

**ANNUAL SURVEY
OF VIOLATIONS
OF TRADE UNION RIGHTS
2012**



ITUC CSI IGB

INTERNATIONAL TRADE UNION CONFEDERATION

Annual Survey

of violations of trade union rights 2012

Period under review: January to December 2011

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 308 affiliated organisations in 153 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.



ITUC CSI IGB

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Foreword

2011 was a year of dramatic change, with the Arab Spring heralding new opportunities and new challenges. Trade union rights are more heavily repressed in the Middle East and North Africa than anywhere else on the globe. As people rose up to demand the recognition of their long-suppressed democratic rights, trade unions played a leading role, notably in Tunisia and Egypt. Sadly they paid a heavy price for that involvement, being among the many hundreds killed and the thousands arrested and detained. The struggle continues, both to remove other authoritarian regimes and to build real democracy where they have already fallen, creating an environment in which independent trade unions can flourish. The spirit and determination of the people remains unbowed, as shown by the huge turnout in the November elections in Egypt, and the continued protests in Bahrain and Syria, despite the repression.

The world economic crisis continued to impact unfairly on workers, as many governments persisted in favouring austerity measures over stimulating growth and employment. Unemployment rose to record levels in 2011, with over 205 million people out of work. In Europe, trade unions felt the impact of the Euro-zone crisis, with Portugal, Hungary and Romania all further restricting workers' rights as part of their austerity measures. The most dramatic changes were in Greece, however, where unemployment rose to 21%, wages and living standards fell sharply and collective bargaining rights were severely curtailed.

The rise in precarious work, a term used to describe work that is not-permanent, indirect, informal and/or otherwise insecure, is the result of employment practices meant to maximise short-term profitability and flexibility at the expense of the worker. Unions in many countries cited the high level of contract and casual labour as one of the biggest challenges to organising and protecting workers' rights, notably in South Africa, Bangladesh, Cambodia and Pakistan. In Korea, unions report that employers systematically hire workers on precarious contracts to prevent them from forming trade unions.

For some workers, defending their trade union rights can cost them their life. In 2011 at least 76 workers died directly as a result of their trade union activities – in addition to those killed during the repression of the Arab Spring protests. There were 56 deaths in Latin America alone, including 29 in Colombia and a further 10 in Guatemala, crimes committed with almost total impunity. At least eight trade unionists lost their lives in Asia. Four were killed in the Philippines, all shot and killed, in four separate incidents, but all had played a prominent role in defending workers rights. A garment union leader and activist was brutally killed in Bangladesh, two years after the government had severely beaten him for his activity. And a one-year-old child died in Zimbabwe after spending a

night on the roadside in the rain because its family was among the farm workers summarily evicted for daring to organise.

Some of the deaths occurred as a result of excessive police violence. In South Africa a municipal worker died in clashes with police, two workers were killed in Indonesia when police opened fire on strikers and in Bangladesh one worker was killed when police attacked protesting chemical workers. Other incidents of police violence leading to injury and death were reported in Sri Lanka, Pakistan, India, Egypt and Nepal.

The repression of strike action through mass dismissals, arrests and detention was widely reported, including in Georgia, Kenya, South Africa and Botswana, where 2,800 workers were dismissed after a public sector strike. In India, striking brick kiln workers were warned that the owners would “kill them and rape their women” if they did not return to work. In Georgia, a governor and dozens of police broke up a legal strike of steel workers, arrested the union’s leaders and forced the workers back to work. Strike action also came under attack in other ways. In South Korea, there was a continued use of law suits claiming huge amounts of damages against unions, while in Australia employers and governments successfully invoked laws forcing striking workers back to work.

Trade unions and their leaders were regularly persecuted, particularly the Swaziland Federation of Trade Unions (SFTU), the Zimbabwe Congress of Trade Unions (ZCTU), and the independent trade unions of Mexico. In Fiji the military junta launched an aggressive campaign to dismantle the trade union movement, and Felix Anthony, leader of the Fiji Trades Union Congress (FTUC), was arrested, threatened, insulted and beaten. Other incidents were reported in the Philippines, Belarus and the Russian Federation. Many members of the General Federation of Bahrain Trade Unions (GFBTU) faced arrested and imprisonment, and in November the government announced its dissolution.

Governments in developed democratic countries also attacked trade union rights. Canada’s conservative government has weakened freedom of association and collective bargaining rights, while in New Zealand amendments to the Employment Relations Act reduced workers’ rights.

There is still no freedom of association at all in some countries, notably Saudi Arabia, the United Arab Emirates, Eritrea, Sudan and Laos. Jordan has a tightly regulated single trade union system, and in China and Syria the single trade union is still used as a means not to protect but to control workers. There was

good news in Burma however, where the Labour Organisation Law was signed by the President in October, laying the foundation for workers to form unions.

Problems persist in some export processing zones (EPZs), where organising is notoriously difficult. Legal restrictions are still in place in Bangladesh for example, and violations continued in Sri Lanka's EPZs. Migrant workers represent another very vulnerable group, particularly in the Gulf States where they make up the majority of the workforce in Kuwait, Qatar and the United Arab Emirates but have few or no rights.

Perhaps the most vulnerable workers of all, however, are the worlds' 100 million or so domestic workers, often young, women migrants with little knowledge of their rights and no means of enforcing them, suffering oppressive, even violent conditions. The ITUC warmly welcomed the adoption in June 2011 of the International Labour Organisation's (ILO) Convention no. 189, the Domestic Workers Convention, which will at last give these workers the right to form unions and enjoy decent working conditions. The challenge now is to ensure the adoption of this convention by governments, and the ITUC is currently campaigning hard to that end, with its "12 by 12" campaign to get at least 12 countries to ratify the convention by the end of 2012.

The ITUC will be at its affiliates' side as they continue to fight for the respect of internationally recognised labour standards, through solidarity campaigns, pressure on governments, its presence at international fora and above all using the mechanisms of the ILO. It will also continue to urge governments and the international financial institutions to adopt measures to promote quality employment and a global social protection floor as part of an income led recovery to the economic crisis.

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

Sharan Burrow
General Secretary

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

Africa has grabbed the attention of the world as citizens' actions highlight more than ever before the need for change and social justice. Particularly in North Africa, where the struggles have been most dramatic, the voices and actions of young persons and women have been the loudest and clearest as they have emerged as strong actors for change. Key demands have focused on the fundamental issues of the rights of people to live and work in dignity and full freedom.

The growing unemployment situation on the continent together with the dwindling and poor public services delivery have been aggravated by the global financial and economic crises and has resulted in more hardship and suffering for the people. Working people express their disappointment at the extent to which efforts at genuine development in Africa have been frustrated largely by insincere and weak leadership. Working people and the poor are vehemently opposed to market prescriptions that want the people and the poor to pay the price for bailing out their economies through cuts in social spending that intensify poverty.

Meanwhile, there is confidence in democracy as a vehicle to deliver the change that will move communities and their peoples forward to progress and improved wellbeing. This belief has defined the renewed struggles that have been witnessed across the continent.

However, the struggles have come with varying challenges and reactions from governments, employers and other forces interested in maintaining the status quo. For instance, increased paranoia in some African government circles has led to the deployment of force to crush legitimate and peaceful protests. This has led to deaths and injuries as police and security forces have shot and maimed defenceless protesters in Malawi, South Africa, Nigeria, Burkina Faso or Senegal.

African trade unions and their members as well as other human rights defenders like journalists have also come under increasingly harsh verbal, psychological and physical attacks. In some cases as in Ethiopia, Central African Republic, Rwanda, some of these attacks have been made through the enactment of legislative provisions that bar many workers from forming and joining trade unions of their choice.

Again, the right to collective bargaining continues to be denied, suppressed and attacked as witnessed in Kenya, Togo and Guinea. In this context, the extension of the definition of essential services to cover non-essential ones has also been one of the anti-union strategies of the state that trade unions are contending with in Ghana, Nigeria, Botswana, Uganda, to recall a few.

Weak accountability and the denial and delay of justice in cases where trade union rights and other human rights have been breached are contributing to the deepening of impunity. Scores of people killed by security forces during the

protest actions have gone largely uninvestigated and the culprits not prosecuted. Of growing concern also is the safety of journalists and media personnel whose contributions are critical for the survival of democracy and the pursuit of the development aspirations of the African people.

In spite of these challenges, Africa's working people continue to take actions to defend, protect and promote their trade union and other human rights!

Africa

Africa old challenges and renewed struggles for change

Kwasi Adu-Amankwah, General Secretary of the ITUC-Africa

As the citizens of North Africa have proved, the people of Africa know that no government can last forever, however totalitarian. Not even in Sudan, Eritrea or Equatorial Guinea, three countries where the despots will not tolerate any trade union or opposition force, or in Djibouti or Swaziland, regular black spots where trade union activists and ordinary workers do not flinch from facing up to fiercely anti union authorities.

The situation in this last country is still very disturbing. A succession of arbitrary arrests, threats and beatings is aimed at reducing the activists to silence. Trade unionists and political opponents in Africa's last feudal monarchy are regularly arrested and beaten, and are banned from holding demonstrations. Extra-judicial executions by the forces of order, lynchings, police torture, assault and the excessive use of violence against detainees, police impunity, arbitrary arrests and prolonged preventive detention, restrictions on the freedoms of assembly, association and movement, bans on political activity and the persecution of political activists, discrimination and violence against women, the harassment of trade union leaders and restrictions on workers' rights: all are on the agenda in Swaziland. The King personally appoints the judiciary, thereby severely limiting the independence even of the judicial authorities, while minimum wages are not sufficient to guarantee a decent standard of living for workers and their families.

Nor are the ILO's fundamental labour standards respected in Zimbabwe, where members of the **Zimbabwe Congress of Trade Unions (ZCTU)** still face police violence, encouraged by their head of state. The authorities regularly resort to arrests, detentions, acts of violence, torture, intimidation and harassment to curb trade union activity and deter workers from joining union organisations. Freedom of association, collective bargaining and the right to strike are all challenged and many union activists are the victims of violent anti-union campaigns. The authorities use the law (the famous POSA) to criminalise trade union activity, despite the recommendations of an International Labour Organisation (ILO) Commission of Inquiry. The acts of violence and torture targeted at trade union members and leaders committed by members of the security forces during national demonstrations organised by the trade unions are all part of a coordinated effort to suppress the trade unions.

The Ethiopian government has also been consistently anti-union for years, particularly towards teachers and their organisation. In Cameroon too, the authorities have resorted to judicial harassment of trade union leaders, consistently ignored trade union centres they deemed too dissident, and refused to recognise union organisations they see as too independent.

The great majority of Africa's working population still makes its living in the informal sector, with all that that implies in terms of bad working conditions, while outsourcing and temporary employment have spread quickly across the continent, making it extremely difficult to organise workers. The efforts by trade unions to overcome these obstacles, notably in the export processing zones of Togo and Madagascar, are to be applauded.

Although the right to strike is recognised in national legislation across the continent, it is rarely respected. Employers have no hesitation in ordering the unfair mass dismissal of striking workers, as was the case in 2011 in Kenya, Namibia, South Africa and Botswana, most often in the civil service, the export processing zones and mining industry. The repression of strikes and protest action resulted in countless arrests and police violence.

Trade union leaders received death threats in Burundi and the Democratic Republic of Congo. Death threats were also made in Malawi, where several laws came into force to silence the press, restrict the possibility of appeal against the acts of government agencies and personnel, and limit civil liberties. The indiscriminate violence meted out by the authorities during the protests that followed these measures led to the deaths of 18 people.

In a climate of ethnic and political rivalry, the headquarters of the national trade union centre in Conakry in Guinea were attacked and several people were injured. Several trade unionists were arrested on a partisan basis during the post-electoral violence in Côte d'Ivoire, and the General Secretary of the national trade union centre "Dignité" was sent to prison. Many trade unionists were also persecuted during fraught elections in the Democratic Republic of Congo and Nigeria. In Senegal, two workers' rallies were violently repressed.

Algeria



POPULATION: 35,400,000
 CAPITAL: Algiers
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The independent unions were kept further away than ever from national social dialogue and their activities were hampered in numerous ways: attacks on premises, dismissals and even death threats. Workers affiliated to the UGTA national centre were also persecuted for trying to create a trade union, in a large hotel for example, and for trying to get their demands heard.

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 2011

Background: The demonstrations that rocked the country in January left five dead and over 800 injured. The authorities responded to the wave of protests by announcing significant reforms, including the lifting of the state of emergency imposed 19 years earlier. However there are fears that the draft law on associations will increase State control over them.

Grass roots members call on UGTA to act, independent unions ostracised: Unions affiliated to the national trade union centre the UGTA (Union générale des travailleurs algériens) demonstrated their anger at the contempt shown by the management of state-owned enterprises in response to the

workers' legitimate demands for pay rises, the respect of trade union rights, and an end to the sanctions and legal proceedings against workers' representatives. Marches and sit-ins were organised, including one at the end of December in the Rouiba industrial zone outside the head offices of the UGTA urging the national centre to convey their message to the employers.

The independent trade unions were fiercely critical of the government which, as in previous years, had not included them in the tri-partite negotiations in May and September. The independent unions in the education and health sectors, although highly representative, had enormous difficulty making their demands heard by the authorities. Several strikes were ruled illegal. 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.

Social unrest spread to sectors usually untouched by it, such as the justice system with strikes by the clerks of court, lawyers and the communal guards, an auxiliary security force created during the war against the Islamists. As usual the authorities declared the strikes illegal and threatened sanctions against those who took part in the protest actions.

Several trade union leaders harassed: On 27 September, Malik Fallil from the education sector, Chair of the National Committee of Pre-Employment and Social Network Workers, affiliated to the public sector union SNAPAP (Syndicat National Autonome des Personnels de l'Administration Publique) found that her employment contract had been terminated, yet no reason was given. She had earlier been threatened by the police, warning her to put an end to her trade union activities. One week before, on 20 September, she had been briefly arrested for taking part in a sit-in outside the Labour Ministry.

Several other leaders and members of independent unions were also harassed. The President of SNAPAP, Rachid Malaoui, has been persecuted for years, and threatened with death. His car was sabotaged in July. On 24 February Mourad Tchiko, another SNAPAP leader, and a civil protection officer, who had been suspended by his employer since 2004 and had his passport withdrawn in 2010, was called for questioning together with a photographer from the union when he went to support hunger strikers from the union's branch in the Higher National Institute for Public Works College (Ecole nationale supérieure des travaux publics - ENSTP).

There was also the arrest and questioning at the height of the protest movement at the beginning of the year of two prominent Algerian trade unionists: Ahmed Badaoui, a former UGTA (Union générale des travailleurs algériens) leader and Yacine

Zaid, a blogger, human rights activist and staunch defender of trade union rights in the oil industry where he worked until dismissed and prosecuted.

Angry health workers: Six members of the paramedics union Syndicat algérien des paramédicaux (SAP) were suspended during a strike called by the union that began on 8 February. When the strikers resumed work on 24 February, the Health Ministry promised that it would meet the SAP's demands, including the reinstatement of its six activists.

The resident doctors (i.e. those in the process of specialisation) went on a four month strike, from March to July, with intermittent protest actions, some of which were harshly repressed by the police. The demonstrations of 4 May and 1 June in Algiers left some 20 strikers injured. The Health Ministry declared the strike illegal and punished the protesters by freezing their pay. The strike was suspended on 17 July. The strikers' demands included a pay review, improvements to the resident doctor status and above all the repeal of compulsory civil service whereby all young specialists have to work for between two and four years in remote areas of the country.

At the end of October the public sector health workers' unions, the Syndicat national des praticiens de santé publique (SNPSP) and the Syndicat national des praticiens spécialistes de la santé publique (SNPSSP) held a further one day strike to denounce the failure to meet the commitments made and the breaking off of social dialogue.

Trade union house and occupants targeted: During the night of 19 to 20 March, youths threw stones at the Trade Union House in Dar El Beïda (Algiers) for several hours. Unemployed and supply teachers were holding a meeting in the building to prepare the protests actions they planned to hold the following day. Although the Trade Union House, the headquarters of the national public service union the Syndicat national autonome du personnel de l'administration publique (SNAPAP), is next door to a police station and a National Security services road block, the police did nothing to restore order. In fact according to many witnesses, the police seemed to be actively helping the attackers. A few weeks later, during the night of 8 to 10 May, the Trade Union House was burgled and the two computers there stolen. The premises were under almost permanent surveillance by the police.

On 25 September Akroune Belgacem, an officer from the General Information Service, went to the home of the owner of the premises. He put pressure on him to terminate the lease and evict the trade union. He was threatening and even warned that Rachid Malaoui, the president of the SNAPAP, would be as-

sassinated and the premises locked up for a long time. He also tried to blackmail the landlord into accepting a new tenant and collaborating with the police. The authorities had already closed down the Trade Union House in 2010 on spurious grounds.

Five trade unionists dismissed at Linde Gaz: At the beginning of July, the management of Linde Gaz Algeria dismissed five members of the national trade union centre the Union générale des travailleurs algériens (UGTA) who had denounced their mismanagement of the company.

145 strikers dismissed at Air Algérie: During the industrial dispute that paralysed Air Algérie from 10 to 14 July, management dismissed 145 employees who it had requisitioned but who refused to work, including Yacine Hamamouche, the General Secretary of the commercial airline workers' union the Syndicat national du personnel navigant commercial (SNPNC). Further to mediation by the Prime Minister and the national centre, the Union générale des travailleurs algériens (UGTA), the sanctions were lifted and negotiations resumed. Some 900 air stewards and stewardesses were protesting at the decision to bring their salaries into line with those of ground staff.

Intimidation and dismissals at a Sheraton hotel: The Sheraton Club des Pins in Algiers fiercely opposed the formation of a trade union. In June, a petition signed by nearly 300 workers for the creation of an organisation affiliated to the Union générale des travailleurs algériens (UGTA) national centre met with no response from the employer. On 13 September, two days before the founding general assembly was due to take place, three delegates were dismissed. On the 15th, the two other members of the trade union committee were also given the sack. Furthermore, the company took the five activists to court. Exasperated by management's attitude, virtually the entire staff joined in protest actions and a strike. Instead of negotiating a solution to the dispute, management set about a veritable purge of the staff. While some workers agreed to sign a statement saying they would abstain from striking many others learnt when they were called to a meeting by management that they would face financial penalties or be sacked. Since then, despite the steadfastness of hundreds of unfairly dismissed workers and the numerous messages sent by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) management continued to refuse to negotiate with the workers and their representatives.

Four trade unionists dismissed at Huawei: On 29 November, the management of the Chinese telecommunications company Huawei dismissed four trade union delegates from the Union générale des travailleurs algériens (UGTA) in retaliation for a strike that had begun one week earlier.

Trade union support for vulnerable social groups: Teachers took part in a sit-in that lasted the whole of December, outside the Education Ministry. On the night of 14 December, the security services came and took away their mattresses and blankets, insulted them and threatened them with imprisonment. This intimidation was repeated on several occasions. A number of teachers needed urgent medical attention after two weeks in the cold. The civil servants union the Syndicat national autonome du personnel de l'administration publique (SNAPAP) took up their cause, denouncing the silence and indifference of both the authorities and of civil society. Similar action at the beginning of 2011 had led to the integration of some contract teachers. The situation of a further 3000 still needs to be put in order, even if the Education Ministry has stated that the matter is now closed.

In addition to contract teachers, SNAPAP supported the demands of pensioners who have created their own trade union, and the struggle of migrants from sub-saharan Africa, such as the five women intercepted in the south of the country while trying to join their husbands, whether or not they are clandestine, who are usually deprived of their most fundamental rights.

Education workers' rally repressed and 20 trade unionists arrested: On 20 December, 20 trade unionists who were trying to gather outside the Labour Ministry in Algiers were briefly arrested by the police. The members of the education workers' unions the Conseil des lycées d'Alger (CLA), the Syndicat national des corps communs des ouvriers professionnels de l'éducation nationale (SNCCOPEN) and the Syndicat national des travailleurs de la formation professionnelle (SNTPF) had been seeking accreditation for years.

Angola



POPULATION: 19,080,000

CAPITAL: Luanda

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

Workers organisations remain under close government surveillance and there is still no collective bargaining in the public sector.

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 2011

Background: An anti-government demonstration had to be called off in March after a campaign of intimidation by the government. In December the government again stood accused of economic mismanagement when an International Monetary Fund report revealed that US\$32 billion of government funds, thought to be from oil revenues, had been spent over the previous four years without being properly accounted for.

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.

Workers' rights not respected: 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. A report on industrial disputes in the Kwanza Norte province in April 2011 found that many were due to the failure of employers to apply the law and the fact that many workers did not know what rights they had in law.

Unions have not remained completely docile however. The National Union of Angolan Workers (UNTA-CS) called for more workers and more organising in the country's all-important oil industry during the year, and with the support of the ILO pressed for laws to protect domestic workers' rights further to the adoption of the new ILO Convention. UNTA-CS also publicly denounced the failure to respect health and safety standards, criticising the high number of accidents in the construction industry. The General Centre for Independent Trade Unions of Angola (CGSILA) meanwhile called for a minimum wage worth USD300, while the head of the education, culture and sports union pressed for higher salaries in his sector.

Benin



POPULATION: 8,850,000
 CAPITAL: Porto Novo
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

There are serious restrictions on the right to strike and the authorities have frequently made inflammatory statements against the trade unions, heightening social tensions and prompting protest actions.

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.

On 1st October a new law came into force extending the ban on the right to strike for military personnel and police officers to customs officers and water and forestry workers.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: Outgoing President Boni Yayi, won a second term in the first round of presidential elections in March, despite challenges from the opposition. In ratifying the International Covenant on Civil and Political Rights, Benin took a big step forward towards abolishing the death penalty.

No consultation over legislative changes: A draft law restricting the right to strike is currently under consideration. The trade unions have roundly condemned the haste with which this initiative is being dealt with and the lack of consultation.

Anti-union pronouncements by the Head of State: Faced with social unrest and numerous strikes, the Head of State, Thomas Boni Yayi, has made many inflammatory statements. On 13 June, on the eve of a strike organised by the Coalition of Public Service Unions (Coalition des organisations syndicales de l'administration publique - COSYNAP), he warned that he aimed to « put an end to disorder » and demanded that ministers list the names of all civil servants who did not report for work. One month later, as stoppages continued in the civil service, the Council of Ministers spoke of "serious dysfunctionality" within the trade unions. It urged them to ensure better governance by electing new leaders, the underlying message being that most leaders were no longer representative of the workers. The Council also urged parliament to speed up their review of the law on strikes. In mid-September, President Yayi spoke of "anarchy in Benin's trade union movement". Then on 28 September, as customs officers prepared to strike in protest at a law which would deny them the right to do so, he made threatening remarks, warning he might requisition retired customs officers to replace them.

Police provocation two days in a row: On 29 September the Director General of Customs used force to change the locks on the offices of the striking customs officers to enable the requisitioned retired officers to work there. The strikers decided to suspend their action and returned to work, but were very critical of the use of force. The following day police officers surrounded the trade union headquarters as the national trade union centres gathered there to decide on what to do next in response to the threats to the right to strike.

Botswana



POPULATION: 2,070,000
 CAPITAL: Gaborone
 ILO CORE CONVENTIONS RATIFIED: 87 - 98 - 100 - 105 -
 111 - 138 - 182

Many workers lost their jobs during the year for their union activities or simply union membership, including bus workers and two postal workers leaders. Over 2,800 workers were dismissed after a long and bitter public sector strike during which excessive police force was used. Police reportedly threatened to use firearms during a strike at a secondary school.

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. Furthermore, employers can petition the Commissioner of Labour to withdraw union recognition. The Trade Disputes Act 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 of Labour must establish that an industrial dispute exists before strike action can be initiated. In addition, strikes are not allowed in essential services, the list of which largely exceeds the definition given by the ILO. The government proposed some amendments of Trade Disputes Act in 2011. However, the draft law did not address many concerns raised by the ILO supervisory bodies and therefore violations of trade union rights persist.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: Botswana still has one of the most stable and successful economies in Africa, yet it also faces high poverty

rates, inequality, unemployment and HIV/AIDS. The country was rocked by a long, bitter public sector strike over pay and working conditions that began in mid-April and lasted eight weeks, rendering the health service barely functional.

The industrial action started after pay negotiations stalled. The unions were demanding a 16% pay rise after a three year wage freeze and a period of rising inflation. The government remained firm on its offer of 5%. Faced with the workers' determination, the government reacted violently.

Other issues of importance in Botswana are related to: informal and precarious work, migrants workers influx from Zimbabwe, Chinese investments, workplace accidents in the construction industry and the lack of labour inspection. Botswana is trying to reduce its economic dependence on diamonds.

AIDS is still a serious problem with an estimated 300,000 people living with HIV. The country has an estimated adult HIV prevalence among 15-49 year olds of 24.8%, the second highest in the world after Swaziland (UNAIDS 2010 Report). The loss of adults in their productive years has serious economic implications. The economic output of Botswana has been reduced by the loss of workers and skills; agriculture and mining (including diamond industry) are among the worst affected sectors. Migrant workers are among groups most vulnerable to HIV infection.

Collective bargaining still weak: Collective bargaining remains weak, as few unions meet the 25% representational criteria. The bargaining strength of unions in the public sector was sorely tested during the year, with the government refusing to give ground.

Bus owners hostile to transport workers union: The Botswana Transport and Allied Workers Union (BTAWU) reported in January that many bus owners refused to recognise the union. When union leaders went to bus owners to sign a form recognising the existence of the union, most refused, using a variety of excuses, including that they did not know enough about the union.

However, some bus owners had refused to attend a meeting that the union had called to inform them about its operations and how it would be working with members and their bus bosses. Bus owners were given 30 days to recognise the union in their organisations. They were then called by the Commissioner of Labour to a hearing and they refused. Most did not even respond to the final warning that they were given by the Commissioner.

Many bus employees lost their jobs for joining or becoming officials of the union, including the union Chairperson, Kgomo Papaye. He was stopped and ordered out of the bus at Mogobane Village, on his way to Gantsi, by the police who had accompanied the bus owner. Christopher Mogomotsi, the Secretary General of BTAWU, spoke of one bus owner who stopped the medical aid that he had been giving one of his former employees who broke his leg while on duty the moment he joined the union saying "his leg would rot at the hospital." The Chairperson of the Botswana Bus Operators Association, Gago Tlhaselo, told journalists that the union was not welcome by the bus owners, and said he believed the union would not last long.

The BTAWU was formed in October 2010 to address the deplorable working conditions faced by bus drivers including long hours, little or no rest time, no reimbursement of accommodation costs for overnight stays and risk of immediate dismissal if they sought a pay rise. They were also concerned about welfare issues, particularly vehicle safety.

Sacked for striking: The concrete products company Kwena Rocla dismissed 71 of its 170 employees on 21 February for going on strike over working conditions three days earlier. The strike was called after management failed to address workers' grievances over back pay, retrenchment, poor working conditions and repeated violations of labour laws by management. Letters written to the authorities had met with no response. Frustrations mounted after the company announced it would have to retrench up to 85 employees, without saying which staff would go. After the two day stay-away, the company decided to sack the 71 who took part in the strike, as well as discontinuing the contracts of 24 casual employees, many of whom had worked for it for over a year, and some of whom were owed a lot of back pay – up to 14 years in some instance.

Postal workers' union leaders dismissed: Gagosepe Manyanda and Wiseman Maruping, chairperson and deputy chairperson of Botswana Postal Services Workers Union (BPSWU), were dismissed on 28 January and 14 March respectively, by Botswana Post. The BPSWU believed they were dismissed because of Gagosepe Manyanda responded critically when a board member questioned the need to replace retiring staff. The union considered that the dismissals were an act of intimidation.

Action continues to reverse unfair dismissal of teacher's leader: The Botswana Teachers' Union (BTU) and Education International (EI) continued to submit regular information to the ILO on the case of Japhta Radibe. The BTU leader brought a case of unfair dismissal against the Director of Teaching Service Management after being forced into early retirement

on 24 October 2007, but his case was finally dismissed by the High Court in March 2010. That decision effectively put an end to his leadership of the trade union, which the union suspect was the principal aim behind his dismissal. In March 2011, the ILO Committee on Freedom of Association again requested the government to engage the parties with a view to achieving a joint negotiated settlement of the dispute, including the possible reinstatement of Japhta Radibe.

Dismissed strikers get severance not reinstatement: In July, the government announced it would pay severance packages to all the public sector workers dismissed in the eight-week strike. The total number of workers dismissed was finally calculated to be 2,844 according to government figures. In addition to doctors and nurses, those dismissed included 338 cleaners, 56 catering, 22 records, 45 supply, 40 administration, and 20 information technology staff, 9 drivers, 8 craftsmen and 8 field assistants, none of whom are "essential" workers. In September, the public sector unions went to court to seek the reinstatement of all the dismissed workers.

Police threaten to shoot striking workers: Striking workers who had gathered at Gaborone Secondary School grounds on 13 June were ordered to vacate the premises by fully armed riot police. The police said the gathering was illegal, and gave the workers 15 minutes to vacate the grounds, which they gradually did. They were warned that if they failed to disperse, firearms would be used against them.

Union leader arrested: Pelotshweu Baeng, former president of the Botswana Landboard, Local Authority and Health Workers Union (BLLAHWU) was arrested on 25 May in Gaborone. He was taken to Serowe where he was held in police custody on charges of inciting violence, after striking public sector workers got involved in a scuffle with police. He denied the charges and was released on bail the following day. The charges against him were finally dropped in December owing to lack of evidence.

Police use tear gas, batons and rubber bullets against striking public sector workers: Police used tear gas, batons and rubber bullets to disperse striking public sector workers who had gathered in Gaborone on 7 June in protest at the lack of progress in negotiations. The protests continued the following day, when one worker was arrested. Some protestors reportedly sustained injuries in their clash with the police. About 3,500 striking workers held a rally in the capital, as part of the strike that began on 18 April.

At the end of May, the Botswana Federation of Public Sector Unions (BOFEPUSU) finally agreed to a 3% rise, far short of their initial 16% demand, provided it was distributed in such a

way that the lowest paid received 16%. They also demanded that the workers sacked two weeks earlier be reinstated and the “no work no pay” policy announced by the government be dropped. However, the government refused to agree to the union’s terms.

Government declares more sectors “essential” services to weaken future strikes: The public sector unions suspended their strike action on 13 June, eight weeks after it had begun. No solution had been found but workers were facing hardship after two months out of work and the unions felt a period of reflection was needed to find a way out of the stalemate. After the strike, the Minister of Labour classified teachers, diamond workers, and the national vaccine institute as essential services, so that they cannot participate in future strikes. These categories of workers fall outside the International Labour Organisation’s definition of essential services.

Government hires replacement labour during legitimate strike: A court ruled that the government was in violation of the Trade Dispute Act by bringing in replacement labour during the public sector strike that began on 18 April. The court ruling noted that the replacement labour was brought in before 14 days after the start of the unions’ lawful industrial action. In his affidavit, the secretary general of Botswana Federation of Public Service Unions (BOFEPUSU), Andrew Motsamai, said in order to undermine the unions’ collective action of withdrawing labour government had undertaken a massive recruitment exercise. Hundreds of people were brought in to replace, among others, cleaning, cooking, laundry and health services in hospitals. The court ruling was not fully heeded however. The publicity secretary of the BOFEPUSU reported that veterinary officers, who the Industrial Court had ruled were not essential services, were replaced with police officers at veterinary cordon gates after the court’s ruling.

Burkina Faso



POPULATION: 16,469,000
 CAPITAL: Ouagadougou
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 -
 105 - 111 - 138 - 182

Trade union action was repeatedly repressed by employers and the police. The right to strike was not respected. Demonstrators were injured. Mine workers faced intimidation, as did the general secretary of a bank workers’ union.

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 2011

Background: President Blaise Compaoré, a soldier who came to power in 1987 following a coup d’État, faced unprecedented civil unrest between February and July after the suspicious death of a student. At least five demonstrators died in clashes between the police and thousands of youths. Police stations and officials building were ransacked and set alight. After five soldiers were sent to prison in March, a mutiny broke out. Then shopkeepers whose premises had been ransacked held demonstrations, followed by magistrates protesting against the release of the imprisoned soldiers. On 8 April trade unions and civil society organised a general strike. In July, a fresh mutiny caused the deaths of eight people in Bobo Dioulasso.

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 for their trade union activities have not yet been reinstated. Several court rulings in favour of unfairly dismissed strikers were not implemented.

Undermining the right to strike in the mining industry: During the strike begun on 8 April by the local branch of the Geology and Mine Workers Union (SYNTRAGMI), the management of the Taparko Mining Company (SOMITA) told strikers to vacate their accommodation. SOMITA also made excessive use of its right to requisition workers, going beyond services essential to maintain production.

May Day march cancelled: National trade union centres cancelled a May Day march in the capital owing the lack of security along the planned route and rumours that some

individuals were preparing to infiltrate the march to commit anti-union acts.

Police repress civil servants' demonstration: Police forcibly repressed a demonstration by employees of the Economy and Finance Ministry on 15 June, on the third day of their strike. The Burkina General Confederation of Labour (CGTB) reported that seven of the strikers died after the police charged at them wielding truncheons and releasing tear gas.

Right to strike under attack in the banking sector: Following a strike by employees of the Regional Solidarity Bank (BRS) on 26 July, called by their union the Banking, Insurance, Financial Establishments, Trade and Industry Trade Union Federation (FESBACI), the strikers received a letter demanding that they account for their absence. The union had given due notice of the strike however, in the time and manner required. The strikers were also summoned to appear before a disciplinary committee. The employer finally dropped all further action against the strikers after the national trade union centres threw their weight behind the FESBACI arguing that the strike was legal.

Anonymous calls and threats against union leader: Aristide Zoungrana, General Secretary of the National Independent Union of Administrative and Technical Staff, Labourers and Support Staff of the Public Universities of Burkina (SYNATOSUB), received two anonymous calls in October. In the second call he was told it would be in his best interests to cease his trade union activities "while there was still time". SYNATOSUB had called a 72 hour strike, from 26 to 28 October, to protest at the authorities silence in response to their demands concerning pay and housing.

Burundi



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

The two main union confederations denounced government interference in trade union affairs. Two new teaching unions were set up by the ruling party to sow division in the sector. Three teaching union representatives were the targets of death threats. Trade unionists from the justice and media sectors were intimidated or penalised for taking strike action.

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 2011

Background: A surge in violence reawakened the spectre of the civil war. In September, at least 39 people were massacred in Gatumba, near Bujumbura. The authorities imposed censorship on the media, banning any reports, comments or analysis on the bloodbath to avoid "spreading confusion". In November, a coalition bringing together around a hundred NGOs and trade unions launched a campaign against the high cost of living, recalling that the price of water had risen by 200% in a year and that of several basic foodstuffs such as cassava flour and rice had risen by 60%. Nearly 70% of the population lives below the poverty line. Burundi is considered to be one of the five most corrupt countries in the world.

Three trade union representatives on death threat list: In April, leaflets were being distributed containing a list of death threat targets. The list, identifying members of the opposition and civil society, named three education union representatives, Eulalie Nibizi, Chantal Nahishubije and Philibert Ngezahayo.

Public meeting on high cost of living prohibited: On 1 September, the police, acting on orders from the Bujumbura city council, stopped the holding of a public meeting organised by eight civil society organisations and the union confederations COSYBU and CSB on the huge hike in water and electricity prices. The organisations report that the police did not have

any kind of warrant to stop them from holding the meeting, despite the authorities having been notified within the required timeframe.

Threats and reprisals following strike at national radio and television: The director of RNTB, Burundi's national radio and television broadcaster, launched a brutal anti-union campaign following strike action held from 3 to 8 November. The national radio and television workers' union Syndicat des travailleurs de la radio télévision nationale (SYRT) sent a letter to the President of the Republic denouncing the campaign of intimidation and repression being waged by the director, who was transferring workers and dismissing department heads. The director moreover admitted to having sent a letter to the National Intelligence Service accusing the strikers of trying to subvert and destabilise institutions.

Striking magistrates threatened with reprisals: On 29 November, magistrates ended the strike launched in mid October without having managed to secure their demands for more independence and better working conditions. The Justice Minister had threatened to take punitive measures against magistrates refusing to return to work. The magistrates' union Syndicat des magistrats du Burundi (SYMABU) denounced these threats, as well as cuts in strikers' pay, even for periods worked. This was the third magistrates' strike since the start of 2011.

Political intimidation and creation of yellow unions in health and education sectors: The two main trade union centres, the Confederation des syndicats du Burundi (COSYBU) and Confédération syndicale du Burundi (CSB), have for many years been denouncing the constant government interference in trade union affairs. Trade unions with close ties to the ruling party have been set up in the health and education sectors. Workers are repeatedly harassed by their employers to join the ruling party and these new organisations that have been created and receive funding to weaken the trade union movement.

In February, when four teaching unions, CONAPES, SLEB, STEB and SYNAPEP, called on their members to take part in a strike, the two new unions, SEEPBU and SIPESBU, formed in 2010, called on their members to boycott it. The four legitimate unions came out in opposition to a programme to redeploy teachers around the country, which they believe is above all designed to destabilise the unions and disperse their members.

Cameroon



POPULATION: 19,599,000
CAPITAL: Yaoundé
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Five members of a teachers' union were arrested and charged for taking part in what was considered an illegal demonstration. Seven other trade union leaders faced harassment for similar events dating back to the end of 2010. Trade union organisations that are seen as too independent are not recognised by the authorities or face heavy challenges. Excessive legal constraints make it very difficult to freely exercise trade union rights.

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 2011

Background: Paul Biya, the country's 78-year-old President, in power since 1982, was re-elected for a sixth term in October, with nearly 78% of the votes. Nepotism, the manipulation of ethnic identities and inertia characterise the style of government in this country which languishes in 131st place on the United Nations Human Development Index.

Interference, manipulation and favouritism: The revision of the Labour Code, which began several years ago, has not been

discussed for a long time, and there has been no discussion of a hypothetical law on trade unions, announced in 1990. In its replies to the ILO's Committee on Freedom of Association, which had received a complaint from the Public Sector Trade Union Centre (CSP) about its lack of recognition, the government nonetheless used the pretext of this so-called legislative process to evade the question of the legal existence of the organisation.

In recent years, the government has relied on registration procedures that have been left too vague both in law and practice in order to prevent the registration of trade unions it deems too independent and to favour organisations it considers easier to control.

According to a 2010 ILO report, the anti-democratic 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.

Government refuses to negotiate with national trade union centre: The General Confederation of Labour of Cameroon-Liberty (CGT-Liberté) has been subjected to repeated interference by the government in its internal affairs. Following internal dissent, and the holding of the CGT-Liberté Congress, the Minister of Labour and Social Security (MINTSS) wrote to the union centre on 8 February in which it repeated its refusal to enter into dialogue with it.

Five teachers from the SNUIPEN arrested: On 10 November five primary school teachers were arrested during a demonstration in Yaoundé organised by the teachers' union the Syndicat national unitaire des instituteurs et des professeurs des écoles normales (SNUIPEN). A large police contingent brutally dispersed the 100 or so demonstrators, tearing up their list of demands and arresting five members of the union outside the Prime Minister's offices. They were released the following day. They appeared in court on 14 November on a charge of illegal demonstration. Their case was adjourned until 12 December, then 23 January, because the judge was away.

Judicial harassment of seven trade union leaders: Seven trade union leaders appeared before the Court of First Instance in Yaoundé on 19 December. Their case was adjourned until 16 February 2012. It was their tenth hearing in this trial that has been continuously delayed and dogged by irregularities: absence of the judge in charge of the case, of the prosecutor that brought the case, or adjournments without reason. The accused and their lawyers have not always been informed of the hearings. The NGO Front Line has complained of the harassment of the seven trade unionists and the delaying tactics

whose only effect so far has been to eat into the budget of their organisations and to hamper their operations.

On 11 November 2010, seven leaders of the Public Sector Trade Union Centre (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 Prime Ministers offices 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".

Since it was formed in 2000, the authorities have always been hostile to the CSP, the principal public service workers federation. The May Day celebrations that the CSP regularly organises outside the official commemoration are suppressed and their leaders are often subject to intimidation.

Central African Republic



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

Social dialogue is insignificant, in a country where the state is incapable of paying its staff correctly and on time. The government, responding to the protests staged during the month of August, announced that it understood the workers' legitimate demands but was not in a position to satisfy them. In November, three trade union representatives were arrested and maltreated.

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 2011

Background: The country has been ravaged by decades of political and military upheaval. Fourteen armed rebel groups are thought to be active in the CAR. In January, President François Bozizé and his party, the Kwa Na Kwa (work, only work), were re-elected. The opposition denounced massive electoral fraud. In December, Doctors Without Borders alerted international public opinion to the humanitarian crisis underway, reporting very high mortality rates even in areas not affected by conflict or displacement.

Protests and government apathy: The capital was the scene of intense protests in August and September. University staff, secondary school substitute teachers and SOCATEL workers (telecommunications) took strike action. A demonstration was also staged by retired police and soldiers, who held the Mediator of the Republic hostage for a number of hours. All of their demands were related to pay arrears. The government announced that it recognised the workers' demands but was not in a position to satisfy them. The trade union movement expressed grave concern over the government's passive attitude and the country's socio-economic situation, with wages stagnating as the cost of living climbs higher and higher.

Three trade union leaders assaulted and arrested: Eight demonstrators, three of whom were trade union representatives, were assaulted and arrested by the police on 25 November, during a march in Bangui in solidarity with women in the Democratic Republic of Congo, as part of International Day for the Elimination of Violence against Women. Faustine-Theodora Grothe, general secretary of the Confédération nationale des travailleurs centrafricains (CNTC) was released by the end of the day thanks to the intervention of the International Labour Organisation office in Yaoundé. The seven other demonstrators were only released two to three days later, after being subjected to physical maltreatment. On the eve of the march, Faustine-Theodora Grothe had denounced the human rights violations in the subregion. At the end of December, the head of

the police force tried to justify its action, claiming that it had not received the mail announcing the demonstration in time.

Chad



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

The oil sector was the scene of persistent labour and trade union rights violations. Subcontractors and employment agencies, abetted by ESSO-Chad and China National Petroleum Corporation International (CNPCI), refused to negotiate with the unions. The authorities also offered their support, intervening to repress strikes.

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 2011

Background: In May, President Idriss Deby Itno, who came to power in a coup in 1990, was re-elected for a fourth term, garnering 88% of the vote in a poll boycotted by the opposition. His party, the Mouvement patriotique du salut (MPS), had secured a large majority in the legislative elections in February. The oil boom in Chad, one of the world's poorest countries, has not yet benefitted the population at large. The easing of rela-

tions with Sudan reduced the number of clashes and abuses in the east of the country.

Social dialogue at a standstill: The two main trade union centres, forming a common front, denounced the government's total disregard for the demands presented by workers. Among them is the demand for a public sector pay review, which the government had pledged in 2007 to conduct as soon as the financial situation allowed for it. The state's resources have, in the meantime, tripled, if not quadrupled. On 11 November, after three strikes, the head of state finally agreed to meet with trade union leaders and satisfy some of their demands.

Oil field workers intimidated and threatened with dismissal: Striking workers at Catering International Services (CIS) reported that they had been faced with threats and intimidation at the hands of their employer and ESSO-Chad. The 480 workers employed by this French company subcontracted to provide catering, lodging and other services had staged a warning strike from 15 to 17 May. Faced with the employers' refusal to negotiate better working conditions, they went on to step up their action on 21 May. The employer, ESSO management, security officers and the police tried to move the strikers out of the camp on several occasions. On 13 June, CIS had them issued with a list of the people suspended and threatened with dismissal; the strikers disregarded it, considering their protest to be legal and legitimate. For several days, the security stopped any supplies being brought in to cover the strikers' basic needs.

On 18 June, an agreement was reached after tough negotiations between the employer, the Labour Minister and the oil sector union affiliated to the Union des syndicats du Tchad (UST), PETROSYNAT, meeting some of the strikers' demands and enabling a return to work.

Negotiations endlessly postponed: In August, Chadian workers employed at China National Petroleum Corporation International (CNPCI) went on strike for several days in protest at the management's refusal to hold negotiations, despite the commitment made at the end of 2010 to open a dialogue with workplace representatives as soon as production was launched in July. The workers' grievances were only partially addressed in the end. Ramadji Naorngué, a workplace representative, denounced the Chinese group and the subcontractors, which "come here and take away almost half of the employees' wages, not even leaving them enough to live on."

Former TCC employees brutalised and arrested: Former employees of Tchad Cameroon Constructor (TCC), previously subcontracted by ESSO-Chad, protested on several occasions

in front of government ministries and the oil facilities to demand their wage arrears. Their sit-ins were repeatedly dispersed with brutal force. On 9 November, for example, according to the umbrella group of human rights associations ADH, 19 people were injured in demonstrations in Doba and Bébidja and police made 18 arrests. Earlier in the month, on the night of 4 to 5 November, two trade union representatives, Boukar Barka, general secretary of the Confédération syndicale du Tchad, and Mangaral Nadjiam, president of the association of former oil field construction workers, were arrested. Mangaral Nadjiam was released the following day, but Boukar Barka was imprisoned for over 40 days for supporting former TCC workers.

Congo, Democratic Republic of



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

The proliferation of fictitious or corrupt trade unions, promoted by the authorities, placed the trade union movement in an extremely weak position. The government did not respond to the complaints filed with the ILO Committee on Freedom of Association by various union centres. Trade unionists were threatened and arrested. Others who had been unfairly dismissed prior to 2011 were still waiting in vain to be reinstated.

TRADE UNION RIGHTS IN LAW

The 2006 Constitution guarantees the right to form and join trade unions without prior authorisation. However, 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 2011

Background: The presidential and legislative elections of November were plagued by irregularities and violent confrontation. Joseph Kabila's re-election as president was challenged by his opponent Etienne Tshisekedi, who contested the results and proclaimed himself the winner of the poll. The security forces reportedly killed at least 24 people during the post-election clashes. The country is blighted by endless conflicts, ethnic rivalries, shifting alliances, geopolitical and economic stakes, and the misuse of its vast natural resource wealth. International organisations estimate that over 1000 people are killed every day by poverty or violence. DR Congo occupied last place in the UNDP's Human Development Index for 2011.

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.

Unfairly dismissed trade unionists awaiting reinstatement: Many trade unionists unfairly dismissed over recent years are still waiting for justice. In its November report, the ILO Committee on Freedom of Association examined three complaints filed by different union organisations regarding the discrimination, harassment and dismissal of trade unionists. The Committee deplored the government's failure to respond to the allegations made in any of the cases presented. The most recent complaint denounced the mass dismissal of Finance Ministry employees involved in strike action, including around 30 union representatives (see previous Survey).

Trade unionists intimidated, arrested and assaulted: The African Association for the Defence of Human Rights (ASADHO) denounced several trade union rights violations in the capital.

In February, Pierre Liandja, a trade unionist at the Department of Administrative and Property Revenues (DGRAD), received death threats by SMS. Another trade unionist, Tshétshé Ingulu Ngangeli, was arrested and imprisoned. They had denounced the mismanagement at the fiscal department. Police stabbed two trade unionists, Mr Wobo and Mr Mandjandja, during a strike, in front of the administrative building of the transport and ports trading company, SCTP, at around 9.30 a.m. on 9 March. On 7 April, four trade unionists from the SCTP, Agbayo Vital, Mukulungu Puis, Lino Metikwiza and Yilu Yilu, were arrested at the employer's request, despite the fact that negotiations were underway with the labour inspector. Lino Metikwiza and Yilu Yilu were imprisoned. The workers were demanding the payment of wage arrears and a review of their transport allowances.

Congo, Republic of



POPULATION: 4,034,000
CAPITAL: Brazzaville
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The national social dialogue committee is no more than a facade, a poor attempt to disguise fundamental workers' rights violations. Labour disputes often turned violent. Arrests and intimidation were frequent.

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 effective and rapid procedures. Although the deduction of trade union dues from employees' pay is not prohibited by law, it is, in practice, excluded from collective bargaining.

