unofficial actions are a result of the extensive restrictions and complicated procedures in the law; of unfair behaviour by many employers having no intention to negotiate with workers and resolve collective conflicts; and of blunt interference by the law enforcement bodies, which often support the employers, especially in small towns and isolated territories. Various tactics including pressure, intimidation and threats are also used by employers, prosecutors, officials of the Ministry of Internal Affairs and others to prevent workers and trade unions from accessing dispute resolution mechanisms and from going on strike.

As a result workers and trade unions do not believe that they can effectively use the legal procedures and thus prefer to organise other types of mass actions to attract the attention of the regional or federal government.

No effective system for defending trade union rights: Defending trade union rights and stopping discrimination can be a grueling experience. Trade unions' appeals to prosecutors' offices may not only go unanswered, but may even result in increased pressure on the unions. Going to court is only possible in case of specific violations, and the procedure is both complicated and costly. Furthermore, even when a court rules in favour of the union, that does not alleviate the general situation, as trade union rights are constantly violated. Neither the Criminal Code nor the Code of Administrative Offences contains any special provisions on the liability for violations of union rights.

Unions often denied registration: Under the Federal Law on Trade Unions, Their Rights and Guarantees of their Activities, trade unions are registered as legal entities upon notification, and it is prohibited to deny registration. However, in practice the registrars often deny registration or require the unions to make changes to their statutes. For example, the registrars may view the requirement in the law to specify the geographical scope of the union's activities as an obligation to provide a list of all the territories where affiliates exist, thus making it difficult for affiliates from other territories to join the union. The registrars can also require regional unions to specify all sectors where an affiliate can be created, although the law provides for no such requirements.

Union leaders harassed and dismissed, union destroyed:

Dmitry Kozhnev, a worker at "Centrosvarmash" JSC and a leader of the local union of the Inter-regional Trade Union of Automobile Industry Workers (MPRA), was reinstated on 28 May 2009 by the decision of the Zavolzhsky district court of Tver (see the 2010 edition of the Annual Survey). Immediately afterwards he and the vice-president of the organisation, Alexander Andrianov, were put on standby - a measure involving reduced pay during temporary halts in production - and were not even paid according to the standby rate. After the company increased its production in 2009, Kozhnev and Andrianov were still on standby during all of 2009 and the beginning of 2010.

On 1 February 2010 Kozhnev and Andrianov, after the end of another one period of standby, came to "Centrosvarmash" JSC and were informed that they would stay on standby till 12 February. When they reported for work on 15 February, they were told that they were supposed to start work on 5 February and were subsequently dismissed for absence from work. They appealed the dismissals to the Zavolzhsky district court of Tver, but on April 28 the claim was rejected. The Tverskoi regional court later upheld the district court's decision. The local union at "Centrosvarmash" JSC was created in 2007 but was forced to dissolve in 2010.

Inaction of Prosecutor helped destroy local union: Due to numerous violations of the rights of the Inter-regional Trade Union of Automobile Industry Workers (MPRA) local union at "Centrosvarmash" JSC, the Chair of the trade union committee Dmitry Kozhnev has sent a number of appeals to the Prosecutor of the Zavolzhsky District of Tver since November 2008. Instead of verifying the facts described in the union's appeal, the Prosecutor verified the legality of the establishment of the union and made a conclusion that the local union had not been properly established at "Centrosvarmash" JSC. Kozhnev appealed this decision to the Prosecutor's Office of the Tver Region, which however supported the position of the prosecutor of the Zavolzhsky District of Tver.

During 2009 Kozhnev applied to the Prosecutor of the Zavolzhsky District of Tver four more times, but an investigation of violations of trade unions rights was not initiated. Kozhnev then lodged a complaint over the Prosecutor's inaction to the Zavolzhsky district court of Tver, but in February 2010 the complaint was rejected on the grounds that answers to all the union's appeals were prepared. On 3 March the Tverskoi regional court upheld this decision.

During this period, while the trade union couldn't get protection from the prosecutor's office, the union leaders were discriminated against and dismissed twice. Members of the union were

also pressured and intimidated. As a result the local union of MPRA, created at “Centrosvarmash” JSC in 2007, was destroyed in 2010.

Workers liable to pay for financial damages due to strike: In September the Tuapse city court took a decision on a claim by the “Tuapse Commercial Sea Port” LLC against a local trade union organisation and seven employees who were members of the strike committee. The court ordered the workers to pay RUB 1,358,682 (around EUR 34,000) for financial losses caused by the strike in 2007.

Trade union leaflets declared extremist materials by court: In the autumn of 2009 the Federal List of Extremist Materials, routinely compiled by the Ministry of Justice of the Russian Federation, was updated with trade union leaflets that had been considered as extremist in a verdict by the Zavolzhsy District Court in the city of Tver on 28 August 2009. The leaflets had been prepared and circulated by activists of the local union organisation of the Inter-regional Trade Union of Automobile Industry Workers (MPRA) at “Centrosvarmash” JSC in the city of Tver. However, they had not been informed that the union materials were the subject of a court case, and learned of the court verdict only after the official publication of the updated List of Extremist Materials on the website of the Ministry of Justice.

The forbidden materials included leaflets about the consequences of the financial crisis, about nonstandard work arrangements, about the creation of a new local union at “Centrosvarmash” JSC, and about demands for night-shift pay. The MPRA and the local organisation at “Centrosvarmash” JSC tried to appeal this judgement in 2010 through a number of legal venues, including by filing a complaint to the European Court of Justice, but the court ruling still stood at the end of the year.

Unjustified interference with unions’ statutes: In August 2010 the Prosecutor of the city of Petropavlovsk-Kamchatskiy requested Kamchatka Regional Association of Trade Unions, affiliated to the Federation of Independent Trade Unions of Russia (FNPR), to change their charter and include provisions concerning ‘participants’ of the association. Such provisions are mandatory for associations – a type of commercial legal entity – but not for trade unions, which are regulated by different laws.

In 2010 prosecutors’ offices in four regions also lodged six complaints against local organisations of the Federal Trade Union of Air Traffic Controllers of Russia (FPAD) and against FPAD itself about alleged illegal provisions in their charters. These provisions regulated the right of trade unions to carry out collective actions and stipulated the procedure for declaring

strikes. While FPAD stated that these paragraphs conform to Russian legislation and that the union would always take decisions in accordance with the laws, the district court in Moscow, two courts in Tomskaya oblast and the district court in the Republic of Saha (Yakutia) all decided to satisfy the complainants. The courts referred to the law that currently prohibits air traffic controllers to strike. The decisions remained in force after hearings in the second instance.

Discrimination and persecution at “TAGRO” LLC: A local trade union of the Inter-regional Trade Union of Automobile Industry Workers (MPRA) was organised at the end of 2009 at “TAGRO” LLC in the city of Tver. After management was made aware of this as well as of the name of the Chair – Denis Litvinov – they started to put pressure on him and other employees. At a meeting organised by management, employees were forced to vote publicly against the union and its Chair and to write explanatory notes as to whether they were members of the union. Union member Andrey Kaznov, who was earlier dismissed from “Centrosvarmash” JSC in the city of Tver for his trade union activity, was forced to resign.

Litvinov was summoned twice to the Tver Regional Department for combating economic crimes of the Ministry of Internal Affairs and finally questioned at his workplace on the basis of an application by the Director of TAGRO LLC. Litvinov was accused of counterfeiting trade union documents, and a criminal investigation was initiated.

In July and August Litvinov was intimidated, harassed and threatened with physical attacks by the security service of TAGRO LLC. He was also put under surveillance. Litvinov was punished for disciplinary reasons a few times, and although the penalties were overturned by the Moscow district court in the city of Tver on 18 June, on 10 September he was dismissed. On 3 November the district court in Tver reinstated him, but after the reinstatement the discrimination continued: Litvinov was the only employee whose salary wasn’t increased in November 2010, and it was demanded that he write explanatory notes on supposed violations of the discipline. The Prosecutor’s office didn’t find any violations of Russian legislation in this regard.

Registration obstructed: In 2010, during the election campaign (conference) in many organisations affiliated to the Federation of Independent Trade Unions (FNPR), the registration bodies refused to register changes to the unions’ charters. This was for example the case for the Yaroslavlskaya Regional Association of Trade Unions, whose changes were rejected by the regional department of Yaroslavlskaya oblast of the Ministry of Justice. Although the union followed the requirements of the Law on Trade unions, the department found that the Law on

Non-commercial Organisations concerning the competence of the superior body of the organisation was not properly observed. This ruling was later upheld by the Kirovskiy district court of Yaroslavl.

In September 2010 three local organisations in Saint Petersburg established an interregional trade union "New Trade Unions" and submitted the charter and appropriate documents for registration to the Regional Department of the Ministry of Justice in Saint Petersburg and Leningradskaya oblast. In December the union received a notification from the Department stating that the union was refused registration on 11 November. The refusal was based on the argument that the charter did not enumerate the sectors and territories in which "New Trade Unions" will operate, although this is not required by the Law on Trade Unions. "New Trade Unions" appealed the refusal to court.

Widespread harassment and dismissal of unionists: Employers prevent the creation of trade unions in branches of transnational companies, and members of newly created organisations face treats, pressure and intimidation. In many cases trade union leaders have been dismissed.

After the local union 'Torgovoe yedinstvo' affiliated to the Federation of Independent Trade Unions (FNPR) was organised in 'IKEA' in Saint Petersburg in August 2009, management started to pressure and harass the unionists. In March-August 2010 IKEA made an attempt to dismiss Svetlana Kostyuchenko, Vice-Chair of the union committee. She was given three disciplinary penalties, and a draft order for her dismissal was also prepared. However, the court overturned this sanction.

In June Valeriy Kudryakov, the Chair of the local union committee, was held in the working premises for five and a half hours and was forced to resign under threat of physical attack. His application to the Prosecutor's office after the incident did not lead to any investigation. In July a trade union activist discovered that the work place of Mr. Kudryakov was under video surveillance. In September union activist Nikolai Grishin was dismissed, formally because of unsatisfactory health, and the union lost the case for his reinstatement in the court of first instance.

A local union at "Metro Cash and Carry" in the city of Tyumen was organised in 2009, and immediately after that the union members were subjected to pressure and harassment. During 2009-2010 Lyudmila Stolyarchuk, member of the union committee, was punished twice with disciplinary action and was dismissed twice, although both times she was reinstated by the Leninskiy district court of Tyumen. Four other members of the

union committee – Yelena Kirsanova, Olga Sedinkina, Elena Guravleva and Elena Volkova - were also punished with disciplinary action, and two of them had to agree to a different job in order to evade dismissal. Union activist Nataliya Fomicheva was also reprimanded twice in 2010, and Nataliya Andreeva was put on standby - a measure involving reduced pay during temporary halts in production - in April before the court overturned the order in June. In spite of numerous appeals to the Prosecutor's office, not a single manager was punished for violations of trade union rights.

After a local union was organised in the hypermarket 'Auchan-Orbitalnaya' in the city of Rostov-na-Donu, the Chair of the union were dismissed. On 9 March 2010 he was reinstated by court decision.

On 20 January Alexander Fedotov, Vice-Chair of the local trade union at Coca-Cola in the city of Krasnoyarsk, was dismissed on the grounds of repeated violations of discipline. He appealed to court in February, but in November his claim was rejected by the district court and in December by the Krasnoyarsk regional court. The courts refused to investigate allegations of trade union discrimination, and rejected all plaintiffs' requests for evidence from the employer.

On 27 January Sergey Strikov, Vice-Chair of the local trade union at 'Nestle Water Coolers Service' in Domodedovo, in the Moscow region, was dismissed on the grounds of breach of trust. He had been working as a driver and forwarder. On 12 May he was reinstated by the Domodedovskiy City Court of the Moscow region.

Air traffic controllers union harassed and members persecuted: A unified collective agreement signed between the Federal Trade Union of Air Traffic Controllers of Russia (FPAD) and the State Company of Russia on Organisation of Air Traffic for 2007-2010 on the indexation of salaries has been violated by the employer since April 2009. The State Company rejected numerous FPAD requests to start collective bargaining to conclude a new unified collective agreement for 2010-2012 despite an agreement on 19 May 2009 to conclude an agreement for this period of time.

Instead the State Company developed a Methodology on conducting worker's conferences, and used it in March 2010 to force workers in eight of 15 branch offices to elect representatives controlled by management. Fifteen collective agreements were signed in March 2010, reducing the guarantees for workers in general and air traffic controllers in particular.

In September 2009 the FPAD was informed that they had to move from their current office to a much smaller one, again in violation of a previously signed agreement from 25 May 2007. The FPAD leadership and the staff were forbidden to enter the old office, and the FPAD President had to issue one-day admission cards to everyone entering the new office, including to all employees.

Eight chairpersons of FPAD local trade unions were dismissed in 2010 for their trade union activity, but five of them were reinstated by court. Over 25 trade union activists were further sanctioned with disciplinary action. Fifty air traffic controllers in the city of Rostov-na-Donu were also reprimanded in March 2010 after they had participated in mass action against the State Corporation's refusal to bargain with FPAD. Since air traffic controllers have no right to strike in Russian legislation, the action was organised in the form of a collective reading of the collective agreement. As a result FPAD was excluded from social dialogue and had to consecrate all its efforts to combat numerous legal attacks. The union was forced to participate in court hearings almost daily.

Agency workers used to weaken trade union: A local trade union of the Agro-Industrial Union of Russia was organised in 2007 at the "Bochkarev" plant in Saint Petersburg, belonging to the Heineken company. During a sit-down strike in 2007 management started to use strikebreakers employed through the company "Partner", a labour agency. After the strike was over, management continued to use the agency workers, especially at the storehouse where the main part of the trade union activists had been working. As a result the number of workers employed on regular contracts decreased from 700 in 2007 to 180 in 2010, whilst the number of agency workers increased from only a few in 2007 to 180-190 in 2010. Union membership consequently decreased during this period from 370 (of 700 workers) to 83 in 2010.

On 18 October 2010 union activists at Heineken organised a picket near the entrance to the company against the increasing use of agency workers. Although the picket was organised in accordance with the law, the Ministry of Internal Affairs met the trade union activists in November on the employer's request. The Ministry questioned the workers about the picket, and the workers were subsequently called to the Prosecutor's office to answer the same questions.

Trade union members at "Acron" LLC harassed and discriminated against: After the local trade union organisation of the Federation of Independent Trade Unions of Russia (FNPR) at "Acron" LLC in the city of Velikiy Novgorod protested against violations of the collective labor agreement, the employer

made an attempt in November 2009 to disrupt the trade union elections. The trade union committee's members and its Chair were not given access to the trade union office at the company premises. The employer also made a few attempts to capture trade union funds from bank accounts.

The municipal bodies of the city of Veliky Novgorod refused three times to give permission for trade union solidarity actions (pickets, rallies). The Office of the Ministry of Justice of the Russian Federation in the Novgorod region also refused to register information about the newly elected Chair of the local trade union as prescribed by the law.

In 2010 many acts of harassment and discrimination against trade unionists occurred, including dismissals, unfair payments, and pressure. On 1 January 2010 a new local Act on wages was adopted by management, determining personal bonuses which are much lower for trade union members. As a result they were paid almost 30% less than other employees. In December 2010 Sergey Simonov and Vitaliy Pavlov, both union activists, started a hunger strike against trade union discrimination.

Local union not recognised, unionists dismissed: In August 2010 a local trade union of the Inter-regional Trade Union of Automobile Industry Workers (MPRA) was organised at "EcoTechpro" LLC in the city of Tver. The local union informed EcoTechpro's Director about the creation, but he refused to receive documents, communicate with and recognise the trade union.

Bad working conditions, including poor health and safety, and a low salary that was paid informally and often manipulated spurred the union and the workers to appeal to the Prosecutor of the Moscow District of the city of Tver as well as to the State Labour Inspection in September 2010. A few days after submitting the appeal, the management of EcoTechpro received a list of the employees who had signed the appeal and requested each employee to explain both orally and in writing why they had signed the document. The employees were intimidated, and eventually all nine who had signed were forced to resign or were dismissed. The Prosecutor did not conduct an investigation of the facts described in the appeal, and gave the formal answer that there were no violations at "EcoTechpro" LLC. As a result the local MPRA union was obliterated.

Serbia



POPULATION: 7,800,000
CAPITAL: Belgrade
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

It remains common practice in the private sector to discourage trade union organising and threaten trade unionists with reprisals. The labour law hampers union formation as well as legitimate trade union activities. Due to the inefficiency of the labour inspectorate and the slowness of the judiciary system, even guaranteed workers' rights are often not easily obtainable in practice.

TRADE UNION RIGHTS IN LAW

Trade union rights are limited despite some constitutional guarantees. The procedures for registering a union are very complicated, and authorisation is required from the Ministry of Labour. To be recognised as a collective bargaining agent, a union needs to comprise 15% of the workforce. In addition, section 233 of the Labour Law imposes a time period of three years before a new organisation, or a union which has failed to obtain recognition, may seek a decision on representativeness.

Furthermore, the right to strike is heavily restricted, as parties to a collective agreement must submit their disputes to compulsory arbitration, which is also the case for disputes in services of general interest. A minimum service must be provided in strikes in "essential services", the notion of which is very broad. The procedures for determining the minimum service are set out in government regulations and can even lead to a total ban on strike action. Finally, the law provides for the suspension not only of wages, but also of social security rights of striking workers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country has slowly started to recover from the impact of the global financial crisis, but an arrangement with the International Monetary Fund (IMF) keeps public salaries and pensions frozen. A government proposal for retirement reform caused a joint action by five trade union organisations in October 2010. About 5000 people protested in front of the Parliament and managed to obtain a withdrawal of the proposed

law. A gradual improvement of external relations has again put Serbia on track to EU accession, with the possibility of gaining candidate status in 2011.

Organising and trade union action discouraged: Workers who wish to form a trade union are often "advised" by the employer not to do so or threatened with possible reprisals. Company level trade union leaders are often threatened with dismissal for organising industrial actions or publicly speaking about working conditions in their workplace. Court protection from such illegal actions on behalf of the employer is inefficient due to the slowness of the judiciary system, and Labour inspectorates do not always make an effort to stop anti-union behaviour.

Ministry of Justice interferes in strike: During a strike of employees in the judiciary in October 2010 over working conditions, the Ministry of Justice conducted a poll among the employees on the employer's offer to raise the salaries. The Judiciary Union stated that only a union can conduct a poll on the subject of cancelling the strike and has submitted a complaint to the Constitutional Court.

Unionists abused and discriminated against: After a four-day strike over wage arrears in May 2010 in the pharmaceutical company Srbolek, in Beograd, the employer reduced the pay for strike leaders from the trade union Nezavisnost - Chemical, Non-Metal, Energy, and Mining Industries Union (GS HNER) by 60%. During the second 65-day strike over the same issue starting on 9 August 2010, workers and trade union leaders were subjected to physical and psychological abuse, including illegal surveillance, by the company owner Jovica Stefanovi and a hired security team. The employer has previously also undertaken discriminatory measures against women workers who were pregnant or who gave birth.

Unionists dismissed: The management of Interlemin, in Leskovac, continuously threatened union leaders with dismissal. Saša Milenović, president of the company organisation of the Autonomous Metalworkers' Union of Serbia (SSMS), and Dragan Stojković, president of the Industrial Workers' Union Interlemin, were dismissed in July 2010 after a strike over unpaid wages that lasted more than two months. Ten further members of the striking committee were also threatened with dismissal. The local Labour Inspectorate overruled this decision as illegal in August 2010, and the union leaders were allowed to return to work.

The case of Zlatko Francuski and six other trade union committee members at Gorenje Tiki, in Stara Pazova, who were dismissed in August 2009 due to their trade union activities has

still not been resolved by court. A hearing has been scheduled for February 2011.

Workers forced to join employer sponsored union: Workers in the companies Vital and Medela, in Vrbas, both having the same owner, were forced to leave the Autonomous Trade Union and join a new union sponsored by the employer. The President of the Autonomous Trade Union "Vital" Đorđe Vuković was dismissed in May 2010 and Milan Gagovi was dismissed on 10 November, just a week after being elected as shop steward of the same union. A number of active trade unionists were not saved from reprisals, although they joined the new union, and some were also dismissed. The dismissals were explained as technological redundancies, but at the same time new workers were employed and the total number of employees remained the same. The same happened in Medela, where around 50 of 70 union members joined the new union and those active in organising a strike were dismissed.

Spain



POPULATION: 45,000,000
CAPITAL: Madrid
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Labour unrest followed the government's unilateral decision to reduce the pay for public sector employees. The Community of Madrid again tried to prevent strikes by abusing the minimum service requirements.

TRADE UNION RIGHTS IN LAW

The law recognises freedom of association. All workers, including migrants and undocumented workers, can form or join the union of their choice, although there are a few exceptions. Members of the armed forces, the national police force and some regional police forces are not allowed to join unions, whilst judges, magistrates and prosecutors are not free to join the union of their choice. The Constitution guarantees the right to collective bargaining and protects the binding power of collective agreements. The law also protects the right to strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Spain struggled with major economic issues in 2010. Unemployment soared to 20% - twice the average for the euro zone. In May the government introduced a EUR 15 billion austerity plan to reduce the country's budget deficit, including a 5% cut to public sector salaries. The unions called a general strike in September, the first one in eight years. In January Spain took over the rotating EU presidency for six months.

Abusive use of minimum service rules: Public sector workers employed by the Community of Madrid were unhappy at the decisions made by their regional government. The strike on the Madrid metro on 29 and 30 June was in protest at the application of Law 4/2010 of the Community of Madrid, which cut metro workers' salaries by 5% on the grounds that they while belonging to an enterprise of a commercial nature they received income from the general budget of the Community and were therefore civil servants. In organising the strike the workers respected the legal requirements concerning the notice period, strike call and notification.

The Transport Department of the Community of Madrid imposed minimum service requirements on the strike days, which in practice obstructed the right to strike of the majority of the workers, given that 100% of workers in the metro stations came under the minimum service rules. The trade unions have repeatedly lodged complaints with the courts against the Community of Madrid for abusively imposing minimum service rules every time there is a strike. Despite the fact that court judges have repeatedly sanctioned these abuses, the Community of Madrid again imposes minimum service rules knowing that even if there is a complaint, the judge's decision will be made after the strike has taken place, and so will not affect it.

Despite blatant attempts by the company to avoid another strike the workers heavily supported it and on 17 July an agreement was reached. Plans for further strike action were called off. On 31 August the company lodged a claim against the strike committee and the trade unions for a massive six million euros compensation for damages and asked that the strike be declared illegal. The company's claim was before the Madrid High Court at the time of writing.

Undermining collective bargaining rights: For the first time since democratic rule began the national government approved salary reductions for public servants in Spain by an average of 5% and a wage freeze for 2011, sharply reducing workers' purchasing power in practice. The cuts were introduced by

means of Royal Decree-Law 8/2010 of 20 May, introducing extraordinary measures aimed at cutting the public deficit. The new law also included a significant reduction in public employment in Spain, which has one of the lowest employment rates in the public sector in relation to total employment in the European Union.

The government's unilateral decision amounts to a serious undermining of collective bargaining rights, and breaks the commitments agreed with trade unions concerning pay and employment in the "Government and Trade Union Agreement for the Public Sector within the framework of the 2010-2012 Social Dialogue" signed in November 2009 and still in force. The trade union federations representing public sector workers within the General Workers' Union (UGT) and the Workers' Commissions (CCOO), together with other organisations in the sector, organised rallies, demonstrations, delegates' meetings and a public sector general strike across the country on 8 June in protest at the government's measures and demanding the right to collective bargaining.

The change in government policy from one of guaranteeing social expenditure and productive investment in order to stimulate recovery and protect employment to a restrictive policy that seriously impacts on social expenditure and economic growth was continued in the form of Royal Decree-Lay 10/2010 of 16 June, imposed by the government, and Law 35/2010 of 17 September on Urgent Measures for the Reform of the Labour Market.

Both legal texts were deemed to be a serious attack on workers' rights, as they led to a loss of both individual and collective rights, substantially changing the regulations that had hitherto governed labour relations in Spain, in particular collective agreements, the quintessential instrument of labour regulation.

The 29 September general strike called by the UGT and CCOO and widely supported by other trade union and social organisations in response to the package of measures was met with a markedly anti-union campaign by the media on the radio, in the written press and on television.

Switzerland



POPULATION: 7,600,000
CAPITAL: Bern
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The list of trade unionists who were unfairly dismissed in recent years is far too long and once again demonstrates the urgency of increasing legal protection. Trade unions have seen an increase in all forms of repression against their employees. Employers also tend to systematically call on the police and the courts to prevent alleged "intellectual property infringements" during legitimate trade union actions. On two occasions, trade union activists were beaten whilst carrying out their trade union activities. The right to strike is subject to numerous restrictions.

TRADE UNION RIGHTS IN LAW

Basic trade union rights are secured in law, but are not without limitations. The Federal Constitution explicitly recognises the right of workers to form and join unions. Although union representatives enjoy a certain degree of protection against dismissal, the Federal Court has confirmed that employers have considerable leeway due to the notion of redundancies "for economic reasons", and reinstatement is not possible. However, a law drafted in 2010 would increase the penalty for unfair dismissal and improve protection of elected workers' representatives against layoffs.

The right to strike is limited, as all strikes must be connected to industrial relations to be legal. The government can limit or prohibit strikes if they affect state security, external relations or the provision of vital goods and services, however there are no compensatory dispute resolution mechanisms for the workers affected. Furthermore, if a strike is declared illegal, workers can be summarily dismissed and liable to pay compensation, as well as damages. Penal sanctions may also be applied. Finally, the semi-canton of Nidwald and the canton of Fribourg have introduced laws that ban strikes for the cantons' staff.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In September, the Swiss voted by referendum in favour of a proposal allowing for the expulsion of an immigrant

found guilty of certain crimes, including even petty crimes. Also in September, the Parliament elected the socialist Simonetta Sommaruga to the Federal Council, bringing the number of women on the government composed of seven ministers, to four. Social inequality has increased in recent years. Wage development has favoured high earners and managers. Their wages have increased significantly, whilst average and low wages have almost stagnated even though rents and health insurance premiums have consistently increased over the last few years. The number of poor workers remains high.

Protection against trade unionist dismissals: proposals not a sufficient deterrent: The absence of adequate legal protection for unfair dismissal continues to be abused by many employers to get rid of members of staff who are considered to be too disruptive. The Union syndicale suisse (USS) admitted that the government was heading in the right direction by proposing stronger sanctions while stressing the importance of legislation that effectively protects workers' representatives and also allows for the reinstatement of employees who are unfairly dismissed.

Increased repression against trade unionists: Several trade unions have denounced the increase in the number of cases of intimidation, prosecutions or arbitrary dismissals of trade unionists. Two trade unionists at Radio-Fribourg were dismissed in February for "the loss of mutual trust", the reason cited by the employer. They were about to present the employees' views to the board of management. They were accused of not accepting new management structures. The Communauté genevoise d'action syndicale highlighted other cases. An employee representative of the "Fort Barreau" Home was dismissed following repeated pressure from his employer. A few months from retirement, a delegate of the Fondation Saint-Gervais was "released from his duties" on account of his political commitment to save this institution. At the Hôpitaux universitaires de Genève, a delegate was prosecuted for defamation by a departmental head in a case of psychological bullying and who nonetheless had management support.

Two cases of physical violence against trade unionists.: On 8 July in Neuchâtel several trade union activists from the inter-professional trade union, Unia, including a pregnant woman were manhandled by security guards from Protectas, the company engaged by Voumard Machines to screen entrants to a press conference to announce the launch of an employee consultation process in advance of the company closure. In October, a Unia trade unionist was also physically attacked by the contractor Hanspeter Jörg on a building site in Wilderwill (the canton of Bern).

Two disappointing verdicts involving two trade unionists dismissed in 2009: On 13 July in Zurich the Labour Court confirmed the unfairness of the dismissal of Daniel Suter, Editor and Chairman of the Staff Committee at TA-Média, the leading Swiss media group, during negotiations for a social plan. The judgement however, only awarded compensation of three months' salary. This was also the case in the dismissal of an employee representative at the Manor department store in Geneva, Marissa Prolong, dismissed in 2009 for criticising the poor working conditions and wages in the retail sector in the press. A federal court rejected the Unia trade union's appeal to reinstate the delegate.

Complaints and improper recourse to law enforcement during trade union actions: Many employers improperly filed complaints for "forced" or "unlawful entry" during legitimate trade union activities such as leaflet distribution. These complaints were generally not followed up; however some workers and trade unionists were prosecuted or summoned and interrogated by the police. This was the case when the Balexert shopping centre in Geneva, managed by the Migros group (often criticised for anti-trade union practices) forbade access to Unia and SIT trade union activists. During the workers strike at Swissport in Geneva, the police intervened to prevent strikers from entering the airport buildings.

Turkey



POPULATION: 74,800,000
 CAPITAL: Ankara
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

In 2010, many workers were forced to resign from the union of their choice to join management friendly organisations. The worrying trend of judicial harassment of trade unions continued, and many workers were laid off due to their union membership. The Constitution was partially amended in 2010 to grant more freedoms, however trade union rights remain excessively restricted in laws.

TRADE UNION RIGHTS IN LAW

Trade union rights are not adequately secured in the law. While freedom of association is enshrined in the Constitution, Turkish citizenship is a requirement for forming a union or becoming a

union officer. Several categories of workers are also excluded from this right, including in the public sector. Trade unions are also not able to operate freely: Unions cannot be established on an occupational or workplace basis, their internal organisation and their activities are minutely regulated – leading to repeated interference by the authorities – and they must obtain permission from the authorities to organise meetings or rallies. The police must be allowed to attend the events and record the proceedings. If a union seriously contravenes the laws governing its activities, it can be forced to suspend its activities or enter into liquidation by order of an industrial tribunal.

The Constitution was partially amended in 2010 to allow for collective bargaining also in the public sector, however the thresholds for recognition are inordinately high for all unions. Furthermore, the right to strike is limited, and there is an excessively long waiting period – nearly three months – before a lawful strike can be called. Picketing is very restricted, strikes over the non-observance of collective agreements are prohibited, and the law bans strikes in many services that cannot be considered essential. Severe penalties, including imprisonment, are possible for participation in unlawful strikes. The law also grants the Council of Ministers the possibility to suspend for 60 days a lawful strike for reasons of public health or national security and then to refer the matter to compulsory arbitration.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: For the first time in 33 years, unions were allowed to demonstrate on Taksim Square in Istanbul, after over 30 people were killed there on May Day in 1977. The demonstrations went peacefully and were a success for the Turkish union movement. However, as Prime Minister Erdogan's ruling Justice and Development Party (AKP) party tightens its grip on power, it seems to grow ever more intransigent towards the unions. This sadly culminated in the actual refusal by the Turkish Minister of Labour and Social Justice to receive the ILO's High Level Bipartite Mission in March.

Bargaining obstructed: Unions report that the government manipulates membership figures or claims there are irregularities in the figures in order to deny them the right to collective bargaining. Obstruction by employers is not adequately punished, even when a labour court rules in favour of a union.

ILO mission not received by Minister of Labour: An ILO high-level bipartite mission, consisting of the Employers' and Workers' spokespersons of the International Labour Conference Committee on the Application of Standards, Mr Ed Potter and Mr Luc Cortebeek, as well as other ILO officials and the Direc-

tor of the ILO Office in Ankara, visited Turkey between 3 and 5 March 2010. The mission took place following the conclusions of the Committee in June 2009, when the Government was requested to accept a high-level bipartite mission with the aim of assisting it in making meaningful progress on long outstanding issues raised by the ILO supervisory bodies with regard to the application of ILO Convention 87. There had already been an earlier high-level ILO mission to Turkey in April 2008.

While in Ankara, the mission met with representatives of the Ministry of Labour and Social Security, trade unions, the employers' association and the chairperson of the Parliamentary Health, Family, Labour and Social Affairs Commission. It did not get an opportunity, however, to meet with the Minister of Labour and Social Security and the Minister of State, as well as with other high-level personalities of the Republic, which it thoroughly regretted. The mission welcomed the tripartite consensus that any future legislation on trade union rights should be fully in compliance with Conventions Nos. 87 and 98. It also emphasised that ultimately it is for the Government to ensure compliance with its international obligations.

More workers forced to change union affiliation: In March, in Eleşkirt hospital in Ağrı, workers affiliated to KESK-affiliated Health and Social Service Workers' Union (SES) were visited by a delegation of Sağlık-Sen, a union which is friendly to the ruling Justice and Development Party (AKP). They were threatened and forced to resign from SES, and promised better contracts if they would join Sağlık-Sen, which around 30 of them eventually did.

Anti-union dismissals at sub-contractor of the General Directorate of Agricultural Enterprises: In July, 24 workers, affiliated to the Forestry Agriculture & Agricultural Industry Workers Union of Turkey (TARIM-İŞ), were dismissed because of their union membership by a sub-contractor of the General Directorate of Agricultural Enterprises (TİGEM). A further three workers were forced to resign from the union by the same employer.

Workers take to court to get their rights respected: On 9 August, 23 dismissed Bırselik Metal IS members were reinstated after a week long peaceful factory occupation and strike for reinstatement. The workers at Çel-mer Metal company in Gebze Cayırova, Turkey had originally joined Bırselik Metal IS, a DISK affiliate, in early summer. Upon discovering union activity inside the steel factory, the company suddenly dismissed 12 workers. The workers began a public struggle for reinstatement in front of the plant and obtained this on 29 June. However, instead of starting to negotiate a first collective agreement, the company continued to pressure workers to resign from the union. After this failed, Çel-mer dismissed 23 more workers on 16 July. On

2 August, the 23 dismissed workers re-entered the plant and the whole workforce began a sit-in strike. Family members and supporters set up a tent in front of the factory. The company requested and was granted police back-up. The action drew great attention in and outside Turkey. During the tense time period of police surveillance in front of the sit-in occupation, local groups such as the Turkish UPS workers in TUMTIS as well as international ones sent solidarity delegations. An agreement in favour of the workers was concluded on 5 August.

Trade union leader interrogated for giving interview abroad:

On 19 October, Mehmet Sitki Dehşet, President of the Urfa branch of the KESK-affiliated teachers' union Egitim Sen, did an interview on the well-known Dutch news show "Eén Vandaag". In this interview, he commented on the problems with child labour in the hazelnut sector in Turkey. He told the interviewer about an investigation carried out in 2007 which had found that about 70.000 children in the region of Şanlıurfa finished school "early" every year, and started "late", resulting in them helping their parents with the harvest during six to eight months. After the Turkish authorities found out about this interview, they interrogated Dehşet because they believed he had exaggerated the figures, which would amount to "just" 35.000. At the year's end, Mehmet Sitki Dehşet still risked losing his job.

Dismissed unionists reinstated by court: After two years of struggle, the Sinter Metal workers dismissed on 22 December 2008 won their reinstatement cases on 13 December 2010. The legal cases were launched by their union Birlesik Metal-Is, a DISK affiliate, immediately after their dismissal in December 2008. The workers had been dismissed under the pretext of poor performance and of economic crises, but the court declared that the reason behind the dismissals was the workers' trade union membership. The court ordered that the workers be reinstated.

Judicial harassment - court cases against trade unions:

Numerous Turkish trade union organisations, such as the DERI-IS textile workers' union, the Birlesik Metal-Is metal workers' union, the HABER-IS communications workers' union, the HAVA-IS air transport workers' union and the transport workers' union TUMTIS, all organise private sector workers and are all facing criminal charges. All court cases are characterised by baseless charges, often involving vague allegations of setting up or belonging to "terrorist organisations".

One of the most arrant cases has been what became known as the "KESK trial". On 22 October 2010, in a hearing that only lasted 15 minutes, the Izmir High Court yet again postponed its decision in the case concerning 31 public sector unionists, including 27 Egitim Sen leaders and members. The charges

against the defendants remained the same as those shortly after their arrest in May 2009, i.e. providing "intellectual support to illegal organisations". The defendants are either members of KESK or its affiliate Egitim-Sen, and are either Kurdish or have links with the Kurdish community. They were arrested on 28 May 2009 following months of phone taps and monitoring of personal e-mails. Their homes and workplaces were searched and computers confiscated. The arrests were conducted in a very brutal way. All defendants risk up to ten years of imprisonment. Since their arrest and detention in May 2009, the trial has been postponed four times, on 22 November 2009, and on 2 March, 22 June and 22 October 2010. All this time, the defendants have been under a travelling ban, which prevented Egitim Sen Women's Secretary Gulçin Isbert from attending the Education International World Women's Conference.

Judicial harassment - trade union activists imprisoned: The public sector union KESK has in general been hit very hard by systematic judicial harassment, which at times seems tailored to bring the union to its knees.

Seher Tümer, Executive Board member of the KESK-affiliated Health and Social Service Workers' Union (SES) was detained in her workplace, Ankara's Zekai Tahir Burak Women's Health Training and Research Hospital, on 17 April, and was officially arrested on 20 April 2009. She was accused of belonging to an illegal armed organisation because on 22 March 2009 she had attended the traditional "Newroz" festival in Ankara, because she had participated in the International Women's Day on 8 March 2009, and because of certain books and magazines which allegedly had been found in her house. She had stood trial a first time on 28 July 2009, a second time on 27 August 2009, a third time on 23 October 2009, and a fourth time on 18 December 2009. She had remained in prison throughout this whole period. On 9 March 2010 she had to appear in court again, and was eventually convicted to seven years and four months of prison. She remained in prison by the end of the year while the union appealed against her draconian sentence. Ms. Tümer was initially arrested at a time when she was bringing public attention to the deaths of babies, which were occurring at the Zekai Tahir Burak Women's Health Training and Research Hospital as part of her legitimate work as a trade unionist. During her trials, it has often been stated that she works for a union.

On 15 June, Akma Simsek, Secretary of the KESK Education and Organising Department, Ahmet Danacioglu, Executive Board member of KESK affiliate BES and Meryem Ozsögüt, Law, Collective Bargaining and Women's Secretary of KESK affiliate SES, were arrested and detained. Meryem Ozsögüt had already been detained for 8 months in 2008. They were

arrested for participating in a demonstration in front of an AKP building. Meryem Ozsöğüt was released on 22 July.

Lokman Özdemir, President of the Religion and Foundation Workers Trade Union (DIVES), a KESK affiliate, was arrested on 24 August, without there being any legal basis for the charges brought against him.

Metin Findik of Tüm Bel Sen (Union of All Municipality Civil Servants) was locked up in an E-Type prison on 17 June 2009. The public prosecutor ordered that the case be treated in secrecy, meaning that his lawyers could not have access to his file, know about the allegations against, or prepare his defence. Metin was arrested shortly after taking part in the union's elections, during which he was vocal in defending the rights of trade unions to strike and bargain collectively. He was still in prison by the end of 2010.

On 18 March, husband and wife Ferit and Belkıza Epözdemir, both members of Tüm Bel Sen, were arrested. They have three children, the youngest of whom is just three years old. Ferit and Belkıza were locked up in an E-type prison which was built to accommodate 400 prisoners, but actually held 856 people. The typical pattern of vague references to terrorist organisations was repeated in their case and their lawyers have been denied access to their case file. Both of them are still in prison.

The list of KESK activists who remain incarcerated is long. Other blatant cases include Olcay Kanlıbas, former SES Executive Board member, arrested on 14 April 2009 and detained in Midyat prison, Mardin, where she remains to date; Ahmet Zirek, Tüm Bel Sen Diyarbakır Branch member, also arrested on 14 April 2009, still detained in Diyarbakır; Ayhan Kurtulan, former Eğitim Sen Kars Branch leader, in prison since 16 March 2010; Tuncer Uşar, former Eğitim Sen branch manager, arrested on 23 April and detained on 26 April, in prison to date; and Aynur Şahin, SES Urfa Branch member and mother of a three year old, arrested on 5 October and still in prison.

The TEKEL workers' case - workers forced to accept inferior working conditions: The Turkish government's decision to privatise TEKEL (former state tobacco and alcohol monopoly) warehouses led to the dismissal of 12,000 workers. These workers, along with their families and supporters, started demonstrating on 15 December 2009. The protest began in front of the headquarters of Prime Minister Erdogan's Justice and Development Party (AKP), but the police cleared the area on 16 December and forced the demonstrators to a nearby park. The following day, police put up barricades around the park and then used water hoses and tear gas against the demonstrators. Police violence escalated and clubs were used against the

demonstrators, many of whom had to be hospitalised. Mustafa Türkel, President of Tekgıda-İs, which represents these workers and is affiliated to TURK-İs, and General Secretary of Türk-İs, were arrested, but then released later that evening. The police violence caused an outcry in the Turkish Parliament, but the government continued to refuse to accede to the workers' demand that they be given alternative employment with full employee benefits, as the law on privatisation provides.