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 2011

Background: President Nguesso announced that oil production was likely to fall as of 2012. He also recognised that the economy was far too dependent on this sector. Legislative elections are scheduled for 2012.

Social dialogue charade: A national social dialogue committee was set up in 2011. The heads of the main trade union organisations are associated with it. Sector-level trade unions have, however, often denounced the poor level of consultation with ministers in charge of their sectors as well as the intimidation they suffer. Most workers, moreover, are not represented.

Indigenous people still used as slaves: According to a report by the Congolese Human Rights Observatory (OCDH), the plight of Congolese pygmies is extremely worrying. These indigenous people, who only form two percent of the population, are exploited and discriminated against by the Bantu majority. The report reveals that forced and bonded labour still exist. A law taking nearly eight years to draw up was passed in 2011 but has not yet come into effect.

Repressed road construction workers' strike descends into violence: In February, Congolese workers employed in the construction of the Pointe-Noire-Brazzaville road by the China State Construction Engineering Corporation (CSGEC) staged a strike in protest at their poor working conditions. Negotiations between the employer, the local authority and the union led to an agreement whereby the employer pledged to raise pay, sign employment contracts by 1 April and keep on all the striking workers. The company failed, however, to respect the agreement and on 2 April an outstanding majority of the 2000 workers downed tools. On 4 April, around a hundred of them went to the prefecture to request mediation. They were driven back by security forces, who reportedly fired in the air but nonetheless wounded two strikers. The following day, the workers unleashed their fury, ransacking equipment, assaulting two managers and taking several vehicles to the Dolisie court to try to find a judge. On 8 April, the police took advantage of payday to arrest 18 workers presumed to be strike ringleaders and rioters.

A total of 23 people were prosecuted and sentenced to jail. They expressed regret over the incidents but also over the authorities' failure to mediate. The official trade union centres did not intervene in the case.

Six waste collection workers imprisoned: On 13 May, six waste collection workers from the Pro Brazza cleaning firm were arrested during a demonstration at which around a hun-

dred employees threw stones at the City Council in protest at the non-payment of their wages owing to a disagreement between the Council and the subcontractor over the terms of the concession agreement. On 16 May, the protest was stepped up until, at the end of the afternoon, the strikers finally secured the payment of their wage arrears and their colleagues' release.

Agreement imposed in banking sector: At the beginning of August, during difficult collective bargaining negotiations, several trade union representatives from the bank workers' union, Fédération syndicale des travailleurs des banques, assurances et caisses du Congo (FESYTRABAC), affiliated to the Confédération syndicale des travailleurs du Congo (CSTC), were briefly arrested on leaving the meeting to consult their members. One of the unionists, Jean Aimé Moanda, was questioned by the police once again at Brazzaville airport, where he was working, and was forced to sign a memorandum of understanding on the collective agreement.

Three drivers arrested for planning a strike: On 7 August, three drivers were arrested and held at a police station in Pointe-Noire. They were accused of wanting to stage a transport strike in response to the unilateral decision to re-introduce taxes.

Côte d'Ivoire



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

Trade unionists were targeted during the post-electoral violence based on their presumed support for one side or the other, as was the case with the general secretary of the trade union centre DIGNITE and countless other union activists.

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 2011

Background: The post electoral violence between December 2010 and May 2011 claimed at least 3,000 lives. Over 150 women and girls were raped. Hundreds and thousands of people were forced to flee their homes. The former head of state, Laurent Gbagbo, who had refused to accept the election results, was arrested in April. His rival, Alassane Ouattara, was sworn in as president on 21 May. In October, he authorised the International Criminal Court (ICC) in The Hague to open an inquiry into the crimes committed. In November, Laurent Gbagbo was transferred to The Hague to face trial. He is the first former head of state to be handed over to the ICC. Amnesty International and Human Rights Watch called for impartial justice that also deals with the atrocities carried out by the forces allied to the current president. In December, the ruling coalition won the legislative elections boycotted by the former president's party.

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.

DIGNITE general secretary imprisoned: On 26 April, at around 17.30, Basile Mahan Gahé, general secretary of the trade union centre DIGNITE, was taken away by members of the Republican Forces of Côte d'Ivoire, who forcibly entered his home, searched and ransacked it, supposedly looking for heavy weapons. The DIGNITE offices were also raided and requisitioned by the army. Basile Mahan Gahé's family were left without any news of his whereabouts for several days. Reports were finally received that he had been recognised at a police station in Williamsville (Abidjan). According to a Red Cross officer who was able to visit him, Basile Mahan Gahé had not been allowed to contact a lawyer, had not been given a decent place to sleep and had not received adequate food and water. He had also been repeatedly maltreated.

On 28 June, the Ivorian trade union centres launched an appeal during an ILO mission to the country, urging the authorities to release the union leader. On 2 July, the ILO delegation was allowed a short visit to the prisoner, who had been transferred to the Pergola hotel, which had been turned into a detention centre.

On 9 July, Basile Mahan Gahé was unexpectedly transferred to Boundiali, in the north of the country, where he was held under extremely harsh conditions (one meal a day, heavy physical regime on an empty stomach in the morning), leading to a rapid deterioration in his health. He was transferred to a local hospital after suffering a heart attack. In early July he was officially charged with a series of state security offences, with violating the sovereignty of the state, organising armed groups and crimes against property of the state and public and private financial institutions. At the end of 2011, in spite of ITUC and ILO missions that met with the authorities, and the release of several other people arrested under the same circumstances, Basile Mahan Gahé was still being held in detention.

Trade union representative dismissed on false pretences: On 19 August, Jeannot Meleke was dismissed by the manufacturing company Société nouvelle ivoirienne de manufacture (SNIM) in Abidjan, on the pretext that his job was being cut, which proved not to be the case. Jeannot Meleke, who held the position of deputy general secretary, was trying to breathe new life into a union that had already been decapitated in 2010 by a mass dismissal made "on economic grounds", which had removed the general secretary and several other members of the union executive.

Numerous abuses against trade unionists: Several trade union organisations reported abuses against their members. In the education sector, the primary teachers' union Syndicat national des enseignants du primaire public (SNEPPCI) denounced abductions and arbitrary arrests of its members. In August, the secondary teachers' union Syndicat national des enseignants du second degré (SYNESCI) reported arrests in Yamoussoukro. On 27 October, also in Yamoussoukro, Joseph Saraka, the spokesperson for the polytechnic institutes' inter-union grouping and around ten teaching union members were arrested and detained for a number of hours after informing the higher education minister of the urgent need to appoint new, experienced directors, following the disappearance of those holding these posts during the unrest. On 16 September, Mousso David, information and mobilisation secretary of the dockworkers' union Collectif national des dockers et dockers transit (CNDD) was abducted by men in military fatigues in Abidjan. He was found injured the following day in the Banco forest.

Djibouti



POPULATION: 889,000
 CAPITAL: Djibouti
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Workers daring to strike were systematically arrested during 2011. Strikers arrested included nurses, railway workers and, in the worst case, dock workers, 62 of whom were imprisoned for two weeks. The authorities confiscated the head office of the UDT. Legitimate trade union activities have in effect been totally stamped out.

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 2011

Background: In April, President Ismaël Guelleh was re-elected with over 80% of the vote. Human rights organisations and the opposition, which boycotted the elections, described the poll as a "masquerade". All voices of dissent continued to be silenced, arbitrary arrests were made in huge numbers and detainees were tortured.

Harassment and repression immobilise unions: As in previous years, the ILO expressed its deep concern at the government's blatant lack of any real will to address several cases of trade unions rights violations. Trade union representatives and mem-

bers are subjected to constant harassment by the authorities. The government accuses trade union activists of being enemies of the state, and as a such, they are arrested, imprisoned, transferred or dismissed. Strikes are brutally repressed. Organisations are refused registration or are made so weak that in effect they can no longer operate.

UDT head office confiscated: In October, the authorities confiscated the head office of the trade union centre Union djiboutienne du travail (UDT), which is, in effect, no longer in operation. The premises were allocated to the Youth and Sports Ministry. In recent years, clone unions, backed by the government, have replaced legitimate workers' organisations. They are under the authorities' complete control.

Sixty two dock workers brutally assaulted and imprisoned for nearly two weeks: On 2 January, during a peaceful demonstration in front of the parliament to demand unpaid wage compensation, dock workers were rounded up by police and brutally assaulted. Sixty two workers were arrested and placed in detention, where some were beaten. They were denied medical care and visits by relatives or lawyers. They were released on 15 January.

The dockers' trade union has found it impossible to function over recent years. According to the human rights group Association pour le respect des droits de l'homme à Djibouti (ARDHD) and the trade union centre Union djiboutienne du travail (UDT), all recent attempts to organise trade union elections have failed because of repression by employers and the authorities. Several dockers used "trade union alibis". Many workers suspected of being ringleaders or who simply demanded respect for their rights had their dockers' cards withdrawn and were not allowed to work.

Striking railway workers and nurses detained: On 20 April, 55 railway workers were arrested and briefly detained for having demonstrated in front of the Prime Minister's Office. They were demanding the payment of eight months' wage arrears. Three days later, several nurses from the Dar El Hanan maternity hospital were arrested on the same grounds.

Egypt



POPULATION: 81,000,000
 CAPITAL: Cairo
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 -
 105 - 111 - 138 - 182

The fall of the Mubarak dictatorship brought an end to the state control of trade unions but the new military rulers showed little respect for trade union rights. A law criminalising strikes and protests was introduced in March and first used in June to sentence protesting oil workers. Other striking workers found themselves attacked by hired thugs and military police and one worker was run over and killed by a company vehicle during a protest. Teachers who wanted to meet a government official to discuss their demands were threatened with a gun. A textile company dismissed 43 workers for taking part in strikes.

TRADE UNION RIGHTS IN LAW

Changes are still ongoing in Egypt. The right to form and join trade unions has been heavily curtailed in law as there was only one legally recognised national trade union centre, the Egyptian Trade Union Federation (ETUF). The ETUF had close ties with the old ruling party, and controlled the nomination and election procedures for trade union office. Not only could workers organising outside the ETUF be sacked, the 2003 Labour Act made it legal for an employer to dismiss a worker without giving any reason.

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

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: The popular uprising that began in Egypt on 25 January – the culmination of years of growing unrest – led

to the resignation of President Mubarak on 11 February. He handed over power to the Supreme Council of the Armed Forces, initially welcomed as the “Guardian of the Revolution”. Mubarak was arrested in April and in August went on trial for ordering the killing of demonstrators during the uprising. Military rule proved even more brutal than the dictatorship and fears that the generals were consolidating their power and delaying a return to democracy led to fresh demonstrations in November. There was a very high turnout for the 28 November parliamentary elections with observers noting that voters appeared incredibly patient despite having to wait hours. The new parliament had the task of writing a constitution ahead of presidential elections in June 2013.

Trade union rights to be kept on hold: Shortly after the ousting of President Mubarak and his government, the new Minister of Manpower, Ismail Fahmy, stated in February that “the issue of trade union rights is kept on hold until such a time that the labour code is revised. . . the ministry will continue to work closely with the ETUF (Egyptian Trade Union Federation) and its President Hussein Megawer”. Mr. Fahmy is a former treasurer of ETUF, the national centre that was controlled by the Mubarak regime.

Official union tries to block workers’ involvement in the revolution: When the 25 January revolution began, the immediate response of the official Egyptian Trade Union Federation (ETUF) was to set up committees to stop any group of workers wanting to go on strike and join the demonstrators, according to Kamal Abou Aita, president of the independent Real Estate Tax Authority Union RETA. The money the ETUF had accumulated through compulsory union dues and government funding was used to pay the thugs that descended on the streets to terrorise the population. The ETUF representative for the same sector as RETA stated in front of the cameras that they were going to punish the protestors and break the revolution, hurling insults at RETA members, before being stopped by the revolutionary demonstrators.

An end to state-controlled “trade unionism”: The Preparatory Conference for the Egyptian Federation of Independent Trade Unions (EFITU) was held on 2 March marking the birth of Egypt’s first independent trade union federation since 1957. For more than five decades, the state-controlled Egyptian Trade Union Federation (ETUF) has been the only federation of its kind allowed by law. The ETUF claimed a nationwide membership of over 4 million workers, most of whom were employed in the public sector. The federation controlled the nomination and election procedures for trade union office, and strikes could only be held with ETUF approval. It had gradually been losing influence in recent years however, in the wake of privatisation and mounting worker protest. Following the ousting of Presi-

dent Mubarak, the ETUF's president Hussein Megawer, along with other federation officials, faced investigation on charges of administrative corruption and union fund mismanagement. In mid-March, interim Minister of Manpower Ahmad al-Borai vowed to allow for union/syndicate plurality. Following the revolution, about 30 fledgling independent unions have attracted an estimated 300,000 members across the country.

Minister allows old official union to represent Egypt at international conferences: In May, the Minister of Manpower, Ahmed al-Borei, announced that the official Egyptian Trade Union Federation (ETUF) would continue to represent Egypt in international conferences, despite the State Council's ruling that the ETUF's board of directors was to be dissolved.

Employers still hostile to unions and resistant to collective bargaining: Under the Mubarak regime collective bargaining had been controlled in the public sector by the Ministry of Manpower. In the private sector where the government-controlled Egyptian Trade Union Federation (ETUF) representation was very weak, employers tended to avoid collective bargaining, and did not even respect government regulations on the minimum wage and social security. Not surprisingly there was no sudden change in 2011, with employers still reluctant to meet or negotiate with the newly formed independent workers unions. As the examples below show, many were hostile and even violent towards trade unionists and any attempt at collective action.

Suez Cement Group trade unionists attacked by thugs: Trade unionists protesting at the Suez Group for Cement's policy on profit sharing were attacked on 15 March by thugs at the Airport Sheraton Hotel after trying to attend the company's general assembly, usually attended by the board of directors, the company's trade union and government representatives. Mohamed Abdel Monsef, head of the trade union, said he had his leg broken in the incident. According to Mr. Monsef, Omar Mehana, board director of the Suez Group for Cement, hired the thugs to prevent the trade union delegation entering the hall where the assembly was gathering. The unionists were protesting at the decision by the board not to grant workers the 10% of the company's profit share that they were entitled to by law.

Attempts to block creation of independent journalists' union: A day after the Independent Journalists Syndicate announced its (informal) establishment on 22 April, a lawyer for the official Journalists Syndicate, affiliated to the Egyptian Trade Union Federation (ETUF), filed a legal complaint with the public prosecutor in an attempt to ban the alternative organisation. Under the Mubarak regime, thousands of professional journalists were denied membership of the Journalists Syndicate. The requirement of a full-time contract for at least a year and restrictions

on non-print media – along with a host of other prerequisites – have kept the majority of Egyptian journalists from joining. The membership committee also convened infrequently to accept new members on a seasonal basis, and would ask prospective members about their political tendencies.

May Day celebrations marred by violence: May Day celebrations organised by the Egyptian Federation of Independent Trade Unions (EFITU) in Tahrir Square, the symbol of the Egyptian revolution against dictatorship and corruption, were violently disrupted. Soon after speakers took to the EFITU's central stage, dozens of people forced their way through the crowds and onto the stage, and began dismantling sound and light equipment. Kamal Abou Eita, head of the Independent Union for Real Estate Tax Employees, and Kamal Abbas, head of the Centre for Trade Union and Workers' Services (CTUWS), were among the union leaders forced to leave the stage.

The violence was believed to have been organised by the Egyptian Trade Union Federation (ETUF), the former state trade union that lost all credibility due to its links to the former regime and its stand against the Egyptian revolution. Despite the violence the EFITU leadership continued its celebration with a march around the Tahrir Square joined by thousands of workers.

Worker killed during strike at garment company: A worker was run over and killed on 7 June during a protest over unpaid wages and a proposed redundancy package at Mansoura-Espana Garments Company. Around 100 workers had congregated outside the United Bank, which owns the company, demanding that they be paid their May salaries. A United Bank employee had reportedly told them, "Nobody will do anything for you. Go and block the road outside." Workers then moved to block the road, among them Mariam Abdel Ghaffar, a mother of three and an employee with the company for over 20 years. A bus and a truck carrying bricks arrived at the scene, eye witnesses reported. The bus refused to move but the truck ploughed into Mariam and two other women. Mrs. Abdel Ghaffar later died of her injuries. Another woman, Samah Abdel Aziz was dragged along for around 300 metres until protestors were able to make the driver stop. At the time the incident was reported, she was in a critical condition in intensive care after undergoing a five-hour operation.

Five Petrojet workers first to be sentenced under military's anti-protests law: A military court handed down suspended sentences of one year in prison to five workers from the Petroleum Projects and Technical Consultations Company (Petrojet) on 29 June. The sentencing marked the first enforcement of Law 34/2011, announced by the military in March, which criminalised protests and strikes.

The five: Khamis Mohamed, Mohamed Ibrahim Mohamed, Mahmoud Abu-Zeid, Mohamed Kamal Abdullah and Ahmed Mohamed El Sayed, were arrested by military police on 6 June and charged with carrying out a sit-in protest in front of the oil ministry, along with about 200 colleagues, during a time of emergency. The sit-in allegedly prevented the ministry from proceeding with its work.

The protest was organised after Petrojet refused to rehire the workers, claiming their temporary contracts had ended, though some had been working there for 10 years. The dismissal of the workers came in defiance of the oil minister's decision that the company should permanently hire all temporary workers.

Security guards for the oil ministry detained the five protesters when they refused to end the demonstration and allegedly assaulted and beat them inside the ministry's building. The guards then called the military police to come and arrest them, claiming they had attacked the building.

Military prosecutors asked that the defendants be punished according to Article 1 of Law 34/2011, enforced under Emergency Law, which states that anyone organising or calling for a protest that hampers or delays work at any private or public establishment will be sentenced to jail and/or a fine of LE500,000. (see Law section above).

Alexandria official threatens teachers with gun: A video that shows Alexandria's deputy governor threatening a group of teachers with a gun reportedly surfaced on social networking websites at the beginning of July. A group of temporary teachers had attempted to meet with Deputy Governor Mahmoud Ateeq to demand that the Education Ministry implement its decision to permanently hire temporary employees, including teachers and workers.

According to the website Masrawy, the teachers decided to begin an open-ended sit-in outside Ateeq's office after he refused to meet with them. A group of teachers had gone to meet with Ateeq at his office Monday evening. The protestors said he threw them out of his office which is when he threatened them with a gun.

Five protestors Suez Canal Authority companies arrested: Five workers at seven Suez Canal Authority companies were arrested on 3 July by the military police. Officers claimed that the five workers were simply required to meet the Second Army Commander to discuss workers' demands, although the five: Nasser El Beradse, Metawa Mohareb, Nadia Youssef, Mohamed Haggag, and Mahmoud Shaaban, were then detained in a military camp.

Workers at Suez Canal Authority companies had been demonstrating in front of the Guidance Office of Ismailia Governorate since 14 June in protest against the refusal of Ahmed Fadel, the CEO of the Suez Canal Authority, to implement agreements reached with the Manpower Minister on 19 April. The agreements included a 40% increase in basic salary, a 7% hike in bonus payments, and the formation of a committee on restructuring wages and designing a collective agreement for the seven companies.

The CEO further provoked workers by sending them a copy of the decree banning strikes and the Cabinet's statement applying criminal law and particularly anti-terror provisions on demonstrators. On 18 June army forces fired shots in the air to disperse the 2500 demonstrating workers who had gathered from SUEZ, Port Said, and Ismailia.

Military police use force to quell workers demonstration: When striking workers tried to leave the Ismailiya Public Free Zone on 26 July, their exit was blocked by military police who fired shots into the air. It was the second day of a strike by at least 5,000 workers in the zone, where 80 factories produce textiles and leather, to demand that the minimum monthly wage be raised to 1,200 Egyptian pounds (about \$200) and that they be given long term contracts to qualify for benefits. A workers' spokesperson explained that they had begun by simply chanting and holding banners, but growing frustration had led them to blocking roads and entering offices to talk to people. After the police fired into the air, angry workers began throwing stones and the ensuing clashes left 36 workers and two military police officers injured.

Striking teachers harassed by security forces: The Independent Union of Egyptian Teachers complained of harassment by security forces on 18 September, the second day of a nationwide teachers strike. The strike was called to demand better pay and the removal of Education Minister Ahmed Gamal Eddin Moussa. The strikes reached their peak on the 18th, the first day of the new school year. The leader of the union, Hassan Ahmed Ali, reported that senior ministry officials toured the striking schools and tried to dissuade their teachers from protesting. The ministry also sent a number of security agents to intimidate the teachers, and instructed principals to impose arbitrary penalties on them.

Union leader transferred to undermine protest: On 2 October the Arab Petroleum Pipelines Company (SUMED), operator of the Suez to Mediterranean pipeline, suddenly announced it was moving the head of the independent workers' union, Atef El-Sayed, from the Ain Sokhna port on the Red Sea to SUMED premises in Alexandria. The announcement came shortly after

employees resumed their campaign for the same employment rights as permanent staff. The 230 workers involved in the dispute were employed by a company called Maridive to work for SUMED on temporary contracts - a situation that has lasted, in the case of some workers, for more than 30 years. Many of the subcontracted workers at SUMED were skilled labourers. As Atef El-Sayed explained, "A marine chief, risking his life to do the work in the middle of storms, gets LE1,600 per month after 34 years of work, while the security guard gets LE,4000". There were concerns the disturbance at the port could have far reaching effects in the oil industry, hence the decision to remove the key union figure.

After hearing the decision to move Mr. El-Sayed, 60 morning shift workers started protesting at the port, bringing a rapid response from the maritime unit of the army. Workers claimed forces tried to disperse their protests.

Textile workers face anti-strike measures: Workers at the Mega Textiles Company found themselves the target of punitive measures in response to trade union action. The newly formed independent union went on strike in May in protest against low pay and poor working conditions, setting out their demands for a pay rise, an eight-hour day and paid overtime. Following the strike management began depriving workers of holidays, lowering their wages and marking them as absent when they turned up for work. Matters escalated on 28 September when management sent in 25 armed Bedouins, some with automatic weapons. Then on 8 October as the workers met with members of their union during a break, they were interrupted, said Mahmoud Abdel Nasser, head of the union, by the management and Bedouins who arrived in tow. The leader of the Bedouins ordered Mr. Nasser to step down from the chair he was standing on but the workers would not let them take him away. The management then reportedly called the workers and union members "dogs", declaring that they would "finish with all of you, whether legally or not." The following day 31 workers, many of whom were union members, were denied entrance to the factory and effectively suspended.

Management then prevented Mahmoud Abdul-Nasir and Mohammed Hassan, a member of the union's executive committee, from entering the factory. The owner of the factory used armed men and thugs to confront workers who were aggravated by the employer's action. The workers complained that armed men were also used to stop workers from supporting the members of the union who had been sacked the week before because of their activities.

Mega Textile workers face more violent repression: Mega Textile workers resumed their protest action on 12 Novem-

ber after management insisted on dismissing 43 workers suspended the previous month after earlier strike action and discussing their poor working conditions with the press. On 16 November management again resorted to using thugs to forcefully empty strike locations. Saad Shaaban, head of Al-Sadat City branch of the workers' independent trade union said that no workers were allowed to enter the company premises and that they feared for their safety.

Equatorial Guinea



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

Trade union rights are non-existent and independent unions have never been allowed to register. President Obiang remains intolerant of any form of dissent or opposition.

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 2011

Background: A November referendum on constitutional change, dismissed by the opposition as a shame, consolidated the power of the country's corrupt and autocratic ruler President Obiang, and appeared to pave the way for him to hand over to his son. In February, the government ordered the staff

of state radio and television not to cover the pro-democracy Arab Spring movements. In March, the government banned demonstrations and blocked an opposition party from staging a rally. Activists from another opposition party were prevented from staging a Labor Day protest in May.

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 2011 the ILO again had to remind the government it had failed to submit the reports due that year. It urged the government to bring its legislation into line with core ILO standards and to resume constructive dialogue with the ILO.

Eritrea



POPULATION: 5,254,000
 CAPITAL: Asmara
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 -
 105 - 111 - 138

In spite of what is enshrined in the labour law, there is no freedom of association and no free collective bargaining in this totalitarian state. National service is used as a means of subjecting citizens to forced labour.

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 and the police. 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 2011

Background: Eritrea marked 20 years of independence in 2011, but the totalitarian regime remained as repressive as ever. The United Nations High Commissioner for Refugees (UNHCR) reported in early 2011 that 220,000 Eritreans, about 5% of the population, had fled. Freedom of expression is still firmly suppressed and four more journalists were imprisoned in 2011. In July, a UN report accused Eritrea of being behind a plot to attack an African Union summit in Ethiopia in January.

No freedom of association, no collective bargaining: No political or civic organisations are permitted except those controlled by President Isaias’s People’s Front for Democracy and Justice (PFDJ). There is no freedom of association: all unions - including the National Confederation of Eritrean Workers (NCEW) and its affiliates - are kept under close scrutiny by the totalitarian government. Non-governmental public gatherings of over seven persons are prohibited. In practice, 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, extending for much of a citizen’s working life. Pay is barely sufficient for survival. Recruits are used as cheap labor for civil service jobs, development projects, the ruling party’s commercial and agricultural enterprises and 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. Female recruits have reported sexual abuse by higher-ranking officers.

Ethiopia



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

Members of the National Teachers Association (NTA) face harassment and surveillance, as their organisation continues to be denied recognition. The government still interferes in trade union affairs and unions have reported strong anti-union attitudes by Chinese employers.

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 2011

Background: The ruling Ethiopian People's Revolutionary Democratic Front (EPRDF) continued to crush any potential political opposition or dissent. There were mass arrests of ethnic Oromo in March, and a wider crackdown with arrests of journalists and opposition politicians from June to September 2011. In August, an Amnesty International delegation to Ethiopia was ordered to leave the country. Several journalists were arbitrarily arrested and detained in 2011, including two Swedish journalists arrested in July while covering the conflict in the Ogaden region. In December, the two were found guilty of supporting terrorism and sentenced to 11 years in jail.

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. The independent National Teachers' Association (NTA), an Education International (EI) affiliate, was formed in 2008 after the Federal Supreme Court ruled that the name, logo, all property and bank assets of the then Ethiopian Teacher's Association (ETA) be given to the government-recognised entity, thereby dismantling the once largely independent teacher association. The NTA was denied legal registration by the Ministry of Justice 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.

Over the years, members of the independent teachers' association have faced harassment, dismissal, arrest, torture and even death. 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.

Chinese employers anti-union: When Building and Wood Workers' International (BWI), in partnership with Energi Industri of Norway, carried out a project with its affiliate Ethiopian Industrial Federation of Construction, Wood and Allied Sectors in 2009-2010 to tackle HIV/AIDS in the workplace, it encountered particular difficulties with Chinese owned companies which displayed an anti-union mentality and resistance to organising. In general, most Chinese employers do not allow workers to form a union, and in case they do manage to form one anyway, its leaders are often transferred or sacked, and its members intimidated and pressurised to leave the union.

Continued harassment of the National Teachers' Association: In additional information sent to the ILO in March 2011, Education International (EI) reported that members of the National Teachers' Association (NTA) were under the surveillance of government security agents. Harassment by security agents

and government authorities is exacerbated partly at the request of the pro-government Ethiopian Teachers' Association leadership. Their purpose is to intimidate teachers to abandon the NTA and to force them to give up their longstanding demand for the formation of an independent union. Further pressure comes from landlords renting office space to NTA branches. The landlords ask for at least six months of rent to be paid in advance and increase the rent from time to time which the NTA cannot afford. In addition, some landlords have indirectly been forced by security agents to ask the NTA for a licence to show for what purpose the NTA uses the offices. The NTA is therefore often forced to move some of its offices or even close some of them down.

Attempts to establish a yellow union at Balcha Hospital, Addis Ababa, to the detriment of the existing union: At Balcha Hospital, in Addis Ababa, management has deliberately been weakening the existing trade union. Backed by officials from the local government's Labour and Social Affairs Department, it has been intimidating workers, as well as forcing them to join a puppet organisation.

Trade union leader at sugar factory illegally fired: At the Fincha Sugar Factory, in East Wellega in the Oromia Region, the chairperson of the factory workers' union, which represents around 7,000 workers, was fired without justification. As was stipulated by the collective agreement, the union leader was freed from his formal duty in order to be able to carry out his legitimate trade union work. There are strong concerns, however, that this was the exact reason why he was fired.

Gabon



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

Freedom of association, in theory guaranteed by law, came under attack because of the obstinacy of a handful of individuals abusing their power, as was the case in the long-running dispute between the teachers' unions and their Minister. The trade unions called on the authorities to engage in genuine social dialogue in all sectors and at all levels.

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 2011

Background: President Ali Bongo's Gabonese Democratic Party (PDG) won 114 of the 120 seats in the National Assembly in December following elections boycotted by much of the opposition.

Abuse of trade union rights denounced: In June, the Gabonese national trade union centres decried the lack of political will shown by the government to establish real social dialogue, which had led to endless strikes in many sectors. They also deplored the intimidation of trade unions, accused by the authorities of being in the pay of the political parties, as well as obsolete collective agreements in the private sector, the non-implementation of agreements in the public sector and the Education Ministry's aggressive attitude towards trade unions. The national trade union centres also called for workplace elections to be held quickly.

Oil workers up in arms: Feared by the authorities for their capacity to exert a stranglehold on the Gabonese economy heavily dependent on oil revenues, the National Organisation of Petroleum Employees (ONEP) explained the reasons for its industrial action during the year, namely the highly precarious nature of employment in the industry, the abusive and illegal use of fixed term contracts, the proliferation of sub-contractors and outdated collective agreements that no longer matched the socio-economic reality. One of ONEP's principal demands, together with several other unions, concerned the abusive and illegal use of foreign workers who were paid up to 20 times more for the same skills. In April a four day strike brought the country to a virtual standstill and cost the Gabonese state the equivalent of 90 million euros, according to ONEP.

Libreville Town Hall union leaders still out of work, with wages unpaid: One year after being imprisoned without trial

then cleared of the charges against them, Alexandre Nzengui and Olui Nzué Memine, leaders of the Coalition of the Libreville Town Hall Unions (CCSL) had still not been reinstated in their jobs and had not received their unpaid wages. They were held in preventive detention from 22 July to 27 October 2010 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 to protest against delays in paying their salaries and the non-payment of social charges, deducted at source by the Town Hall. In April 2010, 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.

Education Minister hostile to unions: On 1 September the battle-weary National Convention of Education Trade Unions (CONASYSED) called off the strike it had begun in April. The following day the union pledged its support for nine trade union leaders as they began a hunger strike. Clémence Akele Ovono, Jules Bibang Obounou, Désiré Alfred Engone, Simon Ndong Edzo, Louis Patrick Mombo, Alain Mouagouadi, Fridolin Mve Messa, Léa Isabelle Ozoumey and Calvin Tomo Tomo had been brought before a disciplinary board in February for their role in a warning strike that took place in October 2010 (see the 2011 edition of the Survey). Since that time their salaries had been suspended, yet they had received no official notification of the sanction. On 18 September the nine trade union leaders ended their hunger strike after the Prime Minister promised that their salaries would be restored, despite the latest scheming by the Minister for Education, Séraphin Moundounga. In July, Education International (EI) had complained about the anti-union pressure exerted by the Minister ever since he had taken up the post in October 2009.

Ghana



POPULATION: 24,300,000

CAPITAL: Accra

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

Trade unionists who tried to protest about the poor performance of their employer found themselves victimised. Police used excessive force against protesting teachers. Unionisation in the export processing zones (EPZ) remains complicated mainly due to employers’ resistance. 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 guaranteed 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 2011

Background: The country remained politically and economically stable, with plans for further off-shore oil exploration boding well for the economy. Disputes continued however, over the implementation of the Single Spine Salary Structure, notably among teachers and medical staff, because of serious discrepancies.

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. After the ruling the Ghana Trades Union Congress (TUC) warned that some employers were using it 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).

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.

Informal sector and domestic workers – a large, unprotected workforce: An estimated 85% of Ghanaian workers are employed in the informal sector, where the implementation of labour laws is patchy, and workers are often unaware of their labour and trade union rights. The sector includes domestic workers, mainly women, who constitute a particularly vulnerable and low paid workforce, hidden behind closed doors, whose rights are not provided for in labour legislation. There was good news for domestic workers during the year however when the government established a Task Force to develop a Draft National Policy Document on Decent Work for domestic workers.

Police use excessive violence against protesting teachers: The National Association of Graduate Teachers (NAGRAT) condemned the use of brutal force by police on some of its members. On 11 March, police fired tear-gas at teachers who were marching towards the Ministry of Information where teachers' leaders were in a meeting with Government stakeholders to discuss discrepancies in their salaries. One of the leaders of the demonstrators, Ernest Opoku, said as they approached the Ministry, the police officers accosted them and started firing tear-gas and beating up some of them without provocation. A police commander claimed the police had to fire tear gas because the crowd was getting out of control, but NAGRAT issued a statement complaining that the use of force was excessive. The Deputy Minister for Education later apologised to teachers for the incident.

Water company accused of victimising trade unionists: Workers at Aqua Vitens Rand Limited, a private company contracted to manage Ghana Water Company, complained in February about the victimisation of their union officers through transfers and other tactics. Workers and their union representatives had complained of poor management, insecurity and confusion due to a new salary structure and changing placements. The Public Utility Workers Union (PUWU) asked for a meeting with the Board of Directors to discuss the way forward, to no avail. The company had come under criticism for its poor performance, and in June was obliged to hand operations back to Ghana Water Company.

Chinese company prevents formation of union amid serious health and safety problems: A Chinese construction firm working on a road project at Akatsi in the Volta Region, China Jiang International Construction Company, was ordered by the Ministry of Employment and Social Welfare to suspend operations with immediate effect at the end of September for failing to comply with Ghana's labour laws.

The order followed reports of abuse of Ghanaian employees. When inspectors and a Deputy Minister visited the company they found that there was no Collective Agreement setting out the conditions of service. They also found that although the Minister of Roads and Highways had supported the formation of a trade union in the company, management had resisted, and effectively prevented it through intimidation. Anyone thought to be complaining about conditions in the company was black-listed and subsequently dismissed.

The workers had been particularly concerned about health and safety condition. Four Ghanaian labourers had lost their lives and ten others, who sustained various degrees of injury in the course of their work, had not been paid any compensation by the company. Workers who needed protective clothing have not been provided any. The Managing Director of the company, Mr Wan Wulong, claimed not to know of the existence of the Labour Act and provisions concerning the protection of workers' interests.

Guinea



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

The eight trade union centres denounced government interference in trade union affairs. The authorities backed a splinter group of the CNTG, the main trade union centre, on the holding of its Congress and the re-election of its executive. The CNTG general secretary, who escaped an attempt on his life, was the target of repeated threats and seven people were injured in an attack on the Labour Exchange, where the CNTG head office is based.

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 2011

Background: In July, President Alpha Condé, democratically elected at the end of 2010, escaped an attack by military officers. The police and armed forces committed numerous acts of violence during 2011. Political and ethnic tensions remained high. The legislative elections were postponed until 2012. A new Mining Code was passed and is expected to improve the management of Guinea's vast natural resources.

Government interference and criminal attacks on CNTG general secretary and head office: The results of the National Confederation of Guinean Workers (CNTG) congress, held on 24 September, were contested by a group of dissidents, who

convened their own congress two days later. According to several reports, most of those taking part in it were not official representatives of the organisation's grassroots unions. The dissidents' congress was broadcast on national television, which made no mention of the legitimate congress held on 24 September.

At the beginning of October, an ITUC mission went to Guinea to listen to the two parties. It concluded that the first congress and the executive it elected were legitimate. The ITUC delegation called for a dialogue between the two parties, to no avail.

At around midnight on the day following the ITUC mission's departure, on 8 October, four hooded men in military uniforms attacked the home of the CNTG general secretary, Amadou Diallo. They started to fire shots from outside the building, leading the two guards to shoot back. The assailants finally fled after a heavy exchange of fire. Amadou Diallo had in the meantime escaped through the back of the property, climbing over a wall topped with broken glass, leaving him with serious cut wounds. The violence used in the attack leaves no room for doubt that the assailants intended to kill the trade union leader.

Amadou Diallo reported that he has received several death threats by telephone since his election at the end of September as the general secretary of the CNTG, as have other leaders of the organisation.

Renewed acts of violence were seen on 17 October. A group of armed people stormed the Labour Exchange housing the CNTG head office in a bid to take over the premises by force and oust the leaders elected by the congress, causing substantial material damage and seriously injuring seven people. The CNTG had alerted the authorities at the first signal that an attack was being planned but, for reasons unknown, they took no preventative action. The police only intervened at the end of the attack and did not arrest any of the assailants.

The CNTG pressed charges with the police, presenting a list of the attackers identified. Action against unknown persons was also filed for the attempted murder of the general secretary. Various factors point to a link between the contesting of the results of the congress and these serious acts of violence.

Also in October, the governor of Conakry asked the leadership of the CNTG to hand back the keys of the Labour Exchange. The leadership refused, stating its reasons. In addition, the dissident group went to the labour court to request that the congress be nullified and the CNTG head office be closed. The CNTG contested that the court was not competent to rule on this matter, basing its argument on several articles of the labour

law. Against all expectations, the court ruled that the elections held by both congresses were irregular, thus paralysing the operations of the CNTG. One of the CNTG's bank accounts was frozen. CNTG members met with obstacles in a series of prefectures when trying to return the congress results to the members. Moreover, during recent tripartite negotiations on workers' purchasing power, a representative of the dissident group was reportedly admitted by the authorities as an advisor.

The seven other trade union centres (USTG-ONSLG-UDTG-CGSL-CGTG-UGTG-SIFOG) declared their solidarity with the CNTG. They also denounced the court ruling and the authorities' interference in trade union affairs. At the end of 2011, the CNTG, which had appealed against the labour court ruling, was still occupying its offices at the Labour Exchange.

Guinea Bissau



POPULATION: 1,515,000
CAPITAL: Bissau
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105
- 138 - 182

Trade union rights are guaranteed in law, but without sufficient protection, notably for collective bargaining rights. The law is not respected and the environment is still largely anti-union.

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 2011

Background: The EU suspended part of its aid to Guinea-Bissau in January because of concerns over governance and the rule of law. All along the year, there was increasing unrest. In May teachers went on strike over wage arrears, in July and August, thousands took the streets to protest at rising food prices and civil servants demonstrated against austerity measures in November.

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.

Collective bargaining weak: There is little proof of collective bargaining in the country. The government has consistently failed to respond to ILO requests to show it is taking measures to improve collective bargaining in the public and private sectors and has not yet adopted legislation regulating the collective bargaining rights of public servants.

Kenya



POPULATION: 40,513,000
CAPITAL: Nairobi
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 -
111 - 138 - 182

Mass dismissals were the tactic of choice by employers punishing their workers for taking strike action or simply joining a union. Workers dismissed for joining a union included over 100 truck drivers, 50 textile workers and 19 oil workers. Nearly 600 postal workers received dismissal notices for taking part in a strike, as did 50 flower workers. Two officials from the electrical workers' union KETAWU were arrested during a strike in March.

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 2011

Background: Six high-ranking officials, including a deputy prime minister, two ministers and a police chief, appeared before the International Criminal Court in The Hague in April, accused of possible crimes against humanity in relation to the 2007-8 post-election violence. There was anger among workers in May when the government announced a 12.5% increase in the minimum wage, far short of union demands for a 60% increase in face of sharp rises in the cost of living. In November the country witnessed a wave of strike actions by workers in key sectors, namely the Kenya Power and Lighting Company, Kenya Civil Aviation Authority, Kenyatta National Hospital Staff and University teaching and non-teaching staff. By the end of the year inflation was running at 19.72%.

Employers challenge labour rights in court: On 5 January the Federation of Kenya Employers (FKE) went to court to declare key labour laws, namely the Employment, Labour Relations, Labour Institutions, Work Injuries Benefits and the Occupational Health and Safety Acts of 2007, unconstitutional. The Central Organisation of Trade Unions (COTU) protested that the FKE had been represented on the taskforce that worked on the revision of the laws, and could not understand why it had then chosen to disown part of them. The COTU also expressed concern that the move could affect hundreds workers, particularly those still waiting for compensation for workplace injuries.

Industrial Court ineffective: The Central Organisation of Trade Unions- COTU has criticised the Industrial Court for dragging its feet in resolving disputes between employers and workers. Rather than intervening during the seven days' strike notice given by unions, the court tended to wait until the notice period

ended then declare the strike illegal, allowing employers to order employees back to work. COTU appealed to the courts' judges to compel both parties to come together to seek a solution to their dispute within the seven days of the notice issued by either party.

Workers promoted to management to keep unions at bay:

Senior managers of Kenyan banks have admitted that the banks promoted employees to management positions to deny them representation by unions for non-managerial staff.

Strike leaders arrested: Two officials of the Kenya Electrical Trades and Allied Workers Union (KETAWU) were arrested on 14 March in Kisumu. Trouble started when officials engaged in a heated argument with the Kisumu police boss John Mwinzi outside the offices of the Kenya Power and Lighting Company workers (KPLC) on the legitimacy of the strike. Union members were angered that the police had chosen to interfere in their peaceful protest. A further 360 were threatened with dismissal for taking part in the strike, over a list of grievances including the failure to honour the collective agreement and grant pay rises in January. KETAWU was also concerned that more than a third of workers are hired on a casual basis, in violation of the country's labour law. The strike was later called off after talks with the company's management mediated by government officials. A pay deal was finally reached at the beginning of November.

Drivers dismissed for joining union: Over 100 drivers were dismissed after joining the ITF-affiliated Kenya Long Distance Truck Drivers' Union. An ITF team that visited Kenya in May during an organising initiative met with the Ministry of Labour's acting provincial commissioner Charles Mwinami, who said the ministry was already handling some of the cases that had been reported by the truck drivers' union. The workers were angry that the ministry was drawing out the process, leaving employers free to continue to dismiss workers. Mwinami promised to investigate and raise the issue with the government; he would also highlight the consequences of truck drivers taking their own action to fight for freedom of association, which he believed was under threat in the Kenyan trucking industry. The dismissed workers had still not been reinstated by the end of the year.

Ferry company refuses to recognise union: Kenya Ferry Services (KFS) consistently refused to acknowledge their workers' membership of the Dockworkers Union, despite agreeing to deduct their monthly contributions. On 12 November, after four months during which the management refused to respond, the union decided to call a strike to press for recognition and revive talks on a long overdue collective bargaining agreement with KFS. The union said the strike would go ahead if a solution had

not been found in 21 days. The strike notice was called off after the KFS and the union signed a collective agreement.

Sacked for striking: More than 50 workers were sacked from a farm producing flowers for export owned by former President Moi in Eldoret for taking strike action. Over 700 workers took part in the strike which was in protest at harassment by two of the farm managers and arbitrary sacking of colleagues. The workers were also concerned that management appeared to hire and fire on the basis of tribal loyalties. The Kenya Plantation and Agricultural Workers Union wrote to former President Moi in August asking him to reinstate the dismissed workers, pointing out that managers had failed to listen to workers' grievances, and that sacking and dismissing them for legitimate union action was illegal.

Union members sacked by textile company: More than 50 workers were sacked by the Rivatex textile company, owned by Moi University. The workers reported that management used a union meeting they attended as a pretext to sack them. Management claimed they had to dismiss the workers as part of a restructuring exercise that required staff cuts. However the company continued to hire new workers. In September the sacked workers wrote to the University's vice-chancellor urging him to intervene to get them reinstated.

19 oil workers sacked for joining union: On 1 November workers at a bulk liquid storage company in Mombasa went on strike after learning that 19 of their colleagues had been sacked. The Mombasa branch secretary of the Kenya Union of Commercial, Food and Allied Workers (KUCFAW), Samuel Baya, said that the 19 were sacked because they had joined the union. Baya accused the company's management of going against the recognition agreement the union had with the company.

Postal corporation sacks 600 striking workers: Postal workers went on strike on 16 December demanding a 30% pay rise and better working conditions. The state-owned Postal Corporation of Kenya (PCK) responded by issuing letters of summary dismissal to the 600 employees who took part in the industrial action, claiming it was illegal. The Communication Workers Union (COWU) pointed out that the PCK, which had offered just 5%, had refused to continue negotiations with the workers. The strikers were given four weeks to appeal their dismissal, while the PCK advertised to recruit 550 new employees to replace them. On 27 December a judge upheld the workers' right to strike, and the court ruled that all the workers should be reinstated unconditionally. The COWU called off the strike, but the 594 workers concerned found they had not been paid their December salaries and that they were barred access to their

work stations. The matter was finally resolved and the strikers were able to return to work on 2 January 2012.

Lesotho



POPULATION: 2,171,000
CAPITAL: Maseru
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Legal restrictions on organising and strike action remain in place. Two union leaders were arrested during a textile workers strike. Employers' anti-union attitude is still widespread.

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 2011

Background: The Finance Minister described the 2011/2012 budget as "the most difficult the government had to put together". The impoverished mountain kingdom faces a slowdown in economic growth, rising unemployment and falling revenues from migrant workers who are losing jobs in South Africa. Lesotho also faces declining agricultural production, falling life expectancy and high HIV infection rates.

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.

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.

Exploitation in Chinese run textile factories: The General Secretary of the Lesotho Congress of Democratic Unions (LECODU), Tšeliso Ramochela, has called for better labour regulations in the textile industry. Speaking during a textile workers' strike in August 2011 he warned that workers were being exploited in an industry dominated by Chinese employers. Levels of union organising have improved across the country's all-important textile industry in recent years but many employers still ignore labour laws or exploit weaknesses in the law.

Union leaders arrested and protest march cancelled: A massive protest march planned for 17 August to mark the third and final day of a strike by textile workers had to be called off after the police cancelled its authorising permit.

The textile workers, joined in solidarity by taxi operators, disgruntled youth fighting for continued tertiary education sponsorship and other civic organisations, had planned a huge march. For two days, police used water cannons and teargas to disperse the striking workers who had started organising road blocks against strike-breaking taxi drivers. On 17 August, the police arrested Daniel Maraisane, the president of the Lesotho Congress of Democratic Unions (LECODU) and the head of the Maseru Region Taxi Operators (MRTO), Mokete Jonase. Both were leading the strike.

The strike was organised to press for the textile workers' demand an increase in their minimum wage, medical aid, full paid maternity leave, compensation for occupational diseases and other benefits.

Liberia



POPULATION: 3,994,000
CAPITAL: Monrovia
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 105

Liberia still needs to reform its labour law, notably to ensure freedom of association in the public sector. Steel giant Arcelor Mittal used contract labour to try to circumvent its obligations, but there were positive signs when it began bargaining with its workers' union in December.

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 2011

Background: Presidential and Legislative elections took place in October and November. Ellen Johnson Sirleaf was re-elected as President. She has been criticised for having failed on several major issues such as corruption, decentralisation and national reconciliation. She was also praised for having maintained political stability and the rule of law. She was awarded the Nobel peace prize in 2011 for her efforts to secure peace, promote economic and social development and strengthen the position of women.

The economy is slowly recovering especially thanks to exports especially rubber. Liberia is rich in timber, gold, diamonds, iron ore and has extensive rubber plantations. However, electricity and running water are still lacking in the capital.

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

Patchy respect of rights by government and multinationals: The government's record on including the Liberia Labour Congress (LLC) in tripartite forums has been patchy. At the same time, it has not managed to prevent big multinational companies from flouting union rights. Arcelor Mittal began operations in Liberia during the year with a very welcome multi-million dollar investment, after agreeing to give a certain number of jobs to Liberians. It quickly gained a reputation for unfairness and poor working conditions, however, by subcontracting its jobs to other companies paying below the minimum wage and providing no job security. In June 2011, the Arcelor Mittal Workers' Union threatened that the company's first shipment of iron ore would not go ahead unless the company released pay scale figures and facilitated collective bargaining. The company finally launched collective bargaining talks with the union at the end of November.

Libya



POPULATION: 6,355,000
 CAPITAL: Tripoli
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Trade union rights have not been respected in Libya for the duration of Gaddafi's rule, with the growing number of migrant workers suffering the most from the lack of protection. The country is now in a state of transition with much work to be done before it can build a strong, effective independent workers' movement.