In 2010, after 78 days of protesting, the workers ceased their action only to return to the streets of Ankara on 1 April for a one-day protest against working under Article 4/C of Law No. 657 (on working conditions of public employees), which restricts them to lower wages and fewer employee rights. Workers coming from different provinces were not allowed to enter the city in groups and convene at their previously scheduled meeting point in front of TURK-İs headquarters. Police and workers subsequently clashed in different parts of the city. Workers from KESK, who came to the city center in a show of support for the Tekel workers, similarly faced police using pepper gas.

The union took the Article 4/C case to court, as the measure in itself contravened Turkish law. The government, however, financially forced workers to resume work under Article 4/C after it blocked the union's solidarity fund account in September. As the court case was postponed time and again, most workers, in need of an income, saw no other option but to resume working.

Anti-union dismissals at UPS subcontractors: In the course of a few months, by end September 160 workers who worked for UPS and its sub-contractors in Istanbul, Ankara and Izmir, were dismissed after having registered their membership with the TURK-İs-affiliated Türkiye Motorlu Taşıtlı İşçileri Sendikası TÜMTİS. Other workers have also been continuously harassed and intimidated by local UPS management in order to either prevent them from joining or make them resign from the union. In July there was even a shooting incident, when the manager of a sub-contractor fired shots outside the offices of a public notary in Izmir, where he had tried to force workers to resign their union membership.

On 17 April, 31 workers were also dismissed at one of UPS's sub-contractors, C.I.B. Human Services and Cleaning Services Inc. The dismissed workers had previously been requested by their depot managers to sign a form which said they would abstain from any claims against the termination of their employment contract.

Anti-union dismissals of KOOP-İs members: Since 2005, the TURK-İs-affiliated Cooperative, Commerce & Office Workers'

Union of Turkey (KOOP-İŞ) has been trying to obtain collective bargaining status at the Praktiker DIY Stores Co. Turkey in Istanbul. The legal procedure for this is so lengthy that in 2010, the union could still not engage in collective bargaining in the workplace. The employer has been taking advantage of gaps in the existing laws, thus extending the procedure. In the meantime around 500 union members have been dismissed without motivation, while some of them have had to work without a pay increase for years. The union took the issue to court, trying to obtain all workers' reinstatement. The case was still pending at the end of the year.

Furthermore, five KOOP-İs members were dismissed between 1 April and 12 November at IKEA in Osmangazi-Bursa, three between 2 July and 26 November at ADESE Shopping Centers Co. Turkey in Konya, and six between 19 April and 18 May at KOCTAS DIY Stores Co. in Istanbul. In all cases, they were forced by the employer, either individually or collectively, to resign from the union. Qualified workers who resisted were downgraded and then relocated before being dismissed.

Workers forced to resign from their union: By November 2010, 127 members of the TURK-İs-affiliated Cement, Ceramics, Soil & Glass Industry Workers Union of Turkey (Türkiye ÇİMSE-İŞ SENDİKASI) at AKG Insulation and Construction Materials Industry & Trade Co. had to resign from the union after having been fiercely pressured by the employer. The union initiated a legal procedure which was still pending by the end of the year.

Since 20 April, workers at the Istanbul-based Medmar Marble and Mining Co. have also been threatened and intimidated in order to dissuade them from becoming a member of the TURK-İs-affiliated Miners' Union of Turkey. Immediately after adhering to the union, seven workers' contracts were suspended by the employer. During the union's organisation efforts, the employer brought the notary public to the workplace in order to force new members to resign from the union. Furthermore, 34 union members were dismissed following their participation in a meeting of their union branch. In breach of Turkish law, they did not receive their severance pay or due annual leave payments.

Workers forced to change their union membership: At Kardemir Co. in Karabük, 65 workers who were affiliated to the TURK-İs-affiliated metal workers' union Türk Metal Sendikası were forced to take leave, of whom 11 unpaid, and resign from their union. Subsequently, in three days' time, 2100 workers changed their union membership to the employer-friendly Turkish Metal, Steel Ammunition, Machinery, Metal Products and Auto Assembly Allied Workers Union (Çelik-İş) after they had been promised better wages and more decent working and living conditions. While addressing the workers, a Çelik-İş

director even stated that workers who had been sent on leave would only be permitted to return to their jobs if they resigned from Türk Metal and changed their membership to Çelik-İş. After they refused to do so, 29 of them were dismissed. The employer announced that it would not talk to Türk Metal, even if it was officially granted collective bargaining status. Since then, workers and their family members have been harassed and threatened, including by private security agents hired by the employer. There have even been a number of suicide attempts among the workers. The employer has also attempted to collect signatures for resignation from Türk Metal under the supervision of notary public officials. Türk Metal has taken the issue to court.

Harassment, intimidation, dismissal and further anti-union tactics: In February 2010, new members of Birleşik Metal-İs at Ekoendustri came under attack by management, which fired 15 active union leaders after the workers applied for union representation to the Labour Ministry. Other union members faced intense harassment and intimidation by the company, which pressured workers to resign from Birleşik Metal-İs or face dismissal. In August and September 2009, the union had begun an organising drive inside Ekoendustri, a company that produces automotive components, white goods components and also sports equipment.

In February, TURK-İs affiliate TES-KOOP-İS protested against problems with the management of Tesco Kipa Store in Istanbul. It denounced management's behaviour which included penalising union members, cross-examining them and forcing some of them to resign from the union. Those who refused were fired without due explanation. Since 2003 the union has been trying to organise workers at Tesco Kipa stores, and as a result many workers have been dismissed or have had their promotions blocked.

In November, six workers who had been involved in union organisation activities for the National Port and Land Stevedores' Union of Turkey (Liman-İş), a TURK-İs affiliate, were dismissed by a subcontractor at the Mersin Port Services, Seamanship & Transportation Trade Co. The union, however, reacted swiftly and provided them with employment at another subcontractor of the same company.

End December, Istanbul Sabiha Gokcen International (ISG) dismissed 160 workers without following the procedures required by Turkish law. The TURK-İs-affiliated civil aviation workers' union Hava-İş pointed out that the dismissals occurred just a few days after a ruling by the Court of Appeal, which confirmed the Ministry of Labour and Social Security's decision that ISG should be treated under the 'air transport' branch of activity for the purposes of trade union establishment procedures.

Ukraine



POPULATION: 45,700,000
CAPITAL: Kiev
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Numerous violations took place throughout the year, with law enforcement bodies offering very little assistance. The Federation of Trade Unions of Ukraine also suffered judicial persecution. The right to strike is limited.

TRADE UNION RIGHTS IN LAW

A number of problems exist despite basic trade union rights being recognised. The right to join and form trade unions is guaranteed by the Constitution and the 1999 Act on Trade Unions, and the law provides for extensive penalties for violations of trade union rights. The law on collective agreements stipulates that not only trade unions, but also other representative bodies of workers may engage in collective bargaining.

The right to strike is recognised in the Constitution, but a strike can only be organised if two-thirds of the workers in the enterprise vote for it. Public servants may not strike, and the list of essential services where strikes are prohibited exceeds the ILO definition. Federations and confederations may not call a strike either. Finally, workers who strike in prohibited sectors may receive prison terms of up to three years.

The law "On Social Dialogue" was approved by Parliament on 23 December 2010 but was pending presidential approval at the end of the year. If enacted, the law will excessively limit trade union pluralism and create further obstacles to collective bargaining. A draft Labour Code was also scheduled for a vote in Parliament in 2010 but was delayed throughout the year.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Viktor Yanukovich was elected President of Ukraine after the second round of elections on 7 February 2010. On 18 November 2010 the Verkhovna Rada of Ukraine adopted the Tax Code, which led to protests that lasted from 22 November to 3 December. As a result of the protests, the President was forced to veto the Tax Code and send it back to the Parliament. Ukrainian GDP fell by 15% in 2010. The aver-

age salary is around EUR 210, but over 60% of the workers are paid less than this amount.

Labour laws disregarded: The Federation of Trade Unions of Ukraine (FPU) notes that trade union rights are repeatedly violated. FPU has recorded 76 unique cases in 59 companies where the management did not comply with the Law on Trade Unions. FPU has also witnessed a growing range of measures and sanctions imposed when trying to join or establish a union or when carrying out union activities.

The Confederation of Free Trade Unions of Ukraine (KVPU) also reports numerous cases of pressure against trade union members, elimination of trade unions, low efficiency when turning to the courts or law enforcement bodies for protection, and poor enforcement of court decisions. They additionally note that employers resist the establishment of new trade unions, ignore local trade unions, refuse to collect membership dues (use of check-off system).

Both FPU and KVPU suffer from anti-union discrimination, interference by the public authorities in their trade union activities, and from employers ignoring the right to organise and to bargain collectively.

Collective bargaining losing its effectiveness: Collective bargaining is getting increasingly complicated and less effective, one of the reasons being the deregulation of the collective bargaining process. Employers have also outright refused to bargain with trade unions, which was for example the case for Federation of Trade Unions of Ukraine (FPU) affiliates in Chuhuiv Plumbing Company in the Kharkiv region and in Coal and Chemical Laboratory PC in the Donetsk region as well as for Confederation of Free Trade Unions of Ukraine (KVPU) affiliates at Kyiv Metro, Epicenter-K, and Myronivsky breadstuff JSC.

Poor protection against anti-union discrimination: Although anti-union discrimination is prohibited in law, the legislation does not contain appropriate mechanisms to ensure protection. Employers use this to their advantage to harass and discriminate against trade union activists.

Labour inspector fines union leader instead of investigating violations: The trade union organisation "Dream of the Future", which is affiliated to the Confederation of Free Trade Unions of Ukraine (KVPU), has at Myronivsky breadstuff JSC been requesting the employer for two years to start collective bargaining and to re-conclude a collective agreement that has been invalid since the beginning of 2009. The employer has refused to negotiate and has not provided the union with any answers.

The union requested the State Labour Inspection in Kaniv city to check their case. The conclusion of the Labour Inspector was that the union “Dream of the Future” had violated the provisions of the collective agreement and the Chairman of the union was handed an administrative fine. This decision was subsequently cancelled by the Administrative Court of Kyiv city, but the employer’s refusal to bargain collectively was not investigated. Mykhailo Volynets, KVPU Chairman, requested the State Department of Surveillance over Labour Legislation Observance, the Ministry of Labour and Social Policy of Ukraine as well as the General Prosecutor’s Office of Ukraine to check the case, but there had been no positive results at the end of the year.

Criminal investigation initiated after peaceful protests

against Draft Labour Code: From 21 October to 1 December 2010 activists and members of the Confederation of Free Trade Unions of Ukraine (KVPU) participated in a series of protests at the Independence Square in Kyiv against the adoption of the Draft Labour Code of Ukraine and the Draft Law on Social Dialogue. The protest actions coincided with protest actions by entrepreneurs and small businesses against the adoption of the Tax Code of Ukraine.

On 8 December 2010 the Independent Trade Union of Miners of Ukraine (NPGU), the KVPU’s affiliate, received a letter from the Kyiv Department of the Ministry of Internal Affairs of Ukraine demanding that the union submit a list of its members who participated in the protest actions at the Independence Square from 21 October 2010 to 1 December 2010 as well as their personal data and other available and helpful information in order to conduct an urgent criminal investigation.

On 10 and 14 December 2010 Mr. Volynets, KVPU and NPGU Chairman and Member of the Ukrainian Parliament, and four other members of Parliament received through the Secretariat of the Parliament summons to appear as witnesses before the Unit of Investigations of Felonies and Grave Crimes of the Kyiv Investigation Department of the Ministry of Internal Affairs of Ukraine. The criminal case was opened under Art. 194 of the Criminal Code of Ukraine - Intentional destruction or damage of other people’s property.

Anti-union discrimination widespread: Employers used various tactics to discriminate and harass trade union activists in 2010. Cases of anti-union discrimination included dismissals of trade union members without the consent of the trade union committee (e.g., at Aurum LLC in Odessa, Elsta LLC in the Dnipropetrovsk region in local unions affiliated to the Federation of Trade Unions of Ukraine (FPU), and at Azot in Severodonetsk in local unions affiliated to the Confederation of Free Trade Unions of Ukraine (KVPU)) as well as illegal dismissals and dis-

ciplinary sanctions imposed on local union activists and leaders (e.g., at the 63rd Boiler Welding Factory in the Ivano-Frankivsk region, Vasylykiv District Hospital in the Kyiv region, Elsta LLC in the Dnipropetrovsk region (FPU), Pushcha Voditsa in the Kyiv region, and at Imperial Tobacco Production of Ukraine (KVPU)).

Discrimination due to trade union activity, pressure to force people to leave the unions, and threats against members of local unions were also recorded during the year. This applied in particular to members of the local KVPU unions “Dream of the Future” at Myronivsky breadstuff, at Onyfrievka Central District Hospital of Kyiv, at the Central Processing Factory “Izvestiya” of the State Enterprise “Donbasantratsit”, at Zaporizhya Cable Plant OJSC, as well as to members of the NPGU local union at Marganets Ore Processing Plant.

Judicial persecution of FPU: In different regions of Ukraine, such as Dnipropetrovsk, Donetsk, Zhytomyr, Kirovohrad, Luhansk, Mykolaiv, Poltava, Sumy, Kharkiv, Khmelnytskyi, Chernihiv and in Kyiv, individuals have been filing lawsuits against organisations affiliated to the Federation of Trade Unions of Ukraine (FPU) and against trade union leaders, seeking to reverse trade unions’ decisions, suspend the leaders, and dissolve the organisations. The plaintiffs asked the courts to order the defendants to present internal trade union documents, such as minutes of meetings, certificates and seals. Many of the claims contained forged addresses, incorrect job titles of the plaintiffs and false references to the decisions of trade union bodies that allegedly violated the plaintiffs’ rights.

The trade unions had to dedicate considerable time and energy to the legal proceedings, which interfered with normal trade union work. Although the judgements were delivered in the absence of plaintiffs, were backdated and were not subject to appeal, by the end of 2010 FPU had won 121 cases of the 125 filed against it.

After numerous appeals to the President of Ukraine, the Government, the General Prosecutor’s Office, the Supreme Court, the Ministry of Justice and other state bodies, the FPU finally achieved a positive result. The Constitutional and Supreme Courts of Ukraine confirmed that courts do not have the authority to decide on trade union internal activities.

Trade union leaders and activists dismissed: In June 2010 Mr. Stanevych, Chairman of the Independent Trade Union of Workers of “Imperial Tobacco Production of Ukraine” affiliated to the Confederation of Free Trade Unions of Ukraine (KVPU), was handed two illegal disciplinary fines. The Labour Inspector considered that the financial sanctions on Mr. Stanevych violated Article 252 of the Labour Code. This finding was later

appealed in court, which decided to overturn the Labour Inspector's decision. At the same time Mr. Stanevych's wife, who works in the same company, was threatened with dismissal if her husband did not stop his trade union activities.

At "Pushcha Voditsa" in the Kyiv region, where the wages are very low and often paid with a delay, two KVPU local union members were fired. While it was formally called a redundancy, the dismissals occurred after they had raised questions concerning the low wages. The union activists appealed to court, but the dismissals were found to be legal.

Mrs. Zoya Khyzhnyak, who is Chairwoman of the independent trade union "Justice" affiliated to KVPU and who had been illegally fired, was reinstated by a court on 29 March 2010 at Sumy State Customs Service of Ukraine. However, the decision was not implemented by the employer. In May 2010 the judgement was revoked by the court of appeal, and now the case is considered in cassation proceedings.

Hundreds of workers left unions under pressure: Members of the local trade union organisation "Octan" affiliated to the Confederation of Free Trade Unions of Ukraine (KVPU) at "Lynik" JSC have suffered from constant pressure and intimidation from their employer. As a result the membership decreased from 900 members in 2007 to 148 in 2010.

Management of "Nikopol ferroalloy's plant" JSC intimidated and put pressure on members of the local organisation of the Independent Trade Union of Miners of Ukraine (NPGU) to force the workers to leave the union. Employees were called to the management office a few times per shift and were threatened with dismissal and failure to pass the workplace exams, the result of which would also be dismissal or demotion. As a consequence the number of members decreased from 200 to 10 during November-December 2010.

Companies withhold union dues: As in previous years, in 2010 employers across Ukraine tampered with the union dues of the Federation of Trade Unions of Ukraine (FPU) and of the Confederation of Free Trade Unions of Ukraine (KVPU). Companies like Leninska Kuznia' LLC in Kyiv, 61 Communards Shipbuilding Plant PC in Mykolaiv region, Karlovskiy Machine Building Plant' LLC in Poltava region, Pivdenna-Holding' LLC in the Autonomous Republic of Crimea, Shostka Public Factory in Sumy region, 'Perspektyva' LLC in Dnipropetrovsk withdrew trade union dues from the union members' salaries but failed to transfer the money to the trade unions' accounts, using the money for the companies' own needs instead. Ukrspetsvagon in the Poltava region, Promin' and Mar'janovka in the Donetsk

region also refused to transfer trade union dues to the unions' accounts.

Attempts by state departments to repress the "Our Land" union: In November, the City Education Department of Nova Kahovka city made an attempt to deprive the local union of the National Trade Union of Workers of State Committee for Land Resources of Ukraine "Our Land" ("Our Land") affiliated to the Confederation of Free Trade Unions of Ukraine (KVPU) of their office, which the union had used since 2006. Another union, which had its office in the same building, did not face any difficulties with their premises.

On 16 October 2010 the Second Congress of the "Our Land" union was organised. The day before the Congress some delegates informed the Organising Committee that the management of the Departments of State Committee for Land Resources of Ukraine in the regions, referring to an order by the Head of State Land Management Committee, prohibited them from participating in the Congress and demanded that they come to work on October 16, which was a weekend.

On 4 November 2010 a meeting of the local union "Our Land" in the Chernigov region was organised following an order by the Head of Land Resources Committee, Mr. I. Lysenko. The leadership of the union was not informed about the meeting, but union members were forced to participate. During the meeting the workers were forced to leave the said union and join a union controlled by the management.

United Kingdom



POPULATION: 61,600,000
CAPITAL: London
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The difficult economic climate was clear when sweeping cuts in public expenditure were announced in the autumn. Anti-union practices are not uncommon. One of the main areas for concern vis-à-vis trade union rights is the right to strike, and several incidences were reported.

TRADE UNION RIGHTS IN LAW

Although basic trade union rights are guaranteed, there are some areas of concern. The right to join and form unions is secured in law, as is protection against anti-union dismissal and reprisal. However, unions do not have the right to access workplaces, and the statutory procedure for recognition allows an employer to prevent recognition of an independent union by setting up a company union and extending to it recognition rights. Collective agreements are not legally binding, however trade unions have traditionally supported this voluntary approach.

The right to strike is limited. For a strike to be lawful, the underlying dispute must be fully or mainly about employment related matters. Political and solidarity strikes are prohibited, as is secondary picketing. The procedures for calling a legal strike are long and very technical, and the employer can seek an injunction against a union before a strike has even begun if the union fails to properly observe the required steps. While a worker may not be dismissed within 12 weeks after taking part in a legal strike, firings can legally take place after that, however the procedures have become more difficult for the employer.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The 2010 general election brought about the end of 13 years of Labour government and led to a coalition of Conservatives and Liberal Democrats assuming power in May. With the country facing an enormous budget deficit in the wake of the financial crisis, politics has focused on differing approaches to the economy. The government is seeking to

eliminate the budget deficit within five years, most ministries face on average 25% cuts, and up to 600,000 jobs could be lost in the public sector.

Introduction of anti-blacklisting regulations: The 2010 edition of the Survey reported that 14 construction companies had been blacklisting trade unionists. As a result new anti-blacklisting regulations were introduced in March. However, the Union of Construction, Allied Trades and Technicians (UCATT) has argued that the regulations were deficient as they did not make blacklisting a specific criminal offence and only prevented workers from being blacklisted for undertaking narrowly defined "trade union activities". Employers could still blacklist workers for undertaking unofficial industrial action, which could include stopping work due to safety fears or a refusal to undertake voluntary overtime.

Restrictions in freedom of association for agency workers: The UK Equality and Human Rights Commission published the results of an inquiry into the recruitment and treatment of agency workers in the meat and poultry processing sector in England and Wales. It found evidence of widespread poor treatment of agency workers both by agencies and by user enterprises. Moreover, it found that abusive treatment was less common in organised factories, and stated that "In workplaces where unions are recognised, or have a strong presence, we found that they provide a significant degree of protection for workers." However, some workers reported that their right to freedom of association had been restricted and also reported instances where hostility of companies towards union activities discouraged people from joining a union for fear of retribution.