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 2011

Background: Colonel Gaddafi's 42-year autocratic rule came to an end in August when rebels stormed Tripoli after a six-month uprising and civil war. Hundreds died, thousands were injured, and many were arrested, tortured and disappeared during the government's violent repression of the anti-authoritarian protests. Colonel Gaddafi, who had gone into hiding, was captured and killed in October. The National Transitional Council that emerged from the rebellion has promised to turn Libya into a pluralist democratic state.

Freedom of association needs to be restored: There is no tradition of trade union organising in Libya after 42 years of autocratic rule during which there was no tolerance of any independent trade union activity. The single national centre, the General Trade Union Federation of Workers' (GTUFW) was under government control, despite claims of greater independence in recent years. Privatisation and the increasing number of foreign-owned companies led in recent years to some instances of workers trying to take collective action outside the official structures, although with little effect. Since the uprising some public sector workers have also begun to press for their rights. Healthcare workers and media professionals began protesting in November in Benghazi, calling for an end to administrative corruption and better working conditions. Employees of the naval base also protested, over unpaid salaries and a shortage of supplies. Much needs to be done to channel such protest movements into the building of a strong independent workers' movement.

Collective bargaining and collective action: Similarly there is no tradition of real collective bargaining as under Gaddafi the government had the right to set salaries individually.

Migrant workers: Libya became increasingly reliant on workers from the Maghreb, sub-Saharan Africa and Asia. It was estimated that before the uprising over one fifth of the

workforce were expatriates. Migrant workers could not form their own unions, or hold union office and the official unions did little to protect them. Sub-Saharan migrants, who made up the majority of the country's 1.2 million foreign workers, were heavily discriminated against as they were considered to be the "underclass." When the revolution broke out sub-Saharan migrants were robbed and harassed by the armed police and militia forces loyal to Colonel Gaddafi while at the same time, they were physically attacked by the rebels who believed them to be African mercenaries hired by Gaddafi. Over 200,000 migrant workers from the Philippines, Bangladesh, China, and Egypt fled the country when the fighting began.

Madagascar



POPULATION: 20,070,000
 CAPITAL: Antananarivo
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Unionisation in the export processing zones and the Ambatovy mining mega project was hampered by the total disregard for workers' rights shown by most employers. The political crisis and international sanctions have heightened the pressure on workers. Employment is the priority; freedom of association is all too often an inaccessible goal.

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 2011

Background: In September, virtually all the political forces in the country agreed on a programme aimed at resolving the political crisis, including the holding of democratic elections in 2012. Madagascar has been under international sanctions since Andry Rajoelina seized power in 2009.

Rights trampled in export processing zones: Trade unions attending a seminar on the EPZ sector organised by the ITUC exposed the persistent and serious abuses endured by export processing zone workers: excessively high production targets unilaterally set by employers, violations of the legislation on overtime, non-payment of social security contributions and disregard for health and safety issues. Workers complained about precarious contracts signed under pressure and unfair dismissals. Fetra Lovasoa, the general secretary of the EPZ workers' federation, Fédération des syndicats des travailleurs des entreprises franches, denounced that the working conditions were akin to modern slavery. Trade unions are active in around sixty EPZ companies, mostly in the textile sector. Membership levels remain low, at between 10 and 14% of the labour force (mainly women), amounting to a total of around 5,000 workers. In July, the government announced plans to create 100,000 new EPZ jobs within five years.

Trade union proposals to break political deadlock: Despite the sidelining of civil society in Madagascar, the trade union platform grouping the most representative unions, the Confédération des travailleurs de Madagascar (CTM), has devoted considerable efforts to seeking a solution to the serious political crisis in which the country has been immersed since 2009. It has been tireless in its insistence that national dialogue is the only way out of the current deadlock, and that restoring the rule of law goes hand in hand with the implementation of the ILO recommendations on jobs, social protection and social dialogue.

Local council workers' right to strike violated: On 21 January, police officers arrested a workers' representative during a refuse collectors' strike in Toliara. He was held in detention for 36 hours and accused of holding union meetings despite no longer being part of the staff following his retirement on 1 January.

A large number of strikes were held by local council workers across several towns and cities to demand better working conditions and better management of public finances. The right to

strike came under repeated attack. In October, in Toamasina, for example, the authorities hired new workers to break the strike.

Five unionists dismissed at Ambatovy mining site: On 28 November, the management at Manpower Development fired three trade union representatives affiliated to the Confédération générale des syndicats des travailleurs de Madagascar (FISE-MA). The dismissals were made in retaliation for a letter sent by the union to the Moramanga labour inspectorate, denouncing the management's silence in response to a series of demands regarding the holding of union elections, a pay scale review, the payment of overtime arrears, and medical cover. A legal strike was staged on 12 December, to no avail. The staff went back to work the following day. On 23 December, two other unionists who had also signed the various letters exchanged outlining the workers' grievances were in turn dismissed, forcing the union to give notice of a strike planned for early 2012.

Manpower Development is subcontracted by the Sherritt mining group, which is heading the Nickel and Cobalt mining project. Following construction works providing as many as 18,000 jobs when labour needs were at their peak, the mine was set to start operations in 2012 with around 6,000 employees. It is the largest foreign investment ever seen in Madagascar. Ambatovy claims to be "a leader in operational efficiency, health and safety, environmental management, and social engagement".

Malawi



POPULATION: 14,900,000
CAPITAL: Lilongwe
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Union leaders suffered harassment, dismissal and arrest. Electronic media, tobacco, freight and transport workers all reported anti-union victimisation. Sugar workers were dismissed for calling a strike and electricity workers' leaders were suspended over a pay dispute. A building workers' leader was arrested for organising and leaders of the MTUC received death threats for their part in the July protests.

TRADE UNION RIGHTS IN LAW

There is some legal protection for trade union activities, although some gaps remain in the labour law. Workers, includ-

ing 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 2011

Background: Civil society protests on 20 July against President Bingu wa Mutharika's increasingly autocratic rule and worsening economic conditions were brutally repressed, leaving 18 dead and scores injured. Civil society, including notably the trade unions, had become increasingly concerned about a raft of recent legislative changes that had systematically curtailed civil liberties and freedom of the press, while increasing the impunity of government agencies and officials. At the same time economic conditions had deteriorated in Malawi, one of the world's poorest countries heavily reliant on foreign aid, after key donors pulled out of the country amid growing concerns over its economic mismanagement.

Unions ignored: Trade unions are not included in the committees set up by the government to comment on social and economic issues. Union membership is low and many workers, notably those in the lucrative tobacco industry, are illiterate and are not aware that they have rights. The MCTI was included however in the UN-facilitated dialogue set up after the July protests.

Union leader dismissed for attending capacity training course: Kawerama Sonjo, General Secretary of the Shipping and Customs Clearing Agents Trade Union (SCCATU), was dismissed on 20 May by SDV Malawi, a freight forwarding company and subsidiary of the French multinational Bolloré. Mr. Sonjo, who founded the union in 2007, had been offered an ILO scholarship to attend a Global Labour University ENGAGE 2011 capacity training course on global economic policies in Germany. He had applied for unpaid leave under the terms set out on the company's leave forms, but was later informed that unpaid leave was no longer part of the company's conditions of service and the inclusion of that possibility on the old leave forms was an "oversight". Mr. Sonjo was dismissed while in Germany for unauthorised absence. He believes the real reason for his dismissal was

his trade union activism, noting the company's track record of being anti-union. The company had previously sacked employees for speaking out in favour of forming or joining a trade union, he said. Mr. Sonjo had fought for, and won, recognition of his union as a bargaining agent in court.

Union members dismissed for calling a strike: Seven union members at the Illovo Sugar Company were dismissed because of their involvement in a strike on 14 June. The strike, which only lasted a few hours, was aimed at putting pressure on the company to increase salaries by 20% rather than the industrial relations court ruling of 14%. Workers were issued with summary dismissal letters on four grounds of holding union meetings without leave from the company, holding meetings without knowledge of the company management, unceremoniously changing union leadership and encouraging others to strike. Those dismissed included the Sugar Plantation and Allied Workers Union (SPAWU) vice president Mr. Moses Soko and the Secretary General, Mrs Veronica Kalinde. Before their dismissal union leaders had been the subject of threats and intimidation, and the employer had restricted the union's access to e-mails. In addition to being dismissed, the union leaders were arrested and detained. The dismissed workers appealed against the ruling on the grounds that the recognition agreement between management and the union did not give powers to the employer to discipline an union official for carrying out union activities. The case remained unresolved by the end of the year.

Union leaders suspended for asking for cost of living adjustment: At the beginning of August the Electricity Supply Corporation of Malawi (ESCOM) suspended Escom Staff Union president Oscar Chimwezi and general secretary Kondwani Kazembe for "spreading false information". In their letter dated 28 July they urged management to implement the cost of living adjustment that they had promised to pay as of 1 July. They also noted that ESCOM staff had not had a salary adjustment for four years.

Union leaders victimised for defending members in merger: Leaders of the Electronic Media Workers' Union (EMWU) were harassed and victimised when they took action to defend their members following the merger of the country's radio and television companies to create the Malawi Broadcasting Corporation (MBC). The EMW took the company to court in September over what they termed as illegal redeployment, demotion and retrenchment of some MBC staff, as a result of plans to reduce the staff of the merged company from 700 to 413. The court granted an injunction in favour of the union to halt the retrenchments. The MBC appealed the decision and began to harass union leaders according to the Malawi Congress of Trade Unions (MCTU). The case continued to drag out in the courts.

Arrested and charged for organising: Mr. Ousmanimba, the Northern Region Organiser for the Building, Construction, Civil Engineering and Allied Workers Union (BCCEAWU) was arrested on 8 November after a visit to the Vizara rubber plantation. He had gone to the plantation at the invitation of Vizara management to finalise disputed severance payments to two employees dismissed a few months previously. After settling the matter he was about to leave for home, 100km away, when he was asked to report to the District Commissioner's office, where he found a police officer, the district Commissioner, Vizara Management and the Labour officer waiting for him. Mr. Ousmanimba was questioned for several hours and then arrested. He was later charged with organising workers without the consent of management. The union had stated recruiting members at the Vizara rubber plantation Company back in 2009 and by November 2011 membership had reached 2000. Mr. Ousmanimba had written to Vizara management to officially introduce the organised members and organise the election of an interim Committee between 10 and 13 November 2011. Mr. Ousmanimba's case went to court and a verdict was due in January 2012.

Anti union employers target union leaders: In a report to the ITUC the Malawi Congress of Trade Unions (MCTU) listed a number of cases of anti-union employers and the victimisation of union officials. In addition to the cases mentioned above, members of the Tobacco, Tenants and Allied Workers' Union (MTTAWU) faced anti-union victimisation at the hands of multinational companies, while members of the Shipping Customs Union (SCU) faced victimisation of their leadership and violation of their collective bargaining rights by a private employer. The MCTU also named the powerful Mulli Brothers company as being an anti-union employer, discriminating against members of the Transport and General Workers Union (TGWU). The Commercial Union reported anti-union attitudes by both public and private employers, notably a reluctance to institute the check-off system.

Mali



POPULATION: 15,370,000
 CAPITAL: Bamako
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The UNTM made some headway in its efforts to secure justice and due compensation for members of the union. The CSTM is still being excluded from tripartite bodies. The exploitation of children in artisanal gold mines and anti-union repression in the industrial mining sector were denounced in 2011.

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 "jeopardise 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 2011

Background: Mali, violating its international obligations, passed a new Family Code perpetuating discrimination against women in a range of areas, such as the legal age for marriage, custody of children and inheritance. The unions and civil society called on the government to scrap proposals for a constitutional reform to be put to referendum in 2012, at the same time as the first round of the presidential elections. They view these plans to strengthen the president's powers as anti-democratic.

Worst forms of child labour in artisanal gold mines: At least 20,000 children are working under extremely harsh and hazardous conditions in Mali's artisanal goldmines. In a report

published in December, Human Rights Watch (HRW) highlighted that "children as young as six dig mining shafts, work underground, pull up heavy weights of ore, and carry, crush, and pan ore. Many children also work with mercury, a toxic substance, to separate the gold from the ore. Mercury attacks the central nervous system and is particularly harmful to children." HRW criticised the government's failure to enforce the laws and conventions on child labour. In June 2011, the government adopted a National Action Plan for the Elimination of Child Labour, but its implementation has been delayed.

Partial lifting of sanctions against UNTM representatives:

The UNTM called off plans to strike on 4 October following lengthy negotiations with the government. Among the demands satisfied was remedy for the reprisals taken against trade union representatives during past strikes. The UNTM also secured the removal of the administrative penalties imposed on trade unionists at Aéroports du Mali and the re-examination of other cases involving several other companies.

Anti-union repression in mining sector: At a press conference on 21 November, the general secretary of the Confédération Syndicale des Travailleurs du Mali (CSTM) announced that trade union rights were being trampled in Mali. Taking the gold mining sector as an example, he denounced several companies for refusing to allow workers to elect union leaders. Employers had reportedly gone as far as to dismiss workers on these grounds at mines in Sadiola, Morila and Loulo.

CSTM still being excluded from tripartite bodies: The ILO Committee on Freedom of Association, acting on a complaint filed by the Confédération syndicale des travailleurs du Mali (CSTM), called on the government to take every step necessary to ensure that the CSTM is allowed to take part in the tripartite consultation bodies in which it expresses an interest. The Committee also urged the government to "organize as soon as possible the professional elections provided for in the Labour Code, taking into account the principles of freedom of association". The CSTM denounced its exclusion from bodies 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: 3,460,000
 CAPITAL: Nouakchott
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 -
 105 - 111 - 138 - 182

The Confederation générale des travailleurs de Mauritanie (CGTM) paid a heavy price for its activism. It was the key target of government and employers' union-bashing throughout 2011. Its general secretary was denied a passport and was excluded from various social dialogue structures, and its members were discriminated against, assaulted, silenced or dismissed.

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 2011

Background: Inspired by the revolutions in various Arab countries, young people took to the streets to voice their anger early in 2011. Several trade union centres came out in solidarity and strike action was stepped up. Young people and workers called for social and economic reforms in a country suspected of selling off its rich mining resources to foreign investors without

in any way benefitting everyday life for the local population. Several human rights organisations denounced the authorities' refusal to recognise the well-entrenched phenomenon of slavery in the country. The national census aggravated racial tensions, raising fears among Mauritania's black population of even greater discrimination. A series of demonstrations were held in September. One of them led to clashes, in which a young man was shot dead.

Bill restricting the right to strike: The government is set to pass a bill aimed at restricting civil servants' right to strike. The proposed legislation also stipulates that "the right to strike will be restricted to the most representative union in the occupational sector in question", which is not currently possible given the inability to hold union elections.

Obstacles to the election of workplace representatives: The Confédération générale des travailleurs de Mauritanie (CGTM) denounced the blocking of union elections by public and parastatal institutions as well as many private companies. The CGTM also denounced interference by employers (such as the national water company Société nationale de l'eau or the Mauritanian Securities Services, etc.) promoting alternative lists of candidates affiliated to more malleable or corrupt trade union centres.

Every kind of ruse was used to prevent genuine union representation. For example, when the management at the food manufacturer Mauritanienne des produits alimentaires (MPA) realised that the CGTM was the only union to put forward a list of candidates, it wasted no time in presenting its own list, made up of company executives. On having its list rejected by the Labour Inspectorate, the company was then equally quick to launch a direct attack on two of the three CGTM candidates, firing one and pushing the other one to resign. At Agrineq (public maintenance works), the two CGTM workplace representatives (out of three in total) also faced persecution: one had his wages stopped for two months and the other found himself faced with a dismissal request, on grounds ultimately rejected by the labour inspectorate.

Representativeness undermined: The trade union movement became increasingly fragmented during 2011. The Intersyndicale, grouping major union centres, became a thing of the past, in the midst of political rivalry and power struggles exacerbated by the government. By placing all 19 trade union centres on an equal footing, in breach of the labour legislation establishing representativeness criteria, the authorities effectively discriminated against the main organisations, depriving them in some instances of representation on tripartite bodies. On 27 April, the Confédération nationale des travailleurs de Mauritanie (CNTM) and the Confédération générale des travailleurs de Mauritanie

(CGTM) denounced the tripartite negotiations charade and demanded representation elections. Their demands were ignored, in spite of the 2008 agreement on the holding and funding of these elections. The two confederations also called for the establishment of genuine social dialogue through the creation of a permanent consultation structure.

Two union organisers arrested: On 25 April, the police used brute force to suppress a demonstration being held in Nouakchott by the February 25 youth movement, founded under the banner of the Arab Spring. Teargas was fired directly at the demonstrators. Around 20 young people were arrested. Among them were Mohamed Abdallahi Ould Tfeil, general secretary of the national telecoms union SYNATEL, affiliated to the CGTM, and Mohamed Ould Daha, president of the CNTM's national youth movement.

Government onslaught against CGTM general secretary: The general secretary of the Confédération générale des travailleurs de Mauritanie (CGTM) was ostracised by the authorities throughout 2011. Abdallahi Ould Mohamed, known as Nahah, was kept out of the workers' delegation to the International Labour Conference in Geneva. He was also excluded from several consultative bodies at national level. In November, the Labour Ministry refused to renew his service passport, giving no grounds for its refusal. A second attempt, made on this occasion to the Interior Ministry by the president of the national Economic and Social Council (CES), also failed. No explanation was given for the application being rejected.

Right to strike suppressed in security sector: Police arrested Pape Sarr, the workplace representative at the Mauritiano-Swiss security firm MSS, in Nouakchott, on 13 May. His union, the CGTM, denounced the employer and a police commissioner from the 4th district for colluding to break a planned strike. Pare Sarr was immediately released on being taken to the main police station. On 15 May, all the trade union representatives were arrested. This time they were taken to the 4th district police station, to be interrogated about a straightforward briefing note asking the workers to hand in their work gear before the strike. On 13 June, in Akjoujt, just days after signing a labour agreement, the MSS dismissed the four CGTM representatives and called on a group of thugs to disperse the workers who immediately gathered in front of their workplace to protest against these unfair dismissals. The management retracted the dismissals on 15 June following a conciliation meeting.

Another security sector firm, G4S, took reprisals against workers for simply calling on it to implement an agreement concluded between the company and trade unions on 10 July. Faced with silence from G4S, a strike was called, respecting

the legally established notice period. Despite the legality of their action, seven strikers employed as surveillance officers at the same bank were penalised by the management, which, for example, ordered that their wages be docked.

Police brutality: Discontent voiced throughout 2011 in the mining town of Zouerate, mainly by subcontracted workers, met with brutal repression.

On 25 April, a spontaneous march leaving from the CGTM offices led to the place des Prières, where security forces reportedly fired live ammunition and tear gas at the crowd. The tension between day workers, their representatives and local subcontracting firms reached a climax in July. On 4 July, the day after strike notice was filed, the local CGTM coordinator, Mohamedou Ould Nahah, was arrested under false pretences, and held for several hours. Police officers, attempting to break the strike initiated on 15 July, went to the union office used by subcontract workers in the town centre and impounded Mohamedou Ould Nahah's vehicle. The following day, the police used unrestrained force to break up a union meeting, hurling tear gas grenades into the premises, injuring several union members, and setting fire to the floor mats. Those injured were, moreover, denied medical attention, as staff at health centres in Zouerate had received orders from the authorities not to provide the strikers with medical care.

On 17 July, the police staged another raid on the union offices, destroying the sign placed above the entrance and attacking the workers. Five unionists were arrested. Three of them were maltreated, being forced to remain face-down on the floor for several hours. That evening, the CGTM coordinator was called in for questioning and his car was impounded once again. The local authorities reiterated the verbal notification given to the CGTM coordinator that the union rally being planned by the confederation to mark its general secretary's visit to the town would not be permitted.

In November, the Labour Minister met with the various local unions during a visit to the town, except the CGTM. No explanation was given for her refusal to meet the confederation's local leaders.

Three women workers dismissed for making demands: On 26 July, the Mauritanian post company MAURIPOST dismissed Moulkheiry Mint Sid Moustapha, known as Def Ould Babana, one of the country's leading women trade unionists, a member of the CGTM executive and vice president of the confederation's National Women's Movement, in retaliation for taking strike action. Some days earlier, on 17 July, the paint and solvents manufacturer Société mauritanienne pour le commerce

et l'industrie (SMCI) sacked two women workers, Habi Bâ and Hawa Diaw, for having dared to ask for protective masks before sweeping a room full of chemical products. Habi Bâ had lost a finger tip in an industrial accident a few months earlier. The company had refused to cover her medical expenses. The two women were not declared and were working twelve hours a day for a salary of 22,000 ouguiyas (58 euros).

Unionised teacher relocated: In October, the education authorities in the Gorgol region ordered the transfer of Mountagna Wagne, a unionised teacher, within hours of him starting a new job. He was replaced by a contract teacher. The teacher and his union, the Syndicat national de l'enseignement secondaire (SNES), believe this measure was taken to punish a union member and dissuade teachers from holding any protests in the future. During the previous school year, the education authority placed all kinds of pressure on teachers to stop them from striking.

Exploitation and repression of temporary workers employed at Somelec: At the end of April, police violently dispersed demonstrations held outside the presidential palace in Nouakchott by temporary workers from the national electricity company SOMELEC. According to the CGTM, police officers kicked and clubbed demonstrators and tore up their banners. One of the workers, Moulaye Ahmed Ould Soule, explained that he had been working at SOMELEC since 2007 without a contract, with no social security and no official wage, being paid no more than a meagre fixed amount at the end of the month. The CGTM qualifies such working conditions as a form of modern day slavery and has been tirelessly campaigning for the regularisation of temporary and subcontracted workers.

Mauritius



POPULATION: 1,300,000

CAPITAL: Port Louis

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

Government figures showed an alarmingly high rate of dismissals of trade union representatives. Trade unions protested after a blatant failure to consult them over reforms in the sugar industry that would impact on jobs, and nine trade unionists were arrested for a peaceful demonstration outside parliament. The employers refused to sign the ILO's Decent Work Country Programme.

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 2011

Background: Mauritius is one of Africa's most economically stable countries, although there were fears that ongoing water shortages could impact its tourism industry. In July, six Militant Socialist Movement ministers left the government in protest at the arrest of the health minister on corruption charges.

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 often 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.

Decent Work - Employers’ federation refuses to sign Decent Work Country Programme: In October 2011, the Labour Minister called on the ILO to intervene after the Mauritius Employers’ Federation (MEF) refused to sign the Decent Work Country Programme, despite being closely involved in the negotiations to develop it. These programmes, that form the basis of ILO assistance to the country and aim to promote decent work are based on tripartism, hence the employers are an essential partner in the process. The Minister believed the MEF was withholding its signature as a means of putting pressure on him over a bargaining dispute involving the la Mauritius Sugar Producers Association (MSPA).

High level of dismissals of union representatives in the private sector: The Federation of United Workers (Fédération des Travailleurs Unis - FTU) held a demonstration outside the Labour Ministry on 23 September to protest at what its General Secretary Atma Shanto described as an “alarming” rate of dismissals of trade union representatives in the private sector. Figures released by the Ministry showed that 8,000 trade union representatives had been dismissed between 2008 and 2011.

The 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.

Government ignores unions in sugar industry reforms: In September, the National Trade Union Congress (NTUC), the Service Providing Institutions of the Sugar Sector (SPISS), the Mauritius Trade Union Congress (MTUC) and the Mauritius Labour Congress joined forces to hold a protest demonstration following the government’s failure to consult them over reforms in the sugar industry. The government had decided to cut funding to the parastatal bodies providing services in the sector and many feared for their jobs. The unions had requested dialogue, but their letters had remained unanswered.

Nine unionists arrested: Atma Shanto, General Secretary, and eight other members of the United Workers Federation (Fédération des Travailleurs Unis - FTU) were arrested by police on 14 November after they had staged a peaceful demonstration in front of the National Assembly. According to the law, no demonstrations are allowed in front of Government House when Parliament is in session. They were arrested under Section 8 of the “Public Gathering Act,” but the police later had to change the charges as the Act is applicable only when at least 12 people are involved. Instead they brought charges of obstructing access to parliament. The FTU in its turn brought a formal complaint against the police for breach of their freedom of assembly, expression and movement. The protest was about the mistreatment of workers at the “La Plantation” hotel.

Morocco



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

Trade union freedoms are heavily curtailed in practice. The sudden spread of temporary work, export processing zones and sub-contracting makes organising very difficult. The number of strikes has steadily increased and they are often repressed by employers and the authorities.

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 2011

Background: In the wake of the Arab Spring, the 20th February movement, bringing together youths, cyber activists and Islamists, came out onto the streets to demand an end to corruption, greater social justice and constitutional reforms. The regime reacted by repressing the demonstrations, sometimes very severely. King Mohammed VI helped calm the unrest slightly by promising reforms. A revised Constitution was adopted by referendum in July and legislative elections in November were won by the Islamists of the Justice and Development Party. In April, 15 people died in a terrorist attack in a café in Marrakech.

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.) car manufacturing 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.

Strikes the only resort: The number of strikes continued to rise in 2011. Even when taking into account the wave of protests linked to the Arab Spring, this rise is testament to the lack of social dialogue at enterprise level, and the employers' contempt for the legitimate demands of their workers, few of whom have union representation (6% of the working population and about 20 national trade union federations). Although social dialogue does exist at the national level, the trade union battle is often

frowned on by public opinion, as was seen during strikes by workers in the justice system, local authorities or education in 2011. Yet striking is often the only means workers have to make themselves heard.

It is easy for employers to ignore the Labour Code thanks to the very weak labour inspection system. There are only 12 collective agreements which, like other legal provisions, are rarely respected. Yet the authorities and employers are quick to invoke legal restrictions when it comes to the right to strike or laws about disrupting the operations of the workplace to penalise strikers.

The main national trade union centres, including the three affiliated to the ITUC, have repeatedly denounced violations of freedom of association, for example at the National Agency for the Regulation of Telecommunications (ANRA), Maroc Telecom, Royal Air Maroc, Domaines Agricoles, Autoroutes du Maroc, to mention just a few cases, but such violations are widespread across every sector of activity.

Mass dismissal of temporary workers who tried to form a union: In April, 92 workers on temporary contracts at the Autoroutes du Maroc (Marocco Motorways ADM) Bouskoura operations centre were dismissed for trying to set up a trade union to seek recognition as ADM employees. The 900 mobile agents and toll collectors at all the operations centre across the country are employed through seven temporary employment agencies and many are not registered in the social security system. For several months, ADM refused to negotiate with the rebellious workers on the pretext that they were not ADM employees. After a strike was called on 19 July, management finally deigned to meet them and on 1 August, signed an agreement with the union, the Syndicat des employés des centres d'exploitation d'ADM, affiliated to the national centre the Union marocaine du travail (UMT). In the agreement ADM promised to take all necessary measures to oblige the temporary employment agencies to respect the Labour Code in full and to reinstate the 92 workers.

Call centre dismisses two trade unionists: On 1 April, in response to the creation of a trade union at the Rabat de Webhelp-Maroc site, management dismissed the treasurer of the new organisation, affiliated to the national centre the Confédération démocratique du travail (CDT), and then dismissed the general secretary on 18 April. Management also called in the police to question another member of the union.

Heavy prison terms for two CDT leaders: On 26 May Seddik Kabbouri and Mahjoub Chenou, both leaders of the local branch of the Confédération démocratique du travail (CDT) national

centre and community activists, were arrested while taking part in a rally outside the Bouarfa court in solidarity with nine young activists on trial there for their participation in a demonstration on 18 May. The demonstration was in protest at the rising cost of living and to call for social justice and had been harshly repressed by police. On 26 July Seddik Kabbouri was given a two month prison sentence. Mahjoub Chenou and the other activists were handed 18-month terms.

Trade union victory at the docks despite tenacious employer opposition: On 12 August, dockers at the Eurogate Tangiers mediterranean port held a 24 hour warning strike in response to management's refusal to even meet the union, let alone take on board their demands for improved pay and working conditions. Meetings took place between trade unionists from the transport section of the Union marocaine du travail (UMT) national centre and management, but the trade union's demands were not really taken seriously, leading to further paralysis at the Eurogate terminal on 18 September. Finally, on 16 November, after nine hours of negotiations, the employer agreed to recognise trade union rights and to negotiate a collective agreement with the dockers' representatives by the end of 2012. The Eurogate terminal is in the Tangiers export processing zone, next to APM Terminals, a giant in the sector, where an employer-union agreement was signed in February after several strikes. In both cases the unions were supported by the International Transport Workers' Federation (ITF) within the framework of its Global Network Terminals (GNT) campaign.

Harassment and sanctions at Royal Air Maroc: The day after a sit-in on 13 February at Casablanca airport that did not disrupt air traffic, five members of the local office of the Royal Air Maroc (RAM) union affiliated to the national trade union federation Union générale des travailleurs du Maroc (UGTM-RAM), including the General Secretary, were suspended from their posts. The human resources manager reversed the decision however on 15 February. At the beginning of March, RAM entered into another trial of strength with the flight crew of Atlas Blue, a low cost subsidiary, where more precarious contracts had been imposed, in violation of labour legislation. UGTM members had already been targeted by the employer in 2010 (see the 2011 edition of the Survey).

Mozambique



POPULATION: 23,390,000
CAPITAL: Maputo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Employers continued to ignore collective agreements, as an example at a cashew nut factory showed. There was concern about the increasing use of casual and agency labour, as employers tend to exploit their more vulnerable position and seek to keep unions at bay.

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 2011

Background: Despite steady GDP growth, about 55% of the population still live in poverty. The country still ranks near the bottom of the UN's Human Development Index and inequality remains high.

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' repre-

sentatives 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 government has consistently failed to respond to ILO requests to report on any measures taken to promote free and voluntary collective bargaining.

Discrimination in the EPZs: The Mozambique Workers' Organisation (OTM-CS) has complained about 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.

Contract and agency workers kept ignorant of their trade union rights: The number of contract and agency workers in Mozambique has increased since changes to the labour law in 2007, making it easier to hire workers on short term contracts. When the Mozambique Chemical and Allied Workers Union visited a factory in Maputo in September 2010, it found that nearly half the 1,700 staff were contract workers, while at another factory all employment came through labour agencies. Although all workers have the same rights in law, companies like to keep contract and agency labour (CAL) workers ignorant about their rights, and union representatives are sent away. Because the workers do not know their rights they are more open to exploitation. As a result CAL workers do not receive salary increases, employers neglect to make social security payments and health and safety protection is ignored. In one case an agency worker in a chemical factory had an accident when the sack he was carrying broke and chemicals burnt his skin. Both the company and the agency refused to pay for his treatment, each denying responsibility. The worker eventually died from his injuries. The unions are working on supporting and organising CAL workers with the support of an ICEM project.

Employer reneges on pay agreement with workers: At the end of May about 600 workers at the cashew processing factory Olam Moçambique, went on strike in protest against cuts in their wages. The company had reneged on an agreement, contained in the contracts the workers had signed, to pay them a monthly wage of 1,680 meticaï (about 56 US dollars). Instead the employer introduced a productivity-based system whereby workers were only paid according to the quantity of nuts they shelled. Discussions with the provincial labour authorities had failed to produce a solution. Even the monthly wage of 1,680 meticaï in the workers' contracts was illegal,

as the statutory minimum wage for industrial workers had risen from 2,497 to 3,100 meticaï a month in April.

Namibia



POPULATION: 2,280,000

CAPITAL: Windhoek

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

A diamond corporation reneged on a pay agreement then interfered in union affairs by claiming it could not ballot all its members over strike action. Striking mineworkers were sacked and a Chinese construction company tried to sack over 400 strikers protesting its violation of the wage agreement but the government stepped in.

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 2011

Background: Poverty and inequality remain high in Namibia. Over 50% of the population is unemployed despite the country's healthy economic performance. The upper 20% of the population lives on 78.7% of the country's total annual income, while the bottom 20% lives on a mere 1.4%. In February, the High Court dismissed a legal challenge by nine opposition parties claiming irregularities in the 2009 parliamentary election.

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: Unions and workers have workers expressed strong concerns about Chinese construction companies who regularly ignored workers' rights and the country's labour laws. One example during the year was that of New Era Investments (see 2012 Trade union rights violations). Between 60% and 70% of construction tenders are awarded to Chinese companies.

Chinese construction firm violates wage agreement then sacks 418 strikers: Chinese building contractor New Era Investments failed to implement a wage agreement signed on 28 March with the Metal and Allied Namibian Workers Union (MANWU) regarding the Labour Act, minimum wages and industrial action. Under the agreement, the building contractor pledged to adhere to the terms of the Act and pay its workers the minimum wage, subject to productivity levels. However, the company did not pay the minimum wage, leading to strike action in July. New Era filed and was granted an urgent application with the Labour Court to have the work stoppage declared illegal and to order its employees back to work. The company then proceeded to dismiss all 418 employees who had taken part in the strike. Finally, the Labour Deputy Minister stepped in and instructed New Era Investment to stop the dismissals. Thanks to his intervention and further negotiations New Era Investment agreed in mid-August to pay its employees according to the minimum wage agreement.

Interference in trade union affairs in the diamond industry: The Namdeb Diamond corporation interfered in the affairs of the Mineworkers' Union of Namibia (MUN) when it told the union it could not ballot all 1,600 workers on strike action over a case involving 125 of them. The dispute concerned the withdrawal of housing allowance from the 125 when they were transferred to a new site, contrary to a 2009 agreement between Namdeb and the MUN. The strike went ahead on 16 August and lasted six days. On 20 August, the company locked out all striking employees and announced it would be launching a civil action against them, demanding compensation for losses incurred during the strike. The Ministry of Labour and Social Welfare, stepped in as the dispute became increasingly bitter and helped negotiate an agreement, signed on 15 September, and made into a court order. Under the agreement, the housing allowances were restored to the 125 transferred workers and

there was a guarantee that there would be no regressions on the 2009 Work Conditions Agreement. A tripartite reconciliation commission was set up to deal with many other outstanding issues, including health and safety concerns.

Gold mine fires 67 workers after strike: A total of 67 employees contracted to the Navachab Gold Mine in Karibib were fired on 2 December, while 44 were issued a final warning following an indefinite strike over a salary dispute. More than 200 workers had decided to go on strike after salary negotiations stalled in November. The Mine Workers Union (MUN) was appealing the dismissals, which they believed to be unjustified.

Anti-union discrimination at Shoprite retail chain: The dispute between the Namibia Food and Allied Workers Union (NAFAU) and Shoprite Checkers continued at the beginning of the year with the company claiming that the union would not enter into negotiations on behalf of its members. The retail chain showed blatant discrimination against union members after pay negotiations broke down. It unilaterally granted a 10% pay increase (below union demands) to NAFAU members effective from 1 November 2010, while the rise for non-members was made effective from June. NAFAU had taken the matter to the labour court and the case was still on-going, although the company claimed the union had already lost its case.

Nigeria



POPULATION: 158,400,000
CAPITAL: Abuja
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Bank workers were sacked for their union membership and recognition of their union was withdrawn. Oil workers found themselves harassed for their union membership and both striking doctors and university lecturers were threatened with the sack if they took strike action over the non-recognition of collective agreements. Two union leaders in the public sector were arrested, beaten and put on trial for attempted murder after a peaceful meeting in support of minimum wage demands was attacked by police and security forces.

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 2011

Background: Goodluck Jonathan won the presidential elections in March, vowing to be tough on corruption. The country remained plagued by unrest, particularly attacks by the Boko Haram radical Islamist group. The group claimed responsibility for the killing of 23 people in a bomb attack on the UN headquarters in August. In December nearly 70 people were killed in fighting between security forces and Boko Haram militants and a further 40 died in a Christmas Day bombing. There was also considerable social unrest during the year over the reluctance of many states to pay their workers the N 18,000 (about \$120) minimum wage. Although Nigeria is Africa's leading oil producer more than half of its people still live in poverty.

Casualisation leading to lower standards and falling union membership in the oil industry: A study entitled "Oil and Casualisation of Labor in the Niger Delta" by the US Solidarity Center depicts the social erosion affecting the lives of Nigerian oil workers due to casualisation, or contract or outsourced work. "There is an industry-wide shift away from regular, full-time work toward forms of cheaper temporary labour and short-term contracting," notes the executive summary. The 36-page study says that under one-half of the country's oil and gas workers are unionised, down from 60% in 2003. "The casualisation model enables employers to ignore workplace standards and workers' social needs and to create a strong barrier against

workplace organising" says the study. The oil industry has a history of anti-union attitudes, including replacing union members with contract workers.

"Abysmal" respect for workers' and trade union rights in EPZs: A report based on research by the ITUC and the Nigeria Labour Congress (NLC) on "The state of trade unionism and industrial relations practice in Nigeria's Export Processing Zones", published in January 2011, describes the respect of workers' rights in the zones as "abysmal". The study found that attempts by trade unions to operate in the 11 EPZs currently active in Nigeria were largely rebuffed by anti-union employers and workers fearful of losing their jobs, with only minimal success won after long and bitter struggles. Some attempts by union organisers in the Calabar EPZ for example led to them being harassed, arrested and briefly detained.

The report also notes that the EPZ authorities and most of the firms operating within them do all they can to frustrate any meaningful social dialogue. As a result there are no distinct EPZ collective bargaining structures or agreements. Some employers, such as those in the footwear industry, are technically bound by sectoral agreements, but it is not clear whether they are actually implemented within the EPZs. Nor can this be checked very easily, as there is no effective labour inspection of the zones. The Ministry of Labour and Productivity did send inspectors to the Calabar zone in 2008, after lengthy negotiation and the reluctant agreement of the Calabar Free Trade Zone authority. It found unfair labour practices to be the norm, but after being warned very firmly that companies would pull out if the findings were made public and that further inspections would deter investors, the Ministry decided to take no further action, and has since steered clear of the EPZs.

Striking lecturers told return to work or be sacked: On 17 January the Governing Council of Rivers State University of Science and Technology, RSUST, ordered members of the Academic Staff Union of Universities, ASUU and Non-Academic Staff Union, NASU, to resume work or get sacked. ASUU went on strike in October 2010, followed by NASU in December 2010, in protest at the refusal of the state government to honour the agreement reached between the Federal Government and the education workers' unions ASUU, NASU, SSANU and NAAT. In some other universities the strike was called off as the authorities agreed to implement the agreement. The ASUU did suspend its strike to give the university more time to implement the agreement, but it failed to do so, and further strikes followed. The dispute remained unresolved by December.

Bank withdraws union recognition and dismisses 13 union activists: Management at the Union Bank of Nigeria, UBN,

Plc, withdrew recognition from its branch of the Association of Senior Staff of Banks, Insurance and Financial Institutions, ASSBIFI, affiliated to the Nigeria Labour Congress, NLC, and Union Bank Association of Senior Staff, UBASS, in January, claiming they were not registered in accordance with the law. The bank also dismissed 13 workers, claiming they had all committed “unethical acts”, but many believed the real reason behind the dismissals was their union activities. Other union members found themselves transferred to remote branches, for no justifiable reason. The Group Managing Director of Union Bank of Nigeria Plc, Mrs Funke Osibodu claimed she had nothing against the NLC. However she was later quoted in a staff meeting threatening to dismiss any staff found to express interest in unionism or associate with the NLC. The NLC gave the bank a seven day ultimatum to withdraw its de-recognition of ASSBIFI, and await the decision of the Industrial Arbitration Panel (AIP) which was examining the legality of the union’s registration. When the bank did not abide by that deadline, the NLC announced week-long picket of the UBN, from 14 to 19 February. According to the NLC the bank then deployed security agencies, notably soldiers, to manhandle and hound union leaders many of whom had gone into hiding. Mrs. Osibodu reportedly boasted that she had deployed soldiers to guard all its branches across the country and ordered them to shoot-at-sight any worker who tried to picketing.

Harassment of union leaders: The Branch Chairman and other executive committee members of the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) found themselves the victims of victimisation. The Petroleum Equalisation Fund Management Board (PEF) began aggressive interference in union affairs following a successful PENGASSAN campaign forced PEF management to promote over 70% of its staff who had stagnated at the same grade for upwards of six years. PEF set up a panel to investigate union member activity in terms of their adherence to union rules, clearly not the jurisdiction of management, and a breach of union independence intended to undermine PENGASSAN. The union warned the PEF in June that it would face widespread industrial unrest if the victimisation continued.

Union leader and colleague arrested, beaten and imprisoned: Osmond Ugwu and Raphael Elobuikwe were arrested at a workers rally on 24 October 2011 in Enugu and detained on charges of the attempted murder of a policeman. The rally was held by public servants in protest over the dismissal of Mr. Ugwu, leader of the Enugu Workers’ Forum, a body created during recent strike action to press for payment of the minimum wage. Ugwu and other workers had gathered at the Nigeria Labour Congress office for prayers when a combined team of soldiers, police and operatives of the State Security

Service (SSS) arrived, leading to the confrontation. During the clashes a policeman received head injuries for which he had to be hospitalised. The two arrested public servants were held in Enugu Federal Prison in South East Nigeria after reportedly being beaten and tortured during arrest and in police custody. They went to trial in December – after a judge refuse to hear the case in November – but journalists were banned from covering proceedings. Both men were still in prison at the end of the year.

Union members harassed as army takes over power facility:

Troops that were deployed from 14 November to guard public power company installations nationwide began harassing, detaining then releasing members of the National Union of Electricity Employees (NUEE). The union disputed the government’s claim that that troops were deployed to guard installations against terrorist attacks by the Islamic sect Boko Haram. The union believed that government deployed troops to ensure that the privatisation sale of the PHCN – still under negotiation - was pushed through. The NUEE called on its members to organise peaceful marches to protest at the non-payment of the 50% salary increment since June, as well as the harassment of union members by security officials.

Rwanda



POPULATION: 10,624,000
 CAPITAL: Kigali
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Trade unions have very little room for manoeuvre. The authorities are hostile to any form of protest, and exercising the right to strike is practically impossible. Fifteen trade unionists were dismissed during 2011.

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 2011

Background: Rwanda has the fourth most competitive economy in Africa. Economic growth was 8.8% and exports grew by 31% in relation to 2010. In the area of human rights, however, its score leaves much to be desired: the opposition, the press and civil society are muzzled.

Eleven workplace representatives dismissed at textile factory: On 14 January, the management at the UTEXWRA textile firm dismissed 32 employees, 11 of whom were trade union representatives, under the pretext of restructuring, but immediately went on to hire other workers to replace them. The trade unionists affiliated to COTRAF had already received threats from the employer after workers had complained about their working conditions to the media and the union had called for collective bargaining. The staff had, for example, denounced the removal of their milk rations to combat chemical poisoning (the factory produces insecticide-treated mosquito nets). On 14 February, the 748 workers went on strike in protest at the dismissals, forcing the management to negotiate with COTRAF over better working conditions and the reinstatement of the workers dismissed.

Four trade unionists dismissed at ECOBANK: On 19 May, ECOBANK-Rwanda dismissed 25 workers, including four trade union representatives, such as Jacqueline Kanazayire, a member of the National Labour Council. Whilst there is no irrefutable evidence that the employer wanted to get rid of these four trade unionists, CESTRAR denounced this attack on trade union rights.

Senegal



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

Two workers' protests were violently suppressed and an inter-union march was banned. Union representation elections were finally able to go ahead and are expected to contribute to strengthening the trade union movement, which has been weakened over recent years by the proliferation of organisations with little credibility.

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 2011

Background: Political tensions were heightened in the run up to the presidential elections, in a country often cited as an example of stability and democracy. Constitutional manoeuvres by 85-year-old President Wade to allow him to stand for a third term in office raised controversy.

Union representation elections finally held: Senegal's first union representation elections were held on 20 April with the participation of 18 trade union centres. President Wade declared himself in favour of strong unions, calling on the least representative organisations to join the most powerful ones in the interests of social dialogue. Unionists considered the holding of these elections to be crucial, as the fragmentation of the trade union movement on account of personal or political interests has led to many trade union rights violations. The

trade union centres had moved to have the elections adjourned on several occasions, considering there to be insufficient guarantees to ensure their fairness.

Inter-union march against high cost of living banned: The authorities banned a nationwide trade union march against the high cost of living scheduled for 28 January, considering it to be “groundless” following the government’s announcement on the reduction in the price of several basic foodstuffs. The Senegalese Human Rights League (LSDH), together with several trade union centres, condemned the “systematic banning of peaceful demonstrations planned by various segments of society, the latest being the march organised by the inter-union body, the Coordination des centrales syndicales”. The trade union movement was calling throughout 2011 for the implementation of the agreement concluded in August 2009 on a rise in pay and a reduction in VAT on “sensitive” products and services.

Postal union meeting violently dispersed: On 26 May, a general meeting of the post and telecommunications union Syndicat national des travailleurs/euses des postes et des télécommunications (SNTPTS) was violently dispersed by police and security officers. Ordered to clear the public space, workers meeting in front of the directorate general in Dakar at first refused and then, on being charged at by the police, rushed inside the building where tear gas was fired at them. The SNTPTS and the directorate general of postal services have been in dispute since 2010. The union denounced mismanagement and blatant acts of interference by the current director.

Unfair dismissals and arrest at Ciments du Sahel: On 19 September, a sit-in held by workers at the Ciments du Sahel cement plant was violently dispersed by security forces in Kirene. Tear gas was fired at the workers who were refusing to move on. Three strikers were injured. The sit-in had been organised in support of a worker who had been unfairly dismissed and arrested. The management was accusing him of being the author of a “defamatory” leaflet. The Confédération nationale des travailleurs du Sénégal (CNTS) demanded that the employer withdraw the charges, reinstate the worker and immediately engage in serious negotiations with the employees’ representatives. The worker was released at the end of September. He was not reinstated. Nine other employees were also fired for taking part in protest action. In addition, the contracts of workers who had joined the strike were not renewed. Ciments du Sahel employs 800 people and opposes any form of union organising at the cement plant.

Widespread violations during representation and workplace representative elections: The Confédération nationale des

travailleurs du Sénégal (CNTS) reported attacks on trade union rights during the union representation elections. At the Soleil Grafisol printing firm, for example, workers were not able to vote because the management had not submitted the lists to the electoral commission. The workplace representatives’ elections, held every three years, also gave rise to blatant violations at several companies, including at security firm Vigassistance, where the management tried to encourage the creation of another list in order to obstruct the union with majority support, the CNTS. On seeing, however, that it was not able to secure enough votes, the management asked the prefect to ban the elections, which he did.

Union-busting in gold mining sector: Since the launch of Sabadola Gold Operations in 2009, the Australian company has been pursuing a range of tactics and acts of intimidation to discourage workers from unionising. These include the employer’s systematic refusal to deduct workers’ union dues from their pay, despite the submission of subscription forms signed by the workers to confirm their union membership.

South Africa



POPULATION: 50,133,000

CAPITAL: Pretoria

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

Excessive violence was again used against striking workers, leading to the death of a municipal worker in clashes with police in March, and injuries to four engineering workers when rubber bullets were fired against strikers in July. There were also two cases of mass dismissals of striking municipal workers in Metsimaholo and Ekurhuleni, while seven union leaders were dismissed for whistle-blowing. Bridgestone SA persistently refused to recognise a collective agreement while the National Employers Association sought, unsuccessfully, to nullify a collective agreement in the engineering industry. The unions expressed concern about the high levels of casual labour and its effect on union rights, and called for a ban on the labour brokerage system.

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 2011

Background: Unemployment remained high despite ten years of economic growth. More than one in five South Africans were unemployed at the beginning of the year and more than half of those under 24 were jobless. In February President Jacob Zuma used his annual State of the Nation address to announce the establishment of a \$1.2bn fund for a three-year job-creation initiative. The report of the Commission for Employment Equity revealed that whites – who make up only 12.1% of the economically active population – still occupy 73.1% of “top management” positions. The government continued its campaign against the HIV/AIDS pandemic, although the education message was clearly missed by Xstrata coal which dismissed 12 HIV-positive miners.