Legislation and complex procedures hinder right to strike: Several cases over the past year have again highlighted the fact that many restrictions to the right to strike exist, and that employers can stop industrial action on complex procedural grounds. These include procedures relating to the duty to give notice of an intention to ballot, the duty to provide an explanation to the employer (of who is to be balloted), the duty to give notice of the ballot result - to members, as well as to the employer, and the duty to give notice of intention to strike.

Concern over redundancies and anti-union tactics by DHL: Workers at DHL in Runcorn, NW England are deeply concerned over the company's dismissal of ten drivers, its refusal to honour an agreement negotiated with the union and plans to transfer jobs to Scotland. Represented by the union Unite, the workers are employed on a DHL contract with Howdens, a kitchen supply company, which is understood to be very hostile to unions. The union has reported that stewards are being specifically targeted for redundancy and that DHL has failed to

implement an agreement reached during pay negotiations with the union last year. Unite shop stewards have also reported that the speed at which the process has taken place has destroyed any meaningful consultation.

British Airways exploits uncertainty over legal procedures to stop cabin crew strike: One of the most prominent industrial disputes in the UK in 2010 involved cabin crew at British Airways (BA) and centred on their terms and conditions of employment. The cabin crew have been represented by the Unite trade union. Following a ballot for strike action in the latter part of 2009, in which there was an overwhelming majority for strike action, BA objected arguing that the union had failed to give proper notice of the intention to ballot because it had not excluded those members who were likely to take voluntary redundancy. Unite argued that “it was neither practicable nor reasonable for the union to discover who amongst its members was to be made redundant and when”. The High Court rejected the arguments and granted an injunction to BA on the grounds that the union was required to “enquire of its membership” (in a ballot of some 11,000 people) which of them were leaving before the start of the strike. This “breach of technical requirements” led to the injunction being granted by the High Court, even though it could not have affected the outcome of the vote.

A second ballot held early in 2010 again produced an overwhelming majority on a high turnout, and this was said by the Court of Appeal to have been “impeccably conducted”. Even so the employer complained that the union had not given adequate notice of the result to its members. An injunction was granted by the High Court but the injunction was discharged on appeal with one of the appeal judges saying that “the Union is not required to prove that literally every member was personally sent his or her own individual report of the full report. A test of such strictness would be unrealistic”. Given that this was a majority verdict, there remains considerable uncertainty as to what a trade union must do to meet its obligations under section 231 of the Trade Union and Labour Relations (Consolidation) Act.

RMT v. Network Rail: An example of ballot regulations imposing disproportionate burdens: The National Union of Rail and Maritime Workers and the Transport Salaried Staffs Associations were frustrated by the minutiae of the notice to ballot requirements when planning a possible strike over terms and conditions of their members employed by Network Rail. A majority voted in favour of industrial action and the RMT duly gave strike notice to the employer, who brought legal proceedings to have the action restrained by injunction on three grounds, one of which was that the information supplied in the ballot notice was not “as accurate as reasonably practicable in the light of the information in the possession of the union”.

A further challenge was made by the employer on the grounds that the RMT did not notify members of the result sufficiently. The union had sent a text message stating that there had been overwhelming support for industrial action and providing a link to the organisation’s website for the full result. The presiding judge stated that members be given the information actively, rather than simply be told where it is available. This provided further grounds for an injunction to be granted. No union members complained that they had not received the necessary information.

Middle East

Trade union rights in the Middle East are poorly respected, and 2010 saw little improvement to the situation. Some of the world's most restrictive labour laws can be found in the region, and legal strikes are often prohibitively difficult to call. Migrant workers and domestic workers are particularly vulnerable to harassment and abuse.

Some of the most worrisome trade union news in 2010 emerged from Iran, where Farzad Kamangar, a member of the Teachers' Trade Association of Kurdistan, was hanged in secret after a sham trial that only lasted five minutes. The situation also remains dire for Mansour Osanloo and Ebrahim Madadi, President and Vice-President, respectively, of the Tehran and Suburbs Bus Company trade union (Vahed), who are both serving long prison sentences for defending workers' rights.

Elsewhere in Iran, the government again relied on "security laws" to suppress trade union activity and any form of dissent. In 2010 a number of union activists were sentenced to prison on charges of "propaganda against the state", "disrupting public order", "spreading lies" and the like, including four members of the independent sugar workers' union (Haft Tapeh).

In neighbouring Iraq, the president of the Iraqi Journalists Syndicate, Moaid Al-Lami, survived a second assassination attempt. In 2008, he had been first attacked only two months after his election, which followed the murder of his predecessor Shibab Al-Tamimi. In another disturbing turn of events, the Iraqi Ministry of Electricity ordered the police to shut down the Electricity Workers' Union and take control of the union's assets. Public sector unions are essentially banned in Iraq, whose labour laws date back to the era of Saddam Hussein. A draft labour law was introduced in 2007 though, but has not yet materialised.

Public sector workers are also barred from forming and joining unions in Kuwait, and government employees do not enjoy freedom of association in Lebanon, Oman and Qatar. Furthermore, the labour laws in a majority of the countries in the region prescribe a single trade union system, allowing the government to effectively control union activity in the country. This is the case for Bahrain, Iraq, Jordan, Kuwait, Oman, Qatar, Syria and Yemen. What is more, the labour laws in Iran, Saudi Arabia and the United Arab Emirates prevent the establishment of genuine trade unions.

As a consequence of the limitations on freedom of association, both the right to bargain collectively and the right to strike are severely restricted in the region. In the countries where collective bargaining is allowed, the right is often limited or the thresholds for bargaining are high.

Lawful strikes are often difficult to call: in Jordan and Yemen prior permission from the authorities is needed to organise a strike, and in the United Arab

Emirates, Palestine and Israel the authorities can also intervene to end a strike. Furthermore, in Syria workers who call a strike can be punished and fined, and in Lebanon striking workers must assume full responsibility for damages. In Iran and Saudi Arabia strikes are outright prohibited.

Despite the legal limitations, workers in the Middle East called numerous strikes in 2010; however, they were often met with repression or retaliation. For example, in Kuwait, after a series of strikes the government banned all trade unions from striking; in Iraq several union leaders were transferred to other work places as a result of strikes; in Palestine workers who went on strike over unsafe working conditions were fired; in the United Arab Emirates and in Yemen, workers were detained by the police after staging protests against salaries and working conditions; and in both Bahrain and Qatar migrant construction workers were deported after striking.

Migrant workers make up a large portion of the labour force in several countries in the region, and in some countries, like Kuwait, Qatar and the United Arab Emirates, they make up 70-80% of the entire population. Migrant workers, who are mostly employed as domestic workers and in construction, often face limitations in the laws with regard to their trade union rights, and they are often subject to discrimination, harassment and abuse.

The most common violations include confiscation of their passports, forced labour, and non-payment of wages – sometimes even for months. The sponsorship system, in force in many countries, ties migrant workers to their employers, effectively denying them the right to change employer if abuses arise. In Saudi Arabia and Kuwait, the employers can even stop migrant workers from leaving the country.

Domestic migrant workers are particularly affected: not only are they often excluded from the protection of labour laws; they are also often victims of physical and sexual abuse at the hands of their employers. Excessive working hours, unpaid wages, and lack of leave days are commonplace. Although there have been talks and drafts to include domestic workers in the countries' labour laws, very little has materialised, with the exception of Jordan, which extended the labour law in 2008 to include domestic workers.

Bahrain



POPULATION: 791,000
CAPITAL: Manama
ILO CORE CONVENTIONS RATIFIED: 29 - 105 - 111 - 182

There was a marked increase in strikes and walk-outs by both local and migrant workers in 2010, with most strikes in construction companies. Migrant workers, estimated at some 70-80% of the workforce, continue to face discrimination despite a welcome end to the sponsorship system. Workers enjoy only limited trade union rights, and only one union is allowed at each workplace.

TRADE UNION RIGHTS IN LAW

Despite some initial guarantees, trade union rights are not adequately secured. The Constitution recognises the right to form a union for lawful objectives and by peaceful means, provided that the fundamentals of the religion and public order are not infringed. Only one trade union is allowed at each workplace, and all unions must belong to the General Federation of Bahrain Trade Unions. A law that would have allowed more than one trade union per company was vetoed by the Shura council in February 2009. Workers in the private sector are protected against anti-union dismissal, and the law provides for the possibility of reinstatement. While foreign workers may join trade unions, they are not sufficiently protected in law.

Workers are not allowed to engage in collective bargaining, however the government has promised to adopt a law in this regard. A lawful strike can only be called after three-quarters of the members of the union's general assembly approve of the action. The list of "essential services" vastly exceeds the ILO definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Elections were held in October despite a boycott from several opposition parties and amid allegations of vote rigging and the detention of several opponents for criticising Bahrain's human rights record. The economy is forecast to improve but unemployment continues to be a long term problem. In April the Bahraini Parliament approved a minimum

wage law but only for government employees and members of the Armed Forces.

Migrant workers: abuses remain: Bahrain has taken serious steps to reduce human trafficking, but problems remain. Bahrain was the first country in the region to grant migrant workers the right to organise and the first country to abolish the "Kafal" (sponsorship) system. Anti-trafficking laws are also in place. Nevertheless, the Labour Market Regulatory Authority estimates that approximately 10% of migrant workers are in Bahrain under illegal "free visa" arrangements - a practice that can contribute to debt bondage - while others put the figure at 25%.

Most migrant workers are employed in domestic work, entertainment and construction, and come mainly from Asia and some African countries. Despite the end of the sponsorship system they face serious discrimination and women migrant domestic workers are particularly vulnerable to abuses. The withholding of passports remains the norm. In January 2010 alone, Bahrain saw two cases of suicide and two cases of attempted suicide by migrant workers.

Nursing union closed: On 23 March authorities closed down the Bahrain Nursing Society. A member of the trade union, Ibrahim al-Demastani, was released on bail after a week in detention. Al-Demastani, a nurse, had reportedly administered first aid to Husain Ali Hasan al-Sahlawi, who was accused of violent demonstration and subsequently shot at by Special Forces. Another defendant, Abdul Aziz Shabib, an X-Ray Technician, was also arrested and later released on bail. Both individuals were accused of abusing their professional positions and hiding a wanted man.

The Bahrain Nursing Society defended al-Demastani and asserted that he was carrying out his ethical duties and that even in a state of war, health care professionals are obligated to treat everyone. It is believed that this statement led to the closure of the society.

Striking migrant construction workers forced to leave: Hundreds of construction workers went on a two-day strike at the start of July to protest underpayment and poor living conditions. The strike was called off after the strike leaders reportedly agreed to leave Bahrain and return home. The company director said that 10 men who had been "instigating the workers" to strike had agreed to voluntarily leave the country and return home while complaints about living conditions, wages and overtime would be looked into. However, the Bahrain Human Rights Watch Society stated that the men had feared they were made into scapegoats and would be victimised if they stayed at

work, so they had little choice but to accept repatriation despite their right to protest.

Strikers scared back to work: Some 450 workers, including 50 Bahrainis and others from India and the Philippines, at the Al Sharqiya Mixed Concrete Company staged an impromptu strike over pay issues on 2 November. The workers complained that they had been unfairly discriminated against over pay rises. They returned to work a day later after management threatened that their strike was illegal due to a lack of notice and that they would therefore be sacked or, in the case of the foreign workers, deported. The workers however warned they could strike again if their demands for pay rises were not met. Bahraini employees were paid twice as much as non-Bahrainis.

Forced labour and withholding of documents: In late July it was reported that around 115 migrant workers from the Indian states of Tamil Nadu, Rajasthan and Andhra Pradesh were stranded in a Tubli labour camp without food or water. The workers claimed that they had not been paid nor worked for three months and that the employer, the S Projects Company, had cut off electricity supply to the camp. The workers had had their documents removed, as is commonplace in Bahrain. Labour Ministry officials and the Indian Embassy tried to obtain passports and payments from the company and arrange for the workers to return to India. Complaints were also filed. The S Projects Company was previously known as Royal Tower Construction, which operated a Gudaibiya labour camp that was destroyed by fire in 1996 - killing 16 Indian workers whose families are still waiting for compensation despite a court order.

In a separate case in November 2010, 16 migrant workers from India lodged a complaint at the Indian Embassy over their treatment at the hands of the Suney Cleaning Company. The men alleged that they had not been paid for months and had no money to live. The company finally agreed to pay the outstanding wages and return the passports.

Domestic workers abused: In August reports emerged of the abuse of Salma Begum, an Indian migrant who fled her employer on 3 August after physical and mental abuse, non-payment of any wages and withholding of documents. Ms. Begum was promised a monthly salary of BHD 50 but did not receive any money, was subjected to daily beatings and denied adequate food and sleep. After visiting the Indian Embassy, Ms. Begum attempted to file a police complaint but was told that her employer had already reported her as a runaway worker.

In November, the General Federation of Bahrain Trade Unions (GFBTU) called for strict new regulations to help protect the rights of domestic workers, including the provision of contracts

in advance to domestic workers and the issuing of mobile phones. The calls came after another case of abuse of a foreign domestic worker emerged. Filipino Imelda Munar, 40, suffered serious head injuries on 5 November after she tried to escape from the second floor of her sponsor's apartment. Ms. Munar reportedly wrapped herself in a blanket before jumping from the balcony in an attempt to minimise the risk of injuries. According to the GFBTU there is an increasing number of suicides and abuse cases among foreign domestic workers.

Iran



POPULATION: 74,200,000
CAPITAL: Tehran
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 111
- 182

A teacher and trade unionist was hanged after a sham trial, despite international outcry. The Government failed to act on its international promises to release the bus workers' leader Mansour Osanloo and issued at least seven more prison sentences and at least one corporal punishment. Many workers were arrested for supporting the right to organise. Trade union rights are severely limited, and strikes are prohibited.

TRADE UNION RIGHTS IN LAW

While the Constitution protects freedom of association, genuine trade union rights are not guaranteed in law. The Labour Code stipulates that either an Islamic Labour Council or a guild society can be established at a workplace, however the law strongly favours the former. The Labour Councils are linked to the Workers' House, the "official" workers' organisation set up and backed up by the authorities and employers. No other form of representation is allowed where a council has been established, although workers are allowed to collect signatures for dismissing an Islamic Labour Council. Prior authorisation is required for organising, as well as for concluding collective agreements. Furthermore, the labour laws do not apply in workshops with less than five workers and in the export processing zones. Although strikes are not allowed, workers in the private sector can down tools as long as they remain at the workplace or operate a go-slow. All work stoppages in the public sector are prohibited.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Human rights abuses continued as the government sought to consolidate its power in the aftermath of the highly controversial 2009 elections. Hundreds of activists remain in prison without charges. Tortures are routinely used to extract confessions, and political prisoners are systematically denied medical care. A juvenile offender was executed in July, and over a hundred minors remain on death row. 86 trade unionists, trade union journalists and human right defenders remained in prison by the end of 2010. Iran's pursuit of nuclear power resulted in sanctions against the country (United Nations Security Council Resolution 1929), and on 27 July and later on 27 November the European Union Council strengthened its sanctions against Iran.

Right to organise heavily suppressed: The government relies on "security laws" to suppress any public expression of dissent. Many activists have been convicted of "propaganda against the state" and "jeopardising national security" by the Revolutionary Courts without any respect to international or Iranian fair-trial standards. While the government-backed Workers' House or Islamic Councils consistently fail to address issues such as rights at work, privatisation, structural adjustments, low salaries and wage arrears, workers who try to organise independently are subjected to different forms of harassment, including violence, arrests, detention and potentially lengthy prison sentences, often in the notorious political detainees' Section 209 of Evin prison. Security and intelligence forces are often at workplaces to intimidate workers, and reports of trade unionists' mistreatment by prison authorities are common.

Independent teachers' unions fight uphill battle: Since 1999, separate independent teacher associations have been formed, and in 2001 the Coordinating Council of Iranian Teacher Trade Associations CCITTA was founded. In 2007, teachers' protests led to harassment, detention and incarceration of the labour activists, and many suffered pay cuts, were dismissed and forced to retire. The Interior Ministry has since issued a ban on all teachers' associations. Even though the associations have never been formally dissolved by court, intelligence officers insist that the associations have been liquidated by the government and that the teachers should resign from them. Several teacher associations have been crushed by the intelligence service, but some, such as the associations in Tehran, Esfahan and Kermanshah, remain active. Often, union meetings are either dispersed or supervised by officers from the intelligence service. Discrimination against unionised students has also been reported.

Teachers' trade unions targeted: Previous editions of the Annual Survey have reported arrests and detention of union activists just before Teachers' Day, and 2010 was no exception. The anti-union campaign started once the Iranian Teachers' Trade Association published a statement demanding the release of unfairly imprisoned trade unionists. On 16 April a number of members of the Central Council of the Coordinating Council of Iranian Teacher Trade Associations from several towns were approached by the secret police and had to break up their meeting in Yazd.

On 24 April, three members of the Iranian Teacher Trade Association of Hamedan were summoned to the local secret police office. Ali Najafi was detained for 24 hours, and all of them were interrogated again on 26 April. Meanwhile, Mohammad Beheshti Langeroudi and Aliakbar Baghani were summoned to the Tehran Investigation Office of the Intelligence Ministry on 24 April for a few hours while their homes were searched by secret police. On 22 April, Tofigh Mortezapour and Hasan Kharatian of the Iranian Teacher Trade Association of Tabriz were summoned to the local secret police offices. On 26 April, Mortezapour's house was searched and his personal items, including his computer and his notes, were confiscated. Ali Sadeghi and Mohammad Tavakoli of the Iranian Teacher Trade Association of Kermanshah were sentenced to flogging and fines by the criminal court in Kermanshah for "organising illegal gatherings" (teachers' meetings) in 2006.

Teacher hanged: On 9 May 2010 Farzad Kamangar, a 35-year-old teacher and member of the Teachers' Trade Association of Kurdistan, was hanged in secret in Evin prison in Tehran. Kamangar, who had lived with the threat of death penalty since 2008, was accused of "endangering national security" and "enmity against God". After a sham trial that had lasted less than five minutes, the teacher suffered torture and psychological pressure in prison. His family was not informed on the forthcoming execution or allowed to say goodbye.

Although the Iranian authorities had accepted Kamangar's appeal, the case stalled when it should have been sent to the Supreme Court for review. After further delays, Kamangar's lawyer was told that his file had been lost. Despite the evident lack of independent inquiry into the allegations and the absence of a fair judicial process, the teacher was executed to the outrage of the international trade union movement and human rights defenders.

Crackdown on the sugar union: On 1 December Reza Rakhshan, executive board president of an independent union at the giant cane growing and processing Haft Tapeh complex in the southern city of Shush, was sentenced to six months in prison.

The charge was “spreading lies” – in an article Rakhshan dedicated to the union’s second anniversary, Rakhshan addressed both the imprisonments of workers’ leaders and improvements in working conditions owing to the activities of the independent union. Rakhshan, previously the union’s communications officer who had been arrested on 4 January, released on bail and then dismissed from his job, was the second union president to be thrown into jail, following the imprisonment of Ali Nejati in 2009.

On 18 November, three Haft Tapeh union members - Behrouz Nikoufard, Alireza Saeed, and Behrouz Molazadeh - were convicted and sentenced to six months in prison by the Ahwaz Court of Appeal on charges of “showing disrespect to the Supreme Leader”. Other Haft Tapeh union members have also served time in prison, been fired from their jobs, expelled from their homes and blacklisted from employment. New charges could mean back-to-back prison sentences leaving trade unionists in jail for years. The Haft Tapeh trade union is one of very few genuine trade unions that appear to have the right to exist within the national legal framework.

Mansour Osanloo and Ebrahim Madadi still in prison:

Mansour Osanloo, the president of the Tehran and Suburbs Bus Company (Sherkat-e Vahed) trade union, and Ebrahim Madadi, the vice-president of the same union, are still in jail, serving prison sentences of five and three and a half years respectively for defending workers’ rights. Osanloo has been incarcerated since July 2007 and is currently placed in Reja’l Shahr prison, west of Tehran, among prisoners who have been convicted of crimes such as murder. His health is continuously deteriorating due to pre-existing medical problems as well as new ones gained through the way he was treated in prison. In April he received a much-needed check-up in an outside medical clinic.

In June 2010 the ILO published an Interim Report of the Committee on Freedom of Association on Case 2508 (complaint against the Government of Iran presented by the ITUC and the International Transport Workers’ Federation ITF). The report quoted the Iranian Government’s indication that Osanloo was to be pardoned. However, the Iranian government failed to fulfil its promises, and on 1 August Osanloo’s sentence was extended by one more year. Madadi has been in jail since December 2008. Both men have been maltreated while in custody, and both are recognised as prisoners of conscience by Amnesty International.

More bus workers’ union activists arrested and beaten:

Saeed Torabian, the spokesman of the Tehran and Suburbs Bus Company (Sherkat-e Vahed) trade union, was arrested on 9 June at his home by security officials who also confiscated his computer and mobile phone. He was released on 20 July on

heavy bail and charged with “acting against national security” and “propaganda against the system”.

On 12 June Reza Shahabi, the union treasurer, was tricked while on sick leave to report back to the headquarters of the Bus Company. There, security officials took the unionist to his house, performed a search and confiscated Shahabi’s computer. Shahabi was transferred to ward 209 of Evin prison. International trade unions received reliable reports that Shahabi had been heavily interrogated, despite reported health issues, and denied legal advice or contact with his family. Shabahi’s family paid the bail of 60 million toman (the equivalent of EUR 37,000); however, the release was delayed. The unionist went on a hunger strike from 4 to 20 December, and only stopped when urged by his colleagues. His court hearing had not been held by the end of the year, since his lawyer had not received Shabahi’s file on time.

On 3 November, Torabian and fellow trade unionist Gholamreza Gholamhosseini were beaten up in a Karaj internet café by six men who then dragged the unionists to prison. After being interrogated and threatened, Saeed Torabian was released on bail. Gholamreza Gholamhosseini remained in jail by the end of the year.

On 9 November, another union member, Homayoun Jabari, accompanied Gholamhosseini’s wife to the intelligence office to try to discover her husband’s whereabouts. Jabari was detained and held at branch four of Rajai Shahr prison for eleven days and eventually released on a bail of USD 30,000. Jabari’s house was also searched, and his computer and books were confiscated by the security officers, who also threatened his wife. Earlier, on 2 March, Jabari had been charged with “plots against national security” because of his participation in the 2009 May Day rally. He had been unfairly dismissed, and the Bus Company has continued to obstruct Jabari’s reinstatement, despite a court order.

On 23 November Morteza Komsari of the same union was summoned to court and arrested upon appearance. Komsari, along with Aliakbar Nasariis, who was similarly arrested on 29 November, was released at the end of December.

Unionists sentenced: On 17 April Pejman Rahimi, a union activist who had supported the Haft Tapeh union, was sentenced to one year imprisonment and 40 lashes of whip for “disrupting public order”. On 1 May Mohammad Olyaiefard, a lawyer for the Haft Tapeh and Tehran Bus Workers’ Union, was arrested. He remained in detention by the end of the year. On 11 May, Abolfazl Abedini Nasr, a journalist and a labour rights activist, was sentenced to 11 years of preemptory confinement.

Iraq



POPULATION: 30,700,000
CAPITAL: Baghdad
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 138 - 182

In January, staff from Baghdad's most famous hotel went on strike demanding a safety bonus after numerous mortar attacks and the death of two staff. Also in January the President of Basra's Iraqi Teachers Union was imprisoned, and the government sought to interfere with its elections. Iraqi police raided and shut down the offices of the electricity unions. In March after oil workers protested over low pay and their union's illegal status, union leaders were transferred, while in June dock workers protesting the prohibition of unions in ports south of Basra were surrounded by troops, and their leaders transferred. Trade union rights in law are very restricted.

TRADE UNION RIGHTS IN LAW

The current labour laws governing trade union rights are in dire need of reform. A draft Labour Code was made public in 2007, and although it would recognise trade unions, it contains many areas of concern. It would prohibit companies in the oil sector from cooperating with unions, would not adequately protect workers against anti-union discrimination, and would establish too high thresholds for union recognition.

Until the Labour Code is adopted, labour laws dating back to the era of Saddam Hussein remain in force. Resolution 150 of 1987 prohibits public sector workers from organising, and also bars all public sector workers from going on strike. Furthermore, a Ministerial order issued on 20 July 2010 prohibits all trade union activities at the Ministry of Electricity and its departments and sites. Decree 8750, which was introduced by the new regime in August 2005, also severely limits trade union activities by prohibiting unions from holding funds, collecting dues and maintaining assets. The draft Labour Code would allow for collective bargaining.

In April 2010 a decision was taken by the Higher Ministerial Committee to prohibit all travel of trade union delegations participating in any international meetings or conferences unless approved by the Committee.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: In June 2009 US troops began to withdraw, handing over security to Iraqi forces. By the end of 2011 all US troops are meant to be gone from Iraq. Violence has reportedly lessened although attacks and suicide bombs continue. Despite extensive restrictions and an increasingly hostile environment, trade unions continue to organise outside the law, and May Day saw rallies all over the country. In elections held in March, the then Prime Minister Nouri Maliki invoked his military powers to call for a recount against the apparent slim victory for Ayad Allawi's Iraqiya coalition. Nine months of political stalemate followed until Maliki was picked for a second term as prime minister in November 2010 under a power-sharing agreement. The situation remains volatile.

Only one national centre officially recognised: The only officially recognised trade union is the General Federation of Iraqi Workers (GFIW), created in September 2005 from the merger of the Iraqi Federation of Workers' Trade Unions (IFTU) (previously the only one to be officially recognised), the General Federation of Trade Unions (GFTU) and the General Federation of Iraqi Trade Unions (GFITU). However, this limits freedom of association, as organisations such as the Federation of Workers' Councils and Unions in Iraq (FWCU) have been refused recognition.

Most workers banned from union membership: Many workers are deprived of the right to organise due to the predominance of the public sector in Iraq, and the fact that public sector workers are barred from trade unions. Sectors like banking, insurance, oil and others are overwhelmingly state-owned. Even industrial factories are very often state-owned.

Teachers Union officials threatened and free elections hampered: In 2009 the government committee responsible for overseeing trade union elections announced that the Iraqi Teachers Union (ITU) had to hold elections. However, the union believed that it was clear the committee members were seeking political domination over the union. The ITU therefore refused to participate, arguing that they had recently held their own elections under their union's rules. They also obtained a court ruling declaring the interference of the committee to be illegal.

Nevertheless, elections were held in January 2010 but with widespread voting irregularities. The ITU leadership refused to recognise the results. Ibrahim al-Battat, the Basra president of the ITU, was also detained for eight days and threatened for not handing over the union's membership list while an arrest

warrant was issued for Jasim Hussein Mohammed, the national leader of the ITU.

Textile strike leader transferred: On 7 December 2009 a 53-day strike by 1,500 leather workers in Iraq concluded successfully after the state-run Enterprise of Leather Industries and Iraq's Ministry of Industry acceded to demands of workers on safety benefits. The leather workers, part of the Federation of Workers' Councils and Unions of Iraq (FWCUI), won added payments totaling 25-30% of salaries for working in hazardous conditions. The strikers only began work after all workers had been paid their safety stipend in cash. Their strike also spurred other similar textile workers to stage strikes.

However, in January 2010 the Ministry of Industry retaliated by transferring the leader of strike, FWCUI President Falah Alwan, to another enterprise in order to suppress his union activities.

Oil workers strike in Basra: In March workers at the South Refineries Company / Southern Oil Company in Basra went on strike after the failure of negotiations. They were calling for a change in company management and an increase in salaries. As a result of the actions, four key union leaders were transferred to other regions. In July the long-running negotiations between the unions and the authorities ended after a protest attended by more than 500 people was dispersed and two men briefly arrested.

The state-run company also brought charges against two prominent oil union leaders. Hassan Juma, president of the Iraqi Federation of Oil Unions, and Faleh Abood Umara, the federation's general secretary, were accused of "impeding the work" at oil developments in Basra and "urging workers to stand against senior management". According to officials, the union leaders had made threatening remarks directed at foreign oil companies, thereby harming the country's economy. Oil unions are technically illegal in Iraq.

Port workers demonstration met by military: In May and June, dock workers, represented by the Port Workers' Union, based in Basra, protested against plans to transfer their union leaders some 1000 kilometres away from their current workplace as a result of their union activity. During the protest, the Iraqi Harbour Corporation brought in military troops that surrounded and intimidated the protesters. Previous demonstrations had been held in February and March.

Iraq bans unions in the electricity sector: On 21 July 2010 police officers stormed offices of the Electricity Workers' Union across Iraq, carrying out an order from the Ministry of Electricity to shut them down. The Ministerial order, issued on 20 July

2010, reportedly "prohibits all trade union activities at the Ministry and its departments and sites". It orders the police, "to close all trade union offices and bases and to take control of the union's assets, properties and documents, furniture and computers". It also instructs the Ministry to take legal action against trade union officials under the 2005 Terrorism Act. The order emphasises and echoes the continuing use of the Saddam-era law banning trade unions from the public sector.

Despite billions spent on contracts to rebuild power plants, Basra residents only got power for a few hours a day, which led to demonstrations in June. The protests were supported by the Electricity Worker's Union - the first national union led by a woman, Hashmeya Muhsin - but were violently put down by police, killing one protester and injuring several others. The Ministry then issued an order to shut the union down, and as a result some 1,000 local residents protested, leading to further retaliation from the authorities and the raids on the union offices.

President of the Iraqi Journalists Syndicate survives second assassination attempt: In March the President of the Iraqi Journalists Syndicate, Moaid Al-Lami, survived a second assassination attempt. Al-Lami was first attacked in a bomb blast in September 2008 that left him with a shattered arm. That attack came only two months after his election, which followed the assassination of his predecessor, Shibab Al-Tamimi, in February 2008.

The International Federation of Journalists reports that while Iraqi journalists' death toll has dropped markedly as general violence has subsided, there is a growing threat to those journalists who remain independent despite political pressure.

Israel



POPULATION: 7,200,000
CAPITAL: Jerusalem
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Palestinian workers in Israel, even with permits, are often subject to abuse, illegal detentions and deportations while Israeli Arabs are subject to extensive employment-related discrimination. Most employers breach the labour law, and the right to strike is coupled with restrictions. There were still many major strikes during the year, but strikers were retaliated against.

TRADE UNION RIGHTS IN LAW

Israeli workers are free to join and establish trade unions and have the right to organise. However, a minimum of one third of the employees in a workplace is needed to form a union. It is forbidden to be a member of two union federations at the same time, with the exception of Palestinians who legally work in Israel and who can also be affiliated to a Palestinian union. Migrant workers are entitled to both elect and be elected to trade union leadership bodies.

The right to strike is secured, but it is prohibited to strike over issues that are covered by a collective bargaining agreement in force. All political strikes are also forbidden. Furthermore, the government or authorised ministers may pass emergency measures to “defend the country”, ensure public safety and guarantee the supply of “essential services”. Such measures, which can remain in force for up to three months, allow the government to impose severe penalties for failure to comply. Finally, the government or a public employer can ask the labour courts to issue back-to-work orders to strikers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Binyamin Netanyahu, the leader of the right-wing Likud party, became prime minister in February 2009, raising fears that the peace process would falter. The peace process remains alive although surrounded by pessimism from both sides. On 31 May Israeli naval forces surrounded ships sailing to bring humanitarian aid to the blockaded Gaza Strip and opened fire on passengers, killing at least nine while wounding dozens more. The attack led to widespread condemnation

and increased political tensions in the region. Israel eventually eased its Gaza blockade following pressure from the international community.

Very poor respect of labour law: According to a 2006 report, 92% of employers breach the labour law. The main victims are migrant workers and women. In February 2008, the government approved a significant increase in the number of labour supervisors.

Problems for Palestinian workers: The ILO reports that there are 60,000 Palestinians working legally and illegally in Israel. These workers face serious daily problems with crossing borders between the West Bank and Gaza Strip and are sometimes harassed and humiliated by border guards. In addition, some 20,000 Palestinians work in the West Bank for very low wages. The situation of these workers is exacerbated by the fact that they are afraid to make complaints against the Israeli employers, which results in limited inspection of workplaces.

Jordanian labour law has been applied to the territories since 1965, but in October 2007 the High Court of Israel ruled that Palestinians working for Israeli employers in the West Bank should be governed by Israeli, rather than Jordanian, labour law.

Migrant workers abused and exploited: According to local statistics Israel has some 255,000 foreign workers, of which about 125,000 are illegal. Maltreatment is prevalent, especially in the agriculture sector where poor working and living conditions, long working hours, sub-minimum wages and other forms of exploitation are common. Alongside Eastern European and Asian workers are tens of thousands of Palestinians who work for Israeli employers as documented or undocumented migrants. Racial tensions between immigrants and refugees and Israelis have been rising, and attacks on immigrants have been increasing.

Women represent the overwhelming majority of migrant workers coming to Israel, comprising over 80% of workers in the care-giving sector. These workers are particularly vulnerable to forced labour and situations of debt bondage, and sexual exploitation of female migrant workers is widespread. Female migrant care workers are also excluded from the legal protection of the Ombudsman on the rights of migrant workers except in cases of violence, trafficking or slavery.

In 2006 the High Court decided that the state’s policy of binding foreign workers to their employers infringed on basic rights and must be repealed. However, in practice the policy still ex-

ists: foreign workers who leave their work immediately become illegal residents who can be deported.

In November 2010 some 30 Thai workers brought to Israel via the manpower agency Interman and "Farmer's Aid" complained to their employer about working conditions and sent a fax to a migrant NGO. The employer reportedly discovered the fax and took away the worker who had sent the fax. The other workers were unable to contact him until the next day when he was found back in Thailand having been deported that night. The workers had complained of long working hours, low wages, few vacation days and very poor living conditions.

Police stops buses of protestors: In April 2010 Arab authority heads protested against what they claim were discriminatory budget cuts. Organisers of the protest reported that the protest was attended by hundreds of municipality employees and authority heads but that two buses full of protestors were stopped by police from attending. The Union of Local Authorities claimed that the government failed to hand over hundreds of millions of dollars of their budget, despite the fact that they had met all the standards set by the state. There were also complaints about wage arrears of up to six months. The Finance Ministry rejected the claims.

Workers harassed when trying to organise: In August workers at the Haredi customer service hotline in Jerusalem claimed that their employer, Partner Communications, was harassing them because of their attempts to organise a union. One worker reportedly stated workers were being pressed not to join.

Anti-union sentiment at Schechter Institute: The Schechter Institute of Jewish Studies faculty workers staged a week-long strike in November to protest salary cutbacks. The leaders of the workers' committee at Schechter said management tried to halt the workers' attempt to unionise by mocking and harassing people who were joining and by persuading others not to join. The institute has rejected all charges of union busting.

Planned teachers strike declared illegal: A strike called shortly before the start of the school year in September was ruled illegal by courts and cancelled. To protest the lack of progress in contract talks and the expansion of an educational reform programme, the Secondary Schools Teachers Association declared a one-day general strike in the secondary school system a day before the new school year was set to begin.

Cleaners fired for striking: Reports state that the cleaning contractor hired by the Hebrew University of Jerusalem to replace a company whose contract was terminated because it

underpaid its workers is also violating the rights of its workers by dismissing former strikers. The workers kept their jobs when the contractors were changed, but the new contractor, Hetz Or, reportedly began firing workers who had complained about the previous contractor's labour violations – in a few days in November it fired three long-term employees who had been part of the earlier campaign. Other violations include the deduction of union fees from the salary slips, despite the fact that there was no union, and underpayment of pension premiums. A coalition of students from several labour and social advocacy organisations had fought for the cleaners' rights under the previous company, Dynamica.

Diplomatic staff and strikebreaking: Throughout most of 2010 diplomatic staff organised by the Foreign Ministry's trade union undertook strike action and go-slows. The government responded to the numerous actions by asking security bureau officials (Mossad) to undertake some of the work usually done by the diplomatic and foreign office staff, thus engaging in union busting. Diplomats state that they are paid far less than security officials yet do similar work.

Jordan



POPULATION: 6,300,000
CAPITAL: Amman
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 -
111 - 138 - 182

Union activity is tightly controlled, and union activists face discrimination and, in the case of migrants, deportation. A single trade union system is in place, and it is prohibitively difficult to call a lawful strike.

TRADE UNION RIGHTS IN LAW

The laws regulating trade union rights in Jordan are very restrictive, and the amendment of the Labour Code in July 2010 brought no improvement to the situation. Workers in private companies and in some public corporations have the right to form trade unions, but all unions must belong to the General Federation of Jordanian Trade Unions (GFJTU). Furthermore, fifty founding members are required to establish a union, and approval by the Ministry of Labour is required for it to become officially registered. New trade unions must also be directly linked to 17 professions and sectors in which unions already exist. Civil servants, as well as gardeners and cooks, are not

covered by the Labour Code, and non-citizens are denied the right to organise.

The right to collective bargaining is not recognised, however there is a chapter on collective agreements in the Labour Code. The right to strike is heavily curtailed, as government permission must be obtained in order to call a lawful strike. The Ministry of Labour can also impose cumbersome mediation or refer the case to a labour court. Alternatively, the dispute can be transferred to the Council of Ministers and then to Parliament. Strikes are prohibited during the entire dispute resolution procedure.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Elections held in November brought in mainly pro-loyalist traditional candidates. Some groups, including the main opposition, boycotted the elections in a protest against electoral reforms which favoured representation from rural tribal areas, thereby increasing the influence of traditional candidates. Several major strikes were held throughout the year including protests by teachers demanding the right to form an independent association. There remains significant numbers of workers on daily wages with massive job insecurity.

Migrant domestic workers abused: Official figures show that more than 322,000 migrants are working in Jordan, but unofficial estimates put unregistered migrant workers at 100,000-150,000. Many workers, especially domestic workers, are employed without the proper permits, have their passports taken and are forced to work extremely long hours. In October an Indonesian migrant domestic worker fell to her death while trying to escape from her employer.

In August 2008, amendments to the Labour Law stated that migrant domestic workers are to be treated on equal footing with Jordanian workers in terms of medical care, timely payment of wages and subscription to the Social Security Corporation. Under the rules, all transfers of domestic helpers from a sponsor to another employer must be ratified at a labour directorate in order to ensure a more transparent process. Previously such transfers would occur at recruitment offices. Despite the legal changes, for most foreign workers the situation has not improved, and several cases of abuse came to light throughout 2010.

Teachers fight for right to form a trade union: The Minister of Education was forced to apologise over comments he had made calling on teachers to take care of their appearance rather than spend their time demanding a union. The

comments had sparked a strike in four governorates in March 2010 and came during a running dispute between teachers and the Education Ministry over the right of teachers to form a professional association, a decades-long ambition that has yet to materialise.

Government officials stated that the striking teachers were acting against their professional duties and violated the law, and also alleged that these were influenced by outside parties seeking to advance "narrow" political agendas. They vowed to "take all appropriate measures" against those who have violated the by-law of the Civil Service Bureau that clearly prohibits any civil servant from taking part in any strike or sit-in.

A committee of teachers was set up in February to lobby for the establishment of an association for teachers, an endeavour that had previously been rejected by the Ministry of Education, which considered it unconstitutional. The Supreme Council for the Interpretation of the Constitution had ruled in 1994 that it is unconstitutional to establish a professional association for teachers (to which membership is mandatory). However, the Prime Minister has reportedly suggested that an alternative to such an organisation may be possible. The Professional Associations Council has also expressed its support for the teachers' demand to form an association of their own.

On 20 March the Ministry of Education instructed heads of education directorates to check on the attendance of teachers and to provide it with the names of violators. The Ministry informed around 45 teachers involved in the protests that they were to be forced into early retirement or relocated to remote schools as a punishment for their involvement in the strikes. However, in September the government finally decided to cancel these punitive moves.

Strikes, go-slows and protests continued throughout the year although teachers suspended protests in many areas for summer examinations. In December renewed protests were held to once again push the demands for an association.

Textile workers stripped of documents and abused: In April it was reported that around 200 migrant workers from Sri Lanka, Bangladesh and India, 75% of whom are women, were found to have been trafficked to the International British Garments factory - owned by the security company G4S - stripped of their passports and held under conditions of indentured servitude. Allegations of sexual harassment and rape of a young Sri Lankan woman were found credible, and workers reported that at least two of their colleagues were overworked to death.

The President of the General Trade Union of Workers in Textile Industries (GTUWTI) reportedly stated that their representatives were prevented by the company's former general manager in Jordan from entering the company's premises, but that they had been in secret contact with the workers. Despite the authorities having been informed of these complaints, nothing was done. According to reports, factory management punished any worker who contacted the GTUWTI.