Labour brokerage denies workers their rights: The Congress of South African Trade Unions (Cosatu) has called for a ban on labour broking practices in South Africa, explaining that “the system of labour broking guarantees employers an abundant supply of cheap labour that does not enjoy the benefits accorded to other workers and thus perpetuates the exploitation of our people and the negation of their living standards”. Other unions support the call for the ban. Christina Oliver, Vice President of the National Union of Metalworkers of South Africa (NUMSA) described labour brokerage as “a form of modern

day slavery”, because workers have no job security, often don’t dare join the union for fear of being rejected by the broker, and earn only the minimum wage while permanent workers doing the same job earn more.

High levels of casual labour undermining union rights: The situation of workers at a poultry factory highlighted the plight of casual workers. The factory, owned by Early Bird Farm, a division of Astral Foods, claimed in January to employ a total of 1100 workers, of whom 600 were casual workers. The workers themselves claimed that the number of casual employees was much higher. The casual workers said they were brought into the company by labour consultant agencies, or brokers. Most “casual” workers had been working on a “permanent basis” for several years but were not receiving any benefits. They were not affiliated to any labour union and the unions were not allowed to intervene in the event of a dispute. The issue of contract labour, or labour brokerage as it is called in South Africa, was under review as part of the government’s consultation process on the proposed new labour laws – the Labour Relations Amendment Bill, the Employment Equity Amendment Bill, the Basic Conditions of Employment Amendment Bill and the Employment Services Amendment Bill.

Anti-union employers in the wine industry: A 96-page report, “Ripe with Abuse: Human Rights Conditions in South Africa’s Fruit and Wine Industries”, issued in August by Human Rights Watch (HRW) disclosed on-site housing unfit for habitation, exposure to pesticides without proper safety equipment, lack of access to toilets or drinking water while working and barriers to union representation. The report went on to say that farm workers are some of the most poorly organised in South Africa. It estimated the percentage of workers represented by trade unions in the Western Cape agricultural sector was just 3%, compared with 30% among those with formal employment nationally. HRW found some farmers try to prevent workers from forming unions, in spite of the country’s laws. Proof that unions can help, in the rare cases where workers succeed in organising, is Sikhula Sonke, a women-led union of farm workers, which says its members now earn the minimum wage of 1,375 rand a month, unlike many in this poorly monitored industry.

Municipal workers’ union leaders dismissed: The Ekurhuleni Municipality dismissed seven leaders of the South African Municipal Workers Union (SAMWU) in February after they blew the whistle on illegal activity. They were Kwena Ramotlou, Thabile Malindi, Steven Ntuli, Willy Kekana, Winnie Skhosana, Takalani Nkhumeleni and Jeanette Mokone. The seven were dismissed on charges of “misconduct” for revealing that senior municipal officials had been issuing huge tenders without following the proper procedures. SAMWU was concerned that the tenders

that did not follow the Municipal Systems Act, Organisational Rights Agreement and the Strike Agreement of 2008, undermining workers' hard won gains.

In addition to being fired the union leaders were also arrested on 11 February, after SAMWU brought charges against the Municipality and the South African Police Services for shooting at protestors during strike action. The SAMWU leaders were arrested while in a hearing with the Municipality to try and resolve the dispute. Further hearings into their case dragged on for months.

Bridgestone persistent in refusing to recognise collective agreement: Bridgestone South Africa locked out 1,200 members of the National Union of Metalworkers' of South Africa (NUMSA) at two former Firestone tyre producing plants, Brits and Port Elizabeth, on 22 March. At issue was Bridgestone South Africa's refusal to accept a three-year collective agreement that was negotiated between NUMSA and the New Tyre Industry Employers Association (NMIEA) in September 2010 after a month long strike. All employers agreed to the terms with the exception of Bridgestone South Africa who insisted on implementing a lower wage increase for workers that are 'red circled' (those who earn above the minimums in the industry). The matter was taken to arbitration and on 22 February the arbitrator found in favour of NUMSA. Bridgestone responded with a lockout at its plants affecting 1,200 'red circled' and 'non-red circled' workers in an attempt to force workers to sign acceptance letters of wage offers far lower than the increase agreed to at the industry level. As a result, hundreds of workers who were not red circled and had no direct relation to the dispute were also affected. During the lockout Bridgestone SA refused to engage NUMSA, and instead told workers that if they wished to return to work they would be expected to individually sign acceptance of their wage offer, effectively shutting out the union and undermining the right to collective bargaining.

NUMSA applied to the labour court for an urgent interdict to have the lockout declared illegal as the union was pursuing negotiations and there was no strike in action but the court ruled on a technicality that the lockout was legal because of the suspended strike. The workers finally returned to work on 19 May, in recognition of the hardship suffered during two months without pay. NUMSA said it would continue to pursue the matter and seek an appeal.

78 SAMWU members dismissed: The Ekurhuleni Municipality fired 78 South African Municipal Workers' Union (SAMWU) workers on 8 June for "ill-discipline" displayed during a strike in February. They had initially been suspended pending consideration of their case. The strike took place in protest at

the council's dismissal of seven shop stewards (see previous article). All 78 were reinstated in July however, after the authorities accepted they had not followed due process in terminating the contracts of the workers, who were dismissed without a hearing.

Clothing industry bargaining council members violate collective agreement: The clothing industry's National Bargaining Council members have been ignoring their own standards. The bargaining council issued writs of execution to companies that failed to comply with the industry-agreed minimum wage. Clothing factories signed a memorandum with the union and agreed to raise their wages in three steps until they are fully paid up and compliant by April 2012 but by mid-2011 252 had already fallen behind the 70% (of the minimum wage) due in April 2011. "We will have to act against those companies," said a spokesperson for the Council. Yet at the same time it was found that some of the council's own members were outsourcing their manufacturing to other factories that did not apply with the minimum wage, or to factories in Lesotho and Swaziland which pay lower wages than those in South Africa. The bargaining council is a 50/50 partnership between the South African Clothing and Textile Workers' Union (SACTWU) and the formal manufacturing sector, represented by the Apparel Manufacturers of SA (AMSA), which collectively sets wages and other terms of employment which are then applied across the rest of the industry. AMSA blamed the problem on the number of new, non-compliant, companies springing up in the industry.

Police and supervisor shoot striking workers: Four striking workers from the Bolt Corporation Company in Krugersdorp were shot and injured by police using rubber bullets on 6 July. The National Union of Metalworkers of South Africa (NUMSA) protested that the police response was excessive. Although their members were angry, they had been behaving in an orderly manner since the beginning of the strike.

In another incident, two workers were injured when a supervisor at Lockers Engineering Company owner based in Krugersdorp opened fire at striking protestors outside the company premises. Both injured workers were taken to hospital where one was reported to be in a critical condition and the other stable. The supervisor was arrested. There were also claims that police had harassed, intimidated, and shot at strikers in Bellville and Germiston. The strike claimed the lives of two people, one hit by car in Germiston and another in Kwazulu-Natal, although there were no suggestions that the police response was the cause of these tragic incidents.

The incidents took place during country-wide strikes in the first week of July by workers in the engineering, gold, chemicals,

and coal sectors who were negotiating with employers for higher wages. NUMSA was joined by five other trade unions — the Chemical, Energy, Paper, Printing, Wood, and Allied Workers' Union (Ceppwawu), the Metal and Electrical Workers' Union (Mewusa), United Association of South Africa (Uasa), Solidarity, and the South African Equity Workers' Association (Saewa). The unions were calling for wage increases of 10% to 13%, while employers were offering 7%. NUMSA said some senior managers were earning 20 times more than union members. The strike ended after two weeks, with an agreement on pay rises of between 8% and 10%.

39 strikers arrested: The nationwide strike by metal and engineering workers to press for better pay and working conditions continued into a second week and on 13 July, police arrested 39 members of the National Union of Metalworkers of South Africa (NUMSA) in Deal Party industrial area outside Port Elizabeth. The workers were briefly detained at the Mount Road police station, Port Elizabeth.

Police intimidate striking engineering workers: Engineering workers who faced a hostile police reaction during strikes in support of a pay rise at the beginning of July (see two previous articles) attempted to open a criminal case against police in Gauteng. They were unable to because of police intervention and intimidation however, reported the National Union of Metalworkers of South Africa (NUMSA).

Employers association seeks to nullify engineering collective bargaining agreement: The National Employers Association of South Africa (NEASA) went to court in October an attempt to nullify the collective bargaining Main Agreement signed in July by engineering industry employers and the National Union of Metalworkers of South Africa (NUMSA). The NEASA had earlier tried to ban a strike by NUMSA and had petitioned the Labour Ministry not to officially publish the collective bargaining agreement. In November, however, the Labour Court dismissed the application brought by NEASA.

Security guards attack union officials: Security guards working for the poultry producer County Fair sprayed tear gas in the face of an official from the Food and Agricultural Workers' Union (FAWU). The incident happened on 6 December when FAWU officials went to see striking County Fair Workers in Klipheuwel, Durbanville. Two officials, Mlungilisele Ndongeni and Gafieldien Benjamin, asked to speak to management for further talks about workers' demands over bonuses. When they commented that it seemed inappropriate for the security guards to be having a barbecue during the strike, one of the guards suddenly sprayed tear gas in an official's face. Another security guard kicked Gafieldien Benjamin in the face and started to beat him

up. Striking workers came to assist their union officials and the guards responded by firing rubber bullets. Several workers were injured as a result. The FAWU lodged a complaint about the assault with the local police.

Meter reader company tries to block union formation: When 150 workers at the African Meter Reading Company voted for permanent employment, after being employed on six-month contracts for ten years, the employer, Khurishi Mphahlele, put ghost workers on the pay roll in an attempt to ensure that the workers did not meet the 50-plus-1% required for union recognition. Mphahlele claimed the company, which does water and electricity meter reading for the Johannesburg and Ekurhuleni metropolitan councils, was not his but his brother's, despite having signed letters naming himself as managing director. With the support of the South African Transport and Allied Workers Union (SATAWU) the workers went on strike at the end of the year.

Sudan



POPULATION: 43,500,000
CAPITAL: Khartoum
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 138 - 182

No independent trade union activity is tolerated by the repressive and authoritarian regime

TRADE UNION RIGHTS IN LAW

The 2000 Labour Code essentially denies trade union freedoms. Furthermore, the new Trade Union Act adopted in 2010 maintains a system of trade union monopoly at the federation level where all workers' organisations must conduct their activities under the umbrella of the Sudan Workers Trade Union Federation. The authorities may refuse to register any trade union if there is an established organisation which already serves the same objectives.

Additionally, the law still regulates most aspects of the trade unions' activities, including elections, their organisational structure. The unions' funds are controlled by auditors appointed by the Public Registrar. Workers from the Prison Service, Judges, and legal advisers of a number of departments in the public administration are not allowed to join or form trade unions.

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 2011

Background: Sudan split into two, creating the new independent state of South Sudan on 9 July. The split was peaceful but Sudan saw increasing popular unrest and widening armed opposition in the months that followed. In Khartoum, government authorities pursued familiar repressive tactics including harassing, arresting, detaining, and torturing perceived opponents of the government; censoring media; and banning political parties. President Omar Bashir faces war crimes charges over Darfur. In December the International Criminal Court asked for similar charges to be brought against his Defence Minister.

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. 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 and their whereabouts is difficult to obtain. Doctors went on strike during the year in frustration at repeated broken promises by the health ministry over pay and conditions. They were clearly expecting the worst: the former president of the Physicians Committee, Ahmad Al-Abwabi, urged security agencies not to attack doctors by arresting or beating them up as has happened in the past.

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: 1,186,000
CAPITAL: Mbabane
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Leaders of the country's national trade union centres faced continual harassment, including repeated arrests and raids on their homes. The authorities stalled the registration of a new national trade union centre that will merge the two principal organisations. At a meeting to prepare for the merger, ten trade unionists were arrested and detained. Three leaders were also arrested at an HIV/AIDS workshop, and many arrests were made during the pro-democracy demonstrations, including two visiting trade unionists from South Africa.

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 2011

Background: Swaziland's economic troubles deepened and the government announced it was going to cut 7,000 civil service

jobs. Nearly 70% of the population live on less than one dollar a day, 40% are unemployed, yet King Mswati III, Africa's last absolute monarch, has a massive personal fortune. An estimated 25% of adults have HIV, the highest rate in the world. In April the police cracked down heavily on the opposition, notably the trade unions, ahead of pro-democracy demonstrations. A Global Week of Action in solidarity with Swaziland's pro-democracy movement took place at the beginning of September, leading to further repression. An anti-government demonstration had to be called off in March after a campaign of intimidation by the government.

Trade unions repressed with ever greater ferocity: Trade union activities are being repressed with ever greater ferocity in Swaziland. Repeated arbitrary arrests, intimidation and beatings are used to silence activists. In the absence of any genuine social dialogue, trade unions resort to public protests and demonstrations which are violently repressed by the police and army using teargas, batons and rubber bullets. In the April and September pro-democracy demonstrations some of those taking part were taken away in trucks and abandoned in remote, faraway places, in the middle of nowhere, after having their mobile phones confiscated. Others, notably trade union leaders were beaten and intimidated, out of the view of the press. Fears ran particularly high given the memory of Siphon Jele, a trade unionist who died whilst in custody shortly after his arrest during May Day 2010. Police claimed he committed suicide but independent pathologist reports questioned this.

SFTU still a government target: In a country where political parties are still banned the Swaziland Federation of Trade Unions (SFTU) has long played a leading role in the pro-democracy movement. As a result it has come under fierce attack. Former SFTU general secretary Jan Sithole was constantly targeted by the regime for his activism, facing defamation, imprisonment and death threats. Barnes Dlamini, current SFTU president, appears to be suffering the same fate. He has been arrested several times, as have other leaders of the SFTU and the Swaziland Federation of Labour (SFL). Mr Dlamini's home was raided twice in April ahead of pro-democracy demonstrations and his family harassed.

Lack of trade union rights impacts health and safety: The widespread disrespect of trade union rights in Swaziland has had a serious impact on health and safety, notably in the construction industry where accident rates are particularly high. Employers often do not provide protective clothing for their workers, who in many cases are unaware of their rights regarding occupational health and safety. The Secretary General of the construction union Mtshali Selby told an international trade union delegation that visited the country in March, "We are still

using socks instead of gloves". The delegation was also told that workers faced low wages and delays in salary payments. There were few if any labour inspections and trade unions had to work under difficult conditions.

Trade union rights firmly suppressed in EPZs: Workers in the export processing zones (EPZs) who dare to become shop stewards or join a union are fired on the spot. Anyone taking part in a strike is also dismissed, even if the action is legal. Some employers in the textile sector use physical punishment as a disciplinary measure.

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.

Raid on SFTU President's home: Representatives of the security forces went to the home of the president of the Swaziland Federation of Trade Unions (SFTU) Barnes Dlamini on 11 April, on the eve of pro-democracy protests, at around 3 o'clock in the morning, waking his family and frightening his children. They searched the house without a warrant.

Police raid SFTU vice-president's home: Police raided the home of Simon Mvubu, the first vice president of the Swaziland Federation of Trade Unions (SFTU), at the end of April, apparently searching for bombs further to a tip-off. Mr. Mvubu said that the explanation given to him at the scene lacked credibility, as there was no information the police had about him that impacted on national security, as alleged by the commissioner. He believed the real reason was victimisation and harassment on account of his SFTU membership.

Trade unionists arrested at HIV/Aids workshop: The three trade unionists, Barnes Dlamini, President of the Swaziland Federation of Trade Unions (SFTU), Gugu Malindzisa of the International Research Academy for Labour and Education (IRALE) and Emmanuel Dlamini of the Swaziland National Association of Teachers (SNAT) were arrested on 14 May while facilitating a workshop in the Eastern Town of Siteki, on building capacity within society in order to tackle HIV and Aids and empowering women. The three men are the Swazi coordinators for a UK government funded project with the UK private sector union Unite, promoting equality and tackling HIV and Aids. The workshop was part of the project. The three men were briefly detained then later released but the arrests disrupted the workshop.

Police detain ten trade unionists: Ten trade unionists were arrested on 14 May as they attempted to hold a meeting in preparation of the merger of the Swaziland Federation of Trade Unions (SFTU) and the Swaziland Federation of Labour (SFL) into a new organisation, the Trade Unions Congress of Swaziland (TUCOSWA). Those arrested were Gugu Malindzisa of the Labour Coordinating Committee and the UNITE project, Phumelele Zulu of the SFL, Splasha Musa, Paul Mabila, George Mthethwa, Titus Nhleko, Bongani Siyaya and Emanuel Dlamini, all from the Swaziland National Association of Teachers (SNAT), Bongani Shongwe from the National Public Service and Allied Workers Union (NAPSAWU), and Gcinaphi Pateguana of the Swaziland Democratic Nurses Union (SWADNU). Armed police disrupted the meeting shortly after it began and took the unionists to the Lubombo Police Regional Headquarters. Barnes Dlamini, President of the SFTU was chairing the meeting, and was questioned on the spot by police as to its purpose. The police also wanted the names of all those present. The unionists were detained for an hour before being released. They chose not to continue with the meeting as they could not guarantee the safety of their members. The police claimed the meeting was illegal although the trade unionists pointed out that they did not require police permission in order to meet.

Police raid SFTU president's home again: The home of Barnes Dlamini, President of the Swaziland Federation of Trade Unions (SFTU), was raided by police looking for bombs on 20 June. Mr. Dlamini was woken up by at least 12 plain clothed officers who demanded to search his house for bombs and other bomb making material. The search lasted about three hours and some of Mr. Dlamini's political books were taken away. He was then taken to the police station to be questioned, although he says the police were polite throughout. SFTU Deputy Secretary General Vincent Dlamini believed that the harassment of their members may have been linked to the recent International Labour Conference in Geneva where the SFTU put their government in the spotlight. "This is not so much about looking for bombs and other material but rather about intimidation", Vincent Dlamini alleged. The police denied harassment.

Government delays creation of new trade union body:

On May Day trade unions announced the creation of a new trade union body the Trade Unions Congress of Swaziland (TUCOSWA) that would merge the country's major unions, including the Swaziland Federation of Trade Unions (SFTU), Swaziland Federation of Labour (SFL), National Public Servants and Allied Workers Union (NAPSAWU) and Swaziland National Association of Teachers (SNAT). TUCOSWA founding organisations submitted an application for official registration in August but received no response from the government, delaying the founding congress that was due to take place by the end of the

year. Union leaders believe that the government was purposely delaying the application, fearing the bargaining power that would be created by the amalgamation of these organisation. Once merged, the new body would boast approximately well over 50 000 members.

Police arrests two COSATU officials: Police arrested two officials from the Congress of South African Trade Unions (COSATU) on 7 September. COSATU had sent a 45 member delegation to Swaziland to support their trade union colleagues there during the Global Week of Action for democracy. Two of the delegates, deputy president Zingiswa Losi and deputy international organiser Zanele Matebula had gone to the southern town of Sitheki to take part in the march. Zingiswa Losi was about to address the marchers when riot police approached and ordered her not to. Losi and Matebula were arrested and taken to the police station for questioning before being released after an hour. Both were later deported. The protests were legal and had been sanctioned by the courts in Swaziland.

Teachers' leader hospitalised after scuffle with police: The president of the Siteki branch of the Swaziland National Association of Teachers (SNAT), S'phasha Dlamini, was hospitalised after being injured in a scuffle with police in a protest march on 7 September during the Week of Action. The incident occurred when riot police mounted the stage to prevent delegates from the Congress of South African Trade Union (COSATU) to address the march (see article "Police arrest two COSATU officials"). Mrs Dlamini asked the police to leave the two women alone, and was then arrested. She tried to resist the arrest and the police dragged her along the ground, so roughly that she sustained severe bruising to her arms and legs. She was questioned in a police car for a few minutes and then dropped off outside the hospital. A nurse said Mrs Dlamini's condition was not critical.

Join union – lose benefits, workers told: Employees of Swazi Wire received a memorandum from management on 12 October informing them that they stood to lose nine benefits and more if they joined a union. The memorandum arrived as the workers were about to unionise under the banner of the Swaziland Processing Refining Allied Workers Union (SPRAWU). Until then they had negotiated through a works council but felt that it was not doing enough. Workers were confident that they had more than the 51% support required to form a union, and saw the memorandum as a carefully timed piece of intimidation. The benefits to be forfeited included: salary advances; school fees loans; end of year bonuses and others.

Swazi police teargas trade union protesters: Police fired teargas outside a courthouse in the capital Mbabane on 1

November to disperse protesters calling on the Supreme Court to stop its work and respect a strike by lawyers. About 30 union leaders had gathered to support the lawyers but found that riot vehicles had ringed the courthouse and armed guards were positioned outside and inside the building. Zwele Jele, spokesperson for the Swaziland Law Society, denounced that people were being put through criminal appeals without representation. Striking attorneys walked out of the first session on 1 November saying hearings should be suspended until the labour dispute is resolved. The dispute began in June when Swazi Chief Justice Michael Ramodibedi suspended High Court Judge Thomas Masuku for allegedly “insulting” King Mswati III. Masuku, seen as one of the only critical voices in the Swazi judiciary, was fired in September.

Trade union leaders targeted in attempt to deter pro-democracy demonstrations:

Trade unionists played a leading role in the widespread pro-democracy protests across Swaziland in mid-April, which were met with violent repression by the security forces of King Mswati. Heavily armed police and military officers occupied Manzini and other key centres, teargas was used against protestors, and there were reports that security forces had fired live ammunition. There were many arrests, including those made at the headquarters of the Swaziland Federation of Trade Unions (SFTU) and the Swaziland Federation of Labour (SFL) which were surrounded then invaded by police. Police also used tear gas and water cannon at the headquarters of the Swaziland National Association of Teachers (SNAT) to disperse hundreds of teachers who were chanting and dancing.

Amongst the hundreds detained on 12 April were trade union leaders Barnes Dlamini, President of the SFTU; Vincent Ncongwane, Secretary General of the SFTU; Muzi Mhlanga, Secretary General of the SNAT; Sibongile Mazibuko, President of the SNAT; Nomkhosi Dlamini Gumedze, Secretary of the SFTU Women’s Committee; Quinton Dlamini, President of the National Public Service Allied Workers’ Union (NAPSAWU) and SFTU Central Executive Committee; Bheki Mamba, President of the Swaziland National Nurses Association (SNNA), and Phumelele Zulu, executive member of the Swaziland Federation of Labour and Swaziland Democracy Campaign (SDC) activist.

Barnes Dlamini gave details of his arrest in an interview with the ITUC. “They stopped me as I was on my way to the protest and took me to the police station where they held me in detention for around nine hours. They then took me home and four police officers were stationed in front of my house for three days to make sure that I didn’t leave.”

The trade unions and the Swaziland United Democratic Front were calling for genuine democratic transition, an end to the emergency decree enacted by the King in 1973, and the lifting of the ban on political parties.

Tanzania



POPULATION: 44,800,000
CAPITAL: Dodoma
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Neither law nor practice are conducive to the respect of trade union rights, although the global union federations are making some progress with enforcement by means of agreements signed with major multinational employers.

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 2011

Background: The country boasts East Africa’s second-biggest economy, although more than 50% of Tanzanians still live

below the poverty line. Fierce repression of a rally to protest against government corruption in January left two people dead and nine injured.

Trade union rights often ignored: 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. Workers in the gold mines have reported widespread violations of their trade union rights, although the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) has signed a framework agreement with Anglo Gold Ashanti to improve the respect of workers' rights. The Building and Woodworkers International (BWI) has also signed a framework agreement with Royal BAM to promote and protect worker's rights.

Togo



POPULATION: 6,028,000
CAPITAL: Lomé
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

In spite of mass action against serious violations of the labour legislation and trade union rights at the Sprukfield pharmaceutical factory in the export processing zone, and the signing of an agreement in May, the majority of the 120 employees have still not been reinstated.

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 2011

Background: Fuel price increases gave rise to bitter tensions in a country where 70% of the population lives on less than two dollars a day. Togo saw an easing of political tensions after many difficult years.

Widespread abuses in export processing zone: Three trade unions were recently set up in the export processing zone (EPZ). The obstacles to their formation and operation have, however, 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 or so firms in the EPZ 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. As a result, the exemptions regarding dismissal, arbitration and dispute settlement remained in force, to the workers' detriment.

Implementation of amended law on export processing zones overdue: The government amended the 1989 law governing export processing zones, with the stated aim of ensuring better respect for the labour legislation in this sector, but has not yet taken steps to bring the new law into force. In October, COSYNTRAZOFT, the umbrella organisation grouping EPZ labour unions, made an urgent appeal to the authorities to implement the law. Conditions in the export processing zone are characterised by countless workers' rights violations: unfair dismissals, working hours exceeding the legal limit, non-compliance with statutory leave and social security obligations, and the obstruction of trade union activities.

Majority of 120 unfairly dismissed strikers still not reinstated: On 27 May, following months of intense action, COSYNTRAZOFT, the umbrella organisation grouping EPZ workers' unions, managed to secure a tripartite agreement providing for the progressive reinstatement, starting in June, of the Sprukfield workers that had been unfairly dismissed at the end of 2010. By the end of 2011, however, only a handful of people had been allowed to return to their posts, after writing a letter of apology. The management persistently flouted the law throughout the year. The Association of Export Processing Zone Employers also used all kinds of delaying tactics to prevent a

settlement of the dispute. The appalling working conditions at the Sprukfield pharmaceutical plant had given rise to a serious labour dispute at the end of 2010.

After management refused to negotiate with workplace representatives and then refused to accept their strike notice, 120 employees out of the total workforce of 132 downed tools on 9 November 2010. The EPZ management's subsequent offer to mediate raised the workers' hopes of a fair outcome. On 3 December, however, it confirmed Sprukfield's request to dismiss the three SYNATRAZOFT representatives, Fayossey Koffi Agbegna, Panema Hezo and Kangbeni Delphine. The other workers who had taken part in the strike were also sacked, but received no formal notice of their dismissal.

Conditions at Sprukfield are characterised by excessively long working hours, unpaid night work, no paid leave and no social security. Its employees have to work on machines for over nine hours a day, six days a week, without being paid the corresponding overtime at the legally established rate. None of them have ever benefitted from paid leave or maternity leave. They do not have employment contracts and the employer refuses to recognise their union representatives. The company does not issue wage slips, does not take the appropriate safety measures and only makes contributions to the Social Security Fund for two percent of its employees.

Tunisia



POPULATION: 10,480,000

CAPITAL: Tunis

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

The trade unions found themselves at the forefront of the popular protests throughout this decisive year in the history of the country. The Union générale tunisienne du travail (UGTT) played an essential role in the Jasmine Revolution, thanks to its thousands of activists experienced in the art of organising who supported the spontaneous revolt of the country's youth. As the only established social force it conveyed the people's demands to the transitional authorities, and then to the government set up following the first free elections in October. For 12 months the trade unions suffered the same repression meted out to the rebel movements, trade unionists were beaten and arrested in every region of the country, trade union premises were attacked. At the end of the year, the UGTT held its congress and elected a new executive.

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 2011

Background: A thirst for freedom and social justice, soaring food prices and the hopelessness felt by the country's youth triggered the Tunisian revolution whose shock waves spread far beyond the country's borders. After the death at the beginning of January of Mohammed Bouazizi, the young street vendor

who tried to burn himself alive on 17 December 2010, dissent spread rapidly across the country. The police repression was ferocious, but failed to save Ben Ali's regime. The former president was forced to flee on 14 January and take refuge in Saudi Arabia. Thousands of Tunisians tried to leave the country during the disturbances in which nearly 300 died. In the meantime the uprising in Libya led to an exodus of hundreds of thousands who sought refuge in Tunisia. In October, the first free elections in the history of the country to choose the members of the Constitutional Assembly were won by the Islamist party Ennahda. The party's leader Hamadi Jebali became Prime Minister. The President is Moncef Marzouki (a leftwing nationalist). Economic growth collapsed and unemployment has steadily risen. The Islamisation of society is evident, but fundamental socio-economic reforms have yet to be seen.

The quest for decent work: The Ben Ali clan's stranglehold on the Tunisian economy meant there was little hope of any respect for labour legislation. Until the revolution, the authorities shamelessly plundered the country's resources, exploiting its workforce in every sector of activity. Once the regime fell, the social protest movement quickly turned a critical eye on this immoral system that relied heavily on keeping wages down to attract investors. The highly structured national trade union centre the Union générale tunisienne du travail (UGTT) soon established itself as a key player in the transition process, negotiating pay rises and better working conditions with private and public employers.

In the coal mining region, teachers who had lost their jobs for participating in the events of 2008 were reinstated. A lot of progress was also made during the year towards eliminating subcontracting in the public sector, giving legal employment status to the thousands of civil servants who had been exploited for years without a proper employment contract and developing a social security system worthy of that name.

Another big challenge facing the trade unions is the revision of the country's labour legislation, heavily slanted in favour of employers in the export processing zones, and the organising of workers in the zones.

Two new national centres: The Tunisian General Confederation of Labour (Confédération générale tunisienne du travail - CGTT) which has been awaiting registration since 2006, officially began its activities during the year, as did the Tunisian Workers' Union (Union des travailleurs tunisiens - UTT). Both organisations advocate trade union pluralism, and their general secretaries are both former officers of the UGTT. The CGTT very quickly experienced internal divisions however, with several of its officers trying to overthrow the leadership. Given the tens of

thousands of new members registered by the principal national centre, it would seem that the level of union membership among the working population was far higher at the end of 2011 than it was a year earlier.

No women in the new UGTT executive: The UGTT's new executive board elected at the end of 2011 does not include any women, even though they make up 47% of the organisation's membership, 60% in education and up to 70% in the textile industry. The UGTT has promised however to establish quotas for women's representation in its different structures. In March, the ITUC launch the Arab Women's Trade Union Network in Tunis, a communications network for the exchange of information and expert knowledge.

The important role played by the UGTT during the revolution: Despite being frequently silenced and having to deal with the Ben Ali regime, the national trade union centre the Union générale tunisienne du travail (UGTT) has managed to keep a popular base and a real mobilising capacity. The spontaneous revolt by the country's youth hungry for social justice was given the backing of the local and regional branches of the UGTT, who urged their sometimes reticent leaders to follow them. Local organisations played a driving role in coordinating the movement.

In the towns, UGTT premises often served as focal points, where activists issued calls to action and where the demonstrators began their marches. They also became targets, along with their occupants. In Kasserine, Youssef Abidi, a trade union official, explained how the police burst into the UGTT premises where rebel youths had taken refuge: "they set about hitting everyone and breaking everything".

Pressed by its grass roots organisations, the UGTT declared general strikes in three regions that had a decisive impact, forcing President Ben Ali to flee the country. On 18 January, the three UGTT ministers in the transitional government formed the previous day resigned in protest at the presence of members of the former regime and in response to the street demonstrations. The strikes and repression continued.

On 25 January, militiamen and thugs attacked the regional offices of the UGTT in Gafsa, Kasserine, Béja, Monastir and Mehdiya. The assailants were armed with clubs, stones, knives and chains. Popular protests continued, leading to significant changes in the government and the departure of figures tainted by the past. The Tunisian revolution left a total of 300 dead.

Police repress demonstrators leaving one dead and many injured , UGTT premises attacked: On 6 and 7 May the police violently repressed anti-government demonstrators in Tunis,

striking many journalists and confiscating their materials, chasing demonstrators until they reached the UGTT premises in Avenue de Carthage, where they forced open the doors and attacked everyone inside. At least one person died and many were injured. On 9 May, journalists held their own demonstration, organised by the National Union of Tunisian Journalists (Syndicat national des journalistes tunisiens – SNJT), in the centre of Tunis to denounce the violence. Disturbances broke out in other parts of the country. In Metlaoui (Gafs) the headquarters of the local branch of the UGTT was burnt down. It all began when Fahrat Rajhi, a magistrate and briefly the Minister of the Interior, denounced the antics of Ben Ali's close allies and preparations for a military coup in the event of an Islamist victory in the October elections.

Repression of protesting journalists: At about two in the morning on 3 November, hunger strikers were violently evicted from the premises of the Dar Al Anouar newspaper in Tunis. The journalist Wafa Boujmil and the technician Salah Jaâfar were occupying the premises in protest at their dismissal. They had had no proper status. Also in November, the management of the private television channel Hannibal TV dismissed five journalists and two technicians for organising a sit-in to demand a revision of their contracts and better working conditions. The National Union of Tunisian Journalists (Syndicat national des journalistes tunisiens – SNJT) and the General Culture and Information Union (SGCI), affiliated to the UGTT, denounced their unfair dismissals and the restrictions that several media outlets placed on trade union activity. The SNJT also criticised threats and attacks on journalists on several occasions, as well as attempts by political parties to impose their control over the sector. It urged the authorities to guarantee freedom of the press in the future constitution.

Smear campaign against the UGTT: The UGTT very quickly became the target of attacks after the flight of Ben Ali in January, particularly from big business. The economic press spoke out against attacks on the right to work and the trade unions' lack of patriotism in frightening off foreign investors. However it was the attacks on employment rights and the glaring lack of social justice that fomented the revolution. The UGTT leadership was also accused by members of the Constitutional Democratic Rally (Rassemblement constitutionnel démocratique - RCD), Ben Ali's party, of being behind the many strikes in order to create anarchy. The UGTT, on the contrary, had sought to channel the people's demands, calling on them to suspend their strikes in the run-up to the October elections.

At the end of the year the UGTT protested several times about a smear campaign against it by members of the Constitutional Assembly and malicious rumours circulating in the press and

on social networks about its leadership. The name of the UGTT General Secretary was mentioned in several corruption cases. At the end of December, the organisation's Congress elected a new, very different leadership. The UGTT leaders recognised the organisation's past mistakes in supporting Ben Ali's candidacy in past presidential elections. Finally the UGTT said it would strive for the organisation's independence from the government, political parties and all institutions, in defence of workers' demands.

Union activist hurt in Faculty of Arts protest: At the end of November university lecturers went on strike in protest at the occupation of the Manouba Faculty of Arts (Tunis) by a group of young religious fundamentalists who had interrupted classes and prevented exams going ahead. On 6 December the young fundamentalists prevented the dean from going to his office. This was followed by verbal and physical threats. Habib Mellakh, a lecturer in French and trade union activist, was injured and had to be taken to the casualty department. In the name of individual freedom, the protestors were demanding that women students who wished to wear the niqab (a veil covering the whole face except the eyes) should be allowed to do so during classes and exams, which was opposed by the scientific committee, made up of elected representatives of students and lecturers. By the end of the year the situation had reached stalemate, with the authorities refusing to listen to the request by the students and the dean to remove the 30 occupiers, of whom only five were enrolled in the faculty. Similar events occurred at other schools in the country, with teachers, particularly women, complaining of attempts at intimidation.

Two trade union leaders prosecuted: Hassen Ksibi, journalist and Assistant General Secretary of the General Culture and Information Union (SGCI), and Sami Tahri, General Secretary of the Secondary Education Trade Union (SES) went on trial on 22 December in Tunis. The former had published an article in which the latter had denounced corruption in the Ministry of Education. Sami Tahri stated that the trial was an attempt to destabilise the UGTT just before its Congress. The verdict was postponed until 5 January 2012. In a press release the UGTT spoke of a "harsh blow for the freedom of opinion and expression... this act goes against the spirit of the revolution. It obstructs the dismantling of the corruption that became rife under the former regime."

Uganda



POPULATION: 33,400,000
 CAPITAL: Kampala
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Police stormed a sit-in by steel workers and prevented union representatives from meeting food workers. The government imposed its own choice of leader on a nurses union, but did finally recognise public service unions as bargaining agents. A report by a human rights NGO found widespread denial of workers' and trade union rights.

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 2011

Background: President Museveni won a fourth term in the February election, but protest demonstrations followed. Fierce repression by the Ugandan security forces resulted in the death of nine people, while opposition politicians and hundreds of supporters were arrested. Civil unrest increased as inflation rose to 16%, including a wave of strikes by teachers, doctors, tea pickers, factory workers, over pay and conditions.

Good news – government finally recognises civil servants' unions: The government finally signed a recognition agreement with the public service unions on 22 November, ending an 18 year wait. Although the government had amended trade union

decree number 20 of 1976, which prevented civil servants from organising, in 1993, the changes had never been implemented. Under the November 2011 agreement ten unions were recognised to negotiate directly with government on behalf of unionised workers. However, the National Organisation of Trade Unions (NOTU) expressed surprise that the Uganda Public Employees Union (UPEU) had not been included.

The head of the Public Service and Secretary to the Cabinet, Mr John Mitala, said there would be a public service negotiation and consultative council to facilitate discussion between the government and public service labour unions.

Widespread denial of workers' trade union rights: A report released in April by the Foundation for Human Rights Initiative (FHRI) found that employer refusal to recognise and negotiate with trade unions remained widespread. The report also showed that the increasing use of casual labour had further weakened the ability of workers to enforce these rights as employees are not given written contracts of employment and have no job security or union representation. In the absence of union protection, employee bargaining power is severely weakened by the high rate of unemployment. There are too few labour officers and the industrial court is inoperative as no judge had been appointed to the court. The shortage of labour inspectors also means that the enforcement of occupational safety and health standards is weak

NOTU blocked from meeting workers at rice company: On 16 March, management at Tilda Uganda Ltd, one of the largest processors of rice, denied National Organisation of Trade Unions (NOTU) officials access to the company premises to conduct a meeting with the workers. Anti-riot and regular police deployed at the premises denied them access at the request of management, saying NOTU officials were bent on inciting workers to strike, an allegation the unionists denied. They were there to address long-standing issues over workers welfare. NOTU had been pushing for the creation of a trade union to boost workers' bargaining power, but management obstructed this. The company wanted to decide which union should represent the workers, and they did not want NOTU. After being denied access, NOTU tried to address the workers by the road side in the nearby Buwuni Town. However, anti-riot police later arrived and dispersed the gathering.

In November 2010, the workers had gone on strike protesting the poor working conditions and the management's refusal to allow them form a labour union.

Police storm steel workers sit-in: When workers at Tembo Steels Uganda Limited organised a sit-down strike in protest

at low pay and poor working conditions on 28 April, what was described as a heavy deployment of police stormed the meeting. Workers reported low pay, ill treatment, workplace accidents and sexual exploitation. They had already protested in 2010 about the same issues, to no avail. The sit-in prompted the Uganda Mines, Metal, Oil, Gas and Allied Workers Union to intervene and take up the workers' grievances with management.

Government interference in choice of union leadership: The Ministry of Gender Labour and Social Development blatantly interfered in the affairs of the Uganda Nurses and Midwives Union (UNMU) in December, by not allowing them to choose their own method of choosing their next general secretary. The union wanted members to select a new leader at their next Annual General Meeting in accordance with its constitution. Yet the Ministry insisted the new person should be selected by interview panel. The union's former leader, Patrick Bateganya, had died suddenly (of leukemia) a month earlier. In the meantime, the permanent secretary of the ministry had already unilaterally appointed Ms Edith Nasuuna as acting secretary general.

Zambia



POPULATION: 13,050,000
 CAPITAL: Lusaka
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

A Human Rights Watch report revealed a culture of anti-trade union practice at Chinese run mines. Over 2000 striking miners were sacked in October although the government quickly stepped in to order their reinstatement. Twelve protesting miners were arrested in October, while the retail chain Shoprite sacked all its unionised staff countrywide in March following a strike.

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 2011

Background: Michael Sata, of the Patriotic Front, won the presidential elections in September 2011. He appointed former Zambia Congress of Trade Union's (ZCTU) leader Fackson Shamenta as Labour Minister and Rayford Mbulu, former president of the Mine Workers' Union of Zambia (MUZ) as deputy minister. Former President Chiluba, who had also been leader of the ZCTU, died in June. Poverty is still widespread. Life expectancy is among the lowest in the world and the death rate is one of the highest - largely due to the prevalence of HIV/Aids.

Charges dropped against Chinese supervisors charged in mine shooting: The prosecutors in charge of the case against two Chinese supervisors who shot at miners in October 2010 decided at the beginning of April to drop the charges against them after the company agreed to pay compensation. The two were facing 13 counts of attempted murder after they fired live ammunition into a crowd of miners on 15 October 2010 during a protest over a wage dispute at the Chinese-owned Collum coal mine, a major supplier of coal to Zambia's copper and cobalt sector. The incident provoked outrage among many Zambians, whose opposition is growing to China's huge economic influence over their country.

Working conditions at the mine are extremely harsh and wages are often no more than four dollars a day. The Chinese supervisors speak very little English and nothing of the local languages. They are therefore unable to communicate properly with their workers.

At the time of the incident the Zambian government had promised that the shootings would be thoroughly investigated and that a full and fair trial would be held. The prosecutors did not give a reason for dropping the charges.

Labour rights abuses at Chinese run mines: A report by Human Rights Watch (HRW) released at the end of October revealed a string of workers' rights abuses at Chinese mining companies in Zambia. The report, "'You'll Be Fired If You Refuse': Labor Abuses in Zambia's Chinese State-owned Copper Mines," based on interviews with miners between November

2010 and July 2011 reveals long working hours and appalling health and safety standards. Miners are expected to work 12 or even 18 hour shifts in poor ventilation, which can cause lung disease, and lacking vital safety equipment. Protests are not tolerated. Outspoken union representatives faced retaliation, and the workers' rights to join a union were violated by Chinese managers, HRW researchers found. (see Violations).

Complaints about Chinese business practices in Zambia stretch back years and often are pointed to as examples of problems with Chinese investors across Africa. In 2005, an explosion at a Chinese-owned factory in northern Zambia killed 51 Zambian workers. In 2010 two Chinese managers were accused of shooting coal miners during a labor dispute (see 2010 Survey and Violations below).

Another practice undermining attempts by workers to improve their lot is casualisation. Speaking in May 2011, Munda Sikufele president of National Union of Miners and Allied Workers warned that most foreign investors were circumventing labour laws by employing workers as casuals. Mr Sikufele called on the government to stiffen regulations and intensify labour inspection.

President Michael Sata came to power in September vowing to clean up the mining industry.

12 protesting miners arrested: Twelve miners were arrested on the night of 10 January for blocking a road during a protest outside the premises of Non-Ferrous Corporation Africa Mining (NFC). The miners had organised the peaceful demonstration because NFC management had not informed them, or their union, that the company they were working for, NFC mining department, a subsidiary of the NFC, had transferred ownership to a company called JCHX, which was operating within the same premises. The miners claimed that management had breached the contract signed with NFC by not informing and not paying them terminal benefits.

The workers who went to join the protest at the entrance of NFC found themselves faced with State police in full riot gear. The 12 miners were charged with obstruction for inconveniencing people that were using the road.

Shoprite sacks unionised workers following strike: Shoprite management sacked all unionised workers countrywide on 31 March following a four-day strike that paralysed operations.

Shoprite deputy general manager Charles Bota said that all the unionised workers had been dismissed for non-compliance to company regulations. Workers started the strike on March 28

to demand an increase in the minimum monthly wage, a better pension and for workers to be given permanent jobs.

The following day the, National Union of Commercial and Industrial Workers (NUCIW) reached an agreement with management at a meeting chaired by the ministry of labor and social security. At the time Shoprite said it was reversing its decision to sack all unionised workers. However it then issued letters of suspension and gross misconduct to some union officials and workers who participated in the recent countrywide strike. The Labour Ministry again intervened to resolve the matter.

2000 striking mine workers fired: At least 2000 striking workers at Non-Ferrous Corporation Africa Mining (NFC) and JCHX Mine Construction Zambia Limited were summarily dismissed on 19 October for going on strike and refusing to resume work.

Workers at NFC and JCHX Construction Zambia Limited, a constructing company for NFC, have been protesting for two weeks asking for an across the board pay rise and improvements in their conditions of service.

The dismissal notices gave the workers the right to appeal within 48 hours. The government stepped in the following day however and ordered the company to immediately reinstate them. Mines minister Wylbur Simuusa arranged to meet Non-Ferrous China Africa (NFC) management and employees to iron out the differences.

After the incident, the unrepentant NFC chief executive officer reportedly said that the reinstated workers would be screened and the "troublemakers" disciplined.

A culture of anti-union intimidation at Chinese run mines: Several Chinese-run operations have prevented workers from exercising their right to join the labor union of their choice through threats and intimidation says the Human Rights Watch (HRW) report "'You'll Be Fired If You Refuse': Labor Abuses in Zambia's Chinese State-owned Copper Mines" based on interviews during the year. A union representative at Sino Metals told HRW that Chinese managers intimidate union members and try to harass union representatives into leaving their job. Another union representative at Non-Ferrous Mining Company Africa (NFC) reported that he had been harassed several times, including being forcibly transferred to distance him from where union meetings are held and faced disciplinary action, with the threat of dismissal, for attending a union meeting. Miners in other companies run by the Chinese or other multinationals also described retaliation against outspoken union representatives, including docked pay or refusal to renew their contracts.

Zimbabwe



POPULATION: 12,571,000
CAPITAL: Harare
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The ZCTU faced continued police harassment, including a visit to their offices by plain clothes police, the arrest of participants in a Women's Day march and the disruption of a women's education programme. The police also tried unsuccessfully to ban the ZCTU's May Day marches and Zanu-PF youths violently disrupted a ZCTU event. Meanwhile striking teachers faced threats and beatings while farm workers who organised to press for their pay claim found themselves jobless, homeless and facing death threats. A child died as a result.

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 2011

Background: Police arrested 46 political activists in February and charged them with treason for screening video footage of the protests in Egypt and Libya. Lawyers for those arrested said

at least seven had been tortured. A report issued by Amnesty International in May also found there had been increased intimidation, arrest and torture of Human Rights defenders in the country, then a BBC documentary broadcast in August revealed horrific levels of torture by Zimbabwe's security forces in the country's rich Marange diamond fields, including severe beatings and sexual assault. ZCTU leader Wellington Chibebe left to take up his post as Deputy General Secretary of the ITUC in September.

POSA still used to curb trade union activity: Old habits die hard in Zimbabwe where the controversial Public Order and Security Act (POSA) has long been used to prevent or disrupt trade union activity, particularly ZCTU-organised events. In March, for example, the Bulawayo western district police tried to use the POSA to prevent a women's day march, but they were over-ruled by the Magistrate's Court.

Government fails to implement ILO recommendations: A year after the ILO Commission of Inquiry's report "Truth, reconciliation and justice in Zimbabwe", was made public, the government had failed to implement any of its recommendations, despite promising to do so. Those recommendations included the cessation of anti-union arrests, detentions, violence, torture, intimidation and harassment; strengthening of national institutions and social dialogue; training on freedom of association and collective bargaining; civil liberties and human rights; and the reinforcement of the rule of law and the role of the courts, as well as the creation of a Zimbabwe Human Rights Commission.

Collective bargaining agreements not implemented: In October a Harare labour lawyer, Arthur Marar said that companies were not honouring collective bargaining agreements, with many employers failing to pay or delaying payment to workers. Furthermore they were failing to disclose full information during negotiations, as required by law.

A policy of restricting peaceful demonstrations: Events in Tunisia and Egypt made the unity government, or at least the Zanu-PF side of it, nervous. The police and the pro-Mugabe Central Intelligence Organisation kept a watchful eye on civil society groups following the North African protests, quickly stepping in to break up any mass gathering with potential to turn into anti-Mugabe mass action. On 29 February a Joint Operations Command (JOC) meeting for Bulawayo took place at which prison, police, army and intelligence bosses agreed that in the wake of the North African protests they would deploy a show of force to dissuade demonstrations. The JOC also reportedly resolved to ban all peaceful gatherings and processions, and sought to apply that policy to ZCTU events among

others. When the ZCTU announced the plans for its traditional May Day marches, the police accused it of using the events to stoke violence.

Police try to prevent May Day marches: In April 2011 the ZCTU notified the police in all 38 Districts of its intention to commemorate International Workers' Day on 1 May. The police banned all processions in Mutare, Harare and Masvingo and took unduly long to respond to letters in other Districts. The ZCTU made an application to the High Court seeking an order to declare police action unlawful and allow commemorations and processions in all 38 Districts. After the High Court granted an order in favour of ZCTU on April 29, the processions went ahead in most cities except in Masvingo, where the police defied the High Court Order and maintained their ban on the procession.