Day rate workers arrested for holding a protest – union rights denied: Muhammad al-Sunaid and Ahmad al-Luwanisa, leaders of the Committee of Day Labourers at Government Offices, gathered with 30 other workers on daily contracts on 10 May to hold a protest over their recent dismissal by the Ministry of Agriculture. The two were then arrested and charged with holding an unlawful gathering and defaming and insulting a public official. Sunaid had been a day labourer at the Ministry for over 15 years. Regulations state that if a worker works for over three months as a worker is paid on a daily basis, he will be covered by the labour law, and the government had promised that such labourers would be made permanent government employees. However, despite promises many day workers have been dismissed recently with no benefits, sick pay or pension. The two workers were charged by a special state security court.

According to reports, Sunaid co-founded the Committee of Day Labourers in 2006. The 12 committee members represent the interests of 13,000 day workers and are lobbying the government for full employment as civil servants instead of their precarious situation as day labourers. Sunaid reportedly said that the Labor Ministry denied the committee status as a union, since they were not privately employed, but employed by the government.

In 2007, the government finally agreed to convert the job status to civil service in three groups of labourers, the final one to be converted in 2010. However, the present government has not implemented this agreement, and has instead fired many day-workers as the economic climate has worsened.

Textile worker strike deemed “illegal”: In May over 400 migrant workers at the “Rainbow” Textile and Garment Factory went on strike over poor working conditions, including poor food and water. The General Trade Union of Workers in Textile Industries stated that the workers had been complaining for months but nothing had been done. Workers reportedly faced verbal abuse and threats from management as well as unsafe working conditions. According to the union, factory management had not taken any steps to improve the situation.

Management stated that it considered the strike illegal and that it was caused by individuals who sought to cause disturbances inside the factory “for the benefit of outside entities”, in a reference to the support of the General Trade Union of Workers in Textile Industries. It also stated that it would take legal measures against the workers who went on strike and that it would consider their refusal to work “illegal, and “contributing to financial losses for the factory”.

Abuse of Egyptian workers in Jordan: According to most recent statistics by the Ministry of Labour, 71% of the approximately 458,000 foreign workers employed in Jordan are Egyptian. There are repeated reports of ill treatment of Egyptian workers despite several efforts to protect their rights. A recent report stated that agricultural workers are brought to Jordan under circumstances resembling human trafficking with agricultural workers working long hours and denied weekly holidays.

An August report found around 10,000 cleaners, attendants and cafeteria staff in the public and private health sector subjected to conditions similar to forced labour and denied basic rights with most working involuntary overtime and receiving less than the minimum wage without annual leave or sick pay. In many instances social security insurance is not paid despite begin deducted from salaries.

Kuwait



POPULATION: 3,000,000
CAPITAL: Kuwait
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 105 - 111
- 138 - 182

Although workers are legally permitted to join unions, less than 5% of the labour force is unionised. There is only one trade union federation allowed by law and the right to strike is severely limited.

TRADE UNION RIGHTS IN LAW

A new Labour Code regulating work in the private sector was enacted in 2010, but trade union rights are still heavily restricted. While the legislation now allows for trade union pluralism at the grassroots level, only one general union is permitted, the Kuwait Trade Union Federation (KTUF). Only Kuwaiti workers enjoy the right to join a trade union and to participate

in its activities. Government employees are as stated excluded from the scope of the Labour Code, which is also the case for domestic workers. Furthermore, the establishment of a trade union is subject to certification by the Ministry of Social Affairs and Labour, however if the Minister fails to respond within 15 days the union shall be deemed to exist. Workers cannot be dismissed on the basis of their trade union activities, but no protection is guaranteed against other forms of anti-union discrimination or interference by employers or the authorities.

Trade unions are not allowed to engage in political activity, and are also prohibited from investing and from receiving donations without approval by the Ministry. In the event of a collective dispute, a long dispute resolution procedure – lasting up to two months – must be exhausted before lawful strike action can be taken. There is, however, no protection for strikers against retribution by the state. Finally, the courts can dissolve any union that violates the labour laws or that threatens public order and morality.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Kuwait is one of the richest Arab states, and some 68% of its population comes from overseas. Kuwait's last parliamentary elections in May 2009 were the result of an internal dispute between opposition parties and the government after the incumbent government resigned in order to avoid being questioned over alleged misuse of public funds. Four female members were elected. In April 2010 the authorities, reportedly worried about possible democratic change in Egypt by the "National Association for Change", deported 17 Egyptians for trying to organise a local branch in Kuwait. There has also been increasing civil violence with security forces pitted against Islamist militants.

Collective bargaining rarely practised: Collective bargaining is rarely practiced in the public sector. Although the law allows for direct negotiations between employers and workers or workers' representatives in the private sector, the sector is not organised.

Organising very restricted: The single trade union system continues to exist. However, despite the monopoly imposed by law, some trade unions operate outside the Kuwait Trade Union Federation (KTUF), such as the Bank Workers' Union and the Kuwait Airways Workers' Union.

Strikes occur despite restrictions – government bans strikes: Strikes are increasing despite being only allowed in the private sector, which is not organised, is very small and is mostly com-

posed of foreigners. For example in April oil workers protested against privatisation plans and wages; in June the Kuwait Trade Union Federation held a demonstration to protest against what it called the government's selective method of awarding salary increases; in August around 185 bus drivers went on strike over a recent pay cut of KWD 50; and in November baggage handlers and airport cleaners went on strike.

After a spate of strikes the government restated that all strikes must be kept within the law, which bans strikes from affecting the running of the country or endangering national security. It also threatened to take legal action against any workers who overstep the boundaries. In May the government banned all trade unions from holding strikes and sit-ins, reportedly saying that they "delay development plans, disrupts the workflow of government bodies and reflect negatively on Kuwait". Trade Unions protested against this move and the Kuwait Trade Union Federation (KTUF) held a press conference on 29 May to protest.

Migrant domestic workers abused: There are around 650 - 700,000 migrant domestic workers in Kuwait, the majority of them from South East Asia. Reports of widespread abuse and ill treatment continue to emerge regularly, as do reports of the failings of the Kuwait authorities to properly investigate, monitor and address the issues. Foreign domestic workers, along with local domestic workers and drivers are excluded from the labour law and are vulnerable to abuse because of the lack of effective legal remedies.

In 2009 embassies in Kuwait received more than 10,000 complaints from domestic workers about unpaid wages, long working hours and physical, sexual and psychological abuse. Many domestic workers in Kuwait who try to escape abusive employers face criminal charges for "absconding" and in most cases are deported even if they have been abused and seek redress. Kuwait, which has the highest ratio of domestic workers to citizens in the Middle East, announced on 26 September 2010, that it would abolish the sponsorship system in February 2011, and replace the employer-based system with a government-administered recruitment authority. No details were given on what legal protections would be added for migrant workers. However, the new Labour Code does ban companies in the private sector and oil sector from holding workers' passports and stipulates fines for such behaviour.

Egyptian workers threatened for protesting months of non-payment: On 2 March nearly 300 Egyptian employees of a cleaning and contracting company staged a protest against the non-payment of their salaries. They had not been paid for eight months and held the protest as a last resort after complaints

failed to achieve any change. Reports state that company management threatened the workers with dismissal and deportation after they complained. The workers had not been paid enough to buy daily meals and faced eviction from their accommodation as they could not pay the rent despite the company's legal responsibility to take care of accommodation.

Right to strike threatened for dockers: In March, in response to a threatened strike by the Kuwait Ports Foundation Workers' Union, the Kuwaiti Council of Ministers held an emergency meeting during which it decided to take legal action to prevent the strike from going ahead despite the union's legal right to take action. The union, which represents 930 members employed by the state-owned Kuwait Ports Foundation, has attempted to enter into negotiations with managers for the past two years to discuss the fact that staff benefits and career development structures have not been reviewed since the 1970s.

Bus drivers sacked during strike: Bus drivers from the Kuwait Public Transport Company went on strike in August over non payment of a promised allowance and deduction in the salaries of some 2,900 workers. 88 drivers were reportedly dismissed during the strike, but calls were made for their reinstatement.

Migrant workers allegedly deported for complaining: In August 45 Filipinas employed as beauticians in Kuwait ran away from their employer, whom they accused of illegal recruitment, unfair labour practices, and physical and sexual abuse. One of three workers reportedly deported from Kuwait due to their role in the protest said to media that they had been told by labour officials that they were not entitled to any assistance since they were not legitimate migrant workers. Officials investigating the incident merely stated that all but three decided to go back to work the next day.

Members protest over union directors: Some 200 employees of the Ministry of Communications held a demonstration on 19 September at the headquarters of the Union of Kuwait Government Sector Workers, calling for the dissolution of the board of directors of the union and an urgent general meeting to elect a new board. They complained the current board of directors had for many years taken over the union, deferring the appointment of new members. The workers criticised the board for poor reporting to members and for declining to register other ministry workers as members of the union. The current board of directors has also reportedly hindered workers from joining the union, and there have been no new members for seven years.

Lebanon



POPULATION: 4,200,000
CAPITAL: Beirut
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 138 - 182

The authorities have broad powers to control trade unions. Many migrants, particularly domestic servants and Palestinian workers, lack trade union rights and are poorly treated.

TRADE UNION RIGHTS IN LAW

Trade union rights are not adequately secured, although a new draft amendment to the Labour Code would improve the situation somewhat. The law recognises the right of workers, except government employees, to set up and belong to trade unions. However, prior authorisation is needed from the Ministry of Labour in order to form a trade union. The Ministry also controls all trade union elections, including the date of the election, the procedure and the ratification of the results. Furthermore, unions are prohibited from engaging in any political activity, and the law permits the administrative dissolution of trade unions.

The thresholds for engaging in collective bargaining are high, and all collective agreements must be ratified by two-thirds of the union members at a general assembly. Although the right to strike is recognised, it is limited by the obligation to announce the number of participants in advance, as well as by the requirement that 5% of the union's members be given responsibility for maintaining order during the strike. The organisers of a strike must also sign a document whereby they assume full responsibility for all damages that occur during a demonstration.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Political tensions in the country make it difficult to carry out trade union activity independently of political manipulation. Despite the good health of the banking sector some 28% of Lebanese live below the poverty line. While the right to strike is restricted, many workers went on strike during 2010, most notably teachers, pilots, taxi and bus drivers. General protests were also held by unions over the government's economic policies.

Government interference: The government has often interfered in trade union affairs, instigating or aggravating conflicts within the trade union movement. Senior politicians have managed to have their nominees placed on the governing body of the Lebanese General Workers Union (CGTL), causing friction within the union when it opposes government policy.

Migrant workers abused and excluded: Lebanon has an estimated 200,000 domestic workers, primarily from Sri Lanka, Ethiopia and the Philippines. The Philippines, Ethiopia and Madagascar now ban their citizens from travelling to Lebanon due to extensive abuses. It is estimated that one domestic worker commits suicide in Lebanon every week on average. They remain essentially outside of crucial labour laws and subject to exploitation and frequent abuse by employers and agencies including non-payment of wages, forced confinement to the workplace, no time off, and verbal or physical abuse. Reports estimate that only 1% of migrant domestic workers are allowed to keep their passports. The sponsorship system ties the worker's residency to a specific employer, making it very hard for a domestic worker to change employers, even in cases of abuse. Once employment is terminated the worker loses residency, making it difficult to file complaints because workers' fear detention owing to their illegal status.

The government issued new regulations (Standard Unified Contract) in 2009, requiring each employer to abide by a set of rules including paying workers their salary in full at the end of each month, providing weekly time off and setting a maximum number of working hours. However, the government has failed to take appropriate sanctions against employers who abuse migrant domestic workers, and in practice many employers continue to overwork, underpay and abuse their domestic workers. A demonstration was held by migrant workers in Beirut on Mayday 2010 to protest against the extensive abuse and the lack of labour rights.

Palestinians denied many rights: There are approximately 400,000 Palestinian refugees in Lebanon, which accounts for 11% of the Lebanese population. Palestinians are not allowed to form trade unions, as there has to be a reciprocal arrangement with their home state. Previously Palestinian refugees had been severely restricted in the type of work they could obtain, but with the passing of a new law Palestinian refugees were guaranteed the same rights at work as other foreigners.

Pilots threatened: In April, pilots from Middle East Airlines staged a 24-hour strike in a bid to reclaim benefits lost nine years ago during extensive restructuring. The strike reportedly grounded 23 flights and some 5,000 passengers. The chairman of the airline threatened to file a lawsuit against the

striking pilots, reportedly describing their act as "illegal and arbitrary" and costing the company around USD 800,000 per day. The chairman also accused the pilots of wanting unfair salary increases while the pilots have stated that they were seeking rights such as more days off and a higher starting salary.

Oman



POPULATION: 2,800,000
CAPITAL: Muscat
ILO CORE CONVENTIONS RATIFIED: 29 - 105 - 138 - 182

Migrant workers must contend with difficult working and living conditions. The right to strike is recognised but with restrictions.

TRADE UNION RIGHTS IN LAW

Despite recent improvements to trade union rights, problematic areas remain in the law. Two decrees adopted in 2006 and 2007 grant workers the right to form trade unions, when previously only "representation committees" were allowed. More than one union can now operate per company, and employers are prohibited from punishing or dismissing workers for union activities. However, the reference to the "General Federation of the Sultanate of Oman" implies a monopoly with a single trade union federation. The Ministry of Employment may also refuse to register a union "if it is not convinced" that all the requirements have been met. Furthermore, there must be at least 25 employees for a union to be formed, regardless of the size of the company, and security and government personnel are not allowed to organise. Trade union activities are restricted by the requirement that unions notify the government at least one month in advance of union meetings.

While wages and working conditions were previously set by law or individual contracts, workers are now allowed to carry out collective bargaining. Still, the procedures for calling a lawful strike are cumbersome, as a strike must be supported by an absolute majority of the workforce, and notice of the strike must be given to the employer at least three weeks in advance.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Sultan Qaboos Bin Said Al Said celebrated his fortieth year as leader of this monarchy. All important decisions are made by him. He is Prime Minister and also holds the defence, economic and foreign affairs portfolios.

Setting up of a trade union centre: Since the decree enacted in 2006 by the Sultan of Oman granting the right to set up trade unions, approximately 70 trade unions have been set up in the country. The General Federation of Oman Trade Unions (GFOTU) was set up on 15 February. The Executive Bureau is composed of 11 members, 2 of which are women.

Difficult working and living conditions for migrants: They are approximately 826,000 migrant workers in Oman, a third of which work in the construction sector. They generally work and live in appalling conditions as their fundamental rights are ignored by employers and the government's inspection services do not intervene. The majority of construction workers have to live in wooden huts with deplorable sanitary conditions which provide no shelter from the extreme temperatures. Many suffer from food poisoning, heat-stroke and injuries caused by falls from scaffolding in particular.

Palestine



POPULATION: 4,300,000
CAPITAL: (East Jerusalem)
ILO CORE CONVENTIONS RATIFIED: Not a member state

The exercise of freedom of association or collective bargaining remains very difficult for most Palestinian workers, especially in Gaza. One trade union leader was sacked and another one detained during the year. The law does not yet cover all trade union rights.

TRADE UNION RIGHTS IN LAW

While basic trade union rights are guaranteed, gaps remain in the labour law. Palestinian workers, including public sector employees, may establish and join unions and engage in collective bargaining, although this is not yet enshrined in law. Palestinians working in Jerusalem are governed by Israeli labour law, and they are free to form and join unions.

While the right to strike is recognised, unions must give four week's advance notice for strikes in public utilities. Furthermore, the Ministry of Labour can impose arbitration, and trade unions can face disciplinary action if they do not accept the outcome of that arbitration. A new trade union law is being drafted and includes the institutional framework for industrial relations, although it has been criticised by the Palestinian General Federation of Trade Unions (PGFTU).

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The Israeli offensive against Hamas in late 2008 and early 2009 resulted in massive rebuilding costs for the Palestinian Authority and reduced the ability of Palestine to provide employment opportunities, further reducing its ability to pay its own officials. The tension between Hamas and Fatah has continued to increase difficulties for ordinary people. The ongoing blockade of Gaza by Israel, termed "collective punishment" by the UN, and the installation of a wall aimed at blocking tunnels between Gaza and Egypt - through which a reported 60% of the economy in the Gaza Strip depends - has added to the economic desperation of most Palestinians. Only around 35% of Gaza's industry is able to function while the number of exit permits approved by Israel is only 1% of the number from 2000. Throughout 2010, as in previous years, many Palestinians were detained during attempts to work illegally in Israel, fined and deported.

Difficult exercise of trade union rights in Gaza: Due to the political strife in Gaza between Hamas and Fatah, with each side describing any union activity as politically-motivated, any normal daily exercise of freedom of association or collective bargaining is extremely difficult.

Discrimination hinders organising of women workers: Women workers receive some 60% of the wages of their male counterparts, and wages are the lowest in sectors that are predominantly female, such as agriculture and services. Security issues, legislative discrimination and cultural issues deter more women from entering the labour force. Women make up less than 15% of employees in the Palestinian labour market according to the Palestine General Federation of Trade Unions (PGFTU), and most of them are unorganised.

Difficulties for Palestinians working in areas under Israeli labour laws: Some 22,000 Palestinians work in Israeli settlements in construction, agriculture, manufacturing and service industries with another estimated 10,000 working informally. In 2010 it was reported that the Palestinian Authorities (PA) announced a ban prohibiting Palestinians from working in West

Bank settlements as part of a wider campaign that included a national boycott of settlements. However, the Palestine General Federation of Trade Unions (PGFTU) stated that they would not stop workers from working in settlements until the PA could provide alternative employment.

Palestinians working in these areas were employed under Jordanian labour law until 2007 when a court ruled that Israeli law applied equally to both Israeli and Palestinian workers, thus affording Palestinians the same conditions. However, the law is not often enforced, is poorly monitored and in the event of abuse, it is very difficult for Palestinian workers to obtain redress and take a case to court. In many instances employers continue to pay Palestinian workers less than the Israeli minimum wage, and they work in poor health and safety conditions. While the legal minimum wage in Israel is approximately USD 5.50 an hour, Palestinians in settlements earn USD 2 an hour or less. Increasingly children are also found working in settlements, often in construction with poor safety conditions and no insurance.

Palestinian Journalist Union elections and arrest: In January the Fatah Central Committee stated that it would respect the decision of the members of the Palestinian Journalists Syndicate and the results of their elections in January. The elections were the first in over a decade and came after an arrest warrant was issued against the leader of the union, Na'im Toubassi, by the Palestinian Attorney-General. The Palestinian Authority (PA) stated that they would cancel the warrant so that the elections could take place without any alleged interference. The statement came shortly after the PA arrested a freelance journalist and union member, Mustafa Sabri. However, in October Hamas security forces shut down the headquarters of the Palestinian Journalists Syndicate in Gaza and informed the officials present that they would remain closed until further notice.

Settlers damage union building: In April a group of settlers broke into the General Union of Palestine

Labor Vocational Associations' housing complex north of Ramallah, causing damage to property. The union said that it was the second incident in a month and that settlers wanted to take over their premises.

Salit quarry workers strike for collective agreement after management end negotiations: In May 2010 workers from the Salit Quarry in the West Bank went on strike over the unilateral ending of negotiations for a collective agreement. Management reportedly ended the negotiations because workers had "lost respect for the law" since they organised. On the third day of

strike, management offered to go back to negotiations, and on 13 May the majority of workers voted to end the strike a day before the scheduled opening of the negotiations.

The 40 or so workers, some of whom have been working at the quarry since 1983, began a campaign in May 2007 to gain basic employment rights. At the Salit Quarry there was a disregard for health and safety conditions, vaguely written pay slips for workers from East Jerusalem and none at all for those living in the Palestinian Authority, and arbitrary salary reductions and incorrect pension and insurance payments as stipulated in the collective agreement that applied to quarries. Only in January 2009, six months after a court ordered management to provide pay slips, did the quarry do so.

In April 2009 the two sides met and agreed to negotiate a collective agreement. After a court order compelling management to allow the election of a workers' committee, an election was held in October 2009. However, in February 2010 management deducted money from salaries ostensibly in return for the cost of providing the pay slips. A short strike in March led the management to back down and to the restart of negotiations; however, on 19 April management announced its withdrawal from the negotiations.

UNRWA refuses to negotiate with union: In May 2010 the Union of Arab Employees of the United Nations Works and Relief Agency (UNRWA) proposed a strike, citing the need for a representative of the union to be appointed to all committees charged with investigations of workers, the formation of a joint committee made up of union members, and an UNRWA administration that can jointly decide on the issues of job categories and pay scale.

In June the union agreed to suspend the strike after efforts were made to resolve the issues by the President and the UNRWA General Commissioner. A strike was instead called in October. After two weeks the UNRWA representative issued a statement saying that talks would only begin with the trade union when the strike had been called off. Staff at UNRWA have been taking various forms of industrial action for the last two to three years over working conditions and pay.