Police ban peaceful demonstration by bank employees: On 18 May the ZCTU reported that the police had instructed the Zimbabwe Banks and Allied Workers' Union (ZIBAWU) to suspend its plans for a peaceful demonstration "until further notice", just a few days after initially approving plans for the protest against low pay and poor working conditions. The Harare Central District Police claimed the reason for suspending the march was that 'certain political parties would want to take advantage of the gathering at Stanbic Bank to engage in political violence.'

Dismissals and death threats for farmworkers who tried to organise: At the beginning of the year, workers at the Bemba Farm in Marondera found themselves being summarily dismissed and thrown off the farm at night by Zanu PF youths after engaging in union activities. The farm's 700 workers had been pressing for the national employment council approved agro-wage of USD80 a month, rather than the USD55 a month they were being paid as "general" agricultural workers. In late 2010, they formed their first workers committee with the help of trade unionists, but the farm owner responded by dismissing all those involved.

One employee, Guidance Chipera, said Zanu PF youths took him away on a rainy day and dumped him with his family and his belongings by the road side. Both people and belongings got soaked and his one-year-old child died a few days later. Another employee, Johannes Mfiri said he was sacked on 4 January for encouraging workers to join the General Agriculture and Plantation Workers' Union (GAPWUZ). Other employees said many have been affected in a similar way, with the union confirming they had already dealt with 18 such cases.

Meanwhile a man named Cleopas Kundiona whose company provides security services at the farm, threatened that those seen going to the unions would be drowned in a nearby dam, in a repetition of what happened to many people in 2008, another employee said. The unionists said they had also received death threats from Kundiona whom they alleged presided over the "throwing away" of workers. Kundiona, who claims to be spokesperson and legal advisor to Francois Smit, owner of the farm, said unionists were manipulating the workers, and that the farm had sued the GAPWUZ union, their representatives and some of the workers for USD1,114,500 as compensation for damages caused during an "illegal" strike organised in 2010.

Police harassment of ZCTU continues: On the morning of 3 March the ZCTU headquarters were visited by three plain clothes police detectives. They demanded a list of the ZCTU Executive members and any 'new information' that they might need to know about the organisation.

Police disrupt ZCTU-organised women's march and arrest participants: When the ZCTU notified the police of its intention to commemorate International Women's Day on 8 March with a procession, permission was refused claiming that the ZCTU had not complied with all sections the Public Order and Security Act. However the Magistrates Court of Bulawayo ordered that the commemoration and procession could go ahead as planned. The police ignored that order and, dressed in riot gear and wielding batons, disrupted the event and arrested 19 trade union members including a pregnant woman. Three of the women were forced to remove their ZCTU T-shirts, and were left in the centre of Bulawayo in just their bras, until sympathisers lent them clothes to cover themselves up with. A group of about 20 police officers invaded the venue for the procession and did not permit participants to gather; another group of 17 raided the ZCTU Bulawayo offices and ordered people to disperse.

Police disrupt ZCTU women's programme: Police disrupted a civic education programme for women organised by the ZCTU in Gwanda at the beginning of April. Towards the end of the morning programme, the police arrived and demanded to be allowed to attend the workshop. The ZCTU officials explained the purpose of the training and told the police that they could not allow them to attend, and that there was no legal requirement for them to do so. The police then took the two facilitators to the station where they were interrogated. The ZCTU officers maintained their position and the police responded by banning the workshop. When the facilitators went back to the venue, the owners of the hotel could not allow them to proceed since the police had already threatened the hotel management. The workshop was therefore abandoned midway.

In Beitbridge a police officer claiming to be from the President's Office wanted to attend a training session of the same programme taking place there, but after explanations from the ZCTU officials that they would not allow him in, he left and no further disturbances were experienced.

Victimisation of workers at Stanbic Bank: In May the ZCTU publicly expressed concern at the continued victimisation of workers at Stanbic Bank by the bank's top management in response to the Zimbabwe Banks and Allied Workers' Union (ZIBAWU) plans to take industrial action. Some workers were unilaterally transferred after they were deemed too militant and Workers' Committee meetings were banned. The union explained that the reason they were taking action was that top management had failed to address or even listen to workers' grievances while awarding themselves very generous allowances. The ZCTU reported that the top manager at the bank took home more than \$140 000 as a production bonus in the month of March 2011, while refusing to listen to workers' demands for a 30% salary adjustment. The ZCTU called on the Ministry of Finance to investigate the situation at the bank and in the financial sector in general.

Militia and CIO harass striking teachers: The Progressive Teachers Union of Zimbabwe (PTUZ) reported that their members were being harassed in some areas for taking part in strike action that started on 22 June. PTUZ President, Takavafira Zhou, told SW Radio Africa that youth militia, intelligence agents and school heads aligned with ZANU PF, were intimidating teachers and making threats. "Our teachers were beaten by rogue militia in Rushinga and there have been serious threats in Mberengwa, Gokwe and Mashonaland South," Zhou said. He added that officers from the Central Intelligence Organisation had visited PTUZ offices around the country.

The union said the strike was intended to press the government to commit to a time frame for concluding salary negotiations. Despite having met with Prime Minister Morgan Tsvangirai, Robert Mugabe and the Ministry for Public Service, asking for salaries equal to the Poverty Datum Line, teachers had still not received the salary increases they were promised by the President. The government had proved reluctant to remove 75,000 "ghost workers" on the payroll who were using up money that could have contributed to civil servants wages. The union was also promised that revenue from the sale of diamonds would be used to improve wages, but that was not done either. The PTUZ suspected political leaders of pilfering the money from diamond sales. The PTUZ president also accused the Zimbabwe Teachers Association (ZIMTA), of being run by officials closely linked to ZANU PF, and alleged that some had been discouraging PTUZ members from participating in the strike. The dispute was

finally resolved, at least partially, through a package deal for civil servants negotiated by the APEX council. (see above).

Police bar ZCTU march: The police turned down an application by the Zimbabwe Congress of Trade Unions (ZCTU) to hold a commemoration against police brutality in Kuwadzana on Saturday 17 September, and warned that they would clamp down on demonstrators should they defy the directive. In the letter from the Chief Superintendent, it was claimed that the march "may be hijacked by political malcontents and criminals and degenerate into violence,". The commemorations have been held since 2007 to mark the police brutality of 2006 when they descended on demonstrating workers and arrested over 200 of them in a countrywide swoop.

Zanu -PF youths disrupt ZCTU meeting: Zanu -PF youths violently disrupted a ZCTU meeting on 22 September as it was being addressed by Lovemore Matombo and Progressive Teachers Union of Zimbabwe (PTUZ) leader Raymond Majongwe. A group of 20 Zanu -PF youths led by Andrew Manjoro, Bulawayo youth provincial secretary for Economic Affairs, stormed the ZCTU meeting venue at the Royal Hotel carrying iron bars and stones.

They claimed they had booked the same venue for their own meeting, and refused to leave when Majongwe appealed to them to respect other people's meetings. After being forced out by meeting participants, the Zanu -PF youths gathered outside the hotel and started chanting liberation songs. Manjoro urged the Zanu -PF youths to wait until the ZCTU meeting ended so that they could beat up the labour union members, especially Majongwe. The youths refused to leave even after riot police arrived, but were finally persuaded to do so after the Zanu -PF Bulawayo provincial executive leader, Godfrey Malaba came to the venue to persuade them to disperse.

Government interference into teachers' unions affairs:

In September the government announced that it wanted to investigate the operations of all teachers' unions in the country. The reason for the investigation was apparently the thousands of dollars that the teachers unions received in membership fees from their members. Yet as the ZCTU noted, there was nothing to indicate that any of the funds had been misused. The unions felt that the government's move was an attempt to divert attention from the real issue of addressing and improving conditions of service for the teachers.

Government breaks promises on civil servants pay rise:

The government's promise of a significant pay rise for civil servants that led them to call off their industrial action in late 2010 failed to materialise. In January civil servants' unions

called for a pay rise that would put salaries on a par with the average family shopping basket, about US\$500 a month, but the government's offer of an 18% to 26% rise fell far short of this, leaving lower paid civil servants with about US\$160 a month. The government claimed it simply did not have the money for more, although government ministers managed to award themselves a 200% pay rise. The rises were supposed to have been funded by revenues from diamond exports, but there were suspicions that ZANU-PF was siphoning off that money. Both private employers, fearing the consequences for their forthcoming pay bargaining rounds, and the IMF, put heavy pressure on the government not to give in to the civil servants' demands. At the end of June the government finally awarded civil servants an all-inclusive minimum salary of US\$253. There was, however, no reintroduction of rural and education allowances. The increase, described as "provisional" by the trade unions' umbrella body the Apex council, fell far short of civil servants' demands, but did help defuse mounting anger. The Apex council said they would continue to fight until they had reached the Poverty Datum Line threshold.

Americas

The Americas continued to be a hostile environment for the observance of trade union rights in 2011. The violation of workers' rights by employers, together with the constant violations and lack of protection and effective vigilance by the majority of the region's governments, maintained a negative scenario for the exercise of workers' rights and trade union freedoms. Violence and the impunity of crimes against trade unionists are regrettably still a common denominator for many of the countries in the continent, which has the highest figures for rights violations of any region in the world.

Abuses of the right to freedom of association make it particularly difficult to promote and defend workers' rights. Legislation in the majority of countries in the continent prevents or hinders the organising of workers. Many categories of workers cannot organise, while legal norms and decisions impose excessive requirements for the formation and operation of trade unions. There are numerous examples of such obstacles, with notable cases including the Dominican Republic, Ecuador, Bolivia, Panama and Canada.

Practice also undermines freedom of association in many countries. Employers determined to do away with trade unions under the complicit eyes of the government, as in the United States, the promotion of non-trade union organisations that destroy trade unionism, such as the Solidarista organisation of Costa Rica and El Salvador, so-called protection contracts in Mexico or collective agreements with non-unionised workers aimed at weakening and destroying trade union organisations in Colombia, are just a few examples of the tactics systematically implemented by employers and in many cases tolerated, permitted, even fostered by the governments of the continent.

The observance of collective agreements and the ability to conduct collective bargaining are under serious threat in the region. The denial and violation of this right has become steadily greater and more firmly established in both law and practice. There are excessive legal restrictions on collective bargaining rights in countries such as Guatemala, Peru and Barbados. In practice, violations of collective bargaining rights occur when employers, both public and private, refuse to negotiate a collective agreement or fail to abide by an agreement that has been concluded. The problem is flagrant in almost all countries of the region, and worst of all in Trinidad and Tobago, Paraguay, Bahamas and Venezuela.

Bargaining by industry or sector of economic activity, at the national or territorial level, remains an impossible dream for the great majority of workers of the continent. It usually only takes place at enterprise level or even lower down, at the workplace, notably in countries such as Chile or Belize. Countries such as Argentina, Brazil and Uruguay all provide examples of good practice however, proving that the will to promote and foster inclusive and effective dialogue can produce real changes in the labour world.

Trade union rights are seriously violated when it comes to collective bargaining in the public sector. The national legislation of the countries in the region either prohibits

or ignores this right. Agreements in the public sector are reduced to those that have been achieved thanks to the efforts and pressure of the trade unions on local or national governments.

The right to strike and to social protest, to stand up to violations of workers' rights or to demand better health and safety conditions at work, were also denied or violated on the continent in 2011. Laws undermining the legitimate right to strike, the refusal of States to regulate minimum service guarantees during strikes in essential services, the ban on strike action for many groups of workers and the penalties foreseen for those who do strike are all insurmountable obstacles. There are many examples, but Nicaragua and Costa Rica stand out as two of the worst. Similarly there are laws that include criminal sanctions against and practices that obstruct peaceful social protest, in countries such as Colombia, El Salvador and Panama.

Informal employment increased in most countries of the continent in 2011, and there was greater discrimination on the grounds of ethnic origin, gender or social status. Hence migrant workers face serious problems in the region. The Americas is the place of origin and destination for workers joining the labour market in order to carry out tasks in conditions that in many cases are akin to slavery, with virtually no protection.

Other serious workers' rights problems are still in evidence: child labour and forced labour. There are still disturbing cases of such violations in countries such as El Salvador, Jamaica, Brazil and Paraguay.

Another widespread anti-union practice in the Americas is the use of contract labour and of precarious forms of employment designed to put an end to trade union organisations and the promotion of workers' rights. The employers of the region are constantly devising new tactics, sometimes applying regulations abusively, to hide the employment relationship with complete impunity, hiring workers on contracts that provide no guarantees, no trade union rights, all in order to earn higher profits at the cost of their workers' rights, eliminating the nuisance of having to deal with trade unions demanding the respect of those rights. The success of such methods demonstrates the weakness of labour inspection in the region.

The most serious and persistent violation of trade union rights in the region is the violence against trade unionists and the impunity of such acts. The continent is the most dangerous region in the world for trade unionists, as previous Surveys have repeatedly observed. At least 50 trade unionists were murdered in the Americas in 2011, including 29 in Colombia alone. In second place is Guatemala where ten trade unionists were murdered: eight leaders and two activists, the same number as in 2010. This violence was accompanied by persistent impunity which enables and even encourages further violations and stands in the way of overcoming what has happened in the past.

Americas

Impunity - A lucrative business for the privileged few

Víctor Báez Mosqueira, General Secretary of the TUCA

Impunity, defined in the dictionary as “free from punishment”, is the principal factor behind the continued proliferation of crimes against trade unionists in many countries of the Americas and the extremely high levels of social injustice.

To paint its portrait, we can turn for a moment to the symbol of Justice, represented as a woman whose eyes are blindfolded, with scales in her left hand and a sword in her right. The blindfold signifies that she will punish regardless of identity, the sword is a symbol of punishment and the scales mean that the punishment will be in proportion to the crime committed.

Let us imagine therefore that impunity could be represented by the same woman, with no blindfold, with the scales weighed heavily in favour of one side and with a broken sword. Identity matters – she is looking at who is to be punished and who not, depended on vested interests.

The TUCA’s Second Congress denounced the high level of impunity, violence and persecution against the trade unionists of the Americas, which as a region has the highest level of violent crime against trade union leaders and activists. The situation is particularly acute in countries such as Colombia, Guatemala and Honduras where, between April 2008 and December 2011, 122 trade unionists and human rights defenders were assassinated. In none of these cases has the person responsible for the crime been identified, hence no-one has been tried or sentenced.

The Congress also denounced the fact that the American continent is still the most dangerous place in the world to carry out trade union activities. Violence against the trade union movement has grown all the stronger thanks to systematic impunity, affecting all workers and undermining their rights. The Congress was similarly critical of the impunity enjoyed by many employers in the public and private sector who physically and economically violate the rights of workers, their leaders and their trade union organisations. Every year hundreds of workers are murdered, imprisoned or brutally repressed, thousands of workers are dismissed simply for forming, joining, or trying to join or form, a trade union. Thousands of workers are subjected to repression and reprisals for seeking to negotiate collectively and for taking part in demonstrations or strikes. Millions of workers, in urban and rural areas, in the public and private sector, live daily in fear of exercising their trade union rights. Congress also made it clear how trade union organisations have been hard hit by labour laws and practices that obstruct trade union organising and collective bargaining, in both the public and private sector. The dismissal of trade union leaders and/or founders, artificial or fraudulent labour relations, the proliferation of pseudo, employer-controlled trade unions (sometimes called “protection unions”), and the use of

legal devices such as brokerage, sub-contracting, cooperatives and “paper companies” that exist in name only, are all ploys to avoid respecting workers’ labour and social rights.

Impunity - good business for some

In general, impunity is a very profitable business for those immune from punishment. It brings rich financial rewards. It is a form of incentive, almost a sort of subsidy, for those who wish to protect their ill-gotten gains and privileges. When indirect taxes are imposed on workers while the rich don’t pay, when the rich avoid or evade progressive income tax and wealth tax, governments are subsidising the wealth that comes from speculation and idle accumulation. When employers are allowed to dismiss trade union leaders, to get rid of trade unions, or to avoid collective bargaining, they are enjoying a perverse form of subsidy.

There are even laws to underpin this impunity. It is well known that in many countries of the Americas, the law is not used to punish the abuses and crimes of the very rich, yet laws have been invented to punish ordinary people who protest against injustice. Social protest has been criminalised.

Two concepts that can help us in this situation are the “Rule of Law” and the “Social Rule of Law”. If we accept as the definition of the former the notion that “no-one is above the law” and of the latter as a state “in which no-one is above the law and at the same time the weakest sectors of society are protected by specific policies to give them equal opportunities”, then the conclusion we reach is that in the majority of the countries of the region there is no Rule of Law, and far less a Social Rule of Law. Hence we can say clearly that where impunity is part of the system, there is no Rule of Law, because impunity puts a whole swathe of privileged people out of reach of the justice system.

Impunity is a tool for maintaining the status quo in the region. That is why the trade union struggle against it is without doubt an integral part of our desire to achieve the Rule of Law, and above all the Social Rule of Law.

Argentina



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

Employers in the oil and chemical industries were reluctant to negotiate with their workers' unions, or even recognise the unions. Unions in the soya exporting industry also faced collective bargaining difficulties. A transport company attacked and threatened the granddaughter of a union delegate, saying her granddad would be killed if he did not drop his union's demands. A telesales and technical support company dismissed 110 union activists.

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 2011

Background: Presidential and legislative elections were held on 23 October. Open, simultaneous and mandatory primaries were held for the first time in the history of Argentina. President Cristina Fernández de Kirchner was re-elected with 54% of the vote, 38 points ahead of the candidate for the Frente Amplio Progresista (Progressive Broad Front) candidate, Hermes Binner.

The government declared 2011 the “Year of Decent Work, Health and Social Security for Workers” by means of Decree 75/2011. During the year the government pursued four main policy pillars: employment creation, rights at work, the extension of social protect and the promotion of social dialogue.

New article: Thanks to the measures adopted in 2011 and in recent years, at least 86% of the population is now covered by the country's social security systems (both public and private). Similarly, the resumption of tripartite dialogue in the negotiations for the minimum wage led to an average 20% pay rise over the year. However the United Nations Committee on Economic, Social and Cultural Rights expressed concern in its report on Argentina about the high number of workers still in the informal economy or employed as contract labour, earning lower wages than foreseen in local regulations and excluded from the social security systems.

Reluctance to negotiate in the oil industry: Workers from the Santa Cruz Private Oil and Gas Workers' Union went on strike in April 2011 to demand better working conditions in the companies in the industry. Workers from the oil companies based in the Argentinian provinces of Río Negro, Neuquén and La Pampa also stopped work in November 2011. They were calling on their companies (including YPF, Repsol, Total and Apache Corporation) to sign a collective agreement introducing pay rises for most of the staff, in response to the high level of inflation, which had reached 20% a year and was seriously affecting their incomes. The oil companies were consistently reluctant to negotiate with the union.

Anti-union practices at IBM Argentina: Workers at IBM complained that the company was trying to prevent the computer workers' union “Unión Informática”. The workers presented a set of demands to improve their working conditions and to protest at the dismissal of 200 workers. The workers went on strike on 28 July 2011. They later submitted complaints against the management of the enterprise for threatening dismissals and penalties against those who had taken part in the strike.

Anti-union practices at the Icro Ómnibus Norte SA (Monsa) transport company: The 1,340 workers at the transport company Micro Ómnibus Norte S.A. (Monsa) organised a work stoppage in September after repeated violations of their rights by the company, including the non-payment of allowances, poor occupational health and safety conditions and a lack of recognition of their union delegation in its defence of the workers' interests. On bus line 60 the strike extended into the month of October in protest against attacks on the granddaughter of a delegate taking part in the negotiations, who was threatened and tortured, and told that her granddad would be killed if the workers did not drop their demands.

Eviction from and murder on ancestral land: Christian Ferreyra of the MoCaSe-Vía Campesina National Indigenous Peasant Farmers' Union was murdered when he tried to resist eviction from the land where he had lived in for all of his 23 years. He was murdered by killers hired by a soya grower from Santa Fé during a dispute over the ownership and distribution of land, which arose against the background of negotiations over the cultivation of ancestral land. The indigenous community had been complaining of attacks by the entrepreneurs for the past two years.

Anti-union practices in chemical companies: Employees of 28 chemical companies in the Zárate and Campana region went on strike to demand improvement in their pay, the respect of collective agreements, and an end to the dismissals and persecution and the smear campaign against the workers' organisations by several companies in the industry.

Petrobras responded by suspending its activities at its Zárate plant. However the workers continued their strike at the other factories. The Ministry of Labour ordered compulsory conciliation. After the negotiations the union remained on a state of alert, ready to mobilise its members.

Collective bargaining proves difficult in soya exporting companies: In the last week of January 2011, workers in Rosario port district (lorry drivers, dockers, builders and security guards), one of the biggest grain terminals in the world, went on a strike that paralysed loading operations. The protest came to an end after compulsory conciliation was imposed. The strikers were calling for better pay, taking into account the fact that Argentina is the leading world export of oils and soya. Protests by dock workers continued throughout the year owing to the impossibility of negotiating effectively to put an end to unequal conditions between workers.

Multinational "Teleperformance" refuses to negotiate: Workers at the Teleperformance multinational company which

provides client services, technical support, telesales and payment collection services, decided to organise one hour stoppages each day in protest at their poor working conditions and management's refusal to negotiate.

On 7 January the company began to empty its Hipólito Irigoyen offices, asking workers to choose between "voluntary departure or moving to another location", which resulted in breaking up the organised workers. Subsequently, the company proceeded to dismiss 11 union delegates and activists, although they were later reinstated further to a decision of the internal committee. In April the company dismissed 110 workers for being "unproductive" and hired new staff with no history of trade union involvement. In July the company stopped attending the conciliation meetings organised by the Labour Ministry and in August it unilaterally decreed the suspension of all workers and the closure and liquidation of the company. As a result it was prosecuted for disruption.

Bahamas



POPULATION: 343,000
CAPITAL: Nassau
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The year 2011 saw serious violations of freedom of association both in the public and private sectors, with opposition to the right to unionise and collective bargaining, and government intervention to end strikes.

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 2011

Background: The Bahamas saw a slight upturn in the economy in 2010 with growth of 0.9%, following a fall of 5.4% in 2009. The economy benefited from an upturn in tourism thanks to the recovery in the United States, its main market. This trend continued in 2011, according to the Economic Commission for Latin America and the Caribbean (ECLAC). Although there are no official unemployment figures, the ECLAC indicates that employment is expected to pick up, especially in the tourism sector.

Dismissal, harassment and threats are common anti-union practices: Harassment and threats are practices widely used to quash trade union activity.

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

Government intervention in strikes: The right to strike is not exercised freely as the government intervenes in some instances, using the power conferred on it by law to stop strike action.

Refusal to negotiate and fulfil collective agreement at Sandals Royal Bahamian hotel: In February 2011, the Industrial Tribunal overturned a Court of Appeal decision denying the Bahamas Hotel Maintenance and Allied Workers' Union (BHMAWU) the possibility of representing workers in collective bargaining negotiations at the Sandals Royal Bahamian hotel. At the end of the year, the company was still refusing to accept the ruling and to initiate negotiations regarding the 12 trade union leaders dismissed in 2008, as well as to honour the labour agreement signed in 2009.

Protest over annihilation of union at BTC: In March and April 2011, various trade unions and the Commonwealth of the

Bahamas Trade Union Congress demonstrated in protest at the sale of 51% of the state-owned company Bahamas Telecom (BTC) to the private UK firm Cable & Wireless; the sales agreement involved a 30% cut in jobs. According to the union at the company, this move will lead to the organisation's almost complete annihilation.

Barbados



POPULATION: 273,000
CAPITAL: Bridgetown
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The violations of the right to freedom of association continued in 2011, despite the trade union movement's repeated calls for recognition. Collective bargaining is restricted by the legislation and is virtually impossible in practice, as illustrated by the case of domestic workers. Anti-union practices remain firmly in place and are not prohibited by law.

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 2011

Background: Barbados experienced slight economic growth in 2011, with a 1% rise in real production. The tourism sector, which saw a significant influx of tourists throughout 2011, is the main driver of this recovery. It did not, however, have any direct impact on the creation of new jobs, as unemployment remained unchanged at 10.7%. Practices restricting freedom

of association persisted, affecting workers' right to organise, to collective bargaining and to strike.

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: Given the absence of any legal requirements, collective bargaining is only practised where there is good will between the parties or a tradition of such negotiations. The national legislation only permits the representation of employees in collective bargaining if over 50% of the staff is unionised. Despite recognising unions, employers often refuse to negotiate collective agreements 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 obtain a court ruling in their favour. According to the BWU (Barbados Workers' Union), a law should be passed to make it a punishable offence for employers to deny the right to associate freely.

Precarious employment hampers unionisation and negotiation in domestic work sector: Domestic work in Barbados is precarious, with very low wages that do not correspond to the minimum wage and very limited if any access to social security, as well as unprotected labour rights and conditions. This situation hinders any exercise of the right to organise and collective bargaining. Even where unions are present, collective bargaining remains virtually impossible owing to the legislative constraints in place.

Belize



POPULATION: 312,000
CAPITAL: Belmopan
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Although fundamental trade union rights are recognised by law, the legislation allows the government to submit a dispute to arbitration to prevent or stop a strike. Trade union activists were dismissed in a number of companies. Measures to limit the exercise of collective bargaining rights persisted.

Unions remain totally absent from the export processing zones. Forced or compulsory labour, although prohibited by law, still exists and mainly affects East Indians. Migrants, victims of people trafficking for labour exploitation, are being forced to work in local factories under exploitative conditions.

TRADE UNION RIGHTS IN LAW

While the law guarantees basic trade union rights, there are a number of shortcomings. Workers are free to form and join trade unions and to elect their representatives. As regards anti-union discrimination, in addition to protection against acts of discrimination and interference by employers, as of 2011 the law also established the right to reinstatement in the event of dismissal for union activities, as well as fair compensation.

Although the right to collective bargaining is recognised, the law stipulates that a union can only be certified as a bargaining agent if it receives 51% of the workers' votes. In the case of essential services, the law empowers the authorities to prohibit or terminate a strike or to refer a dispute to compulsory arbitration. The list of essential services exceeds the ILO definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: The Belizean economy is small and highly dependent on agricultural products such as sugarcane, citrus fruits, bananas and seafood. Tourism has become another key source of hard currency earnings over recent years. Poverty is rising and now affects some 40% of the population. Unemployment is close to 12%. The minimum wage does not provide

workers with a decent standard of living for themselves and their families.

The levels of violence and drug trafficking continue to be the biggest challenges facing the authorities. The neighbouring countries also suffer from the high level of drug trafficking, which is the source of most of the money laundered. Prime Minister Dean Barrow is trying, with unclear results, to combat organised crime and drug trafficking, to restore confidence in public servants and institutions, and to improve living standards in the country.

Legislation not applied: Forced or compulsory labour, although prohibited by law, still exists, and mainly affects East Indians. Chinese migrants, victims of people trafficking for labour exploitation, are being forced to work in local factories under exploitative conditions.

No unions in export processing zones: 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 in the world of work. The unemployment rate among women is an estimated 18.6%, while the rate for men is 8.4%. Women's pay is only around 52% of that received by men, and they tend to be more concentrated in low paid and low skilled jobs.

Social security employees hold a stoppage: On 14 February 2011, over 60% of Belize's Social Security Board employees, members of the Christian Workers' Union, held a stoppage, declaring that they were ill. The stoppage was held in response to the obstacles being raised by the Belizean Social Security Board (SSB) to block the conclusion of a new collective agreement. According to Antonio González, president of the Christian Workers' Union, the strike was motivated by the employees' frustration and the managements' attitude. In October 2010, the union had presented various revised proposals for the negotiations on the new collective agreement but received no

reply from the administration. The only response received from the management was a document, dated 18 January 2011, stating that the bargaining process was being halted.

The union sent the Labour Minister 21 days' notice of its intention to strike. According to Merlene Bailey Martínez, chief executive officer of the SSB, the strike held on 14 February slowed operations but the management managed to cover the critical areas needed to attend to clients. She said that the reasonable aspects of the union's proposals would be examined, maintaining that the management has to ensure that a balance is struck between the internal and external stakeholders, to reach a solution that is satisfactory to both.

Bolivia



POPULATION: 9,930,000
CAPITAL: Sucre
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The lack of consultation and agreement over political reforms led to heightened political tensions in 2011. The Plurinational State of Bolivia has not resolved the issue of trade union and workers' rights violations. Indigenous communities and trade unions staged strikes and protests throughout the year to demand respect for their rights.

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 2011

Background: Indigenous communities and trade unions staged a succession of strikes and protests throughout 2011 to demand respect for their rights. In May, the Central Obrera Boliviana (COB) called a strike in protest at the wage and pension reforms. Hard-fought for rights, such as reduced working hours in the health sector, were still being violated. Discrimination and abuses at work also persisted. Despite the process of change undertaken to improve living standards, workers are still faced with increasingly precarious employment.

In December, President Evo Morales cancelled plans to remove fuel subsidies following massive protests over the drastic rise in prices.

According to the Economic Commission for Latin America and the Caribbean (ECLAC), Bolivia registered progress in the efforts to build a more equal society, especially in terms of life expectancy and education indicators, and extreme poverty reduction, which has fallen over the last ten years from 62.4% to 54%, whilst indigence has fallen from 37% to 31.2%. Extreme inequalities nonetheless remain, with a GINI coefficient of 0.565, placing it fifth in the ranking of countries with the highest inequalities in the region.

Government agrees to COB's demands, but slow to implement agreement: On 2 March, following strong protests and demonstrations by Bolivia's unions, President Evo Morales unilaterally ordered a 10% pay increase for public employees in the education and health sectors, the police and armed forces, and a 20% increase in the minimum wage. The unions were demanding a 15% increase in the public sector. The Central Obrera Boliviana (COB) tried to negotiate with the government, but the workers finally rejected the agreement on a 10% increase. Strikes and protests were resumed. After several long hard days in La Paz, an additional 1% was secured, plus another 1% after July, subject to the availability of sufficient budget funds, hence 2% in total, bringing the rise up to 12%.

On 19 April, the COB signed an eight-point agreement with the government and called an end to the general strike. The document established a pay increase of 11%, and the possibility of raising it to 12% for education and health workers, after indemnifying a source of financing that would not lead to a fiscal deficit.

Agreement was also reached on stimulating production, the National Health Fund (CNS), full implementation of trade union immunity provisions, respect for the agreement signed in Panduro in April 2010, measures to guarantee food security and the revision of laws 2027 and 2028 on municipal and public employees, to bring them into line with the new Political Constitution of the State.

The Central Obrera Boliviana (COB) called for protest marches on 6 October to press for the implementation of the agreement signed between the trade union centre and the government in April, to provide the workers with the pay rise promised. At the end of 2011, following the COB's announcement of plans to hold new protests, the government applied the additional 2% rise agreed on.

Protest in support of indigenous peoples' rights brutally repressed: Indigenous peoples' rights, especially the right to consultation, enshrined in ILO Convention 169, were constantly violated. Indigenous peoples conducted a march from Beni to La Paz, between August and October, which was violently dispersed by police. The government passed legislation to resolve the issue, declaring that the indigenous land at the root of the dispute, through which there were plans to build a trans-oceanic highway (Brazil-Chile) was "intangible" (thus protected from outside development). President Morales publically condemned the police's abusive and violent handling of the protest.

Child labour in Bolivia: According to Labour Ministry figures released in June 2011, 850,000 children below the minimum age for admission to employment were involved in economic activities in Bolivia. Out of this total, 354,000 were living in urban areas and 446,000 in rural areas. Most of the children and teenagers in urban areas (41.8%) work as vendors, and the percentage of girls (54.4%) was higher than that of boys (31%). The government has implemented numerous programmes in conjunction with UNICEF and the ILO.

Negotiating difficulties at San Cristóbal mine, controlled by Sumitomo: Workers at the San Cristóbal silver, zinc and lead mines, owned by the Japanese trading company Sumitomo Corporation, downed tools on 23 March 2011 for 12 days in support of demands for better health care benefits. The strike was called off at the end of this period, following the Labour

Ministry's intervention, but some of the demands have still not been met.

Refusal to negotiate at PIL dairy company: On 30 March 2011, workers affiliated to the national union of PIL workers SINTRAPIL, employed at the PIL Andina dairy factory, staged a protest march from El Alto, Bolivia, to the Arequipa region in Peru, to the head office of Gloria, the company that owns PIL, to demand respect for their rights and better working conditions, which the firm has been refusing to negotiate since 2010. The workers are demanding that the company recognise their union.

Brazil



POPULATION: 194,946,000
 CAPITAL: Brasília
 ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 111
 - 138 - 182

The year 2011 saw major labour disputes in the banking, civil aviation and fertiliser industries. Municipal cemetery worker held important negotiations following a hard-fought labour dispute. Slave-like working conditions still exist and the authorities are keeping up their campaign to track down and prosecute those responsible. Seven rural activists were killed in 2011.

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 joint ventures and public companies.

Despite the right to strike being guaranteed for private and public sector workers alike, public service strikes are subject to

a set of rules that have not yet been established. The national legislation contains a legal instrument known as a "prohibitory injunction", which is used to prevent any threat to the property or assets of a specific owner. It could be qualified as a form of indirect defence. This instrument is exploited to ban or restrict picketing, to "safeguard property against interference or despoilment". In October 2011, trade union organisations criticised this mechanism at a public hearing held by the Senate's Human Rights Commission, arguing that this instrument, in addition to undermining strike action, represents another way of criminalising social movements.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: In 2011, Brazil became the world's sixth largest economy, with a Gross Domestic Product (GDP) of 2.5 trillion dollars and 12,900 dollars per capita. The unemployment rate, one of the lowest in the region, fell to 6.2%. Brazil nonetheless remains faced with serious social challenges, such as the need to tackle the high rate of illiteracy, improve public health, eradicate the slave-like working conditions to which people, especially migrants, are subjected, and to fight the poverty affecting at least 16 million of Brazil's 190 million people.

Slave labour in manufacturing industry: On 19 August 2011, the Labour Ministry discovered two manufacturing sweatshops in Sao Paulo employing 15 immigrants, mostly Bolivian and poor, who were being forced to work 16 hours a day in degrading conditions. According to an ILO study published in October 2011, the Brazilian Labour Inspectorate has, since 1995, freed over 36,000 people found working in slave-like conditions, without a contract or a wage.

Sao Paulo's municipal cemetery workers face collective bargaining deadlock: Municipal cemetery workers in charge of burials in the city of Sao Paulo, affiliated to the Sindicato dos Trabalhadores na Administração Pública e Autarquias do Município de São Paulo (Sindesp), went on strike on 30 August. The action went on for seven days. The workers were demanding a pay rise of 39%, given that their wages had not been reviewed since 1995.

Collective bargaining difficulties in civil aviation sector: On 21 October, the Sindicato Nacional dos Aeroportuários (SINA) led a 48-hour stoppage at Viracopos airport in the city of Campinas, around 100 km from Sao Paulo, in protest at the concession model chosen by the Brazilian government. Under the new model, ground operations, cargo handling, air navigation, fare control, specialised engineering and maintenance services will be contracted out to private companies, making

employment conditions more precarious. The workers are still calling for their rights to be protected.

Zara fined for using slave labour: The Spanish fashion retailer Zara received 52 different fines for a whole range of irregularities, such as outsourcing the manufacture of its products to companies employing migrant labour to work over 16 hours a day in slave-like and unsanitary conditions.

Collective bargaining rights violated at fertiliser company Vale: In March 2011, the fertiliser company Vale, based in Araucaria in the state of Paraná, decided to disregard the negotiations it had engaged in with the petrochemical workers' union Sindicato dos Trabalhadores nas Indústrias Petroquímicas (Sindiquímica). The company, showing total contempt for the workers' demands, presented its own proposal, in which longstanding clauses of the collective agreement had been removed along with hard-fought gains in terms of health and safety. The workers rejected the proposal and no agreement had been reached by the end of the year.

Seven rural activists assassinated: Seven rural workers defending land rights were killed between May and August in the states of Pará and Rondonia. Attempts to denounce the illegal exploitation of natural resources led to an increase in violence in 2011. More than 1,150 rural or environmental activists, small farmers, judges, priests and other rural workers have been killed since 1998 in disputes over land rights and environmental protection issues.

Canada



POPULATION: 34,010,000
CAPITAL: Ottawa
ILO CORE CONVENTIONS RATIFIED: 87 - 100 - 105 - 111 - 182

Government tampering with worker rights is becoming a norm with anti-union practices on the rise. Heading a new majority-led Parliament in Canada, the conservative Harper government has taken the lead in attacking freedom of association and collective bargaining rights in its own jurisdiction, sending strong signals to other levels of government that it's "open season" on workers and trade union rights – this, despite Supreme Court rulings that recognise these rights as cornerstones of industrial relations. Back-to-work legislation has become its hallmark with direct attacks to certain sectors. Not surprising is the rise of many laws under Federal, Provincial or Territorial jurisdictions that provide little statutory protection to organise, bargain collectively or strike for a growing number of workers.

TRADE UNION RIGHTS IN LAW

Trade union rights continue to be officially guaranteed in federal legislation, but provincial and territorial laws are still lacking. While the right to form and join unions is recognised in both public and private sectors, the groups of workers that are exempt from protections in certain jurisdictions continue to be long: agriculture, domestic services, public health, education, social services, health care, childcare and contract workers, as well as architects, dentists, land surveyors, lawyers, doctors and nurse practitioners. At the national level, the Canada Post Corporation Act continues to restrain certain temporary and contracted-out workers from joining a union.

Further, there are restrictions through union certification rules, i.e. 'automatic card-check', 'mandatory voting system' or some combination of both. Through legislation and regulation, governments are free to toy with calculated percentages of workers (often arbitrary) that are required to legally validate a labour relations process. In addition, they add administrative hurdles to industrial organisation, even over issues such as the validating of collective agreements.

When combined with powers allowing employers a wide range of actions to interfere with attempts to create a union (either tacitly or legally sanctioned), the union certification process becomes mired in confusing steps that restrict and prohibit the scope of application of ILO Convention 87 Freedom of Association rights. Resistance to them is often met with employer and government propaganda that casts aspersions about unions subverting democratic processes.

The law also protects collective bargaining, but again provincial or territorial restrictions dominate the scene and the right to strike continues to be circumscribed at these levels. Provinces routinely prohibit specific sectors from striking, such as teachers in Manitoba, police in Ontario and transit workers in Toronto. 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. In some situations, the number of workers declared essential has surprisingly surpassed the number actually employed under normal operations. Finally, replacement labour may be used in industries governed by the Canada Labour Code and in all provinces, except Quebec and British Columbia.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: In May 2011, a national election gave the Conservative Party a majority in Parliament and with it a perceived mission to pursue an agenda of cutbacks to public services and jobs, further tax breaks to corporations and fiscal austerity. The government has also shown a renewed determination to attack trade union rights.

The economic recovery in Canada has ground to a halt. The national unemployment rate rose from 7.1% to 7.5% in the last three months of 2011 as the economy lost 63,000 full-time jobs. The “real” unemployment rate, which includes discouraged job seekers and involuntary part-time workers, was 10.6% in 2011, and a sky-high 19.7% for young workers, far above where it stood before the recession in 2008. Wages adjusted for inflation have been stagnating, and most forecasters expect no reduction in unemployment in 2012.

A 2011 Organisation for Economic Co-operation and Development (OECD) report on income inequality among 34 industrialised nations reported a rise in income inequality in Canada due to widening disparities in labour earnings since the 1980s, including a particularly steep increase in the income share of the top one percent.

The gap between the earnings of men and women is significant and has ceased to close. There are also large and growing pay gaps attributable to discrimination against racialised workers and Aboriginal workers. People with disabilities and Aboriginal peoples experience well above average rates of unemployment.

The continuing decline of union density in the private sector and the erosion of trade union rights and basic employment standards such as the minimum wage have been major factors behind rising inequality in Canada.

Calls for redress by union workers through collective bargaining have been met with attacks on trade union rights, with Canada now setting the current record for freedom of association complaints to the International Labour Organisation (ILO), unsurpassed by any other industrialised member State. The CLC has also reported historical levels of violations, with respect to a number of ILO Conventions ratified by Canada, dealing with employment, equality and discrimination issues. Canada has pulled out of the Kyoto accord on climate change, signaling its agenda to protect the interests of multinational companies, a policy that it is now exporting abroad, through the trade agreements with other countries and through changes in aid policy.

Supreme Court ruling not implemented: In 2007, the Supreme Court ruled that collective bargaining was included within the meaning of the term “Association” in Canada’s Charter of Rights and Freedoms, yet neither federal nor most provincial or territorial governments are taking much heed. Instead of amending legislation and practice to conform to the Supreme Court ruling, Governments are taking on ‘case-by-case’ battles at labour boards, arbitration tribunals and the courts. Meanwhile the Federal government has introduced back-to-work legislation to impose settlements in 2011 with postal workers and two separate Air Canada strikes. The overall effect is to erode collective bargaining, generally, whilst undermining union capacity by forcing them to spend a disproportionate amount of finances on judicial or quasi-judicial representation.

In late 2011, a Private Members Bill was introduced into the House of Commons to change the criteria for union reporting to the Canada Revenue Agency, thus further increasing financial burdens on them. It also aims at giving employers detailed information about union operations, at taxpayers expense. The introduction of a similar private members bill in British Columbia, with Saskatchewan intimating it might do the same, raises the specter of a coordinated attack in a number of jurisdictions.

Back-to-work legislation – a worrisome track record on “essential services”: The ILO notion of ‘essential services’ is being distorted by governments to broadly argue against so-called

economic impacts of strikes on the economy and social well-being. On June 26, the federal government adopted Bill C-6 to impose a settlement to end a lockout of nearly 50,000 postal workers, thereby continuing its track record since 1950 to introduce back-to-work legislation by tampering with the definition of 'essential service'. The imposition of such legislation has become commonplace, the mere threat of it often tipping the balance against a particular strike an employer opposes. This purpose was served on June 16, when the government announced its intent to introduce back-to-work legislation to end a legal strike of Air Canada's 3,800 sales and service agents, forcing the union and employer to resolve differences within a few days, or face a legislative resolution. In the case of a second strike with Air Canada flight attendants on October 13, the federal government referred the labour dispute to the Canada Industrial Relations Board, another move to prevent the employees from going on strike.

The Government of Manitoba is also standing by current legislation that allows employers to unilaterally designate workers as 'essential'. Similarly, legislation widening the application of 'essential services' continues to deny full exercise of trade union rights in such other provinces as New Brunswick, British Columbia, Saskatchewan and Prince Edward Island.

The Saskatchewan government continues to stand by legislation adopted in 2008, which has the effect of reducing the rights to organise and engage in collective bargaining for thousands of public sector employees. It introduced legislation to eliminate sectoral bargaining in the construction industry, allowing the establishment of employer-dominated company unions, and greatly reducing the power of unions in the construction industry by reducing their longstanding right to control the supply of labour.

Trends in undermining collective bargaining: The Canadian government continues to implement 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 have experienced a reduction in negotiated wage rates. An egregious example of this is the current implementation 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 the trade union from representing its members in the filing of pay equity complaints, a clear tampering with the rights of freedom of association.

The removal or imposition of certain issues that might be subject to collective bargaining is also practiced at the provincial or territorial level. For example in 2007, the Superior Court of Québec invalidated the 2003 Bill-30 on collective bargaining in the public sector, which unilaterally defined collective bargaining units and imposed what they would negotiate, without recourse to strikes. The matter was appealed in 2009 but is still being deliberated. Similarly in Quebec, Bill-43 imposes conditions of work in the public sector without collective bargaining. A provincial committee on trade union rights has recommended that the government amend the legislation, but without follow-up to date.

Farm workers denied collective bargaining and organising rights in three provinces: Farm workers are excluded from protection afforded by labour relations legislation and thus deprived of the right to organise and bargain collectively in the provinces of Alberta, Ontario and New Brunswick (at operations for five or fewer workers). In Ontario, the government has led the assault by appealing a lower court decision that had granted Ontario farm workers collective bargaining rights. In 2011 it obtained a Federal Supreme Court ruling to restrict those same rights – in contradiction to an earlier ILO ruling on the same matter. Corrective legislation is not on the government's horizon.

British Columbia Teachers denied collective bargaining: The British Columbia Supreme Court has ruled against government legislation to unilaterally set aside collective bargaining rights of local school teachers to negotiate class size, composition, student ratios, workloads and hours of work. Despite the ruling, collective bargaining rights of teachers continue to be curtailed.

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. Even in Quebec where legislation is in place, both the 'Journal de Québec' and 'Journal de Montréal' produced their papers as usual, despite strikes that lasted 16 and 24 months respectively. The government has yet to follow up on recommendations from a review by the 'Assemblée Nationale' to amend legislation.

Migrant workers undermined for sympathising with unions: The United Food and Commercial Workers (UFCW) Canada has filed a complaint with the British Columbia Labour Relations Board, alleging that the Mexican consulate in Vancouver has conspired with Mexican government agencies and two agriculture operators to blacklist migrant workers who were employed at Fioriala Farms and Sidhu Nurseries near Surrey, British Columbia, because they were union sympathisers. Both companies employ

workers from Mexico under Canada's Seasonal Agricultural Worker Program (SAWP). The Consulate also stands accused of warning other workers to stop visiting union-run support centres in the Lower Mainland of British Columbia.

"Couche-Tard" stores closed down and workers dismissed for unionisation: At the Canadian convenience store chain 'Couche-Tard' in Quebec, the employer closed down and laid off workers from two of four stores where unionisation by the Confédération des syndicats nationaux (CSN) was attempted, again on the pretext of financial solvency. Attempts by the CSN under the Québec Labour Code for workers to be reinstated have failed.

Court decisions in the Wal-Mart saga: In 2010, the Supreme Court of Canada agreed with a 2005 closure of a Wal-Mart store in Jonquière, Quebec, ruling the company was justified in doing so for financial reasons, and not due to the possibility of a successful organising drive by United Food and Commercial Workers (UFCW) Canada. However, in the same year, the Superior Court of Quebec separately supported an arbitrator's decision to grant the employees with the right to claim for damages due to the closure, a ruling that Wal-Mart since then has taken to the Quebec Court of Appeal and from which a decision is awaited.

Working conditions of Temporary Foreign Workers resembles forced labour: In 2011, the CLC has asked for the ILO to rule on the working conditions of Temporary Foreign Workers that appear to resemble forced labour situations under the ILO Convention 29.

Chile



POPULATION: 17,114,000
CAPITAL: Santiago
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Violations of freedom of association persisted in the private sector during 2011. The Labour Directorate placed 107 fines on companies for anti-union practices. Collective bargaining rights were also violated in the mining, health and textile sectors.

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 2011

Background: Chile was the scene of mass marches, protests and strikes during 2011. A general strike mobilising workers, teachers and students, called by the Central Unitaria de Traba-

jadores de Chile (CUT), brought the country to a standstill on 24 and 25 August. The demands presented to President Piñera's government included free education, universal access to health care, better social security cover, new labour legislation and a new constitution. The Trade Union Confederation of the Americas (TUCA) and the International Trade Union Confederation (ITUC) backed the demands. The demonstrations met with brutal police repression.

Chile has the highest per-capita income in the region. It is the first South American country to have been admitted as a full member of the OECD, which groups the world's most developed economies, thus recognising the economic progress and major institutional reforms achieved in recent decades. This success has not, however, led to improved labour conditions. The unemployment rate for 2011 was over 7%, unions were only present in 5.5% of companies, the rate of union membership was only 13.6% and collective bargaining is marginal, covering just 4%.

In April 2011, Chile ratified ILO Convention 187 on the promotional framework for occupational health and safety.

Refusal to negotiate at Barrick Gold mine: In February 2011, the union of workers employed by Consorcio Colorada Punta, a Barrick Gold subcontractor, held a stoppage in protest at the company's refusal to negotiate better health and safety and working conditions. The miners are working in very harsh environmental conditions. The union is demanding negotiations with Barrick Gold, given that any decisions ultimately depend on the corporation. The company remained firm in its refusal to recognise its obligations in terms of workers' rights.

Lencería Antonella refuses to negotiate: The Federación de Sindicatos Complementos Chile led an eight-day protest in December 2011 against lingerie manufacturer Lencería Antonella over its refusal to hold collective negotiations on working conditions. The union is asking the company to pay on time and to meet its labour obligations.