Workers fired for striking for basic rights: On 19 October seventy-two workers at the Israeli Sol Or factory in the West Bank went on strike demanding that the company pay them the minimum wage as stipulated by law. Management has so far refused to negotiate. Six workers have reportedly died either on the job or afterwards due to cancer caused by the improper storage of chemicals, and workers who have complained to the media have been routinely fired. The factory was reportedly

moved from Israel to the West Bank because it did not meet Israeli health standards. A previous strike was held in 2007 over low wages and dangerous conditions.

To date, 19 striking workers have been fired. One worker, Nazar Fukra, is suing the Israeli company, which says that since it is based in the West Bank, in an area that is not under any of the settlements' jurisdiction, Israeli law does not apply to the plaintiff, but rather Jordanian law. However, Israeli labour laws have been applied to Palestinian workers who work for Israeli employers in the West Bank since an October 2007 ruling by the Israeli High Court of Justice.

South African unionists attacked: On 10 December a South African delegation with representatives from the African National Congress (ANC), the Congress of South African Trade Unions (COSATU), and other civil society organisations, was attacked by the Israeli army when they joined local Palestinians at a picket of Jewish settlements.

Qatar



POPULATION: 1,400,000
CAPITAL: Doha
ILO CORE CONVENTIONS RATIFIED: 29 - 105 - 111 - 182

Migrant workers make up the majority of the workforce and are often exploited. The law provides for a single trade union system and trade union activities are heavily curtailed.

TRADE UNION RIGHTS IN LAW

Trade union rights are seriously restricted in law. The Labour Code allows for only one trade union: the General Union of Workers of Qatar, made up of General Committees for workers in different trades or industries. Each of the General Committees must have a minimum of 100 members. Government employees as well as non-Qatari nationals are not allowed to organise. Furthermore, a Committees' permissible activities are regulated in the law, and the Minister of Labour may dissolve any Committee that engages in political activity, distributes materials that insult the state or the government, or accepts gifts without the Ministry's approval.

Although trade unions are allowed to bargain collectively, the government controls the rules and procedures for bargaining, including restrictions on the content, scope, duration and interpretation of the agreements. The right to strike is recognised, but it is very difficult to carry out a lawful strike. Three-fourths of the General Committee must approve of the strike, and the time and place for the strike must be approved by the Ministry of Labour. A lengthy dispute resolution procedure must also be exhausted before a lawful strike can be called. Civil servants and domestic workers are not allowed to strike, and no worker in a public utility, health or security service can strike if it harms the public or causes damage to property. Workers in petroleum- and gas-related industries, seaports and all forms of transportation fall under this category.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Qatar is one of the richest countries in the Gulf region thanks to its oil and gas reserves. All power is concentrated in the hands of Sheikh Hamad bin Khalifa Al Thani who has been in power since 1995 when he deposed his father. He is also head of the armed forces and Minister for Defence. The 2005 Constitution provided for the creation of a parliament in which two thirds of the members must be elected, but as no elections have taken place as yet, this has not been implemented.

Migrant workers exploited: Migrant workers make up the majority of the workforce – 87% of the total population (the large percentage of migrants in the Gulf region). Only 25.8% of the migrant population are women. Migrants are often exploited because their employment contracts give broad powers to their employers. The latter often confiscate the migrant workers' passports and some refuse to pay their salaries on time. Women domestic workers are prime targets for violence and sexual attacks in particular.

Finger is pointed at Al-Jazeera: In June, the International Federation of Journalists (IFJ) asked Al-Jazeera to clarify the circumstances surrounding the resignation of five female journalists on 15 May. According to certain rumours, they left the station following harassment about their dress. The IFJ pointed out that if an independent trade union had existed within the company that this type of conflict could have been avoided but Al-Jazeera ignored the IFJ's offers of help to set up a mechanism that would give the employees a collective voice.

90 migrant workers expelled following a strike: In September, the Nepalese media reported that approximately 90 Nepalese migrant workers in the construction sector were arrested and

subsequently deported from Qatar following their participation in a strike. Their company, Albadar, had refused to increase salaries by 10% in accordance with a previous agreement.

Saudi Arabia



POPULATION: 25,700,000
CAPITAL: Riyadh
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 111 - 182

Migrant workers who protest against their exploitation risk being expelled from the country. Several cases of torture of women domestic workers caused international outrage. Trade union rights, when they exist, are severely restricted.

TRADE UNION RIGHTS IN LAW

The Labour Code does not grant workers the right to create unions, bargain collectively or strike, and anyone who tries to form a union can be dismissed, imprisoned or, in the case of migrant workers, deported. Workers are only allowed to form workers' committees in workplaces where more than 100 workers are employed, and only one committee can be formed in each qualifying enterprise. Foreign workers are not allowed to serve on workers' committees. The role of the workers' committees is limited to suggesting recommendations on working conditions, health and safety standards, and productivity.

The government must approve the statutes and membership of the workers' committees, and the Minister of Labour and Social Affairs as well as the company management have the right to send a representative to the committee meetings. The minutes of the meetings must also be submitted to management and then passed on to the Minister. Finally, public demonstrations of a political nature are prohibited, and the Ministry of Labour can dissolve a workers' committee should it violate regulations or threaten public security.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Political parties are still banned in this country governed by the Al Saud royal family which does not tolerate any opposition. Inequality in the distribution of wealth, high levels of youth unemployment, the arbitrary application of the

law and the close government links with the United States are amongst the issues which cause significant resentment among the population.

Women domestic workers seriously abused: The 1.5 million women domestic workers are not covered by the labour law adopted in 2005. The embassies of the Asian countries where these women workers come from receive thousands of complaints from women domestic workers who are forced to work between 15 and 20 hours per day, seven days a week, sometimes without pay. Women domestic workers are frequently deprived of their freedom and food and are victims of sexual and psychological abuse and beaten by their employers.

Several cases of extreme violence against women domestic workers caused international outrage. In August, Lahadapurage Daneris Ariyawathie, a 49 year old Sri-Lankan woman who had arrived in Saudi Arabia in March, was repatriated after being tortured by her employers who had driven nails into her arms, legs and forehead because she had complained about her long working hours. She was operated on in Sri Lanka. At the beginning of November, Sumiati Binti Salan Mustapa, a 23 year old Indonesian woman, was admitted to hospital in Medina after working for four months for a family in the city. She was suffering from scissor incisions to her face, burns and a broken finger. She admitted having been tortured by her employers from the day that she started work. Also in November, the body of another Indonesian worker, Kikim Komalasari was discovered near Abha. The body showed signs of ill treatment. Following the reporting of these cases in the international media and the waves of protests that they caused in Sri Lanka and Indonesia, these migrant women's employers were arrested.

Exploitation of migrant workers: Approximately 8.3 million migrants are legally employed in Saudi Arabia. They make up 90 to 95% of the private sector workforce. Many are victims of many different types of exploitation in conditions akin to slavery.

The kafala system (a sponsorship system) links the worker's work permit with the employer's goodwill. A migrant cannot change employer or leave the country without the written consent of their original employer or guarantor. The system facilitates abuses such as the confiscation of passports by employers, forced labour, non-payment of wages etc. This sponsorship and the slowness of legal proceedings mean that a migrant who is in conflict with his employer is at an impasse: he cannot continue to work nor can he return home. This was the case in 2010 in Jadawel International, a company who owed the migrant workers, mostly Nepalese and Indian over six months' salary. Jadawel is part of MBI Al Jaber whose Presi-

dent is one of the richest men in the world, Sheikh Mohammed bin Issa Al Jaber.

Saudi Arabian airlines export its anti-trade union attitude:

Saudi Arabian Airlines who bans trade unions for its Saudi Arabian staff, also tried to fight against the creation of a trade union amongst its Moroccan employees. In January, the company threatened to dismiss the workers if they refused to sign a petition demanding the dissolution of a trade union set up in June 2009.

Strike repressions: Despite the strike ban, the number of illegal strikes by migrant workers increased in 2010, frequently as a result of non-payment of salaries. In May, 30 Nepalese workers employed as cleaners in the King Abdulaziz international airport were expelled from the country after they took strike action in February over the non-payment of salaries and substandard accommodation. In October, 16 Chinese workers were arrested for participating in a strike involving at least 100 Chinese migrants employed by a light train construction project. They were warned that they would be expelled. The strike demands included a salary increase and improved working and living conditions.

Syria



POPULATION: 22,000,000
CAPITAL: Damascus
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

Syrian trade unions are required to belong to the General Federation of Trade Unions (GFTU), a nominally independent organisation that is funded by the government and closely linked to the ruling party. Collective bargaining hardly exists, and it is prohibitively difficult to call a lawful strike.

TRADE UNION RIGHTS IN LAW

There is little room for trade union activity in Syria despite the enactment of a new Labour Code in April 2010. The Constitution provides for freedom of association, but workers may not establish unions independent of the government. In addition, all workers' organisations must belong to the General Federation of Trade Unions (GFTU), which is strictly controlled by the ruling party. The GFTU also controls most aspects of union activities; it

determines which sectors or occupations can have a union, and sets the conditions and procedures for the use of trade union funds. It also has the power to disband the executive committee of any union. Foreign workers may join the union of their profession but they may not be elected to trade union office.

The right to collective bargaining is recognised in the 2010 Labour Code, however the Ministry of Social Affairs and Labour has vast powers to object to and refuse the registration of concluded collective agreements. Furthermore, while strikes are not prohibited, the right to strike is severely restricted by the threat of punishment and fines. Strikes involving more than 20 workers in certain sectors, including transport and telecommunications, are punishable by fines and even prison sentences. The same applies to any strike action which takes place on public highways or in public places, or that involves the occupation of premises. Civil servants who disrupt the operation of public services risk losing their civil rights. Finally, forced labour can be imposed on anyone who causes "prejudice to the general production plan".

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Syria remains tightly controlled with repression of dissidents and increased arrests, trials and imprisonment of political and human rights activists. Dozens of journalists and writers have been prosecuted under draconian legislation in the past few years. One in eight children in Syria is reportedly in the labour market, and some 45% of workers are in the informal sector. Syrians also face increasing living costs and inflation.

Collective bargaining not practised: Collective bargaining rights are not practised in any meaningful way, though there is some evidence that union representatives participate with employers' representatives and the supervising Ministry in the establishment of minimum wages, hours and conditions of employment.

GFTU position: Despite its close links with the ruling Ba'ath Party, the General Federation of Trade Unions (GFTU) rejects the suggestion that the political leadership imposes control over the organisation. The GFTU states that workers at all levels elect their leadership freely and will vote out of office those who do not adequately represent their interests. It also states that the reason for the existence of a single trade union system is that workers themselves reject union diversity because it harms their unity and their interests. The government has used precisely the same argument in its reports to the ILO.

Right to strike hardly exercised: Workers generally dare not exercise the right to strike, given the potential heavy penalties and the reintroduction of repression of any activity deemed to be critical of the government.

Migrant domestic workers at risk: In February a new law, the Regulation of Private Employment Agency for Non-Syrian Domestic Helpers, Conditions and Rules of their Employments in Syria was introduced, regulating more closely migrant worker agencies. It also limited the time a foreign domestic worker can work in Syria to three years and set out requirements such as an adequate salary and proper method of payment, social security coverage, suitable working conditions, annual leave, clothing, food, medicine, standard working contracts and other entitlements and benefits. The law additionally put the responsibility for providing a safe working environment onto the agency. However, there remain illegal recruiters hiring migrants, primarily Filipinos, as domestic staff.

United Arab Emirates



POPULATION: 4,600,000
CAPITAL: Abu Dhabi
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 111
- 138 - 182

Migrant workers continue to be the victims of serious exploitation, while the government still refuses to allow independent trade unions. Children of just 10 years old are still being exploited as jockeys. Trade union rights are heavily restricted.

TRADE UNION RIGHTS IN LAW

There is not much room in the law for trade union activities. The current Labour Law does not permit trade unions, although workers are allowed to associate for the furtherance of common goals and interests. Public sector workers, as well as domestic workers and anyone working in the agricultural sector, are not covered by the labour legislation, and the EPZs have their own departments to deal with workers' issues.

The right to collective bargaining is not recognised in law, however workers' representatives have some say in settling disputes. All wages are fixed in individual contracts that are reviewed by the authorities. Furthermore, the right to strike is not specifically recognised, and the Labour Minister has the

power to intervene to end a strike and force workers to go back to work. Public sector workers, security guards and migrant workers are not allowed to strike, and migrants who participate in or provoke a strike "without a valid reason" can be banned from working for a year and can even have their work permits cancelled and be deported.

A draft Labour Law released for comments in 2007 does not improve the trade union rights situation in any significant way.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: The country is governed by a Supreme Council composed of the emirs of the seven Emirates. A Federal National Council was elected by a 6,689 member electoral college in 2006, but it only has an advisory role. Power is concentrated in the hands of a few families. The judicial system does little to inspire confidence. On 10 January, for example, a tribunal cleared Sheikh Issa bin Zayed al Nahyan, a member of the country's leading ruling family, of charges of torture, despite video evidence showing him beating an Afghan cereal trader, Mohammed Shah Poor, using whips, a cattle prod and planks of wood covered with nails. On 29 March, however, a court in Sharjah condemned 17 Indians to death for the murder of a Pakistani man, although several human rights organisations reported that their confessions had been extracted under torture.

Exploitation of migrant workers: Migrants, mainly from South Asia, make up the majority of the workforce. There are about 3.3 million migrant workers, accounting for 70% of the population. Many are employed in the construction industry and domestic work. Among the most frequent problems encountered by migrant workers are the confiscation of their passports, the lack of health and safety measures and the non-payment of their salaries for many months. They risk expulsion if they try to create trade unions.

The government has repeatedly announced that the defence of migrant workers' rights is one of its biggest priorities. In June 2009 the United Arab Emirates adopted compulsory minimum housing standards in order to improve migrant workers' living conditions. Employers have five years to meet these standards. In the same year the government introduced a salary protection mechanism which obliges enterprises to designate an agent responsible for paying their employees. The government is notified when the agent receives the salaries and ensures payment. There are loopholes in the system however.

Growing number of suicides in the construction industry: The downturn in Dubai's construction sector continued. Hundreds

of migrants found themselves trapped in camps for months, with no electricity or running water, after being dismissed. The employers fled the United Arab Emirates in the wake of the crisis, leaving months of salaries unpaid. Many dismissed migrant workers did not have enough money to get home and owed large sums of money to the recruitment agencies that brought them to the Emirates. Suicides among these workers increased in 2010.

Little improvement for domestic workers: In 2007, the government introduced a standard contract for foreign domestic workers that abolished commission fees by recruitment agencies and provided for decent living and working conditions. In practice, however, many migrant domestic workers suffer the same types of serious abuse faced in other countries in the region: confinement in the employers' home, physical and sexual abuse, unpaid salaries, lack of food, excessive working hours, etc.

Children still used as jockeys: In February the NGO Anti-Slavery International again found that children, of barely 10 years of age, were being used as jockeys in a camel race in Abu Dhabi, even though the law bans the use of jockeys under 18. The children came from South Asia. Police officers and a high ranking member of the royal family attended the race.

100 workers detained following strike: At the beginning of May nearly 100 Vietnamese construction workers were detained by police following a protest demonstration outside the Labour Ministry. They were demanding payment of three to four months' salary arrears by their employer, the South Korean company Sungwon.

Yemen



POPULATION: 23,600,000
CAPITAL: Sana'a
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105
- 111 - 138 - 182

There is only one official trade union organisation, and the law is not conducive to trade union activities. Strikers were reprimanded in 2010.

TRADE UNION RIGHTS IN LAW

Many excessive restrictions apply despite some trade union rights being recognised. While freedom of association is guaranteed in the Constitution, all unions must belong to the General Federation of Worker's Trade Unions of Yemen (GFWTUY), the country's only umbrella union organisation. A proposed Labour Code would allow foreign workers to join trade unions, although they would still not have the right to be elected to trade union office.

While the right to collective bargaining is secured, the Ministry of Labour has the power to veto any collective bargaining agreement. Agreements that are "likely to cause a breach of security or to damage the economic interests of the country" can be annulled.

Furthermore, the right to strike is very limited. Permission to strike must be obtained from the GFWTUY, and all strikes must concern more than two thirds of the workforce of the employer. Three weeks' notice must always be given, and strikes may not be carried out for "political purposes". Also, industrial disputes may be referred to compulsory arbitration at the request of only one of the parties, in which case a strike can be suspended for 85 days, and all strikes are banned in some sectors such as ports, airlines and hospitals.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2010

Background: Since the middle of 2009 clashes between government forces and rebels in the north-west of Yemen have killed hundreds and displaced many more leading to a humanitarian crisis. Unemployment remains extremely high with estimates of up to 40 percent. Many Yemenis are reportedly working for daily wages with little or no job security – in ten of the workforce is a child. The government promised to

improve the labour law to give more union freedom, but without results. A general strike was held in April over rising prices and low wages. Marginalised groups, and the Akhdam social group in particular, suffer from insecure work and low pay with women and children resorting to begging to survive. According to a local NGO, around 99% of sanitation workers are from Akhdam and 95% receive their pay daily instead of monthly.

Unorganised workers lack legal protection: Most construction workers and those in trades such as painting ceramics and shipment services who work in the capital, Sana'a, are employed on a daily basis without a written contract or legal protection. They are frequently cheated by employers and have no recompense in case of accidents. Specific legal provisions are also needed for the protection of workers' organisations and sanctions against anti-union activity by employers.

Employer resistance to organising and bargaining: Many private sector employers do not allow their workers to organise. In both the public and private sector, many trade unions are not allowed to negotiate collective agreements. Strikes do occur however.

Striking oil workers arrested: Workers at the Safer refinery in Marib province went on strike on 10 October to demand financial equity between new plant workers and former workers of the Hunt Oil Company, which was recently restructured along with better working conditions, hours, and pay. Some 47 strikers were later arrested on 19 October. The strike followed a 2009 April strike which ended after the local authorities agreed to find a solution. According to the union there was an agreement mandating equity between these workers.

Journalists denied rights: After a partial strike of journalists working in four media groups and following negotiations with the Yemeni Journalists Syndicate in early 2009, the government agreed to a pay rise and improved contracts. The deal was due to be implemented in 2010 but was left out of the budget, sparking a strike in January. A further planned strike was called off following an agreement which went into force immediately in late January.

Meanwhile fears over the safety of journalists continue. Two journalists were shot in the southern Yemeni city of Ad Dali on 17 January by unknown gunmen. On 16 January 2010 Anisa Mohammed Ali Othman, a female reporter for Al-Wasat newspaper was convicted of 'insulting the Head of State' and sentenced to three months imprisonment and a one year ban from reporting. On 2 May Hossein Al-Leswas, editor and owner of the Al-Tajdid newspaper was sentenced by the Sanaa special court for press and publication offenses to one year imprison-

ment and a permanent ban on journalism work as punishment for reporting on corruption at a power Company. According to the Yemeni Journalists Syndicate, Al-Leswas has appealed but no date has yet been set for the hearing. On 16 August two journalists were detained and have since been held without charge. Abdelelah Shaie, a reporter at the official Yemeni News Agency and Kmal Sharaf, a cartoonist at a state owned newspaper al-Gomhoriah were both arrested at their homes and detained by Yemeni National Security.

Appendix I

ILO CONVENTIONS ON FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE, 1948 (N° 87)

Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3

Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Article 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

Article 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

Article 8

In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9

The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

In accordance with the principle set forth in paragraph 8 of article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10

In this Convention the term organisation means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

Appendix II

ILO CONVENTION ON THE RIGHTS TO ORGANISE AND COLLECTIVE BARGAINING, 1949 (N° 98)

Article 1

Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

Such protection shall apply more particularly in respect of acts calculated to:

make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership; cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2

Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

Article 4

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Article 5

The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

In accordance with the principle set forth in paragraph 8 of article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 6

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

Appendix III

ITUC GUIDE TO INTERNATIONAL TRADE UNION RIGHTS

This guide is intended to be an introduction to the international protection of trade union rights, and is also aimed at increasing the understanding of the ITUC Annual Survey of Violations of Trade Union Rights. It is mainly based on the 2006 Digest of decisions and principles as well as on individual decisions of the International Labour Organization (ILO) Committee on Freedom of Association¹ (CFA) and on the 1994 General Survey on Freedom of association and collective bargaining, the Individual Observations and the Direct Requests of the ILO Committee of Experts on the Application of Conventions and Recommendations² (CEACR). The reader is invited to consult the Guide to the ITUC international trade union rights framework for more detailed information, but should note that the only valid legal sources in this regard are the decisions of the CFA and the said proceedings of the CEACR³.