Hundred and seven fines issued for anti-union practices: The Labour Directorate penalised 107 companies for anti-union practices during 2011. The offence most punished was the unfair dismissal of workers with trade union immunity. The firms, as well as having their names published in the list of violating companies, received a fine and a two-year ban on supplying goods or services to the state. The CUT denounced that many of the companies pay the fine and then continue with their anti-union practices.

Anti-union dismissals at Hospital DIPRECA: In September 2011, six workers at Hospital DIPRECA were fired without severance pay, on the pretext that they were "misusing sick leave", when they were in fact ill. The union underlined that the workers were union members or representatives and that this was the real motive for their dismissal.

The hospital authorities were also accused of harassing trade union representatives. These violations form part of a long list of irregularities linked to charges pressed against the union secretary and treasurer at Hospital DIPRECA, who were informed that an investigation was underway based on allegations that they had "incited public servants to take part in the general strike on 24 and 25 August".

Colombia



POPULATION: 46,295,000
CAPITAL: Bogotá
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138

Although some progress has been made, the longstanding violence against the Colombian trade union movement continues to plague the country and trade unionists are still being killed, forcibly disappeared and intimidated. Twenty nine trade unionists were murdered in 2011. While some efforts have been made to investigate these crimes, the majority of the cases reported by trade union organisations remain unsolved. The state clearly lacks the capacity to protect trade union rights. The vice president of the Republic, speaking on behalf of the government, has recognised the scale of the violence, something previous governments have never done.

TRADE UNION RIGHTS IN LAW

A number of recent advances have been made in the trade union rights situation, particularly in terms of 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. There are, however, problems related to various contractual arrangements, such

as the associated labour cooperatives (CTA), service contracts and civil and commercial contracts, which disguise genuine employment relationships and are used to prevent workers from setting up trade unions. As regards the associated labour cooperatives, the government passed a Decree in 2011 stating that no worker, including workers in such cooperatives, may be hired without being covered by the labour rights established by law. It also established heavy fines for employers misusing such contractual arrangements.

The right to collective bargaining is legally recognised. Pensions are not, however, covered by collective agreements. Legislation was passed in 2011 to tackle the widespread practice of concluding collective "pacts" directly with workers to undermine the position of trade unions. The law fixes penalties for those concluding pacts that grant better conditions as a whole to non-unionised workers, relative to the conditions established in collective agreements with unionised workers in the same company. As some affiliates have pointed out, however, applying this law is complex and will depend on how the judge in question assesses the benefits "as a whole".

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 2011

Background: On 7 April, President Santos signed an action plan with President Obama on labour rights, in which the Colombian government undertook to do away with the so-called associated labour cooperatives, to offer protection to trade unionists and to take measures to tackle anti-union violence, as well as restoring the Labour Ministry that was suppressed by the previous government. The United States Congress ratified the U.S.-Colombia Trade Promotion Agreement based on the partial fulfilment of this Action Plan.

In May, a tripartite agreement was signed by the government, employers and one of Colombia's trade union centres. The agreement fails to cover a number of important issues, such as the negotiated establishment of regulations guaranteeing collective bargaining rights in the public sector.

Police repression of striking workers: Anti-union discrimination and the criminalisation of strike action are among the practices undermining social dialogue. One example is the Campo Rubiales oil fields case. The appalling conditions to

which subcontracted workers are subjected by the Canadian multinational Pacific Rubiales led to strike on 19 July 2011 by 1,100 contract workers employed by Montajes JM. The action met with brutal police repression.

Nineteen workers were fired a few days later on being found with trade union bulletins. On 18 September, another strike was called in protest at the failure to honour the agreements reached to end the previous stoppage and the inadequacy of the health and safety measures taken. The action was joined by 11,000 workers from 16 companies.

ILO Mission notes rights violations: The year 2011 began with the visit of an ILO high-level mission, which saw evidence of the violations long suffered by the Colombian trade union movement, and issued a series of recommendations accompanied by deadlines for their implementation and measures for the protection of freedom of association. The implementation of many of these recommendations remained pending at the end of 2011, despite the expiry of the deadlines set.

Anti-union violence and impunity persists: Unscrupulous employers have reacted to the recent legal and judicial advances with aggressive measures to stop trade unions from organising or operating. The anti-union culture and lack of effective mechanisms to protect trade unions are clearly still a reality. Both labour inspectors and judges take years to resolve disputes, which impacts negatively on union membership.

In 2011, there were 480 violations of trade unionists' rights to life, freedom and physical integrity in Colombia. The 29 murders, three forced disappearances, 10 attempted murders, 342 threats, 43 acts of harassment, 34 forced displacements, 16 arbitrary detentions, two cases of torture and one abduction are evidence of the violence that still exists and continues to affect workers' ability to exercise their trade union rights and freedoms. The presumed authors of these crimes are unknown in 337 cases. Of the 143 remaining, 104 (72.7%) were perpetrated by paramilitaries, 34 cases (23.8%) by state agencies, three (2.1%) by guerrilla groups, and one case (0.7%) was attributed to common crime and another to an employer.

An important conviction was achieved for the trade union movement in relation to the murder in September 2004 of Professor Alfredo Correa de Andreis, leader of the university lecturers' union Asociación Sindical de Profesores Universitarios (ASPU). Although sentences have been issued in the past convicting those responsible for planning and perpetrating murders, this is the first case in which the state has been convicted. The sentence recognised the systematic persecution of the trade unionist, who was subjected to legal prosecu-

tion and arrested then murdered within the framework of an alliance between paramilitaries and the national intelligence service (DAS).

Associated labour cooperatives change name: The case of Colombia's dock workers illustrates the inadequacy of the regulations to tackle the problem of labour outsourcing through the system of associated labour cooperatives. Despite the enactment of Decree 2025, labour subcontracting has not been eradicated in the ports of Buenaventura, Cartagena, Barranquilla and Santa Marta, nor have the port companies directly hired the workers from associated labour cooperatives, in line with the spirit of the legislation. The associated labour cooperatives have been turned into temporary employment agencies or SAS (simplified stock companies), thus changing legal form but carrying out the same intermediary role and activities as the associated labour cooperatives. The Unión Portuaria, bringing together the union organisations representing port workers across the country, has filed several complaints and actions with the courts and labour inspectors, but the state has either failed to respond or been ineffective in its response.

Anti-union persecution: Members of the union at Minipak, Sindicato de Trabajadores de Minipak (Sintramipak), have been facing harassment for belonging to this organisation. Reprisals have been taken against executive members of the union, for example, such as unjustified disciplinary measures ranging from 15 to 45 days suspensions from work without pay and without due process. The administrative action taken to protest these measures did not succeed in protecting the trade union organisation.

The Coveñas municipal public employees' union Sindempcov, in Sucre, were faced with anti-union persecution, harassment and abuses as of February 2011. Several public servants were dismissed, including one employee with trade union immunity. This dismissal was accepted by a number of judges, disregarding the protection established by law for trade union representatives.

OMA restaurants violate freedom of association: Workers employed by the OMA restaurant chain formed a union, Sindicato Nacional de Trabajadores de Restcafé OMA S.A. (Sintraoma Colombia), affiliated to the Confederación General del Trabajo (CGT). The management dismissed at least 19 workers in a bid to crush the union, and the members of the union executive were offered benefits to withdraw from the organisation. They also changed the permanent contracts of longstanding workers to fixed-term contracts, to stop them from organising. The CGT presented action for protection. In a decision issued on 18 May 2011, the court ordered that the right to organise should

be protected but the management ignored the ruling, which gave rise to contempt proceedings before the municipal civil court. On 14 September 2011, the court ruled that the right to organise should be protected and ordered the payment of a fine equal to five legal minimum wages. The company was also ordered to reinstate the unfairly dismissed workers.

Trade union rights violated at BRINKS: BRINKS of Colombia waged a constant campaign of persecution against members of the Sindicato Nacional de Trabajadores de BRINKS S.A. de Colombia (Sintrabrinks), violating the fundamental right to freedom of association. In addition to the constant dismissals, the company held meetings with unionised workers, to persuade them to withdraw from the organisation. If it fails to convince them, the company undertakes discharge proceedings to intimidate them, which have resulted in dismissals in some cases.

Murders, attempted murders and disappearances: According to the figures on violence against trade unionists, 2,914 trade unionists were killed in Colombia between 1 January 1986 and 31 December 2011; 2,643 were men and 274 were women, and 26,4% of those murdered, that is 772, were trade union leaders.

The data gathered over this period indicates that there were at least 11,942 violations of trade unionists' right to life, freedom and physical integrity in Colombia. In addition, 290 attempts on the lives of unionised workers and 222 forced disappearances were registered, and at least 5,397 trade unionists received death threats and 1,776 were forcibly displaced. These figures vouch for the existence of a human rights crisis not consistent with random and indiscriminate violence. They reflect a policy of extermination, implemented over a sustained period and manifested by the thousands of lives claimed.

Manuel Esteban Tejada was murdered on 10 January 2011. He was a teacher at the Palma Soriana educational institution in the municipality of Planeta Rica, in the department of Cordoba, and was affiliated to the teachers' association of Cordoba, ADEMACOR.

Humberto de Jesús Espinoza Díaz was murdered on 30 January. He was a member of the teaching union of Risaralda Sindicato de Educadores de Risaralda (SER). He had received threats on numerous occasions and had requested protection but was not granted it.

Carlos Alberto Ayala was murdered on 5 February by gunmen who were waiting for him near his home. He was a member of the teachers' association of Putumayo Asociación de Educa-

dores del Putumayo (ASEP) and director of the Caucasia Rural Educational Institution.

Gloria Constanza Gaona was murdered on 22 March on leaving her vehicle and heading for the court where she worked. She was approached by a hit man who shot her several times. She was a judge at the criminal court of Saravena (Arauca) and was dealing with the case involving the rape of two girls aged 13 and 14, and the murder of one of them along with her two brothers aged nine and six, in October, in Tame.

Agricultural unionists Héctor Orozco and Gildardo García were murdered on 30 March as they went home by motorbike. The killing took place in a heavily militarised zone, less than four metres away from where national army troops are permanently stationed.

Ramiro Sánchez, affiliated to the contractors' association ASOGRECON, was murdered on 8 April by two men on a motorbike in the municipality of Puerto Boyacá, in the department of Boyacá.

Luis Alberto Bohórquez Chávez, a teacher affiliated to the Asociación de Instructores del Caquetá (AICA), was murdered on 10 April on returning to his farm in the rural area of the municipality of San Vicente del Caguán.

Luci Florez Ricardo, a teacher belonging to the teachers' association of Córdoba ADEMACOR, was murdered on 3 May in the municipality of Ayapel, in the department of Córdoba.

Ramiro Antonio Sánchez was murdered on 8 April. He was a member of the Magdalena Medio workers' association ASPT-MEM and a trade union leader in the municipality of Puerto Boyacá. He had led a stoppage between 11 and 25 January 2011.

Juan Carlos Chagüi Cueter was murdered on 15 May in the city of Barranquilla, in the department of Atlántico. He was employed at the Modelo prison and was a member of the prison guards' union Sindicato Gremial de la Guardia del Inpec (SIGGINPEC). He had filed several complaints regarding the lack of order and discipline in prisons and had received death threats from jailed paramilitary groups. He filed the relevant complaints with the Public Prosecutor's Office, but they were not dealt with in time.

Dionis Alfredo Sierra Vergara, a teacher affiliated to Ademacor, was murdered on 15 May 2011 in the municipality of La Apartada, in the department of Córdoba, whilst celebrating teachers' days along with various other teachers. He received a call on his mobile phone and on going out to answer it he was shot

down by unknown assailants and died on the spot after being hit by three bullets.

Carlos Arturo Castro Casas, a member of the Sindicato de Trabajadores de las Empresas Municipales de Cali (Sintraemcali), was murdered on 23 May. He was driving in his car when he was shot in the neck. He was immediately taken to the Carlos Holmes Trujillo Hospital, where he died.

Freddy Antonio Cuadrado Nuñez, a teacher affiliated to the Sindicato de Educadores Unidos del Magdalena (EDUMAG) was killed on 27 May.

Carlos Julio Gómez, a teacher affiliated to the Sindicato Único de la Educación del Valle (SUTEV), was murdered on 29 May.

Jorge Eliécer de los Ríos Cárdenas was murdered on 8 June 2011. He was a member of the Sindicato de Educadores de Risaralda (SER). He was an environmental activist and had spoken out in the press against the mining operations of a multinational in the municipality of Quinchía.

Lucey Abril Camacho was murdered on 18 June in San José de Pare, in the department of Boyacá. She was affiliated to the teachers' union Sindicato de Maestros de Boyacá (Sindimaestros).

Alejandro José Peñata López, a teacher affiliated to Ademacor, disappeared on 20 June on leaving the school where he was working. His family and friends organised a search and found his dead body the same day. His body bore signs of torture and he had been hung with barbed wire.

Rafael Tobón Zea, a mining union leader with the Sindicato Regional de Trabajadores de la Industria Minera y Energética (Sintramienergetica), was murdered on 26 July by paramilitaries in the municipality of Segovia, in the department of Antioquia.

Wilmar Serna, an employee and member of the workers' committee at the Cantho farm, and Eduardo Fabián Zúñiga Vásquez, a banana worker at Las Niñas farm, both of which are owned by the Sarapalma group, were murdered on 31 July in La Martina park in the municipality of Apartadó, in the department of Antioquia.

Eduardo Moisés Aponza, a member of Simana-Tumaco, was murdered on 27 July in Guayacana, in the department of Nariño.

Luis Armando Oki Uragama, an indigenous teachers and member of Umach, was murdered on 2 August in the municipality of Tadó, in the department of Chocó.

María Eugenia Arango Zapata, a teacher affiliated to the Asociación de Institutores de Antioquia (ADIDA), was murdered on 10 August.

Luis Alfonso Díaz Villa, a member of the Sindicato de los Trabajadores y Empleados Universitarios de Colombia (Sintraunicol), was murdered on 22 August in the city of Montería, in the department of Córdoba.

Nallyd Tapias Jiménez, a teacher affiliated to ADIDA, was murdered on 1 September after finishing her day's work at the Centro Educativo Rural Piedrecitas in the municipality of Arboletes, Antioquia.

Luis Humberto Durante Álvarez, a member of the agricultural workers' union Sindicato Nacional de Trabajadores de la Industria Agropecuaria (SINTRAINAGRO), was murdered on 3 September. He was on the SINTRAINAGRO workers' committee at El Cortijo banana plantation.

José Alberto Martínez Santander, a teacher in the Santander district in the municipality of Astrea, was murdered on 3 September.

Jorge Alberto Duarte, a farm worker affiliated to SINTRAINAGRO, was murdered on 3 September in the municipality of Apartadó, Antioquia.

Libardo Rodallega, a teacher affiliated to the Asociación de Institutores del Cauca (ASOINCA), was murdered on 28 September in the municipality of San Isidro in Cauca.

Isidro Rivera Barrera, a member of the oil workers' union Unión Sindical de la Industria del Petróleo (USO), was murdered on 26 September by armed men outside his home in the city of Barrancabermeja, in the department of Santander.

Luis Arbey Quiroz Vivas was murdered on 7 October in the municipality of San Lorenzo, in Nariño, on making his way home. He was a member of the teaching union Sindicato del Magisterio de Nariño (SIMANA) and had been president of the grassroots committee for ten years.

Harvey Quiroz, teacher, trade union and social leader, was murdered on 7 October in the rural area of Corregimiento del Carmen, in the municipality of San Lorenzo. He was shot nine times.

Tarcisio Betancourt Ballesteros, a member of the municipal workers' union Sindicato de Trabajadores del Municipio de Yumbo, was murdered on 8 October on his way to work at the

municipal aqueduct, in the Nuevo Horizonte district of Yumbo, where he was employed as a guard. He was shot six times.

John Freddy Carmona Bermúdez, a member of agri-food union Sindicato Nacional de Trabajadores del Sistema Agroalimentario (SINALTRAINAL), was murdered on 9 December in Medellín. He worked for biscuit company Noel, a client of Sodexo, and had been missing since 7 December.

Dora Liliana Ochoa Serna, an executive member of her local branch union was murdered on 16 December. She was an active member of the public employees' unions Sindicato de Trabajadores Oficiales y Empleados Públicos de los Municipios de Antioquia (SINTRAOFAN) and Sindicato de Trabajadores Oficiales y Empleados Públicos de los Municipios del Nordeste de Antioquia (SINTRANORDESTE). More than 40 members of SINTRAOFAN have been murdered over the years.

Costa Rica



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

The country continues to be blighted by slow and inefficient legal procedures when dealing with anti-union actions. The restrictions remain on the right to collective bargaining in the public sector and there is a serious imbalance in the private sector between the very low number of collective agreements signed with trade union organisations and the number of direct arrangements with non-unionised workers.

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 2011

Background: Costa Rica's recent history has led the country to develop very close links with the U.S. economy, despite the wishes of the majority, which successive governments have disregarded. The policies being pursued by the current government led by President Laura Chinchilla would appear to be oblivious or indifferent to the risks this entails, and is leaving the market economy to steer the life of the country, turning a deaf ear to the alerts raised by social leaders and experts regarding the urgent need for protective measures and policies.

Rising social discontent over policies attacking the health and social security system, plus the lack of dialogue to produce negotiated solutions, led the Federación de Organizaciones de la Caja y la Seguridad Social (FOCASS) to hold a protest march in June to put pressure on the President of the Republic and the authorities governing the institution. The demonstration was calling for the Finance Ministry to make an immediate payment to the institution of 15% of the profits from public companies, in line with the study presented by the body. It also requested that a bill be introduced to remove the executive presidencies and restore autonomy to the Costa Rican Social Security Fund (CCSS). The action was, in addition, aimed at protecting the thousands of jobs being threatened by the attempts to restructure the institution and the social security system. Over 6,000 workers from the CCSS took to the streets of the capital to demonstrate in support of the demands.

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.

Obstacles to organising in the private sector: It is almost impossible to form and operate trade unions in the private sector, owing to the combined effect of employer opposition and company-sponsored "solidarismo". 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.

Government supports "solidarista" 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. In April 2010, moreover, a regulation was passed granting "solidarista" organisations the same status as bona fide trade unions. There are only around 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, some 300,000 workers come under the company-sponsored "solidarista" system.

Banana workers take action: Banana workers rallied to fight for trade union organisations and collective bargaining to be recognised rather than "solidarista" associations, as well as for due compensation in the event of dismissal. The agricultural workers' union publicly condemned fruit company BANACOL for refusing to accept the decision of the court of second instance, ordering it to compensate the workers that had been unfairly dismissed.

Employers respond violently to banana workers' peaceful strike action: On 25 November, workers at Fincas 1, 2, and 3 of the Corporación de Desarrollo Agrícola Del Monte, in Sixaola, Limón, held a meeting regarding the strike called to consolidate the development of the union and collective bargaining. The strike, which was supported by 90% of the workers employed on these estates, was carried out in a peaceful manner.

The workers, who had been on strike for over 14 days, were threatened, humiliated and attacked by the company manag-

ers who, as well as not paying their wages (in a clear breach of the law), ordered all credit to be cut off at the Solidarista Association. They also closed the canteen that provides them with food and spread rumours that dismissals were going to be made so that the local businesses would not give the strikers credit. The company hired strike breakers to cut and prepare the bananas for packing. The local school refused to feed the strikers' children.

After a 22 day strike involving over 600 workers, most of whom are Guaymi indigenous people and Nicaraguan migrants, the action came to a successful end, demonstrating that the Permanent Workers' Committee and the infamous "direct arrangements" used by the management to avoid unionisation and collective agreements do not have the workers' support.

Cuba



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

One million four hundred thousand employees are being displaced as part of a process initiated in October 2011. The government is proposing "self-employed activities" as a solution to the problem of unemployment, affecting over a million people, and its economic consequences. The recent economic measures taken by Raúl Castro's government have raised a great deal of concern in the country, where the price of food is not coming down and the subsidies allocated through the ration card are being cut.

The Central de Trabajadores de Cuba (CTC) is still the only organisation representing workers. Independent unions cannot be formed and the exercise of labour rights is restricted.

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 2011

Background: Cuba continues to be one of the few places in the world where the largest employer and generator of employment is the state. The state sets wages, working hours and conditions by decree.

The programme of economic reforms included a 20% cut in state jobs, in which 5 million people are employed, with a view to creating a labour market and freeing up funds to pay the most productive workers.

For the CTC, the restructuring is a unique process aimed at improving economic indicators for the sake of the people's wellbeing and without failing to consider the need for greater preparation and capacity building for trade union leaders, especially at grassroots level, to meet the challenges and effects of this process.

The year 2011 started with economic decentralisation in the provinces and municipalities, where the income raised should strengthen local government, according to the reform programme. Local authorities were called on to promote food self sufficiency, small-scale manufacturing and processing and to take part in investment plans. Both local companies and new private entrepreneurs have to pay taxes to their local governments.

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

New government reform programme: The government violates the right to collective bargaining, freedom of association and the independent representation of workers. It has decided to make mass redundancies, leaving hundreds of thousands of people jobless, and announced tougher repressive and disciplinary measures in the workplace. It is trying to develop a model that preserves the essence of the system, i.e. collectivism, state ownership of the means of production, centralised decision making, planning and prohibition of the individual accumulation of wealth, at the same time as demanding greater productivity from companies and workers, and denying economic, political and cultural freedom through increased control and repression.

According to the Plenary of the National Council of the CTC, "we have to show the world that the workers, the backbone of our society, will forge ahead until the economic situation has been overcome, certain that they are taking the only correct and just path possible". Salvador Valdés, general secretary of the CTC, underlined the need to ensure that the 2011 Plan draws on the lessons of 2010: "The major economic challenges facing the country require the trade union movement to change its methods and approaches, to act as a healthy counterbalance to the violations and transgressions that may arise with the implementation of the changes."

The initial results of this process demonstrate that, despite the prior preparation for these changes, there are still problems that need to be resolved. Although this is a predominantly administrative process, the union cannot be neutral and must be the first to ensure that workers are given the help they need and are not abandoned.

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 only contribute to meeting the state'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

Basic trade union rights such as freedom of association continued to be restricted in the public sector. Collective bargaining is limited by requirements such as a union having to represent an absolute majority of the workers in an enterprise or branch of activity to be able to bargain collectively. A strike cannot be called until mandatory mediation requirements have been met. Child labour is a serious problem in the Dominican Republic, where many Haitian children are taken in by families that employ them as apprentices; 18% of children aged between 15 and 17 work, and tens of thousands of boys and girls start work before the age of 14.

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 2011

Background: The Dominican Republic saw a gradual deterioration in the human rights situation during 2011. Reports by international organisations reveal that the country has one of the worst scores in terms of health, education and competitive-

ness indicators, whilst ranking high in the list of countries with the worst levels of corruption and violence, lack of transparency and lack of confidence in the State. The latest report of the United Nations Development Programme (UNDP) ranked it among the four Latin American countries with the worst inequalities.

Hundreds of community protests, general strikes and stoppages were suppressed between February and December 2011. The police used batons and tear gas to disperse the protestors. Journalists faced constant intimidation and the threat of murder, which has succeeded in creating self-censorship among journalist and editors and constitutes a serious attack on freedom of expression.

The year 2011, like 2010, was characterised by the low level of social investment. The government chose to prioritise major works such as flyovers and the metro rather than to build schools and aqueducts.

Child labour law not enforced: Forced or compulsory labour is prohibited and the Minors' Code provides protection and establishes penalties for the commercial or sexual exploitation of children. Child labour is, however, a serious problem in the Dominican Republic. ILO reports indicate that the large numbers of Haitian children adopted by families who employ them as apprentices often become victims of abuse and mistreatment. Poor Haitian and Dominican teenagers work in the sugar cane fields, where children under 12 plant sugar cane for a dollar a day. An estimated 30,000 children are the victims of sexual exploitation, which is most prevalent in tourist areas.

Basic trade union rights restricted: Basic trade union rights such as freedom of association are guaranteed by the Constitution but continue to be restricted in the public sector. The support of 40% of the total number of employees in a given institution is required in order to establish a public servants' union. Employees of autonomous and municipal bodies governed by the state do not have the right to unionise.

The right to collective bargaining is recognised, but a union must represent an absolute majority of the workers in a company or a branch of activity to be able to bargain collectively. Although bargaining is carried out in some companies, the ILO considers the requirements established for the exercise of collective bargaining rights to be excessive.

To call a lawful strike, a prior attempt to resolve the conflict through mediation must be made, and a majority of the employees in the company must vote in favour of the action, regardless of whether they are trade union members or not.

A two thirds majority of the members' votes must be obtained to be able to form a confederation or a federation. The law does not establish effective penalties to protect workers against acts of anti-union discrimination.

Poor representation of Haitian workers: Employers use threats to curb trade union activity. A number of unions represent a small portion of Haitian workers, but unskilled Haitian labourers working in the sugar and construction industries generally refuse to organise for fear of being deported or losing their jobs.

Collective bargaining attacked: The Sindicato Autónomo de Trabajadores y Empleados de la Empresa Gildan Activewear Dominican Republic Textile Company Inc. (SITRAGIL), affiliated to the trade union centre CSASC, won an appeal filed with the Labour Court of the Judicial District of Santo Domingo, ordering the immediate suspension of auditing work to determine union representation for the purposes of collective bargaining with the company, through the removal of Ordinance 115/2011 of 11 October 2011.

This auditing process, backed by the Fair Labor Association (FLA), infringes rights enshrined in the national legislation and international instruments. Through its action, the FLA has undermined the interests of SITRAGIL and its over 600 members, by attacking the credibility of the trade union movement, freedom of association and the free choice of the majority of the workers. The CSACS filed a complaint with the government offices administering the DR-CAFTA free trade agreement. The complaint will also be sent to the ILO.

Ecuador



POPULATION: 14,400,000
CAPITAL: Quito
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The lack of social dialogue in the public sector manifested itself once again in 2011, resulting in the dismissal of thousands of workers. Casualisation is still being used as a tactic to prevent union organising. Child labour continues to be widely exploited in Ecuador.

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 2011

Background: A referendum was held in Ecuador on 7 May 2011, seeking approval for a range of constitutional reforms regarding the judicial system, security, the environment, banking and the media. The reforms were approved, paving the way for

changes such as the dissolution of the Judicial Council, a highly controversial judicial body, and the setting up of a transitional body in its stead, which will be composed of five members, one of whom will be directly appointed by the president. A council of officials in charge of regulating the content of television, radio and the press will also be created. This new body could, in practice, represent an obstacle to freedom of the press.

There was growing opposition in 2011 to the increase in mining projects operated by big multinationals. Discontent was voiced over the lack of scientific rigour in the environmental impact studies and the failure to address the indigenous peoples' demands regarding the right to prior consultation, granted to them by the constitution in force.

Government deploys anti-union practices in public sector:

The government maintained a hostile approach to trade union rights, organisations and their leaders in the public sector, showing contempt for their demands, rejecting all calls for social dialogue and negotiations to set working conditions, and making mass dismissals.

Tactics to stop organising and collective bargaining:

Employers used a whole range of tactics to stop workers from attempting to organise and bargain collectively, such as not declaring their employees to the social security administration. Undeclared workers are not officially recognised as permanent employees and do not therefore have the right to organise.

Sluggish legal proceedings: All labour disputes are referred to conciliation and arbitration tribunals. The proceedings in courts of first instance are long and protracted, given the elaboration and /or clarification requirements. The disputes are then referred to courts of second instance, which are mired in red tape and take over four years to deliver a ruling.

Casualisation used to stop organising and collective bargaining:

Both public and private employers deployed tactics such as labour subcontracting and the promotion of management-controlled "solidarista" associations to limit the exercise of the right to organise and collective bargaining. In addition, temporary employees are not covered by the Labour Code and do not therefore have the same level of protection or trade union rights as other workers.

Child labour in Ecuador: Although child labour is prohibited by law, it is a problem that extends across the country, including in its worst forms. The government is making a serious effort to eradicate it. The figures for 2011 nonetheless reveal that an estimated 367,000 minors aged between five and 14 years are working illegally.

Mass dismissals without negotiation in the public sector: On 28 October 2011, the government laid off 3,029 public sector workers from all occupational segments and levels across the country, without following the legally established administrative procedures and without any dialogue with the workers or their trade union organisations. In many cases, the announcement of the dismissals was accompanied by hostile offensives by members of the security forces and the Labour Relations Ministry.

El Salvador



POPULATION: 6,200,000
 CAPITAL: San Salvador
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Trade union demonstrations and strike action, used as a means of exerting pressure, continued to be repressed. Attacks on workers' trade union rights, physical integrity and freedom of association were constant, as demonstrated by the arrest of a representative of the LIDO workers' union and the refusal by private companies to allow the free exercise of organising and collective bargaining rights. Despite efforts by the present government to facilitate unionisation in the public sector, the Ministry of Labour and Social Security demonstrated a total lack of interest in defending the rights of the workers and union leaders affected by unfair dismissals and acts of repression in municipal councils across the country. The murder of a trade union leader remains unpunished.

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 2011

Background: The country continues to be plagued by violence. A report of the Citizens' Council for Public Security and Penal Justice pointed out that the murder rate in 2011 in the city of San Salvador was 94 for every 100,000 inhabitants and that the nationwide murder rate was 53 for every 100,000 inhabitants.

Expectations that the government of President Funes would bring greater freedoms were not met. The reform of the judicial legislation, promoted and approved by right-wing parties in the Legislative Assembly and endorsed by the president, grants the current Legislative Assembly unlimited powers and halts the work of the Constitutional Chamber of the Supreme Court of Justice (CSJ), leaving citizens without legal protection against acts and decisions violating their constitutional rights.

President Mauricio Funes has turned his back on the people and is moving closer to business with the approval of Decree 743, drawn up to restrict the powers of the Constitutional Chamber. In response to this move, the Coalition for Political and Electoral Reform (CREE) called a citizens' protest to coincide with the XLI General Assembly of the OAS in June, to press the Legislative Assembly to repeal Decree 743 and restore the independence of the CSJ.

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.

Murder of trade union leader unpunished: On 15 January 2010, Victoriano Abel Vega, general secretary of the Santa Ana municipal workers' union SITRAMSA, was murdered after receiving death threats. On 13 January 2011, given the state's failure to take any action, the Central Autónoma de Trabajadores Salvadoreños (CATS) and its affiliates, the municipal workers' federation FESITRAMES and SITRAMSA, filed a complaint against the state of El Salvador with the International Labour Organisation (ILO) for violating freedom of association and the right to life.

Peaceful municipal workers' protest suppressed: On 9 March 2011, the Municipal Council of Mejicanos, governed by Mayor Blandino Nerio, illegally suppressed a peaceful and legitimate protest held in defence of long-held gains. Over a dozen workers affiliated to the Mejicanos municipal council workers' union SETRAME were harassed, beaten and burned with pepper gas. Three leaders of the national municipal workers' federation FESITRAMES were seriously injured by municipal agents from Mejicanos, who were acting on the Mayor's orders to suppress the workers' protest at any cost.

Trade union leader unjustly and illegally imprisoned: On 8 June 2011, as LIDO workers were peacefully exercising the right to strike at the Boulevard del Ejército plant, the manager pressed false charges against Atilio Jaimes Pérez, general secretary of the LIDO workers' union SELSA, accusing him of issuing death threats. The trade union leader was called outside the plant, supposedly to hold talks with the management, only to find himself confronted with National Civil Police officers, who proceeded to arrest him. The company said it would drop the charges if the workers ended the strike. The trade union leader was held like a common criminal in the cells of the National Civil Police in San Bartolo. His release was finally secured thanks to international solidarity and pressure combined with the efforts of his union colleagues.

Unfair dismissals and transfers in municipal councils: In November 2010, the Santa Ana Municipal Council initiated

dismissal proceedings against Karla Beatriz López Contreras, an executive member of the Santa Ana municipal workers' union SITRAMSA. The Council also ordered her suspension pending the completion of the dismissal procedure. Following up on a complaint filed with the International Labour Organisation, the Labour Minister requested a report on the matter from the Santa Ana Labour Court. At the end of 2011, over one year after the procedure had been initiated, the dismissal was found to be unlawful and the Municipal Council was ordered to reinstate her.

In June 2010, José Fausto Recinos, employed as a driver with the municipal police force (CAM) of the Mejicanos Municipal Council, was transferred without prior notice. The Central Autónoma de Trabajadores Salvadoreños (CATS) initiated protection proceedings, taking action against the Mejicanos Municipal Council for failure to comply with due process and the violation of trade union immunity.

Guatemala



POPULATION: 14,000,000
CAPITAL: Guatemala
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Guatemala again stood out in 2011, regrettably, as the Central American country characterised predominantly by human rights violations. The right to life of trade union, rural and indigenous community leaders and human rights defenders continued to be violated. Ten trade unionists were assassinated and there were violations of every kind in municipalities, enterprises and maquilas. The Izabal Banana Workers' Unions (SITRABI) was the hardest hit. Guatemala's employers are very conservative and do not respect the right of workers to freedom of association, collective bargaining and decent work. The Ministry of Labour and Social Welfare, far from fostering labour rights, is the obedient servant of the national and transnational employers. When there are decisions by the labour courts in favour of the workers, they are not applied.

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 2011

Background: The weak and corrupt institutions responsible for implementing the law in Guatemala have not been able to stand up to organised crime and powerful criminal gangs. Guatemala has one of the highest crime rates in the Americas. In addition to delinquency and crime there are high rates of extreme poverty.

Impunity is still the order of the day, but there was some progress in 2011, such the sentencing of four army officers for the massacre carried out by the army in 1982, during the government of Efraín Ríos Montt. On 7 November 2011, the former general and Patriotic Party (PP) candidate for the presidency of Guatemala, Otto Pérez Molina, was elected President with 55.19% of the votes in the second round.

Increasing cost of social security: In January 2011 a provisional ruling by the Constitutional Court decided not to suspend Agreement 1257, siding with the Steering Board of the Guatemalan Social Security Institute (IGSS), which has increased the age and the premiums for the Invalidity, Old Age and Survival (IVS) Programme, in a clear violation of the acquired rights of IGSS affiliates.

Workers in the maquila industries are paid less than other Guatemalan workers. The situation is even more serious for indigenous and rural workers who in general earn less than the minimum wage, and 93% of whom are not covered by social security.

Violations of trade unionists' rights: The wave of assassinations that has swept across Guatemala in the last few years did not end in 2011. Trade union leaders and activists from all sectors were the victims of this generalised violence in the country. The Izabal Banana Workers' Union (SITRABI) was once again the hardest hit. Attacks on and threats against trade union leaders, human rights activists and their families also continued.

Forced evictions and violations in the rural communities: José Gabriel Cubur, of the United Rural Communities Committee (Comité de Unidad Campesina - CUC), Abelino Choc, a member of the Guillermo Toriello Foundation (FGT) and Carlos Paredes, a member of Community Studies and Psychosocial Action (ECAP), as well as several other human rights defenders, were the targets of harassment and aggression during the forced evictions carried out from 15 March 2011 in the Polochic Valley, Panós, in the Alta Verapaz region.

Massacre and repression of rural leaders: At least 29 peasant farmers, including two women, were murdered and decapitated at the "Los Cocos" farm in the La Libertad municipality in the department of El Petén, on 14 and 15 May 2011. The killings took place in face of the lack of interest and negligence of the Guatemalan authorities.

There was an armed attack against peasant farmers and their families on 21 May 2011 in the Polochic Valley, notably in the communities of Agua Cliente and El Sauce Inup, Panzos, Alta Verapaz. The attack began at 8.00 in the morning when 30 guards from the Chabil Utzaj sugar mill arrived in Agua Caliente, asking for two rural leaders Oscar Reyes was assassinated and five other peasant farmers, Santiago Soc, Mario Maquin, Miguel Choc, Marcelino Ical Chub and Arnoldo Caal Rax were injured.

Assassinations of trade union leaders and activists: On 5 January 2011 Eswin Gálvez, a doctor at the Retalhuleu hospital and member of the National Health Workers' Union of Guatemala (SNTSG), was assassinated. He was killed outside his home when he was shot at by a hired gunman.

On 30 January 2011, Luis Alberto Castillo Castro was assassinated in Puerto Barrios, Izabal. He was Finance Secretary for the Santo Tomas de Castilla National Port Workers' Union (SINEPORNAC) On 10 April 2011, Oscar Humberto González Vásquez, leader of the Izabal Banana Workers' Union (SITRABI) was assassinated. He was shot 35 times.

On 2 May 2011 Lorenzo Godoy Asencio was reported missing. He was the General Secretary of the Tricycle Workers' Union of

the City of Pedro de Alvarado Moyuta Jutiapa, and also General Secretary of the nascent Transport Workers' Union of Pedro de Alvarado Moyuta Jutiapa. His body was found three days later in the village of Los Angeles. There were several bullet wounds.

On 26 May 2011 Idar Joel Hernandez Godoy, Finance Secretary of the Central Executive Committee of the Izabal Banana Workers' Union (SITRABI) was brutally assassinated in the town of Los Amates, Izabal. He was attacked by unidentified assailants on a motorbike, who shot at him while he was driving to the SITRABI's headquarters. The National Police and agents from the public prosecution service reported that there were several bullet wounds on the body, including one to the face.

On 21 July 2011, Lesbia Elías Xurup was hacked to death at her home in the community of La Selva, Santo Domingo, Suchitepéquez. She was a member of the Communities in Resistance gains the Union FENOSA company and of the National Front for Struggle (FNL). The killers went straight to her home and, not content with just killing her, cut off one of her hands.

On 22 July 2011, María Santos Mejía was killed after being shot in the head by criminals on a motorbike. She was the Minutes Secretary of the Independent Maquilas Union and a member of the Colonia La Brigada branch of the FNL in Zone 7, Mixco. María and Lesbia's murders took place as the II Conference Against Impunity was being held in Guatemala city.

On 13 September 2011 Byron Arrega, leader of the Administrative Workers Union of the Quetzaltenango Estate, was killed when shot in the temple, as he was about to get into his car. His murder took place as the workers of the Second General Register at the Quetzaltenango Estate were calling for the dismissal of the General Registrar because of his constant violations of workers' rights.

On 24 September 2011 Henry Aníbal Marroquín Orellana, a grass roots member of SITRABI, was murdered. Heavily armed gunmen shot him 17 times. He was killed just a few metres from the porter's lodge at the entrance to the Qirigúá farm, in the municipality of Los Amates, Izabal department.

On 27 October 2011 Miguel Ángel Felipe Sagatusme, founder and General Secretary of the Finca El Real Workers' Union in Morales, Izabal, was assassinated. The plantation produces fruit for the Bandegua company, a subsidiary of Del Monte. According to information received by the union, the murder was carried out by a private security agent employed by the banana plantation.

Interference by municipal authorities and public institutions:

The Mayor of Pochuta Chimeltenango did not pay the salaries, year-end bonuses or other payments owed to the municipality's employees between March 2008 and 2009. On 3 January, in an attempt to destroy the workers' union, the municipality dismissed ten workers who had continued to demand outstanding payments.

In February, workers employed by the San José municipality in El Rodeo, San Marcos department, organised a union. From that moment on they faced a whole series of problems with the municipal authorities, including wage reductions and constant dismissals without justification. The Ministry of Labour and Social Welfare was asked to intervene, but the process is always very slow and inspectors tend to side with the authorities.

Workers employed by the San Jerónimo municipality, Baja Verapaz, had been owed their salaries since March 2010. Their case was dealt with by the General Labour Inspectorate, the Labour Courts, and the Public Prosecutor's Office. Despite several rulings issued by labour court judges in the workers' favour, ordering the immediate payment of their salaries, as well as documents promising to pay them, and signed by the Mayor in the presence of the agents from the Public Prosecutor's Office, the workers were still not paid.

The Puerto Barrios municipality in the Izabal department owed its employees their holiday pay from 2008 to 2011. The National Federation of Public Servants (FENASEP) complained that more than 400 workers had not received their holiday pay from 2008 to 2011 or their salaries for five fortnights.

On 29 March the Workers Union of the President's Wife's Social Work Department (SOSPEP) denounced violations of human and labour rights. The department ordered on 28 March that the staff on the Community Homes Programme be transferred to the SOSPEP's central offices, changing their working conditions and seeking to destabilise or even destroy the union.

The public sector National Forensic Science Institute (INACIF) had still not resolved the issue of the dismissal of 11 workers in 2008. Their appeal was still with five of the Supreme Court of Justice's Labour Tribunal's. The courts of second instance ordered the reinstatement of five of them.

Dismissal of unionised workers in private enterprises:

An anti-union policy has been applied at the Santa Cecilia plantation, a private enterprise in San Francisco Zapotitlán, Suchitepéquez, that produces coffee and sugar, for years. There have been mass dismissals of union members, with the aim of weakening and destroying the organisation.

Negotiations began on 4 March 2011, with mediation by the Ministry of Labour and Social Welfare, in an attempt to resolve the problem of the dismissals. However the company had concocted a series of false reports against the workers to incriminate them in the eyes of the government. During the negotiations, the Suchitépéquez Labour Inspectorate put pressure on the few workers who remained, and the trade union leaders.

The Tomza Corporation dismissed 12 workers on 28 May, including members of the union's Executive Committee. The dismissals followed many violations of their rights simply for exercising their rights to organise and bargain collectively, and despite court rulings prohibiting the dismissal of any of the workers.

On 17 November 2011, Aguas de Izabal, a water management company based in Puerto Barrios, Izabal, dismissed 43 workers in October after they decided to form a union. The workers asked the General Labour Inspection of the Ministry of Labour and Social Welfare to intervene, but the matter was not resolved. The company's representative denied breaching legal provisions and the orders of the Labour Inspector.

Chiquita Brands-Cobigua, a banana company in Puerto Barrios, Izabal, has tolerated the organisation of trade unions at its Costa Atlántica plantations. However, it has undertaken a policy to ensure that they do not thrive. Hence when a natural disaster occurs they take advantage of it to damage the union and violate collective agreements. After Tropical Storm Agatha they suspended 350 permanent employees from the plantation claiming that it had affected banana cultivation, but then contradicted that claim by hiring temporary workers to replace them. The General Labour Inspectorate of Puerto Barrios, Izabal, did not authorise the request to suspend the workers, but permission was given by the head office of the Ministry of Labour and Social Welfare in the capital.

The Palo Gordo sugar mill, on the southern coast, carried out a policy of human and workers' rights violations during 2010 and 2011, dismissing trade union members with no respect for the collective agreement on working conditions. A group of workers took the case to the Ministry of Labour and Social Welfare which initiated negotiations. The matter was not resolved however as the Ministry accepted the employer's conditions and demands.

At the Finca las Delicias coffee plantation in Tumbador, San Marcos, workers faced severe problems because for years they had not been paid their salaries in due time and were not being paid the minimum wage established by law. A group of permanent workers were threatened with dismissal in an attempt to weaken and destroy the union. The Las Delicias Agricultural

Workers' Union submitted a complaint to the Ministry of Labour and Social Welfare in the San Marcos Department. Although several meetings took place between the employers, trade union and the authorities, compliance with labour law has not been guaranteed, nor have the employers been penalised for breaking the law.

Haiti



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

Given the lack of jobs in the formal economy, trade union rights only apply to a minute proportion of the active population. In the few workplaces where rights do apply, they are violated, as seen in the Ouanaminthe and Port-au-Prince export processing zones, where eight trade unionists were dismissed in September and October.

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 if those defini-

tions is considered illegal. Finally, strikes are illegal in public sector enterprises.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: Over 520,000 people have been infected and 7,000 lives have been claimed by the cholera epidemic, thought to have been caused by Nepalese UN peacekeepers stationed in the country at the end of 2010. At the end of 2011, 200 new cases were being registered every day. It is one of the worst cholera epidemics in modern history. In March, Michel Martelly, a pop singer with no political experience, won the second round of the presidential election. He appointed Garry Conille, a UNDP officer and medical doctor, to the post of prime minister. He was the third prime minister nominated by the president; the first two were rejected by the opposition-controlled parliament.

Serious obstacles to organising: The formal economy only employs 2% of the active population. Attempts to organise in the export processing zones meet with serious obstacles and only one collective agreement has been concluded. Labourers work without protective equipment on construction sites. The vast majority of workers rely on precarious work in the informal economy and many continue to live in makeshift shelters. Under such circumstances, decent work and international conventions are often abstract concepts. Organising workers in unions, defending their rights and strengthening trade union organisations thus remain a major challenge.

Newly formed union decapitated in Port-au-Prince export processing zone: On 23 September, just one week following the authorisation of the textile and clothing union Syndicat des Ouvriers du Textile et de l'Habillement (SOTA), the management at Genesis fired the union spokesperson, Johnny Deshommes, for refusing to work overtime because he was suffering from a fever. Three other members of SOTA's executive, Brevil Claude, Wilner Eliacint and Sénatus Vilaire were also dismissed two days later as they were preparing to seek justice for their colleague. The factory managers called in two police officers, one of whom was not in uniform, to intimidate the workers, who had already been subjected to a complete search. A fifth member of SOTA, Mitial Rubin, was sacked from One World Apparel after trying to raise awareness and inform workers about the union's formation. Jean Jacques Hilaire, a sixth member of SOTA, was dismissed by Multiwear on 30 September.

A report by Better Work Haiti has underlined the link between the workers' dismissals and their trade union activities. It points out that the employers dismissed the workers in a bid

to weaken the union and to stop its development, less than two weeks after it was formed. Better Work, launched in Haiti in February 2007, is a partnership programme between the International Labour Organisation (ILO) and the International Finance Corporation (IFC). Its role is to improve labour standards but also competitiveness in global supply chains. At the end of 2011, talks were being held between the union and the companies regarding the trade unionists' reinstatement.

Two trade unionists dismissed at Ouanaminthe EPZ: In October, Arnold Bien-Aimé and Dieubénite Dorsainville were fired from the Codevi export processing zone in Ouanaminthe, as soon as their union membership was announced.

Honduras



POPULATION: 7,600,000
CAPITAL: Tegucigalpa
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Trade union membership levels remain very low, company unions predominate and temporary employment and subcontracting are reaching alarming proportions. Teachers are continuing the fight to hold on to their rights and to save their pension institute, the Instituto Nacional de Previsión del Magisterio (INPREMA). The teaching union's very existence will come under greater threat with the proposed Education Law, which seeks to privatise education and to repeal the Teachers' Statute. The conflicts with campesino associations in Bajo Aguán, the attacks and attempts to interfere in or even illegalise teachers' organisations, and the murders of trade unionists, journalists and social leaders are clear signs that Honduras has not yet managed to recover from the break with constitutional rule and that its public institutions are still far from being consolidated.

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 2011

Background: The year 2011 was marked by the government's attempts to seek negotiated solutions to the growing social unrest and the increasingly widespread violence, at the same time as maintaining its policy of repression against any social expression of discontent or any action demanding better living conditions for the people of Honduras. According to the government's own figures, there were over 300 cases of femicide and 3,500 violent deaths in the first half of 2011 alone.

New law on temporary employment by the hour: The government enacted the law on employment by the hour, which deregulates the labour market and virtually annuls the Labour Code. It offers further proof of the business world's control over the state. Collective bargaining remained at a very low level. The number of unions in the private sector is lower than that in the public sector.

Mass dismissals and attacks on trade unions and their leaders: All forms of union action were hampered by the stigmatisation of trade union activism, the repeated violations of internal procedures and regulations in the workplace, the heavy pressure placed on workers to withdraw from unions and the dubious legal proceedings against trade union leaders. Countless unionised workers were dismissed.

The year 2011 saw the mass dismissal of executive members of the university workers' union Sindicato de Trabajadores de

la Universidad Nacional Autónoma de Honduras (SITRAUNAH), the National Agrarian Institute workers' union Sindicato de Trabajadores del Instituto Nacional Agrario (SITRAINIA), and the child welfare workers' union Sindicato de Trabajadores del Patronato Nacional de la Infancia (SITRAPANI). All were supposed to be protected against dismissal by trade union immunity. Members and leaders of the drinks industry union Sindicato de Trabajadores de la Industria de la Bebida y Similares (STIBYS) suffered systematic persecution as part of an escalating campaign of repression that claimed the life of one worker and left several others injured.

Violations of the right to strike: Violations of the right to strike reached their highest expression in the education sector, which was threatened with the dissolution of its trade union organisations. This threat was accompanied by the mandate given to the police to violently repress strikes, thus crushing the right to protest and placing the teachers' physical integrity at risk.

Murders, attacks and arbitrary detentions, teacher killed and education union leaders attacked: Ilse Ivania Velásquez Rodríguez, a teacher and deputy head of the Escuela República Argentina in Tegucigalpa died on 18 March when taking part in a peaceful demonstration called by the national teachers' union Magisterio Nacional. She was hit in the head by a tear gas canister and then hit by a vehicle during the repression by police and armed forces. On 8 September 2011, the popular journalist Medardo Flores was murdered by hired assassins, who shot him nine times. Medardo Flores was also part of the finance department of the Broad Popular Resistance Front (FARP). On 6 December, Honduran journalist Luz Marina Villalobos Paz was shot dead, riddled with bullets, by hit men on two motorbikes. Her cameraman and driver, Delmer Canales was also killed. Their vehicle was hit by 20 bullets.

On 22 October, Rafael Alejandro Vargas was killed along with his friend Carlos Pineda Rodríguez. Vargas was the son of the rector of the National Autonomous University of Honduras (UNAH), Julieta Castellanos, who founded the Violence Observatory and stepped up her fight against crime in the country following her son's murder. The murder was allegedly perpetrated by elements of the National Police. The incident has led to a change in course with regard to impunity in Honduras. Between that date and the beginning of December, over 500 charges were brought against police officers, and Porfirio Lobo's government was forced to adopt urgent measures in response to popular pressure.

Pedro Vicente Elvir, president of the child welfare workers' union Sindicato de Trabajadores del Patronato Nacional de la Infancia (SITRAPANI), suffered an attempt on his life on 4 No-

vember after taking part in a march on 3 November against the Labour Code reforms being hatched in the National Congress.

Teaching union leaders arbitrarily detained: On 31 March, Luciano Barrera, of the teachers' negotiating committee set up to resolve the teachers' dispute, which had already lasted 19 days, giving rise to street protests in support of teachers' rights and against the plans to privatise education, was beaten and jailed by repressive state forces. Barrera was released the same night along with others who were also detained and beaten. As the dispute intensified, the courts placed injunctions and remand orders on 18 teachers. Hundreds of teachers were brutally beaten and injured.

Sabmiller systematically breaches collective agreement and the law: Of the five multinationals that have owned the Cervecería Hondureña brewing company, Sabmiller is the one that has least complied with the collective agreements signed with the drinks industry trade union Sindicato de trabajadores de la industria de la bebida y similares (STIBYS).

In August 2010, the Labour Ministry informed the company's representative in Honduras of its duty to remedy the breaches within three days or face a financial penalty. On 9 May 2011, the Director of Legal Services within the Department of Labour and Social Security rejected the defence and the corrective measures filed by Sabmiller's legal representative in Honduras. Given the brewery's failure to comply, the Labour Ministry presented it on 11 June 2011 with a fine of Lps 55,000, payable to the State Treasury and a warning that the fine would be increased by 50% if the company reoffends. The Labour Inspectorate had confirmed Sabmiller's breaches of the collective agreement.

Serious human rights situation in Bajo Aguán valley: Forty two members of campesino organisations have been killed, injured, disappeared or tortured over the last two years in Bajo Aguán. There have also been countless forced displacements, in breach of international standards, as well as threats and harassment carried out with total impunity. The growing militarisation of the landowners and palm oil producers in the area, and the absolute power they wield, were among the factors contributing to the violence against peasant organisations and families fighting for their right to land and a decent life.

On 14 August, Ramón Leodanys Lobo Hernández, a labourer employed by the Dinant Corporation, and a minor Wilmer Javier Melgar Ramos were killed on the lands linked to the small village of Paraná, in Rigores, Trujillo, in alleged clashes with security guards hired by the Dinant Corporation.

On 15 August, heavily armed unidentified assailants killed five people in a pick-up truck leaving the offices of the National Agrarian Institute (INA) in Sinaloa. Those murdered were Bonifacio Dubón, Elvin Geovanni Ortiz Castro, Eleuterio Lara Reyes, Karla Vanesa Cacho Castillo, all from San Pedro Sula and employed at the Pepsi bottling plant, and Migdalia Elizaldes Sarmiento Duarte, from Tocoa who had a food stand on the INA premises in Sinaloa. According to the Public Prosecutor's Office, no robbery was attempted at the scene of the crime.

Jamaica



POPULATION: 2,741,000
CAPITAL: Kingston
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Jamaica continued to be plagued by the grave problem of trafficking in women and children for sexual exploitation. Domestic workers remain deprived of labour and trade union rights. Precarious employment is used as a means of hampering the exercise of the right to organise, in addition to the direct action taken by private employers to crush existing trade union organisations.

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 2011

Background: In December 2011, Portia Simpson-Miller of the People's National Party (PNP) was elected as prime minister. She is the only woman to have held this post, which she previously occupied in 2006. Unemployment rose to 12.9% in 2011. Poverty has fallen in recent years but still affects 19% of the population. Jamaica's main source of income is tourism, which has been hit over recent years by the global crisis and the high rate of violent crime in the country.

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 of this scourge.

Union busting and derecognition: It is estimated that 20% of workers belong to a union. Where unions already exist, managers in some companies try to have their recognition withdrawn. In the private sector, employers tend to dismiss unionised workers and then re-hire them on short-term contracts with lower benefits.

Anti-union practices preventing formation of unions in EPZs: It is common practice among EPZ companies to threaten workers and create pro-employer "workers' councils", which interfere in the processing of complaints but are not allowed to engage in collective bargaining on working conditions or minimum wages. As a result, no unions have so far been formed in the EPZs.

Precarious work hinders unionisation of domestic employees: Domestic work in Jamaica is precarious, with very poor wages that fall below the minimum wage, very limited if any access to social security, and little respect for labour rights and conditions. This situation hinders the exercise of the right to organise and collective bargaining.

Mexico



POPULATION: 113,400,000
CAPITAL: Mexico City
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 100 - 105
- 111 - 182

Anti-union practices by governments and employers have resulted in the detention of union leaders, imprisonment, all kinds of pressure, the non-recognition of independent unions and the promotion of yellow unions, the closure of workplaces, and even the death of workers. There have been several initiatives to reform labour legislation at the federal and state level, always to the detriment of workers' rights and minimum labour standards. The persecution of independent trade unions is constant. Trade unions representing electricians, oil workers and telephone workers amongst others have been the victims of violent attacks, intimidation and repression. Two trade unionists who had been in prison for some time were released during the year thanks to intense pressure at the national and international level.

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 2011

Background: Mexico still ranks as one of the most violent countries in the world, and consequently one of the worst for human rights violations, with 15,000 violent deaths a year. Legislative measures have not been sufficient to prevent or penalise this violence. The Supreme Court of Justice of the Nation (SCJN) has issued several historic resolutions on human rights cases, while the Inter-American Court of Human Rights has found Mexico guilty of severe human rights violations committed by its armed forces. Many indigenous communities still have limited access to basic services. Five prisoners of conscience were released.

In addition to the political violence, there is a high level of violence in the labour world, together with efforts by the State and employers to use every trick in the book to avoid respecting labour rights, violating the procedures designed to enforce those rights. At the same time they press for changes to labour legislation to introduce more flexible practices, providing fewer guarantees for workers' rights. The poverty and marginalisation in which millions of Mexicans live forces them to accept any job they can to support their families.

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 trade union 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.

Outsourcing strategies: Both national and state governments have implemented a strategy of outsourcing, whereby workers are contracted through companies which recruit staff to work in factories or other establishments, as a means of preventing employees from claiming the respect of their rights.

Poor labour inspection and lack of social cover: The labour authorities do not fulfil their obligations in terms of workplace labour inspections. The most vulnerable workers include women and children, many of whom work in the informal economy, with no rights.

According to local conciliation and arbitration boards, the principal complaints against enterprises are about the failure to register workers with the Mexican Social Security Institute (IMSS), excessively long working hours, the non-payment of overtime, transfers to workplaces in remote locations, the docking of wages and no recognition of the right to organise.

Release of imprisoned trade union leaders: Juan Linares Montufar, President of the General Council for Security and Justice of the National Mine and Metal Workers' Union of Mexico (SNTMMSRM), who was imprisoned illegally without bail on 3 December 2008, was released on 14 February 2011. His

release came shortly after a campaign by trade unions from 40 countries in support of labour rights in Mexico.

Miguel Márquez, detained by the Puebla state police in 2010, was released in 2011 when members of the Electricians' Union of Mexico (SME) protested in Necaxa against closure of the Luz y Fuerza del Centro company.

Persecution of the Honda workers' union STUHM: When Honda workers began to organise an independent union in February 2010, several of them were dismissed. In March 2011, after various attempts, the District Labour Court ruled in favour of the registration of the Honda Mexico United Workers Union (STUHM), whose application met the requirements set out in the Federal Labour Law. The company appealed against the decision, but it was upheld by the court in August, granting registration. Workers who identify with the union continue to be threatened and dismissed however.

The struggle of the Mexican Electrician's Union (SME): The Fuerza y Luz company was closed down, arbitrarily and without consultation, in 2009. On 11 April 2011, 12 workers were detained for taking part in protests against the Mexican government's lack of respect for their situation. The government brought 125 criminal prosecutions against workers who took part in the protests. In July, warrants were issued for the arrest of Martín Esparza, General Secretary, Eduardo Bobadilla, Labour Secretary and Amalia Vargas Ríos, legal representative of the Mexican Electricians' Union (SME), on charges of attempted fraud, for trying to make use of the trade union dues deducted by the government since October 2009.

In June elections were held for 26 trade union posts. On 15 July the union asked to be registered by the Department of Labour and Social Security. There was no reply, and so a sit-in was organised in the central square in Mexico City, the "Zocalo". This action was called off when registration was granted. At the end of the year the issue of the dismissals had still not been resolved and the Federal Conciliation and Arbitration Board continued to drag out the proceedings.

Mine and metal workers' union (SNTMMSRM) struggle continues: The Grupo México mining company sought to its employment relationship with 1,200 workers. In June 2010 the army entered the Cananea mine's premises in Sonora, removing strikers in an attempt to break their strike. The army stayed at the mine and paramilitary personnel have patrolled the town of Cananea ever since then. On 7 June 2011, the Department of Labour and Social Security announced that another trade union organisation and Grupo México had signed a collective agreement governing labour relations at the Cananea mine,

allowing for operations to resume. This was despite the fact that the contract that it had signed with the National Mine and Metal Workers' Union of Mexico (SNTMMSRM) was still in force. In July a collegiate court handed down a final ruling that the strike was illegal. Afterwards, the Supreme Court ruled on the case of the certification of the mineworkers' union, saying that the authorities should not intervene in the internal affairs of the union. By the end of the year, the certificate of registration ("toma de nota") had still not been issued to the SNTMMSRM leadership. New trade unions, close to the government and the employers, had been registered, however.

Bata closes factory and does not recognise right to strike: On 18 July 2011, workers arriving for the first shift at the Calzado Sandak shoe factory in Calpulalpan, Tlaxcala, found the factory closed. Bata International had closed the plant and dismissed 250 workers, without informing the Calzado Sandak Workers' Union (SUTCS) or the workers, and without the intervention of a labour tribunal. The company advised the workers to become outsourced home workers. Since that date, trade union dues have still been deducted. The SUTCS called a strike to protect its members' jobs, twice submitting the case to the Tlaxcala Conciliation and Arbitration Board, and twice losing its case. The strike broke out on 29 August, and was declared illegal by the Board on 21 September. The union appealed and the strike was declared legal. The company challenged the decision, and the case had not been resolved by the end of the year. The workers have continued their protest.

Deaths of 65 workers remain unsolved: An explosion at the Pasta de Conchos coal mine, owned by Grupo México, on 19 February 2006, killed 65 miners. Nearly five years later, the bodies of 63 of the 65 who died remain buried in the mine and the Government of Mexico has done nothing to investigate the accident or prosecute those responsible. By contrast, it has stepped up its attacks against the Mineworkers Union of Mexico, which is still demanding justice for the industrial homicide committed at Pasta de Conchos and the recovery of the miners' bodies.

Forced labour: At the beginning of 2011, at the shop "Sam's Club" in Mexico State, a worker about 60 years old was carrying out his work, checking customers' membership I.D. One of the customers could see that something was wrong and asked what it was. The worker pointed to his belt, showing that he was tied up, saying "they have me tethered like a dog". He had been tied up so that he could not leave his work station. The customer demanded that the manager release the worker, warning that it was a violation of his human rights. The manager was immediately moved to another branch to avoid the case being denounced by civil society.

Nicaragua



POPULATION: 5,788,000
CAPITAL: Managua
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Dismissals for organising, outsourcing, and restrictions on collective bargaining rights, together with practices akin to forced labour were the principal violations during the year. There were unfair dismissals, including those at the state enterprise ENACAL, and violations of the freedom of association of workers at the daily newspaper La Prensa, amongst others.

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 2011

Background: Nicaraguan President Daniel Ortega was re-elected on 6 November after winning 66.43% of the vote and was due to officially begin his second consecutive five year term on 10 January 2012. The Nicaraguan government opted in favour of a second consecutive mandate after the Sandinista magistrates in the Supreme Court of Justice declared the constitutional provision prohibiting immediate re-election inapplicable.

Lack of justice: The Constitutional Chamber of the Supreme Court of Justice often does not rule in favour of fundamental rights when appeals are lodged by trade union leaders and workers.

There has been significant progress, on the other hand, in terms of social dialogue in the export processing zones. The National Labour Council has been established and efforts have been made to approve a Procedural Labour Code which will expedite procedures, and to establish a Higher Labour Court.

Restrictions on collective bargaining rights: The Ministry of Education (MINED) has refused to allow the National Teachers' Confederation of Nicaragua (CNMN) to take part in the collective bargaining process to guarantee better social benefits and ensure the respect of the social rights contained in collective agreements.

Forced labour practices: In many workplaces, employers take advantage of the employment deficit in the country to demand that employees work longer than eight hours a day, in order to cover production quotas and meet international commitments.

Domestic workers work more than eight hours a day without being paid the legal minimum wage, or overtime or for working on public holidays, in exchange for their job security and accommodation. Health workers face a similar situation, as public hospitals demand that they work more than an eight hour day without paying them for the overtime.

Call centre employees also work more than eight hours a day without being paid for overtime or working on public holidays, in exchange for their job security.

Unfair dismissals for exercising the right to organise in public enterprises: Several call centre companies dismiss workers who try to set up trade unions. The Ministry of Labour (MITRAB) is aware of what happens but has not provided protection for the workers and trade unions in the cases referred to it, despite this practice being common knowledge, resulting in nascent trade unions in the private sector being left leaderless.

Outsourcing undermining trade union rights: Outsourcing has had an enormous impact, and led representatives of several trade union organisations as well as members of the National Assembly to put forward a bill aimed at regulating the practice, which was debated at the "Tri-partite Forum on Outsourcing". Workers lose their rights to social security, collective bargaining, to organise, to a decent pension, because of outsourcing. At least 800,000 workers are employed as contract labour in

Nicaragua, principally in agriculture, construction, hotels and restaurants.

According to Marcial Cabrera, General Secretary of the United Federation of Food, Agro-Industry, Tourism, Service, Commercial and Allied Workers of Nicaragua (FUTATSCON), outsourcing continues to be a common method of hiring staff. It undermines workers' minimum guarantees, which in turn leads to the violation of their fundamental rights. Nicaraguan workers suffer the consequences, reflected above all in low wages, appalling working conditions, a lack of social benefits and the denial of their trade union rights.

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.

Repression and detention of workers at the state enterprise

ENACAL: On 1 February 2011, at least 30 workers from the Nicaraguan Aqueducts and Sewers Company (ENACAL) were forcibly removed from the state-owned company by anti-riot agents from the National Police's Special Brigade, supposedly for refusing to accept changes to staff assignments made without any prior communication or consultation.

The staff concerned complained about their arbitrary detention to the Nicaraguan Centre for Human Rights (CENIDH). On 2 February, the CENIDH contacted officials and department heads from the Legal Assistance Service, who confirmed the detention of the workers, without allowing the CENIDH access to ascertain the conditions and legal situation of the detainees. ENACAL's head of communications, Maritza Tellería, said that it concerned 30 employees who worked as security guards who had refused to relocate, and given that water supply is a matter of national security, the company decided to call in the police.

Workers dismissed by daily paper La Prensa for organising

a union: At the end of 2010 the owners of the daily paper La Prensa unfairly dismissed 23 workers. After a six month fight for their reinstatement, with all the proof in their favour, and given that the enterprise had ignored the Ministry of Labour (MITRAB) order to reinstate them, they stationed themselves outside the offices of the Organisation of American States (OAS) to denounce the violation of their labour rights and the newspaper owners' attitude.

Violation of trade union rights and protection: The Ministry of Transport and Infrastructure (MTI) dismissed and suspended

leaders of the Democratic Federation of Public Service Workers (FEDETASEP), violating their right to protection from dismissal and to carry out their trade union activities. They were not allowed to enter the public institution in order to defend their members, the social benefits foreseen in their collective agreement were not respected, or their job security or human rights. All the members of the Executive Board of the Granada Town Hall Municipal Workers' Union (SINTRAGRANADA-UNE) were dismissed. A court ruled that they should be reinstated but that decision had not been complied with by the end of the year.

The Members of the Executive Board of the Teachers' and Administrative Workers' Union (SINTRADOC) were dismissed at the headquarters of the Ministry of Education (MINED), ignoring their protection from dismissal as trade union representatives. Many leaders of the Juan Flores Viva Union, affiliated to the Health Workers' Federation (FETSALUD) at the Medical Supplies Centre (CIS) of the Health Ministry (MINSAL) were dismissed, ignoring their protection from dismissal as trade union representatives and their trade union rights.

The Trade Union Associations Department of the Ministry of Labour (MITRAB) refused to register the new Executive Committee (for 2011-2013) of the Democratic Federation of Public Service Workers (FEDETRASEP) affiliated to the Confederation of Trade Union Unification (CUS), without giving the legal grounds for its decision, violating the protection of the right to organise.

The 800 workers of the General Revenue Department (DGI) were unfairly dismissed, in breach of their freedom of association, with a view to destroying the Public Employees Union of the DGI-Grenada (SEPGRA-DGI). At the end of the year, the majority of these workers and trade union leaders had not yet received the social benefits due to them for their years of service.

Panama



POPULATION: 3,500,000
CAPITAL: Panama
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 -
105 - 111 - 138 - 182

Whole sectors of workers are denied the right to organise, applications for legal personality are denied and the right to organise is not recognised for public employees, bank workers, workers in the Colón Export Processing Zone, education workers, dock workers, and employees of call centres, among others. Impunity persists.

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 2011

Background: In less than two years of the Ricardo Marinelli government, Panama’s working class has suffered more deaths, injuries and prison sentences than in the previous 22 years. The

government insists on criminalising social protests, adopting laws such as Law 14 or the “Jailhouse Law” as it is known, aimed at sending to prison anyone who dares to demonstrate in the street in defence of their rights.

The economic and social situation has become increasingly difficult. Inflation and the cost of living have risen alarmingly. This has driven down the value of real wages and significantly reduced workers’ purchasing power.

The government is opposed, however, to an across-the-board pay rise and the establishment of a minimum wage for the whole country.

No protection for domestic workers: Domestic workers – the majority of whom are women, as well as an increasing number of children - have no protection at all. Nearly 100,000 people in the sector have absolutely no labour rights, they are the victims of ill-treatment and abuse at the hands of their employers and in some cases work up to 15 hours a day in sub-human conditions. Many of these workers come from remote communities, they have no social security and earn poverty wages, far below the minimum wage. Nor do they have a trade union to represent them. There is a high level of informal employment in the sector, and child labour, as well as discrimination on the grounds of ethnicity, gender and social origin.

Workers’ rights eroded: The steady erosion of workers’ rights has resulted in working days that exceed the eight hour day, unpaid overtime and the lack of regulation over the contract labour used by some employers to avoid their employment responsibilities.

Persecution at the Social Security Fund: In institutions such as the Social Security Fund, a regime of terror and persecution against workers’ leaders has been established. Workers’ leaders Gabriel Pascual and Juan Samaniego were dismissed for opposing management’s attempts to bankrupt the institution and thereby justify its privatisation.

The persecution of teachers: A campaign of persecution has been carried out in the education sector against teachers’ leaders, with the dismissal of several teachers’ representatives. Teachers’ organisations opposed planned changes to the curriculum, calling instead for realistic solutions to the deplorable state of colleges.

Freedom of association violations: The Ministry of Labour and Manpower Development (MITRADEL) has issued judgements against workers in the case of many companies and projects by local employers and foreign investors, allowing for serious vio-

lations of collective agreements and the freedom of association, fostering yellow unions that undermine collective agreements, reduce wages and worsen working conditions, entailing greater occupational risks, resulting in a higher number of deaths and accidents at the workplace.

Labour Ministry refuses to grant legal personality: Documentation was submitted to the Ministry of Labour and Manpower Development (MITRADEL) on 18 May 2009 for the formation of the Union of Stevedores, Verifiers and Operators of the Balboa and Cristóbal Ports (SITEVOP-BALCRIS), with a formal request for its registration as a legal personality. After nearly two years of foot dragging by the Ministry, it decided on 14 April 2011 to turn down the application for legal personality. A request to review the decision was submitted the same day. A final ruling on 26 April upheld the initial decision in its entirety.

Dismissed for creating a union: On 25 April 2011, 30 workers from the Panama Gaming & Services (CIRSA) de Panama S.A. employees' union presented documentation to the Ministry of Labour and Manpower Development (MITRADEL) with a view to officially creating the union. On 30 April three more workers joined the union. On 10 May, the Ministry rejected the application to form a union, arguing that it did not comply with article 385 of the Labour Code, concerning the statement by each of the people that expressed a wish to form the union. The 33 workers who signed the statement saying they wished to form a union were dismissed in May.

Labour Ministry fails to comply with Supreme Court ruling: Documentation was submitted to the Ministry of Labour and Manpower Development (MITRADEL) on 25 May 2010 with a view to founding the Industrial Waterways Transport and Allied Workers Union of Panama (SITVAAP). When no reply was received from the authorities, the workers appealed to the Supreme Court of Justice for the guarantee of their constitutional rights.

The Supreme Court ruled in plenary on 26 October 2010 that the union should be certified, and issued an edict upholding that decision on 25 February 2011. By the end of the year MITRADEL had still not complied with the ruling of the Supreme Court. Over one hundred workers have been dismissed with the complicity of MITRADEL since the application for the formation of the union was submitted.

Labour Ministry ignores request for legal personality: Documentation for the formation of the Health Committees Workers' Union (STCS) was submitted to the Ministry of Labour and Manpower Development (MITRADEL) on 1 August 2006. On 30 June 2008 and 28 January 2011, letters were sent to

MITRADEL requesting the certification of the union on the basis of article 356 of the Labour Code. By the end of the year there was still no reply from the Ministry.

Paraguay



POPULATION: 6,455,000
CAPITAL: Asunción
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Violations of freedom of association in the private sector persisted during 2011, especially in refrigeration, reforestation and oil companies. Mass anti-union dismissals were also seen in the public sector. Forced labour, particularly debt bondage, remained a serious problem and indigenous workers were the worst affected.

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 2011

Background: President Lugo's government has successfully promoted social dialogue, as illustrated by the 14 dialogue

structures now in place. Only 4% of workers, however, are covered by collective bargaining. The poverty rate is very high in Paraguay, where 49% of workers earn less than the minimum wage and 20% of women are employed in domestic work. The government is still working on the creation of the Labour Ministry in spite of continued difficulties securing support for this initiative from sections of the ruling party and the opposition.

Negotiating difficulties at Esso Standard Paraguay: On 13 September 2011, workers at Esso Standard Paraguay formed a union with a view to signing a collective agreement establishing a pay review, given that wages have not been adjusted since 2007. The group was acquired by Bidas Corp in April 2011 and the new owners have blocked the negotiating process. The matter remains unresolved.

Forced labour in Paraguay: According to the ILO, thousands of indigenous workers are known to be working as bonded labour on the very remote, traditional cattle ranches of Bajo Chaco and Central Chaco. The bosses force them to buy basic necessities at exorbitant prices from the stores on the ranches and then pay them a derisory sum of money at the end of the year. The cattle ranches are manned by armed guards, who refuse access to labour inspectors in some cases. The government of Paraguay ordered inspections that confirmed these violations during 2011.

Anti-union dismissals at Social Action Secretariat (SAS): In January 2011, the Social Action Secretariat (SAS), attached to the Office of the President of the Republic, dismissed a large number of workers, members of the Sindicato de Trabajadores/as de la SAS (SITRASAS) for the most part, in a clear bid to crush the union. The Secretariat dismissed virtually all the members of the union executive, including representatives protected by trade union immunity.

Labour and trade union rights violations at IPFSA: In September 2011, workers at Industria Paraguaya Frigorífica (IPFSA), affiliated to SITRAIPFSA, denounced serious labour and trade union rights violations by the industrial refrigeration firm, which is constantly flouting minimum pay and overtime regulations, changing working conditions without prior notice and has unilaterally suspended the collective agreement, without any kind of punitive measures being taken by the labour authorities.

Anti-union dismissals at Grupo La Victoria: In November 2011, seven union representatives from the Grupo La Victoria workers' union Sindicato de Trabajadores del Grupo La Victoria S.A, in the Guajavi district (San Pedro), were dismissed after joining the new union formed in October. The workers decided to stage a strike in protest at the dismissals, as well as at the

failure to comply with payment obligations and the precarious occupational safety conditions resulting in a very high level of accidents at the company.

Peru



POPULATION: 29,207,700
CAPITAL: Lima
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Anti-union dismissals, disregard for collective agreements and bargaining rights, and union bashing in the private sector continued to be common practice in 2011. Workers in the agribusiness, civil aviation, electricity, mining and construction industries were among the worst affected, together with public servants, subcontracted and temporary workers.

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 2011

Background: Presidential and legislative elections were held in Peru in 2011. The left leaning nationalist candidate Ollanta Humala of the Gana Perú alliance was elected president for a five-year term in the second round on 5 June. The alliance also secured a majority of the seats in parliament, followed by Fuerza 2011, headed by Keiko Fujimori, presidential candidate and daughter of former president Alberto Fujimori.

In October 2011, the Labour Ministry announced plans to promote the ratification of ILO Convention 189 on domestic labour.

Proposed general labour law to exclude majority of workers:

A committee of experts was formed on 1 September 2011 to revise the General Labour Bill, which includes provisions aimed at eliminating abusive temporary employment contracts, promoting job security, establishing severance pay rates and regulating the various levels of collective bargaining. The document will be presented to the National Labour and Employment Promotion Council (CNTPE) in January 2012, pending its presentation to the Executive, through the Council of Ministers, and to the Congress of the Republic for discussion and approval.

It should be pointed out that the bill fails to cover over 13 million workers across the country. With an economically active population (EAP) of 15.6 million, this means that the new legislation would only benefit two million people (less than 15% of the EAP). Those forming part of the “not included” group are workers belonging to the 29 “special regimes”, such as civil construction, industrial fishing, non traditional export and domestic workers, etc.

The changes proposed strip the law of its general nature. Moreover, the bill contains no economic analysis indicating the cost of these measures for the state and private employers, which raises doubts as to whether the proposal is viable and whether it will, in fact, contribute to combating casualisation and informal economy employment and promote economic growth.

Collective bargaining violations: According to Labour Ministry figures released in December 2011, 18 collective disputes remained unresolved across the country. Failure to recognise collective bargaining rights was at the root of the disputes in 11 out of the 18 companies in the electrical and civil aviation sectors; three disputes were related to pay and working conditions in construction companies; one was over failure to comply with the collective agreement and the remaining three were linked to workers' rights.

Barriers to collective bargaining compounded by gaps in legislation: The state has shown little or no interest in promoting collective agreements at branch level. There is currently no labour legislation specifying the scope of branch-level collective bargaining. By failing to specify the rules needed to make it viable, the law neither fosters nor guarantees collective bargaining.

Telefónica del Peru, one of the most profitable companies in the country, is sticking to its policy of refusing branch-level collective bargaining, systematically rejecting the collective bargaining rights of employees of companies that form part of the Telefónica Group in Peru. As a result, discrimination in terms of working conditions is suffered by workers employed by companies not directly owned by Telefónica del Perú, but which provide services and operations for it and belong to the telecommunications sector.

In August 2011, the Chilean company Ripley finally agreed to engage in the collective negotiations it had been refusing to hold since 2010 with the Sindicato Único de Trabajadores del Grupo Ripley (Sutragisa). The union's demands were aimed at improving pay and working conditions for Ripley's 5,000 workers. An agreement was ultimately reached in October 2011 under pressure from the Labour Ministry, urging the company to discuss the union's demands.

Miners' strike violently repressed: Workers at Shougang Hierro Perú S.A staged a strike from 28 September to 14 October in protest at the mining company's failure to comply with the wage equalisation payments ordered by the government. The national police violently charged against the miners' wives who had gathered during the strike in front of the regional government headquarters in the city of Ica. The Ministry finally forced the company to comply with the government order.

Union-crushing policy at Backus y Johnston brewing company and textile firm Topy Top:

In June 2011, the Sindicato Nacional de Obreros de la Unión Cervecera Peruana Backus y Johnston denounced the company's anti-union policy. The brewery drew up codes of conduct whereby workers had no right to defend themselves and dismissed several employees for exercising their right to organise.

In November 2011, the Sindicato de Trabajadores Obreros de Topy Top denounced the textile firm's anti-union policy, including its constant failure to respect the workers' rights, threats and intimidation in reprisal for reports of violations, and relentless anti-union dismissals, which has brought the number of unionised employees down to 180. The company has fired 200 union members.

Harassment during collective bargaining and interference in SATRASUFISA: Although the Sindicato Autónomo de Trabajadores de Sudamérica de Fibras (SATRASUFISA) has succeeded in signing collective agreements with the company since 2008, the management refuses to honour the commitments undertaken. The workers find themselves being forced to accept the miserable pay increases the company decides on. The company is still not deducting the union members' dues at source and does not allow trade union representatives to take part in the collective bargaining negotiations.

In addition, despite the proven distortion of the non traditional export contracts provided for by Law 22342, which the ILO has called on the government to amend or repeal, companies continue to employ workers under this heading, claiming that their activity is non traditional despite it being carried out in Peru for over 30 years.

Subcontractor Multiservicios y Contratistas Sailors SAC union leaders dismissed: After providing staff transport services for over five years to the Minera Yanacocha company without a formal contract, a union with 90 members was formed.

The mining company dismissed the two union leaders on the spot and terminated its contracts with several union members, forbidding their access to the worksite. The workers were pressed to leave the union under threat of dismissal. Some were offered financial incentives to withdraw their membership. All of these measures were taken in collusion with the Ancash region's labour authority, which never went to inspect the Yanacocha mine. Only 20 unionised workers were left at the end of the year and it is unlikely that the union will survive given the climate of fear created: the workers dismissed are unable to find work with other subcontractors, having been blacklisted by Minera Yanacocha.

Anti-union dismissals and interference: The main practice used to block union activity continues to be the dismissal of trade union leaders on "administrative" grounds, as was the case with the general secretary of the Sindicato del Banco Falabella del Perú. The bank is currently facing legal action and a complaint has also been lodged with the ILO Committee on Freedom of Association.

Other common tactics include inciting members to leave unions by offering greater financial benefits to non-unionised workers, encouraging the formation of company-controlled unions, and undermining the most representative union's power to negotiate, thus stifling any legitimate collective bargaining.

In December 2011, the agricultural export firm Euro S.A. sacked ten workers, including four trade union representatives, after a union was formed at the company. The Federación de Trabajadores del Sector Agroindustrial de Ica (FRETSAI) and the Federación Regional de Trabajadores de Ica (FRTI) filed complaints with the labour authorities.

Trinidad and Tobago



POPULATION: 1,341,000
CAPITAL: Port-of-Spain
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Serious violations of freedom of association were seen in 2011, especially in the public sector and at an industrial testing and inspection company. Anti-union practices to obstruct workers' rights to organise and collective bargaining persisted, and the serious obstacles to the right to strike remained in place.

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 2011

Background: In August 2011, Prime Minister Kamla Persad-Bissessar declared a limited State of Emergency, supposedly in response to a surge in violence on the country's streets and to combat drug trafficking. The National Workers' Union, together with the rest of the labour movement, protested against the measure, arguing that the State of Emergency limited civil liberties, including the workers' right to assemble, and was being used to obstruct the trade union movement's campaign against the government policy to cap wages.

The trade unions of Trinidad and Tobago organised mass mobilisations and protests during 2011, in response to measures curtailing labour rights and the administration's accusations that the trade union actions to defend workers' rights were aimed at destabilising the government.

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, etc., are not recognised as workers and cannot therefore legally join unions. The problems with obtaining union recognition continued, owing to manipulation by the state.

Restrictions on the right to strike: 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 strikes, penalising the workers involved.

Collective bargaining hampered: Many unions' collective bargaining efforts were blocked by employers' delaying tactics. The state also repeatedly refused to negotiate collective agreements with public sector unions.

Government refuses to reform labour legislation: The government continued to refuse to reform the law on essential services and collective bargaining to bring it into line with ILO minimum standards.

T&TEC refuses to discuss allowance cut: In July 2011, the Oilfield Workers' Trade Union, representing oil workers at the Trinidad and Tobago Electricity Commission (T&TEC), staged protests against the company's decision to eliminate the cost of living allowance granted to workers, as announced within the framework of collective bargaining negotiations being held with the union. The management remained firm in its refusal to discuss this cut.

Anti-union dismissals at Non Destructive Testers Ltd.: In December 2011, the National Workers' Union (NWU) denounced the anti-union policy at the industrial testing and inspection firm Non Destructive Testers Ltd., which started to fire and threaten workers that had formed a union to defend their rights.

Uruguay



POPULATION: 3,369,000
CAPITAL: Montevideo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The year 2011 was marked by labour disputes and violations of freedom of association in the public and private banking and health sectors. Collective bargaining rights were also violated in hospitals and in the private metal 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 2011

Background: In 2011, the number of unionised workers in Uruguay reached approximately 420,000, representing a union membership rate of 36%, the highest in Latin America. Social dialogue has led to the adoption of social protection measures in response to the crisis, including action to protect decent work. The government and trade unions have also maintained the far-reaching programme to promote collective bargaining

at branch level, which has benefitted thousands of workers. Disputes over labour and trade union rights arose, mainly during the early months of 2011, involving low paid workers in the commercial and service sectors.

Collective bargaining rights denied in public and private banking sector: Between August and October 2011, public banking workers affiliated to the AEBU and private banking workers staged a series of stoppages to press for collective bargaining on labour conditions. The process had been blocked since December 2010. The collective action finally succeeded in pressing the banking sector to engage in negotiations and to examine the union demands.

Refusal to negotiate at Hospital Evangélico Uruguay: In October 2011, workers at Hospital Evangélico affiliated to the Federación Uruguaya de la Salud (FUS) decided to hold a 24-hour sit-in at the hospital in support of their demand for the negotiation of a collective agreement, which the administration was firmly refusing to discuss. The workers returned to work pending the definitive resolution of their demands regarding decent working conditions.

Refusal to bargain collectively in metal sector: In November 2011, metal workers affiliated to UNTMRA held a 25-day strike in response to their employers' refusal to engage in collective bargaining negotiations, called for 10 months before, within the framework of the Wage Councils, a bargaining mechanism whereby workers and employers agree on progressive pay adjustments in a specific branch of activity over a given period of time. The action succeeded in pressing the companies to negotiate with the union.

Collective agreements not honoured in health sector: In December 2011, the Sindicato Médico del Uruguay (SMU) announced a series of stoppages in the public and private health sector. The workers were demanding the fulfilment of the collective agreements signed in 2009, as well as fair and decent hours and pay conditions for the welfare of the patients in their care.

USA



Population: 313,840,000
CAPITAL: Washington
ILO CORE CONVENTIONS RATIFIED: 105 - 182

In 2011, in many states, conservative governors and legislators used budget deficits resulting from the financial crisis to justify efforts to cut public sector workers' wages and benefits and eliminate or restrict their collective bargaining rights. While these efforts were successful in several states, massive public protests, most notably in Wisconsin, gave evidence of strong public support for the right to collectively bargain. In the U.S. Congress, opposition to unions took the form of repeated attacks on the National Labor Relations Board. Employers were increasingly emboldened by the weak economic growth to use lockouts to pressure workers as well as to have recourse to temporary workers and subcontract work. With the help of a thriving union-busting consulting industry, employers continued to respond to union organising efforts with a barrage of anti-union tactics.

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 2011

Background: Elections at the end of 2010 gave Republicans control of the U.S. House of Representatives and the majority of state legislatures and governorships.

The employer community in the U.S. is extremely hostile to unions, and because employers are given wide latitude to oppose unionisation efforts and penalties for illegal retaliation against union supporters are weak, workers face enormous obstacles in forming unions. The percentage of private sector workers in unions has fallen to less than 7%, and although currently 37% of public sector workers are union members, elimination or curtailment of public sector bargaining rights is high on the agenda of conservative Republicans, who currently control the U.S. House of Representatives and the majority of state legislatures and governorships.

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 audi-

ence" 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 unremedied: 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), by excluding low-level supervisors from the protection of the National Labor Relations Act (2008) and by subjecting transit union officials to imprisonment, the union to fines in excess of USD1 million, and individual workers to financial penalties for engaging in a strike in violation of a state law prohibiting strikes by public employees (2011). None of these violations have been remedied.

Newly elected conservative majorities join with corporate allies to wage war on unions, collective bargaining and worker rights: Elections in late 2010 that swept Republican Party conservatives into control of the U.S. House of Representatives and a majority of state legislatures and state governorships were followed in 2011 by an explosion of legislative initiatives. Those initiatives intended to weaken legal protections for workers against anti-union discrimination, limit or terminate collective bargaining rights for millions of public sector employees as well as eliminate important sources of financial support for trade unions and curtail their ability to advocate on behalf of their members in the political and public policy arenas.

A substantial percentage of these bills were drafted by the American Legislative Exchange Council (ALEC), a corporate-funded organisation whose “members” - some 2,000 conservative legislators and more than 300 of the world’s largest corporations - meet together behind closed doors to develop and vote on model legislation sought by corporate interests that the legislators then introduce and promote in the US Congress and in state legislatures around the country.

In addition to weakening unions and rolling back worker rights, ALEC’s agenda includes enactment of voter eligibility rules making it harder for minorities, the poor, students and the elderly to vote; reductions in and privatisation of public services; limitations on government regulation of commerce to protect consumers, the environment and public safety and health; and other measures to benefit particular industries and corporations that provide its corporate support.

Collective bargaining rights of public sector workers come under fierce attack: In 2011, more than 800 bills seeking to eliminate or curtail collective bargaining for public employees were introduced in state legislatures, and a number of them became law.

The most notorious was legislation introduced in Wisconsin in February 2011. The legislation strips away most of public sector workers’ bargaining rights, limiting bargaining to negotiations over wages only (subject to a cap based on inflation); pro-

hibiting collective agreements of more than one year’s duration; and requiring annual union recertification votes to determine if workers can continue to have union representation.

Despite massive citizen protests that brought out as many as 100,000 demonstrators at a time, attracted worldwide attention, and included a two-week occupation of the State Capitol, the bill was passed by the legislature in March and took effect three months later. Meanwhile, in Ohio, legislators enacted their own anti-collective bargaining law, also limiting public employee bargaining to wages only and, in addition, tightening prohibitions against public sector strikes and eliminating binding arbitration to resolve contract disputes. Public opposition to the Ohio law was so great that opponents were able to gather more than a million signatures on petitions to force a referendum on the measure. In November 2011, Ohio citizens voted by a substantial margin to repeal the law.

Teachers were a particular focus of anti-collective bargaining measures in 2011. In Idaho, legislation was enacted restricting bargaining rights for teachers to negotiations over wages and benefits, requiring all negotiated contracts to expire every year, and authorising school authorities to unilaterally impose terms if no agreement has been reached by a specified date each year. A new law in Michigan prohibits teachers from bargaining over discharge or discipline policies, layoffs, performance evaluations or merit pay, and in Tennessee collective bargaining for teachers was effectively abolished.

Conservatives in Congress work to cripple government agency responsible for enforcing rights of private sector workers to organise and bargain collectively: In the U.S. Congress, dozens of anti-union measures were introduced in the Republican-controlled House of Representatives. Many of them aimed specifically at curtailing the ability of the National Labor Relations Board (NLRB) to effectively enforce federal labour laws.

Among measures passed by the House of Representatives in 2011 that were pending before the U.S. Senate by the end of the year was a bill that would deny the NLRB authority to get workers reinstated where their employer has illegally eliminated or transferred work in retaliation for the exercise of protected rights. Another bill would prevent the agency from implementing new regulations intended to streamline the process leading up to union certification elections so as to limit opportunities for employer interference. Other measures introduced sought to cut off or sharply curtail funding for the agency.

Republican-controlled legislative committees also conducted nine official “investigative” hearings regarding actions by the in-

dependent agency and demanded the production of thousands of pages of documents and emails relating to cases decided by the agency with which business organisations disagreed. These actions were widely seen as an effort to intimidate agency personnel and prevent the agency from enforcing the law. In the Senate, the Republican minority unsuccessfully sought to block President Obama from filling vacancies on the NLRB so as to prevent the agency from functioning.

Measures to weaken unions financially and curtail their political influence gain traction in many states: Republican legislatures also pushed to expand the reach of so-called “right-to-work” laws. Under those laws, unions - which are required by law to provide equal representation services to workers in the bargaining unit regardless of whether or not they are union members - are prohibited from charging service fees to non-members. Right to work laws provide financial incentives to workers not to join the union and pay dues, since by not joining they can receive the benefit of the collective agreement and grievance and other representation services from the union without having to share in the cost of those services.

In 2011, right-to-work bills that would apply to the private sector were introduced in 14 states. Right-to-work provisions applicable to public sector unions were enacted in Wisconsin and were part of the anti-collective bargaining bill enacted in Ohio but subsequently overturned by referendum.

In addition to the flurry of right-to-work bills, 2011 saw the introduction in dozens of states of so-called “paycheck protection” bills. Those bills, also drafted by the American Legislative Exchange Council (ALEC), were designed to make it difficult for unions to collect dues from their members, and to use dues from members for political or advocacy purposes.

With regard to public employees, these bills would prohibit state employers from agreeing to allow union members to pay their dues to the union through automatic payroll deductions - this either altogether or with respect to any portion of their dues that the union uses for political purposes.

With regard to private sector employers, the bills would not prohibit such payroll deductions (which are permitted under federal law) but would require that the individual employee reauthorise the deduction every year in order for it to continue. “Paycheck protection” provisions applicable to public employees were included in the Wisconsin law limiting collective bargaining and were enacted in Alabama with respect to teachers.

Government officials and candidates for office openly attack unions and union-represented workers: During 2011, a

number of high-ranking government officials and candidates for high office openly expressed their hostility to unions and workers’ exercise of freedom of association.

The newly-elected Republican governor of South Carolina, for example, announced to the press that she was appointing a lawyer specialising in “union avoidance” to head the state’s department of labor because “we’re going to fight the unions and I needed a partner to help me do it.” Notwithstanding that there are more than 59,000 union members in South Carolina, she subsequently declared in a televised address to the state legislature that her administration would “make the unions understand they are not needed, not wanted, and not welcome in the state of South Carolina.”

Mitt Romney, the leading contender for the Republican presidential nomination, ran televised campaign ads in which he referred to the members of the National Labor Relations Board (NLRB), the government agency which administers the federal labour law, as “union stooges”. He, and other Republican candidates for the presidency, repeatedly attacked unions and the NLRB during televised candidate debates.

ILO finds that New York State law banning and penalising strikes by public employees violates freedom of association: In November 2011, the ILO Committee on Freedom of Association (CFA) found that the outright ban on public sector strikes under New York State’s Taylor Law, as well as the punishments it imposes on what it considers “illegal strikes”, including fines, loss of dues check off and imprisonment of union leaders, was violating freedom of association.

The Committee was acting on a complaint brought by the Transport Workers Union regarding punishments imposed on union officials and union members who engaged in a 60-hour transit strike in New York City in 2005, which included a USD 2.5 million fine on the union, an additional day’s lost pay for each day each worker was out on strike, personal fines on the top three officers, jail time for the local union president, and an end to the union’s ability to collect dues through payroll deductions for 18 months.

The Committee recommended that the U.S. government takes steps to bring the state legislation into conformity with freedom of association principles and to ensure that the union, its members and its officers are fully compensated for the sanctions imposed.

Illegal discrimination by employers against workers seeking to organise unions or otherwise engage in union activity remains widespread: The National Labor Relations Board (NLRB)

reported in 2011 that in the year ending September 30, 2009, as a result of complaints brought to the agency, 1,549 workers who had been illegally discharged or denied employment because of their union activities were offered reinstatement. In addition, 15,554 workers received backpay totalling USD 76.8 million. Experts consider these numbers to reflect only a portion of the total number of workers illegally terminated or discriminated against, since many workers never file charges.

Employers impose lockouts to weaken unions and force workers to agree to concessions: Taking advantage of US laws that allow employers to lock out workers and continue to operate with replacement workers, employers in the U.S. are increasingly utilising lockouts to force union workers to agree to management's demands for concessions at the bargaining table.

In 2011, thousands of U.S. workers were prevented from working because of lockouts imposed by their employers—many of them highly profitable and among them multinational corporations who would never engage in such conduct in their home countries.

In August 2011, American Crystal Sugar locked out 1,300 union workers at its seven plants in Minnesota, North Dakota and Iowa after workers voted to reject the employer's "final offer," which included concessions that would have greatly increased workers' costs for health care and given the company wide latitude to subcontract work. Talking to shareholders, American Crystal Sugar CEO compared the workers' collective agreement to a cancerous tumour that has "got to come out," notwithstanding that the company has been earning record profits under that agreement. As of the end of 2011, the lockout was still underway.

Another 1,050 union workers employed by Cooper Tire in Ohio at a tire plant in Ohio were locked out in November 2010 after they voted to reject a company contract proposal containing significant concessions. In 2008, workers at the Findlay plant gave up USD31 million in pay and benefits to help the then-struggling company to survive, and the State of Ohio provided USD2.5 million in subsidies. The now-profitable company, which has made more than USD300 million in profits since 2009, was demanding that employees pay significantly more for their health care and that the company have broad discretion to set wage rates, with lower wage rates and reduced pensions for new hires. The lockout was also still ongoing at the end of 2011.

In August 2011, 240 workers employed by Roquette America, a subsidiary of Roquette Frères in France, returned to work after a 10-month lockout imposed when workers refused to accept

more than 130 concessionary proposals by the company. The proposals included a wage freeze, reductions in retirement benefits, additional costs imposed on workers for health care, and authority for the company to hire temporary workers without benefits. Following a global campaign that included the filing of complaints under the OECD Guidelines for Multinational Enterprises and the UN Global Compact, the parties were able to reach agreement, but only after the workers agreed to terms which included a substantially lower wage rate for all new hires.

Also in August, 228 union workers employed by Honeywell went back to work at a uranium enrichment facility in Illinois after being locked out for 14 months. In the agreement ending the lockout, Honeywell dropped its demands for increases in health care payments by current workers and elimination of retiree health benefits. The multinational corporation also agreed to modest wage increases, but new hires will be covered by a new pension system that will provide them with significantly lower retirement benefits.

Deutsche Telekom continues aggressive anti-union campaign at T-Mobile: Deutsche Telekom, through its T-Mobile USA subsidiary, continued in 2011 its ongoing campaign to undermine and frustrate T-Mobile employees' efforts to obtain union representation and the right to collectively bargain.