I. INTRODUCTION

What are international labour standards?

The basics

International labour standards are norms and principles relating to work and social policy that are codified in international instruments. The ILO is the main international body responsible for developing and overseeing international labour standards⁴, and adopts conventions and recommendations to this end⁵. Conventions have binding effect on the member states that ratify them, while recommendations supplement or clarify the conventions and serve more as guidelines for national policy making.

Core labour standards

In 1998, the ILO adopted the Declaration on Fundamental Principles and Rights at Work which identified a set of universal core labour standards. The core labour standards cover four areas, namely freedom of association and the right to organise, elimination of all forms of forced or compulsory labour, abolition of child labour, and elimination of discrimination in respect of employment and occupation, all of which are expressed in eight ILO conventions collectively referred to as the core conventions⁶. According to the Declaration, all ILO member states shall respect, promote and realise the core labour standards whether or not they have ratified the relevant conventions. Freedom of association and the right to organise, as codified in Convention 87 on Freedom of Association and Protection of the Right to Organise and Convention 98 on the Right to Organise and Collective Bargaining, constitute the gist of international trade union rights.

How are international labour standards protected?

Periodic reviews

International labour standards are supervised in the ILO through two different mechanisms.⁷ Each member state that has ratified a convention must submit a periodic report to the ILO on the measures it has taken to implement the provisions of the convention.⁸ The CEACR comments on these reports through individual observations or issues direct requests, which concern more technical issues or are appeals for additional information. The observations are published in the CEACR's annual report, which is subsequently considered at the annual International Labour Conference by the tripartite Conference Committee on the Application of Standards, which may also recommend actions to selected member states to rectify certain issues. Workers' and employers' organisations are given the opportunity to comment on the governments' reports. Workers' and employers' organisations may also submit comments on the application of conventions directly to the ILO at any time.

Special procedures

The ILO also provides for a special procedure outside the regular reporting system for complaints against the member states. Workers' and employers' organisations may submit a representation to the ILO Governing Body against a member state that has failed to fulfil its conventional obligations.⁹ A member state which is party to the same convention, a delegate to the International

Labour Conference and the Governing Body acting on its own initiative may also file a complaint against a member state for failure to implement a convention.¹⁰ In this case, the Governing Body may decide to form a Commission of Inquiry to investigate the case. Complaints about violations of freedom of association are handled in a separate manner by the CFA. These complaints can be filed by a workers' or employers' organisation against a member state whether or not the member state has ratified conventions 87 and 98. The CFA then issues recommendations to the member state, which shall subsequently report on the implementation of those recommendations.

II. FREEDOM OF ASSOCIATION AND THE RIGHT TO ORGANISE

Freedom of association and the right to organise entail the right to form and join the trade union of one's choosing, as well as the right of unions to operate freely and carry out their activities without undue interference by employers or the authorities.

Establishment of a union

Procedures

Since the establishment of a union constitutes the very foundation for the exercise of trade union rights, it is important that the laws lay down clear procedures so that the establishment of a union is not substantially delayed or impaired, and so that union recognition can not be refused on arbitrary, unjustified or ambiguous grounds. The minimum number of workers needed to set up a union should also be fixed in a reasonable manner and not hinder union formation. Where workers need previous authorisation from the authorities in order to form a union, or where the authorities must approve the constitution and rules of the union before it can be legally recognised, this is a serious infringement of freedom of association. Workers should always have the right to appeal a refusal to recognise a union to the courts.

Pluralism

Being able to form the union of one's choosing implies that workers should not be prevented from creating a union where another union already exists. They shall also not be required to obtain permission from an existing union or a central trade union organisation. Trade union monopoly, i.e. a situation where only one official trade union organisation is permitted by law and to which all unions must affiliate or pay contributions, is generally contrary to the principles of freedom of association.

Affiliation

Trade unions should be allowed to freely establish and join higher-level trade union organisations such as federations and confederations, which on their part should be free to group together unions from different sectors. The higher-level unions should enjoy the same rights as the first-level unions with the appropriate adjustments. Unions should also have the right to affiliate internationally, as well as to accept assistance and support from an international organisation.

Categories of workers

While each state can decide on the extent to which it grants members of the armed forces and the police the right to form and join trade unions, it may not deny these rights to migrant workers, workers in export processing zones, managerial and supervisory staff, agricultural workers, domestic workers, temporary workers, minors, or public servants who do not exercise authority in the name of the state,.

Union administration and organisation

Instruments

Freedom of association implies that unions shall be free to draw up their own constitutions and rules. Although national laws may regulate the preparation, content or amendment of these instruments, it is important that the legal provisions have the objective of protecting the interests of the union members, and that they do not go beyond formal requirements. It is also contrary to the principles of freedom of association where the constitution and rules of a union must be approved by the authorities or a higher-level trade union, where they must conform to those of a trade union centre, or where they can be elaborated upon by the union centre.

Integrity

Unions should be free to receive funding and to administer and utilise their funds for normal and lawful purposes. As with any other organisation, they may be required by law to provide periodic financial statements to the authorities. However, the authorities shall not have a discretionary right to carry out inspections or request information at any time they see fit, and should not be allowed to audit the union funds themselves. To avoid any risk of excessive or arbitrary interference by the authorities there should always be a procedure for appeal to the courts.

Union activities

It is of fundamental importance that unions are free to pursue lawful activities for the defence of workers' interests. They shall thus be free to e.g. hold union meetings, demonstrate, petition, access workplaces and communicate and negotiate with management without undue interference by the public authorities or by the employers.

Union elections and freedom to exist

Free elections

Union members shall be able to elect their representatives in full freedom and to determine the rules and conditions for the election. While the law may require that a direct, secret and universal vote be held in order to promote democratic principles, it should not in detail regulate the procedures. The public authorities should not be allowed to nominate candidates, supervise the elections, express their opinions or in any other way unduly interfere with the election process. The election results should also not be subject to approval by the authorities, without which they would be invalid.

Free candidacy

The law should not disqualify a candidate because of some activity or characteristic that is not prejudicial to the aptitude and integrity of the candidate, nor should it require a candidate to be a longstanding union member or employee at a particular workplace. Also, any removal or suspension of a union official that is not the result of an internal decision of the union or ordered by a judicial body is a serious infringement of the principles of freedom of association.

Dissolution

The dissolution or cancellation of registration of a union are extreme measures that should only be taken as a last resort. This implies that any possibility of discretionary suspension or dissolution by the public authorities should be eliminated from the law. It is important to note that illegal activity on the part of a union member or official should in no case lead to the dissolution of the entire union. However, dissolution can be justified if the union's membership level drops below a reasonable and fixed minimum threshold, provided that the drop is not a result of anti-union activities.

Anti-union discrimination

Characteristics

Anti-union discrimination denotes any employer practice that disadvantages a worker or a group of workers on grounds of their past, current or prospective trade union membership, their legitimate trade union activities, or their use of trade union services. It is one of the most common and serious violations of freedom of association, and may jeopardise the very existence of a trade union. While taking many forms, anti-union discrimination usually involves dismissal, transfer, demotion, harassment or the like.

Protection

The authorities must not only forbid and penalise all acts of anti-union discrimination, they should also take all necessary steps to eliminate it. Access to means of redress which are prompt, inexpensive and fully impartial should be provided for in the law, as well as explicit remedies - including reinstatement - and penalties that are sufficiently dissuasive. Special protection is desirable for certain persons such as union officials and members of a union which has applied for recognition. Finally, the authorities should take stringent measures to combat blacklisting of union members and officials.

III. RIGHT TO COLLECTIVE BARGAINING

The right to collective bargaining refers to the right of unions to freely bargain with employers on terms of employment and conditions of work without undue interference by the authorities, which shall take measures to encourage and promote voluntary negotiations between the social partners.

Representativity

Minimum requirements

For the right to collective bargaining to be adequately secured, the law must not lay down excessive requirements regarding a union's representativity. Thus, if a union needs the support of the majority of the workers in a bargaining unit to be recognised as a bargaining agent, and if no union meets this requirement, then the minority unions should at least be able to bargain collectively on behalf of their own members. While systems where the most representative union is awarded exclusive bargaining rights are not contrary to the right to collective bargaining, they should be accompanied by adequate safeguards.

Guarantees

The determination of the unions that are allowed to bargain collectively should always be based on objective, pre-established and precise criteria to avoid any opportunity for partiality or abuse. It is also important that the employers recognise the unions that are permitted to bargain, and that they are not able to by-pass the representative unions. Furthermore, affiliation to a trade union centre should not be a prerequisite for a union to engage in collective bargaining.

Free and voluntary bargaining

Negative obligations

The social partners shall be free to determine the terms of employment and conditions of work. The state has an obligation to refrain from interfering with the bargaining process, and shall not require that collective agreements conform to a unilaterally set state policy, require the renegotiation of an agreement or alter its contents, or suspend or derogate from a concluded collective agreement. The authorities can, however, encourage the social partners to take voluntary account of government social and

economic policy considerations. In no case shall the validity of a collective agreement be subject to the discretionary approval by the public authorities, as collective agreements should only be refused on ground of procedural flaws or non-conformity with minimum standards laid down in the law.

Scope

Free collective bargaining also entails that the parties are able to bargain on matters that primarily or essentially relate to conditions of employment. Such matters shall not be excluded from the scope of collective bargaining by law or unilaterally by the authorities, and any limitation should be preceded by consultations with the social partners. However, certain matters that exclusively pertain to the management of an establishment, such as staffing levels, are not proper subjects for bargaining, although a union should be allowed to bargain on the consequences of such matters. Collective agreements should have binding force, and their duration should primarily be a matter for the negotiating parties. The parties shall also be able to decide on the level of bargaining.

Public sector

All persons employed by the government, by public undertakings or by public institutions should have the right to bargain collectively,¹¹ with the possible exception of public servants exercising authority in the name of the state.¹² Whether members of the armed forces and the police are allowed to bargain is a matter that each state is free to determine. While the state may determine upper and lower wage limits for future negotiations, significant room should be left for real bargaining, and unions must be able to participate in the designing of the overall bargaining framework. Only in cases of serious economic budgetary difficulties, for very compelling reasons and for a limited period of time can the authorities unilaterally fix the wage rate in the public sector.

Dispute resolution

Positive obligations

The state also has an obligation to promote collective bargaining. It should thus establish a sound legal framework as well as machinery such as conciliation and mediation to facilitate the conclusion of a collective agreement. It is important that recourse to such machinery is on a voluntary basis and by mutual agreement. The negotiating parties should also be given ample opportunity to reach an agreement, and the laws should neither establish too short nor excessively long time limits for collective bargaining. Furthermore, promoting collective bargaining also implies that the laws should not accord equal or enhanced status to individual contracts over collective agreements.

Compulsory arbitration

Since compulsory arbitration generally encroaches upon the principle of free collective bargaining, it can only be justified under certain conditions. Compulsory arbitration is thus only permissible if both parties so request, if the collective dispute concerns public servants exercising authority in the name of the state, in essential services, or in the event of an acute national crisis. Compulsory arbitration at the request of the union for the conclusion of a first collective agreement may also be justified. On the other hand, where compulsory arbitration is imposed either unilaterally by the authorities or at the request of the employer only, this is a serious infringement of the right to collective bargaining. While there may come a time in bargaining where a serious deadlock cannot be broken without some initiative by the authorities, any such intervention must be consistent with the principle of free and voluntary bargaining.

IV. RIGHT TO STRIKE

The right to strike is one of the most important means for workers and their organisations to defend their occupational and economic interests, and may only be prohibited for public servants exercising authority in the name of the state and in essential services.

Prerequisites

Procedures

While the law may stipulate that certain procedures need to be followed before taking strike action, such procedures should be reasonable and must not substantially limit, delay or render ineffective a strike. An obligation to observe a certain quorum and take strike decisions by secret ballots is permissible, and it is appropriate for the decision to be taken by a simple majority of the workers who vote. When more than half of the workers or union members, including those absent and those present but not voting, must approve of a strike, this is an excessive requirement. Likewise, while the obligation to give prior notice of a strike is acceptable, the cooling-off period should be fixed at a reasonable length. A union shall also not be obliged to specify the duration of a strike in advance.

Dispute resolution

It is also not contrary to the right to strike where the law provides for voluntary conciliation and arbitration in industrial disputes before a strike, or for the possibility to suspend a strike for a reasonable time to allow the parties to seek a negotiated solution. However, such procedures should be adequate and impartial, and should not delay the negotiation procedure nor prevent the calling of the strike. Compulsory arbitration is only allowed in situations where a strike can be restricted or even prohibited, i.e. in essential services or for public servants exercising authority in the name of the state, or when requested by both parties.

Limitations and bans

Format

The right to strike should not be limited solely to industrial disputes that are likely to be resolved through the signing of a collective agreement. While purely political strikes are not protected, unions should be able to call protest strikes, in particular against a government's economic and social policies. Also, since there are many different types of strike action, restrictions on the form of a strike may only be justified if the strike ceases to be peaceful. Workers should thus be free to resort to sympathy strikes (provided that the initial strike is lawful), picketing, and general strikes (in so far as they have economic and social objectives). Federations and confederations shall also be allowed to call a strike.

Public servants

All public sector employees should enjoy the right to strike, with the possible exception of public servants exercising authority in the name of the state and workers in essential services.¹³ The categories of workers whose right to strike may be limited should be restrictively defined, and appropriate compensatory guarantees should always be available. The right to declare a strike illegal shall not lie with the government, but with an independent body that has the confidence of the parties involved. This especially concerns cases in which the government is a party to the dispute.

Essential services

The right to strike may be restricted and even prohibited in essential services in the strict sense of the term, i.e. services the interruption of which would endanger the life, personal safety or health of the whole or part of the population.^{14 15} It is important that the definition and list of essential services are narrowly construed so as to avoid ambiguity or abuse. However, a non-essential service may become essential if a strike affecting it exceeds a certain duration or extent.¹⁶ Workers whose right to strike may be restricted or prohibited should always be afforded compensatory guarantees such as conciliation and mediation procedures, and it is essential that workers are able to participate in determining and implementing these procedures.

Minimum service

A minimum service can be set up in the event of a strike where a substantial restriction or total prohibition would not appear to be justified, if it is necessary to avoid compromising the life or basic needs of the population or causing irreversible or disproportionate damages.¹⁷ It is important that the minimum service is genuinely and exclusively confined to operations that are necessary in this regards, and it should neither result in the strike becoming ineffective in practice, nor call into question the right to strike of the large majority of workers. The provisions regarding the minimum service should thus be established clearly, applied strictly and made known to those concerned in due time. Unions should be able to participate in defining the minimum service, and any disagreement as to the number and duties of workers concerned shall be settled by an independent body and not by the public authorities.

Undermining

Intervention

A general prohibition on strikes can only be foreseen in situations of acute national crises, such as genuine natural disasters, and then only for a limited period and to the extent necessary to tackle the situation. As regards intervention by the authorities in a strike, this is only acceptable where there is a genuine threat to public order, in said acute national crises, or where the right to strike can be restricted or even prohibited. However, a strike must not be suspended merely because it is deemed detrimental to the public or national interest, and the responsibility for suspending a strike shall not lie with the public authorities but with an independent body. Any intervention by the police or the army should be both proportionate and strictly limited to the maintenance of public order.

Replacement and requisitioning

The use of requisitioning orders constitutes a serious violation of the right to strike unless the order concerns a specific category of workers in essential services or public servants exercising authority in the name of the state, or if the strike in question may give rise to an acute national crisis. The hiring of workers to replace strikers in a sector which cannot be regarded as essential is also a severe violation of the right to strike.

Sanctions

No one should be penalised for carrying out or attempting to carry out a legitimate strike. Dismissals before, during or after a strike, or a refusal to re-employ workers having participated in a strike are very serious measures. While criminal offences carried out during a strike are not protected, in general sanctions for striking workers should only be possible where a strike is prohibited, and then only if the national laws are in conformity with international labour standards. Any sanction must be proportionate to the offence or fault and be accompanied by all the necessary judicial safeguards. No one should be imprisoned for participating in a peaceful strike, and if imprisonment is to be imposed at all, it should only be for serious penal violations committed during the strike. Unions shall also not be sanctioned for leading a legitimate strike, and cancellation of union registration is always a disproportionate measure. Finally, a withdrawal of all legal protection against civil liability for strikes can in practice entail a serious restriction on the right to strike.

NOTES

1. A special committee of the Governing Body of the ILO made up of three titular representatives each of workers, employers and governments and of an equal number of deputies.
2. A supervisory body composed of 20 eminent legal experts from around the world, appointed for three-year terms.
3. The decisions of the CFA and the General Survey, the Individual Observations and the Direct Requests of the CEACR can be found through ILOLEX at www.ilo.org/ilolex/english/.
4. At the international level, trade union rights are also protected under the United Nations (UN) International Covenant on Civil and Political Rights (ICCPR), article 22 of which provides for freedom of association; the UN International Covenant on Economic, Social and Cultural Rights (ICESCR), which in its article 8 provides for the right to form and join trade unions, the right of unions to affiliate and function freely, as well as the right to strike; and in article 20 of the UN Universal Declaration of Human Rights (UDHR) which guarantees freedom of association. While the covenants are binding on the ratifying parties, the Universal Declaration is not an instrument open for ratification.
5. By May 2010 188 conventions and 199 recommendations had been adopted by the ILO, however a number of those have become obsolete.
6. Convention 29 - Forced Labour (1930); Convention 87 - Freedom of Association and Protection of the Right to Organise (1948); Convention 98 - Right to Organise and Collective Bargaining (1949); Convention 100 - Equal Remuneration for Work of Equal Value (1951); Convention 105 - Abolition of Forced Labour (1957); Convention 111 - Discrimination in Employment and Occupation (1958); Convention 138 - Minimum Age for Employment (1973); and Convention 182 - Worst Forms of Child Labour Convention (1999).
7. At the UN level, the ICCPR and the ICESCR are monitored by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, respectively. The state parties to the covenants are required to submit regular reports on how the rights are implemented. Countries that have ratified the First Optional Protocol to the International Covenant on Civil and Political Rights have also opened up the possibility for individual complaints against the governments for violations of the covenant. No such mechanism accompanies the ICESCR, and the UDHR, not being an international instrument open for ratification, lacks any supervisory mechanism.
8. All member states must also report on any progress they have made concerning conventions that they have not ratified, including annual reports on unratified core labour conventions. These reports are then drawn upon by the CEACR when it compiles the General Surveys.
9. This procedure is governed by articles 24 and 25 of the ILO Constitution.
10. The complaint procedure is governed by articles 26 to 34 of the ILO Constitution.
11. Categories of workers that should enjoy collective bargaining rights include workers of state-owned commercial or industrial enterprises; employees of the postal and communications services; bank employees; staff of the national radio and television institute; teachers; staff of the water administration; air flight control personnel; persons employed in public hospitals; fire-fighting and lifesaving employees; workers of the prison services; civil aviation technicians working under the jurisdiction of the armed forces; seafarers not resident in the country; and locally recruited personnel in embassies.
12. For example officials working in the administration of justice and the judiciary, and customs officers.
13. Employees in state-owned commercial enterprises and public institutions, e.g. teaching staff, postal workers and railway employees, shall not be denied the right to strike.
14. The following may be considered to be essential services: the hospital sector; electricity services; water supply services; the telephone service; the police and the armed forces; the fire-fighting services; public or private prison services; the provision of food to pupils of school age and the cleaning of schools; and air traffic control.
15. The following do not constitute essential services in the strict sense of the term: radio and television; the petroleum sector; ports; banking; computer services for the collection of excise duties and taxes; department stores and pleasure parks; the metal and mining sectors; transport generally; airline pilots; production, transport and distribution of fuel; railway services; metropolitan transport; postal services; refuse collection services; refrigeration enterprises; hotel services; construction; automobile manufacturing; agricultural activities, the supply and distribution of foodstuffs; the Mint; the government printing service and the state alcohol, salt and tobacco monopolies; the education sector; and mineral water bottling companies.
16. This could be the case for example in household refuse collection services.
17. A minimum service can be established in essential services, in non-essential services where the extent and duration of a strike might result in an acute national crisis, and in public utility or public services of fundamental importance. A minimum service could be foreseen in the following services of public utility: the ferry service - regarding the population living on islands along the coast -, transportation of passengers and commercial goods, rail transport, underground railway, ports, postal services, refuse collection, the Mint, banking services, and the petroleum and educational sector.