Despite a demonstrated history of corporate responsibility in Germany, the company continued to employ a double standard in the US. It allows T-Mobile managers to engage in aggressive strategies to resist and interfere with union organising efforts, in furtherance of an acknowledged corporate goal of remaining "union free."

As detailed in a complaint filed against Deutsche-Telekom in July 2011, alleging violations of the OECD Guidelines for Multinational Enterprises, to which Deutsche-Telekom subscribes, T-Mobile has recruited and employed consultants who specialise in union-busting and trained managers to engage in surveillance of and to report on union activity by workers. It also forced workers to attend anti-union meetings conducted by their supervisors. This aimed to create a culture of fear in which workers do not dare to express support for unionisation for fear of losing their jobs or suffering other adverse treatment by T-Mobile.

This conduct has continued during 2011, with workers reporting being watched and spoken to if they accept union literature, having union literature discriminatorily removed from break-rooms while other reading materials remain, and other conduct designed to demonstrate management's hostility to unions and chill unionisation efforts.

The company anti-union tactics have been detailed in highly critical reports issued by Human Rights Watch and the American Rights at Work Education Fund.

Airport screeners finally get limited bargaining rights and a union, but not a collective agreement: In February 2011, airport screeners employed by the Transportation Security Administration (TSA) who have been prohibited from collectively bargaining because of alleged terrorism concerns were finally granted a limited right to engage in bargaining by the Obama administration, although matters relating to pay, pensions, security policies, proficiency testing, job qualifications and discipline standards are specifically excluded from the scope of bargaining permitted.

In elections conducted later that spring, the 44,000 screeners voted by an overwhelming margin for union representation. However, by the end of 2011, negotiations had not progressed because of the government's refusal to consider the use of outside, neutral arbitrators to resolve disputes over disciplinary actions

Abuses continue in Los Angeles carwash workers' campaign: Ongoing efforts to organise exploited car wash workers in California were boosted in 2011 when a car wash worker won USD80,000 in a lawsuit against a car wash worker for wage theft. It also led to the signing of the car wash workers' first collective agreement with a car wash owner. This agreement will provide a wage increase, health and safety protection, a grievance and arbitration system and protection against unfair dismissal.

The predominantly immigrant car wash workers have been organising since 2008 in an effort to end abuses in an industry where employers routinely violate basic employment laws, denying them rest breaks and access to shade and water, subjecting them to 10-hour workdays six days a week with no overtime pay, and exposing them to dangerous chemicals without protective gear. In some cases, the employers were refusing to compensate them beyond what they earn in tips. Efforts to organise have met with strong resistance from carwash owners, who have fired workers for engaging in organising activity.

Venezuela



POPULATION: 286,900,000
CAPITAL: Caracas
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138

Anti-union practices continued in 2011. Anti-union discrimination, violations of collective bargaining rights and the non-respect of collective agreements were frequent and persistent in both the public and private sector.

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 ten 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 2011

Background: A new parliament took office in January 2011. President Hugo Chávez's allies had a majority, but the opposition took 40% of the seats. Despite the impact of the world economic crisis on Venezuela and the changes in the price of oil, it is still one of the most equitable in the region, with a Gini index of 0.3902 in July. The unemployment rate rose slightly during the year, reaching 8.5% for the first six months. The Government of Venezuela came under strong criticism from international organisations for the approval of laws that could severely limit the freedom of expression in Venezuela.

Violation of ILO Convention 144: The President of the Republic violated ILO Convention 144 on tripartite consultation, exercised

political discrimination and ignored the representativeness of trade union organisations not close to the government when on 12 December he appointed a 16-member Special Commission to draft a new Organic Labour Law, all of whom are members of the ruling party. The three trade unionists on the commission are from the recently-created "Bolivarian and Socialist Workers' Confederation" which was selected by the president.

Non-compliance with collective agreement at Pirelli: In January 2011 the Pirelli multinational company, in Carabobo State, refused to negotiate with its workers, to meet some of its obligations under the existing collective agreement, or to change its policy of not respecting its workers' rights.

Violations of collective agreements and refusal to negotiate in the Guyana region: In February, aluminium workers from companies associated with the State holding company Corporación Venezolana de Guayana, in the South-East of the country, organised a series of stoppages to protest at contractual violations in the sector. They had been waiting four years for a new collective agreement, wage arrears remained unpaid and they faced constant violations of industrial health and safety standards.

Chrysler refuses to enter into collective bargaining at its car assembly plant: Workers at the Chrysler de Venezuela car assembly plant in Valencia, Carabobo State, held a five day protest beginning on 7 April. The company had refused to enter into collective bargaining after the presentation, in November 2010, of a list of conciliatory demands which included the regulation of better working conditions for employees, the payment of the agreed rest period, and improvements in health and safety at work.

Discrimination against workers in the judiciary: Leaders of the judiciary workers' unions the Sindicato Unitario Organizado Nacional de Trabajadores de la Administración de Justicia (Suontraj) and the Sindicato Único Nacional de Empleados Públicos de la Judicatura (Sunep-Judicatura), publicly protested on 29 April at the Executive Directorate of the Judiciary (Dirección Ejecutiva de la Magistratura - DEM) which had refused to grant judges the pay rise given to all other civil servants. They were also protesting at the suspension of talks on a new collective agreement and the dismissal of 20 trade union leaders over the last two years.

Conditional release of trade union leader: Rubén González, General Secretary of the union representing workers at the iron mining company "CVG Ferrominera Orinoco", who had been sentenced to 7 years, 6 months, 22 days and 12 hours in prison remained in prison until the end of 2010, after which

he was given a conditional release, whereby he had to report to the courts every 45 days.

National Electoral Council invalidates Confederación de Trabajadores de Venezuela (CTV) structures: The National Electoral Council adopted a resolution aimed at annulling or withdrawing recognition from legitimate CTV structures. The CNE declared the Fifth CTV Congress held in March 2011 to elect the CTV's new leaders null and void. It does not recognise the Electoral Committee elected at this event and claims that the CTV does not have a leadership structure. It therefore asked all affiliated organisations to convene a new CTV Congress, on the grounds that the Confederation is leaderless.

This interference by the CNE is aimed not only at getting involved in the trade unions' electoral process but is also being used as a means of avoiding the discussion of collective agreements in the public sector and State enterprises, while favouring a parallel government-supported trade union, on the grounds of a so-called "electoral default".

Asia and the Pacific

The repression of trade union activities caused the death of at least seventeen people in 2011, the arrest of thousands of workers and trade union activists and the dismissal of hundreds of others. The highest number of deaths was in the Philippines, where five trade union activists were murdered.

There were changes for the worse, notably in Fiji, where the military junta carried out an aggressive campaign aimed at breaking up the trade union movement by force. It issued decrees that deprived most workers of their internationally recognised fundamental labour rights. In practice trade union activities were banned. Several trade union leaders were arrested on spurious grounds, insulted, threatened and beaten in several cases by government agents.

The region's police forces often resorted to indiscriminate violence against any workers who sought to press home their demands by means of strikes or demonstrations. In May the Sri Lankan police harshly repressed a workers' demonstration, killing one participant and injuring 270 others. In Indonesia, two people were killed in October when police opened fire on striking workers at the American company Freeport McMoran. In Bangladesh, a worker was killed and at least 100 others injured when police used tear gas and rubber bullets on demonstrators at the pharmaceutical company Advanced Chemical Industries. At least 100 clothing industry workers who took part in demonstrations were killed during the year by the police and the army in Bangladesh. Serious police violence was also reported in other countries in the region, including India and Nepal.

Employers and the authorities sometimes paid troublemakers to attack trade union activists and workers standing up for the respect of their rights. In India for example, on 3 May thugs hired by the owners of a clothing factory in Uttar Pradesh physically attacked and fired gunshots at hundreds of employees celebrating May Day. The use of hired thugs was also reported in Bangladesh, China, Pakistan and Sri Lanka.

In many countries in the region, the procedures to be followed in order to organise a strike are so complicated that it becomes almost impossible to go on strike legally. Workers who organise or take part in illegal strikes face heavy penalties, notably in South Korea. From Pakistan to Indonesia, China to India, thousands of workers were arrested in 2011 for taking part in peaceful strike action. In November, more than 122,000 demonstrators in the Indian state of Tripura were arrested for taking part in protests. In Burma there were many cases in which riot police, police custody vans and fire trucks appeared on the scene as soon as a strike started in an attempt to control and intimidate the workers.

The complicity of the authorities enables the employers of certain countries to rid themselves of independent trade unionists by accusing them of terrorism, such as in the Philippines or Pakistan. In November, a Pakistani court sentenced six trade

unionists involved in a strike in Faisalabad to a total of 490 years in prison. In Thailand, its lèse majesté laws were used to send a workers' rights activist to prison.

Workers were dismissed for their participation in trade union activity in almost every country in the region. The use of short term contracts and sub-contracting is another anti-union technique widely used across the region. Workers do not dare join a union for fear of not having their short-term contract renewed. It is the case for Cambodia, South Korea, Indonesia and Japan. In Pakistan, at least 35 temporary workers at a Nestlé factory lost their jobs and some were even sent to prison on trumped up charges when their union campaigned for permanent jobs. In New Zealand, the employers are hiring more workers as contractors rather than employees. As contractors they are not covered by most of the country's employment laws, including freedom of association.

Many governments in the region undermine trade union rights by making it very difficult to register independent unions, imposing slow and complicated procedures. Cases in point include Bangladesh, Sri Lanka and Macao. Employers take advantage of the time lapse to identify the trade union activists and take reprisals against them, often dismissing them. Some governments also demand that the unions have to represent an excessively high number of workers in an enterprise before they can be registered. In Indonesia for example, the threshold is 50%.

It continues to be extremely difficult to exercise trade union rights in the region's Export Processing Zones (EPZs), particularly in South Asia. Trade union representatives are frequently dismissed, notably in Bangladesh. In India, workers have to give 45 days' notice before going on strike in an EPZ.

Migrant workers frequently have their fundamental rights violated, including their trade union rights. In Thailand, for example, foreign nationals are not permitted to form a union and cannot be elected to trade union office. In South Korea, the government refuses to recognise the migrant workers' union and harasses its leaders. In some countries, domestic workers remain excluded from the scope of the labour legislation and are the victims of appalling abuse.

Independent unions are strictly prohibited in single party states such as China, Vietnam and Laos. The official trade unions are tools to control the workers and have no bargaining powers. Many workers are serving prison sentences for carrying out independent trade union activity. Despite being banned, the number of strikes in China grows steadily, particularly in the private sector. They are often violently dispersed by the police and their leaders arrested and sentenced to "re-education-through-labour". The number of illegal strikes in Vietnam also increased, with 1,000 cases recorded during the year, compared to 423 the previous year.

Several countries continue to refuse public sector employees the right to unionise or to limit their union rights, such as Bangladesh, Cambodia, South Korea and

Asia and the Pacific

Japan. In Taiwan, however, after years of waiting, the legislative changes that came into force on 1 May allowed the creation of a union in the education sector.

In New Zealand, legislative changes have restricted workers' rights. Film and computer game industry workers no longer have the right to organise or bargain collectively under employment law. Unions faced difficulties accessing workplaces.

The year 2011 saw significant change in Burma. The Labour Organisation Bill was signed to replace the repressive 1962 Trade Unions Act. It allows workers to form unions and to strike. The government initiated a political dialogue with Daw Aung San Suu Kyi and released several political prisoners, though the many trade union activists and leaders of the "88-Generation" remained behind bars. The legislation and legal system that allowed their incarceration have not changed, and forced labour remains widespread.

Asia and the Pacific

Workers facing growing precarity in the Asia-Pacific Region

Noriyuki Suzuki, General Secretary of ITUC-AP

Throughout the Asia-Pacific region, workers are facing alarming levels of “precarious work” – a term used to describe work that is not-permanent, indirect, informal and/or otherwise insecure. Many workers in these jobs are often not fully covered by labour law and social security protections. Common employment associated with precarious work include: temporary labour contracts, hiring through employment agencies or labour brokers, outsourcing, individual contracts as a self-employed “independent contractor”, abuse of apprenticeship and intern programs and the like.

The rise in precarious work is the result of employment practices meant to maximise short-term profitability and flexibility at the expense of the worker – who now bears most if not all of the risks of health, welfare and employment. While informal employment has always been a serious problem in much of the developing world, it is becoming a serious problem in highly-industrialised countries where well-paying, full-time jobs are being replaced by precarious jobs. Almost no sector is being spared. The use of precarious work strikes at the core of trade union rights, as workers under such employment relationships find it difficult if not impossible to organise with fellow workers to form or join a union at the same enterprise (in some cases they will not have the same employer where subcontracting is employed) or in the same sector.

In 2006, the ILO promulgated Recommendation 198 on the Employment Relationship, which sets forth policy guidelines on protections for workers in the employment relationship and for determining the existence of an employment relationship. While generally useful concepts, these are unfortunately generally ignored.

The following are just a few examples:

In **Korea**, the situation is particularly acute. The growth of precarious work accelerated rapidly following the Asian financial crisis of the 1990s. Korea now has very high levels (by some estimates over 50% of the workforce) of labour casualisation. 2011 statistics show that the employment conditions of irregular workers are even worse than before, with average pay almost half that of those employed on regular contracts. The labour market is now essentially bifurcated, with workers on regular contracts (more often university-educated, professional employees) and some degree of employment security and everyone else, with apparently limited mobility between the two. According to Korean unions, the new “National Employment Strategy 2020”, a government initiative to increase employment, includes provisions that will further deregulate private employment agencies, expand indirect employment, and increase precarious employment.

In **Japan**, the situation is similar – with a growing “precariat” and ever deepening inequality between regular and non-regular workers. Latest statistics show that non-regular workers account for over one-third of the employed population. According to Evans and Gibb, “The combination of a prolonged recession driving corporate restructuring towards a more western model; a clearly articulated and implemented deregulation on the part of government, an active push from the employers’ side to popularise and implement differential statuses for workers; a pre-existing insider/outsider division at the level of the workplace and an employer-based system of social protection have offered a recipe for severe negative consequences resulting from the rise in precarious work in Japan.”

In **Malaysia**, the MTUC and a broad array of civil society organisations banded together to oppose, ultimately unsuccessfully, the Act to Amend the Employment Act of 1955, which further entrenched precarious work through labour subcontracting. The practice frustrates the full exercise of freedom of association and collective bargaining and has otherwise led to exploitation of workers, including migrant workers. However, following a nationwide protest by the MTUC, the government offered to draw up binding regulations to prevent the use of outsourced workers to carry out work of regular or permanent nature. On February 14, 2011, Malaysian human rights activist Charles Hector was sued for over \$3.2 million by electronic firm Asahi Kosei (M) Sdn Bhd for defamation after he posted on his blog reports he received from Burmese migrant workers detailing violations of labour and human rights. The facts of the case were not in contention; rather, Mr Hector was found liable and was forced to issue a retraction because he had associated the abuses with Asahi Kosei rather than its subcontractor, even though Asahi Kosei directed and supervised the labour of the migrant workers.

In **Indonesia**, workers have seen been outsourcing and contract work increase dramatically in recent years. The number of permanent workers in the formal labour force fell from 67% in 2005 to only 35% in 2011. Trade unions are waging a campaign to revise Labour Law 13/2003 to improve regulation of contract and agency labour. Precarious work is particularly acute in the nation’s numerous export processing zones (EPZs). It is estimated that 98% of workers in the EPZs on the island of Batam (home to 25 EPZs hosting 800 multinationals – mostly electronic manufacturing) are on contract or agency work. Some workers describe working on repeated three month contracts, then working for an agency and then brought back on a new short term contract – all to avoid workers from ever becoming permanent workers (workers employed for three years at the same company are entitled to permanent work). Workers face low wages (\$100 per month), long hours and in hazardous working conditions. Trade unions are fortunately making important inroads, bringing hope to the tens of thousands of workers in the Batam EPZs.

In **Australia**, precarious work has also been on the rise. According to the ACTU, around 40% of workers are engaged in insecure work arrangements such as casual work, fixed term work, contracting or labour hire. The Australian labour movement recently commissioned an independent inquiry “to examine the extent of the insecure work and its impact on workers, their families and the community, and to provide recommendations on measures that can be taken to address any problems that are identified.” Over 500 submissions were sent in by workers, unions and academics on the nature of precarious work in Australia. The inquiry will be undertaken in 2012.

However, unions are fighting back hard and winning throughout the Asia-Pacific Region. In the courts, workers are advancing new legal theories to limit the abuse of precarious contracts. In the field, unions are organising workers, including migrant workers, in innovative

Asia and the Pacific

ways, having to take into account complex employment structures. Internally, unions are restructuring to integrate precarious workers into their ranks, and elevating the issue within their organisations. And at the bargaining table, unions are using bargaining clout to try to ensure that workers in the same enterprise are treated equally, regardless of the contractual employer. The road ahead is long, but unions are making a difference.

Australia



POPULATION: 22,268,000
CAPITAL: Canberra
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111

Employers and governments successfully invoke laws forcing striking workers back to work, in major disputes. The New South Wales (state) government dictates wages to public servants, refusing to bargain collectively and banning strikes. The federal government was unsuccessful in repealing anti-union laws in the construction sector.

TRADE UNION RIGHTS IN LAW

While the Labor party's 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, employers can seek 'representation orders' in the workplace tribunal, which can dictate which classes of employee the union can (or cannot) represent.

The right to collective bargaining is provided for, but is mostly limited to enterprise-level bargaining, and certain terms (such as clauses banning the use of contract or replacement labour) cannot be included in agreements.

The right to strike is limited, as lawful industrial action can only be taken during the process of bargaining for a collective agreement, cannot be taken at the sectoral or national level, and sympathy strikes/secondary boycotts are banned. Even lawful industrial action can be stopped by the workplace tribunal, on the application of employers or governments, in a range of circumstances (such as where a strike is causing significant harm to both parties, or to a third party).

Finally, separate and punitive laws continue to apply to workers and unions in the building and construction industry.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: The Australian Labor Party won government at the federal level in 2007, after 11 years of conservative rule. The 2010 election returned it as a minority government, relying on the support of the Australian Greens and independent MPs.

The conservative Coalition parties hold government at the state level in three of the four most populous states: New South Wales, Victoria and Western Australia.

Private employers' anti-union tactics: In practice, many employers (particularly in the mining sector) do their best to frustrate trade union activity. Examples include employer refusals to transport union officials to remote sites to meet with workers, refusals to bargain collectively until the union can demonstrate it has majority support in the workplace, refusal to allow union delegates to undertake union activity in the workplace during working time.

In many industries, harassment and victimisation of union members and delegates occurs, but it is often difficult to prove an anti-union motive in court. One exception is the recent case of *Barclay v Bendigo TAFE*, where a union delegate was disciplined for sending emails to staff that were critical of the University. The University claimed it was simply responding to action that was 'contrary to University policy', but the court found an anti-union motive existed. Unfortunately, this decision has been appealed by the employer to the High Court.

NSW government dictates wages: NSW laws have always prohibited public servants (including teachers, police and nurses) from striking, but provided for arbitration of wage claims by an independent workplace tribunal. During the year, the conservative government passed a law dictating that the tribunal could not award a pay increase greater than 2.5% per annum, in line with the government's wages policy. This allows the government to dictate the wages of over 300,000 workers, without the obligation to bargain and without the right to strike.

Heavy restrictions on construction workers remain: Laws introduced by the former conservative federal government fine workers AUD22,000 (and unions AUD110,000) for participating in industrial action in the construction industry (except during specified bargaining periods). Australian Building and Construction Commission inspectors continue to harass trade union members and officials, including by conducting secret interrogations of individual workers without a guarantee of legal representation of their choice. Workers who refuse to answer questions face prison terms of up to six months. The current federal government has introduced a bill to abolish the fines, but retain the interrogation powers; however, this was opposed by the conservative parties and did not pass the Parliament in 2011.

Employers and governments force an end to major disputes: Industrial action by workers was stopped at the behest of employers or governments in a number of cases. In one case,

Qantas responded to low-level industrial action by a small group of workers by grounding its entire fleet and locking its workers out. The federal government applied to the workplace tribunal to stop both sides' action and refer the dispute to arbitration, which it did. In another case, the Victorian state government applied to the tribunal to stop industrial action by 32,000 public servants, on the grounds that the welfare of children would be harmed if 1,500 child protection workers did not return to work. The tribunal stopped the industrial action and referred the matter to arbitration.

These decisions abridged workers' rights to strike, and the ensuing arbitration is unlikely to deliver outcomes that are favourable to the workers.

Bangladesh



POPULATION: 149,692,000
 CAPITAL: Dhaka
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 182

Police attacks against demonstrating workers demanding better working conditions and higher wages were widespread. One worker was killed when police attacked protesting workers at Advanced Chemical Industries (ACI) Pharmaceuticals in Narayanganj. The use of contract workers continued to be a source of labour instability. The Bangladeshi High Court directed the government to stop forced labour and the enslavement of employees by confinement or tying up their hands or legs. There are numerous legal restrictions on the ability of EPZ workers to exercise their full rights to freedom of association and collective bargaining.

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.

Enacted in 2004, the EPZ Workers Association and Industrial Relations Act (EWAIRA) established a legal framework for the exercise of some labour rights in the EPZs. However, the law fell short in that workers were not permitted to form trade unions but instead various kinds of worker associations that did not have the full rights to which they were entitled under international labour law. The law was to expire on 1 November 2008. That year, the interim military government decreed an extension of the EWAIRA for an additional two years, from 1 November 2008 to 1 November 2010. In August 2010, the civilian government passed legislation giving effect to the interim government's decree enabling the extension of the EWAIRA and which ushered in the EPZ Workers Welfare Association and Industrial Relations Act of 2010. However, it merely changes the name of the "workers association" to "workers welfare society," eliminates the workers' representation and welfare committees (which had already been superseded in large part by worker associations) and otherwise extended the effective date of the current scheme for another three years. The new law made an important amendment further limiting freedom of association by prohibiting any links with NGOs.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: In the fiscal year ending in May, Bangladesh enjoyed its best economic growth (6.7%) since the early 1970s. Manufacturing expanded by 9.5% with major industries showing at 10.4 % growth as garment shipments soared following a dramatic surge in orders diverted from China. Economic expansion was offset by an annual inflation rate that hit 11.6% in November. Poverty still grips the country with nearly 40% of the people living below the poverty line.

Human rights issues in Bangladesh continue to be a source of serious concern. According to information gathered by the human rights NGO, Odhikar, in 2011, 135 persons were reported

killed and 11,532 injured in political violence. There were 84 extrajudicial killings. Violence against women including rape, dowry related violence, acid violence, domestic violence and sexual harassment continued to be a significant issue as well.

Workers at shipbreaking yards and garment workers continued to be at risk due to unsafe working conditions. A total of ten workers from three shipbreaking yards were killed during the year. At least 80 garment workers were injured and other ten died in factory fires and explosions during the year.

Labour Court rules that contract workers be made permanent employees: On 30 March, a labour court in Dhaka ordered Grameenphone to treat its 264 drivers appointed under third-party agreements as permanent employees. The court ruled that the 264 drivers should be treated as permanent Grameenphone employees effective on the date of the successful completion of their respective probationary periods. The Bangladesh Labour Act does not allow outsourcing for jobs of a permanent nature.

Power plant suspends union president: On 10 April, 250 contract workers at the Barapukuria Thermal Power Plant (BTPP) in Dinajpur District went on strike to protest the seven-day suspension of Barapukuria Power Plant Workers Union (BPPWU) President Mohammed Nuruzzaman. Nuruzzaman was forced to leave the plant on 9 April after a heated discussion with a management official over the regularisation of workers.

Difficulties in trade union registration: Workers have filed several registration applications with the authorities, but due to a very slow and cumbersome process, in addition to anti-union animus, few applications have been acted upon. Workers have also complained that the union registration process requires a list of the names of union supporters to be filed together with the application, which are often handed over to employers which then retaliate against the workers through discipline or dismissal.

Union busting in shrimp industry not redressed: Independent unions were formed and collective bargaining demands were tabled at some of the largest factories in the shrimp industry. However, subsequent to the formation of the unions, most of the executive committee members of the unions were dismissed in 2010 without cause or forced to resign. These factories included Organic Shrimp Export (Pvt)., Ltd., Jahanabad Seafoods, Ltd., Modern Seafood Industries LTD., Southfield Fisheries Industries, LTD. and Southern Food Industries. Many workers remained terminated, some with cases challenging the dismissals still pending, in 2011.

Bangladesh ratifies UN convention on migrant workers:

The International Federation for Human Rights (FIDH) and its member organisation, Odhikar, welcomed the Bangladesh government's ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families on 11 April.

Mosrefa Mishu released!: Garment Sramik Oikhya Parishad President Ms. Mosrefa Mishu was released from jail on 28 April 2011. Bangladesh police arrested and detained Mishu on 14 December 2010 on charges of vandalism, arson, and looting associated with garment worker protests.

High Court rules on forced labour: On 22 May, the Bangladeshi High Court directed the government to stop forced labour and the enslavement of employees at brickfields and other business places by confinement or tying up their hands or legs. The court issued a ruling ordering the government to explain within two weeks why it should not be directed to make sure that such forced labour does not take place. The High Court issued the order following a petition filed by the Bangladesh Human Rights Foundation the same day.

Anti-union dismissals in EPZs: Three worker association executive committee members (president, general secretary and treasurer) from GBEE Garments were informed orally by management that their employment was terminated effective 3 February with the approval of the Bangladesh Export Processing Zones Authority (BEPZA) chairman. The remaining two executive committee members were issued warning letters by the management stating that "following the findings of the enquiry committee and for your other anti-company activities you are hereby warned for the last time that you do not provoke the workers to go for an illegal strike. If you fail to comply with the above, severe disciplinary action shall be taken against you." No strike had ever been planned. Following the written warning, management prevented the executive committee members from entering the factory.

Another union official was dismissed during the year over a dispute dating back to 2010. In October 2010, BEPZA published a new wage structure for the workers in the EPZs. The management at Dhaka/Beijing Dyeing and Weaving Industries refused to pay workers per the new regulations. The Workers' Welfare Association (WWA) wrote to BEPZA on 25 November 2010 to try to force management to come into line with the new wage structure. While BEPZA resolved the matter, the company fired 24 workers, and, because of their active participation in the WWA, asked Altaf Hossain, the Organising and Publications Secretary of the union, to resign. When Mr. Hossain refused to resign, management, in the presence of BEPZA officials,

continued to pressure him to resign. When Mr. Hossain arrived on the premises the next day, management told him that he would not be allowed to work for the company and that if he came again, he would face criminal charges. Mr. Hossain then received a letter dated 16 August 2011 informing him that his services with the company had been terminated, effective 11 August 2011.

Registration applications rejected: The Sinha Group Union, organised by the Bangladesh Garment and Tailors Workers Federation, formed their union on 8 January and filed their registration with the Registrar of Trade Unions on 12 April. The Dhaka Division Registrar rejected the application by letter dated 24 May. Masco Industries, organised by the Bangladesh Independent Garment Workers Union Federation, formed a union on 1 August and filed their registration with the Registrar of Trade Unions on 13 September, with 46.66% of the 600 company workers as union members (280 workers). The Registrar of Trade Unions rejected the application, based on unofficial information. The Crossline Factory Ltd. Workers and Employees Union, organised by the Bangladesh Federation of Workers Solidarity, formed a union on 14 September, with over 50% of the 650 employees as union members (326 members). The Registrar of Trade Unions rejected the application, also based on unofficial information.

Violence against and harassment of workers and trade unionists: One factory worker employed by Advanced Chemical Industries (ACI) Pharmaceuticals in Narayanganj was killed and at least 100 others injured on 23 January after police fired teargas and rubber bullets on about 400 ACI employees who were protesting the continued use of temporary workers. The worker killed was identified as Mr. Enamul Huq, 25. ACI Pharmaceuticals is one of the leading pharmaceutical companies in Bangladesh. After the attack, local police issued arrest warrants for 130 ACI workers.

On 1 May, the Bangladeshi authorities filed charges against trade union leaders including the President of the Bangladesh Trade Union Federation Faizul Hakim Lala, the General Secretary of Somajtantrik Sramik Front Rajekuzzaman Ratan, and the Bangladesh Trade Union Centre Central Committee member Aslam Khan. The charges alleged violation of sections of the Bangladesh Penal Code relating to unlawful assembly, rioting, assault, assault of a public servant and theft, among others. The charges were filed just days after the leaders attended a meeting on 27 April organised by hotel workers to discuss and demand the implementation of the Minimum Wages and Labour Act, 2006 proclaimed by the Government in 2009.

Police attacks against demonstrating garment workers: On 10 January, Bangladeshi police and military personnel baton charged and threw tear gas shells at 750 workers from High-lane Sweater (HS) factory at the Adamjee Export Processing Zone (EPZ) in Narayanganj. The workers were protesting to demand the payment of outstanding wages. At least 50 workers were injured in the attack. On 4 January, HS officials closed the factory without notice and failed to pay workers their wages.

On 30 March, police attacked and injured at least 15 protesting garment workers from the Micro Fiber Group at Katherpool District, Sadar. The protest occurred after the workers of Liberty and Midland Knitwears saw a closure notice on the factories following a confrontation between the workers and the owners of the factory regarding the payment of overtime on the previous day.

On 9 June, police baton charged and fired teargas and water cannon at several hundred workers of SQ Sweater Factory in Dhaka who protested after the company terminated 132 workers on 29-30 May for demanding a wage increase. Police arrested six workers at the scene.

During the first week of July, police baton-charged 1,500 striking workers from Deniar Fashion in the Dhaka EPZ in Ashulia. At least 20 workers were seriously injured in the attack. The workers had gone on strike to demand a salary increase.

On 5 July, company thugs Sicotex Fabrics (SF) at Siddhirganj, Narayanganj district, attacked SF workers who demonstrated against SF's acts of violence against workers and the non-payment of wages. At least 15 workers were injured in the attack.

On 20 September, police baton charged Concord Fashion Ltd. and Zicon Garments factory workers who were protesting over unpaid wages for the month of August. At least 20 people, including two policemen, were injured in the attack.

Garment factories lockout workers in Dhaka EPZ: In early February, three garment factories locked out more than 6,600 employees at their factories in the Dhaka Export Processing Zone (DEPZ) in Ashulia after the workers went on strike over unpaid wages and to demand a pay increase. The Fahimi Group locked out its 4,000 workers who struck over unpaid wages. Two Italian-owned factories, Helicon Sweaters and A One BD, closed their factories after 2,600 employees walked off the job to demand a pay increase. On 10 May, Alfa Patten and Alfa Fashion garment workers were locked out for four days after they refused to commence work when management said their

wages would not be paid on the due date. According to DEPZ rules, workers have to be paid before the 10th of each month.

Burma



POPULATION: 47,900,000
CAPITAL: Naypyidaw (Pyinmana)
ILO CORE CONVENTIONS RATIFIED: 29 - 87

Some significant changes took place in Burma in 2011. On 11 October, the Labour Organisation Bill was signed to replace the repressive 1962 Trade Unions Act. It allows workers to form unions and to strike. The government initiated a political dialogue with Daw Aung San Suu Kyi (ASSK), which is ongoing. The government released some political prisoners, though the many trade union activists and leaders of the “88-Generation” remained behind bars. However, the constitution remains deeply flawed and the parliament continues to be dominated by current and former military personnel. Despite the establishment of an ILO Commission of Inquiry in 1998, forced labour (including the conscription and use of child soldiers) remains widespread. The government has utterly failed to rein in the army, which is responsible for most of the forced labour, or ensure that those responsible are prosecuted and face appropriate criminal penalties if convicted.

TRADE UNION RIGHTS IN LAW

A new Labour Organisations Law was adopted by the government on 2011, which provides for the repeal of the 1926 Trade Union Act and contains provisions on the establishment of labour organisations, their functions and duties, rights and responsibilities, including the right to strike. However, the new Law is not fully in line with ILO standards and it is still limited by previous military orders and decrees. While now a union can be formed with 30 workers of the relevant trade or activity, it is still 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”. Also, legislation requiring all organisations to obtain permission to exist from the Ministry of Home and Religious Affairs is still in force, and the single trade union system in place. In addition, 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, was not repealed.

The right to collective bargaining is not recognised, and industrial disputes continue to be covered by the Trade Disputes Act, which includes a number of provisions that are not in conformity with international ILO standards. The penalties for disregarding these laws are extensive and may entail imprisonment of up to five years.

The right to strike has been recognised. However, trade unions can exercise strike action only following the approval from “the relevant labour federation”. Furthermore, strikes in the water, electricity, fire, health and communication services are illegal and other services may as well be added to this list.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: The year in Burma was one of hope for democratic reform and national reconciliation tempered with the realities of the government’s continued offensives against ethnic nationality groups, and systematic and pervasive human rights abuses. On 31 January, Burma’s bicameral parliament convened for the first time in 22 years. However the parliament is dominated by former military officials who resigned and ran as members of the Union Solidarity and Development Party. In addition, military appointees comprise 25% of all seats in parliament. Between the seats reserved for the military and former military elected as USDP members, the military controls 80% of all parliamentary seats.

During the year, the government released some political prisoners; however, a large number of political prisoners remained in jail. The laws and judicial system that imprisoned them in the first place have not been changed. Moreover, the military has continued brutal attacks on ethnic communities in Kachin and Shan states and the underlying causes of the long-running armed conflicts have not been addressed. Serious human rights abuses continue throughout the country, with little accountability for those committing these crimes. Reform of the judicial system to ensure independence from military or political interference has not been addressed.

On 17 November, ASEAN leaders named Burma the rotating ASEAN Chair for 2014. On 18 November, the National League for Democracy unanimously voted to re-register as a political party and will field candidates for seats in parliament. End November, US Secretary of State Hillary Clinton visited Burma and provided the government with limited incentives to encour-

age further reforms. However, Clinton was unequivocal in her statements that the government had to initiate further reforms if the US was to consider the lifting of sanctions. Key to the lifting of sanctions was an end to ethnic conflict, the release of all political prisoners, an end to ties with North Korea, and the creation of strong democratic institutions.

On 23 May, UN Special Rapporteur on human rights in Burma Tomás Ojea Quintana said that government armed forces continued to commit “widespread” human rights abuses, including land confiscation, forced labour, internal displacement, extrajudicial killings, and sexual violence. As the year ended, government forces continued offensives and human rights abuses in Kachin State and Northern Shan State. On 12 October, the government released over 200 political prisoners. Among those released were seven trade unionists and one labour activist. In addition, the government lifted restrictions on press censorship and enacted laws to allow for peaceful protests.

On 22 August, the US dollar exchange rate price fell to a record low of 680 kyat further hurting Burma’s export industry. The strong kyat has left Burmese garment factories in crisis causing some factories to be shut down and others to lay off workers and reduce operations. Officials of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and the owners of factories in Rangoon industrial zones threatened to request the government to taken action under “The State Emergency Act” against competing factory owners who offered higher wages to attract employees and thereby causing unrest among the workers at the lower-paying factories. Thousands of construction workers in Burma’s capital, Naypyidaw, lost their jobs due to the regime’s suspension of numerous projects. Suspension of the projects has come with allegations that many workers have been unpaid for more than three months.

ILO finds forced labour in Burma still pervasive: In 2011, the ILO Committee of Experts reported that it had received “extensive and detailed documentation referring to the persistence of widespread forced labour practices by civil and military authorities in almost all of the country’s states and divisions.” Subsequent reports from credible sources show that the widespread and systematic use of forced labour (including forced recruitment of child soldiers) continues apace in Burma. The military in particular continues to force villagers to perform portering, road construction, road-repair and military camp construction, fence building and road clearing. In some cases, villagers are also forced to cultivate rice and other crops on plantations for military use. In some areas, such as the Arakan state, the use of forced labour was reported to have actually increased in 2011. Moreover, in many regions, people willing to

present complaints are either threatened or discouraged from doing so.

In 2011, Human Rights Watch and the Karen Human Rights Group issued a lengthy report, *Dead Men Walking: Convict Porters on the Front Lines in Eastern Burma*, on the use of hundreds of convicts for forced porting by the military in, inter alia, northern Karen State. In interviews, prisoners reported being subjected to horrifying conditions. The military executed porters, inflicted physical abuse, failed to protect them from danger arising from military operations, and refused to care for the wounded or sick. Porters were denied food and water and forced to carry extremely heavy loads over hazardous terrain with minimal rest.

There are also continuing reports of forced child recruitment by the armed forces. Few have been punished, and those that have received administrative sanctions such as discipline or discharge from the army.

In 1998, the ILO Commission of Inquiry directed the government of Burma to take the necessary steps to ensure: 1) that the relevant legislative texts, in particular the Villages Act and the Towns Act, be brought into line with the Convention; 2) that in actual practice, no more forced or compulsory labour be imposed by the authorities, in particular the military, and 3) that the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour be strictly enforced, which required thorough investigation, prosecution and adequate punishment of those found guilty.

The ILO Report to the November 2011 Governing Body, “Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)” demonstrates that while there have been some steps forward, Burma has yet to fulfill these requirements over a decade after the establishment of the Commission. Few military, public officials or civilians have faced meaningful sanctions, including criminal sentences, for committing forced labour.

Striking garment workers threatened with violence: On 16 February, about 200 workers from the South Korean-owned Lion City garment factory in Rangoon’s Insein Township went on strike calling for a salary increase and better working conditions. In response, police deployed about 15 riot police trucks to the area around the factory.

On 17 February, the workers called off their strike after Lion City management agreed to a 5,000 kyat (USD5) monthly pay hike and more favourable working conditions.

Release of political prisoners including trade unionists: On 12 October, Burma's regime released over 200 political prisoners. Among those released were trade unionists Mr. Myo Aung Thant, Ms. Aye Thi Khaing, Ms. Aye Chan, Ms. Yin Kyi, Mr. Tin Hla, Mr. Zaw Htay, Mr. Khin Oo, and labour activist Ms. Su Su Nway.

Applications to form a trade unions rejected: On 25 October, the Agriculture and Farmers Federation of Myanmar (AFFM) presented its registration application to the Ministry of Labour. On 2 December, the textile, garment and leather factory workers union in Bago also submitted registration papers. In both cases, authorities explained that they could not accept the application because implementing regulations had not been completed and that no registrar had yet been appointed. The Myanmar Industrial Trade Unions Federation (MITU) filed a registration application but has yet to receive a reply from the government.

The repression of striking workers continued: In 2011, thousands of workers have undertaken numerous strikes out of utter desperation over extremely low wages and abysmal working conditions in apparel and footwear factories, most located in and around Rangoon. Reported strikes include those at CGI garment factories in South Dagon Township Industrial Zone No. 2, Taiyi shoe factory in Hlaing Tharyar Township Industrial Zone, Mya Fashion garment factory in Hlaing Tharyar Township Industrial Zone 3, New Way shoe factory in Hlaing Tharyar Township Industrial Zone 4 and PTK Company in Three Pagodas Pass.

Most workers are also hired as day labourers with no employment stability whatsoever. In many cases, riot police, police custody vans and fire trucks appear on the scene as soon as a strike starts in an effort to control and intimidate the workers. In some cases, workers have been told to disperse immediately or face a harsh crackdown from the central and/or township government.

In early February, about 700 workers at United World and Oscar garment factories in Shwepyithar Industrial Zone in Rangoon went on strike and successfully negotiated regular bonuses, an on-site medical clinic, sufficient water supplies and toilets, and better working conditions.

At the same time, about 70 Burmese labourers working for the Italian Thai Development Public Company Ltd. (ITD) on the construction of the Tavoy (Dawei) deep-sea port project went on strike to protest low wages and long working hours with no overtime or holiday pay. The workers also claimed that Burmese workers receive less pay and benefits than their Thai counterparts. On 3 March, about 1,500 workers from Grand Royal beverage factory, Super Garment and Kaunggyi Minglar

textile factories in Rangoon's Shwepithar Township went on strike to demand better wages, public holidays and overtime pay. The workers returned to their factories on 4 March after they reached a compromise with factory owners. On 8 March, about 1,700 workers at the Taiyi shoe factory in Hlaing Tharyar Industrial Zone in Rangoon went on strike to demand increased pay and better working conditions. Workers only earned USD 0.70 for a 12-hour day. Around 500 workers at the New Way shoe factory in Rangoon's Hlaing Tharyar Township went on strike on 22 March after factory management rejected their demands for an increase in pay.

Sixty-five workers at the Korean owned Cap 1 Hat Factory in Hinthakon War in Pegu Division went on strike on 6 June and were able to successfully negotiate a settlement the following day. The workers' main complaints involved restrictive bathroom breaks and abusive supervisors.

In September, more than 300 workers at the Esquire Shoe Factory in Hlaing Tharyar Industrial Zone No. 3 in Rangoon went on strike on 6 September for higher wages.

Cambodia



POPULATION: 14,100,000
CAPITAL: Phnom Penh
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138

Short-term contracts, subcontracting and yellow unions are the strategies most widely used to prevent or undermine organising. Civil servants remain deprived of the right to unionise. Many employers exploit the pervasive climate of impunity, harassing and dismissing trade unionists at will.

TRADE UNION RIGHTS IN LAW

Despite constitutional guarantees, many restrictions apply to trade union rights. Workers are free to form and join trade unions under the 1997 Labour Act, 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, must be at least 25 years of age, must be literate and have no criminal record.

While the law recognises the right to collective bargaining and obliges employers to bargain, the authorities are entitled to 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. The free exercise of trade union activities is further undermined by the fact that each workplace with over eight employees must have a workplace representative, who is given the task of performing functions that should be in the hands of elected union representatives – who lack similar enforceable rights.

Furthermore, all industrial disputes are subjected 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.

In 2011, the government, with the assistance of the International Labour Organisation, worked to amend the Trade Union law. Trade unionists expressed concern with the draft amended law, though the government did respond to some of these criticisms during the year.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: The ruling Cambodian People's Party (CPP) is gradually closing the space left for those daring to criticise its decisions. Prime Minister Hun Sen is continuing to strengthen his autocratic rule. The opposition leader has been forced to remain in exile after receiving a heavy prison sentence. At least 12 people have been imprisoned since December 2010 for exercising their right to freedom of expression, accused of defamation and misinformation.

Tens of thousands of people in urban and rural areas are being illegally and forcefully evicted from their homes to make way for development projects headed by big business or influential figures often linked to the CPP or the army. They are forced to accept derisory compensation. Many land rights activists have been arrested or attacked.

Deadly fighting broke out between Thai and Cambodian soldiers in the disputed border area near the Preah Vihear temple. The tensions were eased with the election of a new government in Thailand.

Working conditions in garment factories continue to be appalling. Around 2,000 workers (mostly women) were reported to have passed out in 12 garment factories during 2011. Several possible causes have been identified: poor nutrition (linked to

the workers' poor wages), the heat, poor ventilation, excessively long working hours (many do a substantial amount of overtime, as the minimum wage is only 61 dollars a month), and poor relations between employers and workers.

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.

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 labour courts. It is widely respected for its even-handed and impartial investigations and rulings, but 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.

An agreement was signed in 2010 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.

One hundred and sixty six of the 191 cases handled by the Arbitration Council in 2011 involved the garment sector. Twenty seven percent of the Council's decisions were not implemented, including at least eight ordering employers to reinstate unfairly dismissed union leaders.

Subcontractors fiercely opposed to unionisation: According to the Coalition of Cambodian Apparel Workers' Democratic Union (C.CAWDU), over half of all garment factories are subcontractors working for export manufacturers. Most of these subcontractors are fiercely opposed to the formation of unions and do not respect the labour legislation. Some of these factories use child labour.

Labour relations undermined by corruption: Branch union representatives are occasionally offered large sums of money to join the ranks of a yellow union during labour disputes, as seen during the Cambrew strike (see violations section). In some instances, when workers whose union rights have been violated receive a favourable ruling from the Arbitration Council, such as reinstatement following an unfair dismissal, they are offered money to renounce these rights. Huey Chen is one of the companies that deployed this tactic in 2011 (see violations section).

Several sources report that regular and non-official payments are made by Ministry representatives to the leaders of yellow unions or unions close to the government. Although it is difficult to independently verify this information, these alleged payments may go some way towards explaining the proliferation in the number of trade union federations in Cambodia, which is weakening the quality of worker representation.

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. Associations such as the Cambodian Independent Teachers Association (CITA), the National Educators’ Association for Development (NEAD) or Cambodia’s Independent Civil Servants Association (CICA) have very limited scope for action.

Migrant domestic workers suffer serious abuse: According to Human Rights Watch (HRW), 40,000 to 50,000 Cambodian women and girls have been recruited to work as domestic labour in Malaysia since 2008. Recruitment agents often forge identity documents for children, offer cash and food as “loans”, leaving migrants heavily indebted, and keep recruits in training centres in Cambodia for months on end. Those trying to escape face various forms of intimidation. Access to health care and nutrition are appalling in most of these centres. HRW also reports that three women recruits died while confined in such centres during 2011 and that the authorities failed to conduct thorough investigations into their deaths or to hold anyone accountable. In October, the government did, however, announce a provisional ban on sending domestic workers to Malaysia.

Yellow unions: The establishment of yellow unions is another tactic widely deployed by companies to prevent the emergence of genuine worker representation. These yellow unions or unions close to the government have no difficulty registering their organisations, unlike independent unions. The latter often have to wait over a year to be registered whilst yellow unions are registered within a day or two. Workers are often placed under heavy pressure to join yellow unions.

Union representative at United Apparel dismissed and beaten: On 5 March, three days after being notified that the Coalition of Cambodian Apparel Workers’ Democratic Union (C.CAWDU) was planning to hold union elections at its Khan Dongkor factory (Phnom Penh), clothing manufacturer United Apparel Garment fired the C.CAWDU representative, Hun Narin, on the pretext that he lacked efficiency. On 21 June, the Arbitration Council ruled that he should be reinstated (or dismissed and paid the compensation established by law). When he went to the factory two days later with the Council’s decision, he was beaten by security guards. He had still not been reinstated at the end of the year.

Authorities deny permit to celebrate International Women’s Day: On 7 March, the authorities refused to deliver a permit for a public gathering due to be held in Phnom Penh to celebrate International Women’s Day on 8 March. No grounds were given for the refusal. The gathering had been organised by a trade union platform, the Cambodian Women’s Movement Organisation (CWMO), and the Minister of Women’s Affairs was scheduled to speak at the event. March 8 is a public holiday in Cambodia.

A bleak year for workers at Lim Heang Yu: The Kompong Speu branch of the Lim Heang Yu confectionary company violated trade union rights during most of 2011. On 9 March, it dismissed Meung Sarom, a worker who had been actively involved in forming a branch of the Cambodian Food and Service Workers’ Federation (CFSWF).

The management then waged a campaign of intimidation against the workers who took part in union elections, pressing them to renounce their membership. They were made to sign fixed-term contracts to replace their permanent contracts (some workers cannot read and others were not allowed to read the contract, which they signed by affixing a fingerprint). The branch union’s general secretary, Keo Seur, signed a document on 14 June, having been told by the management that it was needed to pay his wage; it was, in fact, a letter of resignation, and he was forced to leave the factory. Nine other workers found themselves in the same position. The president of the branch, Chen Mean, resigned on 10 November after suffering sustained acts of intimidation in the workplace because of his union involvement.

ILO renews call to end trade union rights violations at Angkor Wat: In March, the ILO Committee on Freedom of Association (CFA) dealt with a complaint by Building and Wood Workers’ International regarding the trade union rights violations at the Angkor Wat site (see 2008 and 2010 editions of the Annual Survey). The CFA called on the government to take measures to

ensure that APSARA (a body set up by the government to protect the environment around Angkor Wat) and the Angkor golf complex engage in bona fide negotiations with their respective unions. It also urged the government to ensure that members of the union at JASA (the Japan-APSARA team for safeguarding Angkor), be allowed to freely elect their representatives without fear of dismissal or reprisals. The authorities have ignored similar CFA recommendations in the past.

Union bashing at Huey Chen: On 19 June, the Coalition of Cambodian Apparel Workers' Democratic Union (C.CAWDU) formed a union at the Huey Chen garment factory in Phnom Penh. The management took a range of retaliatory measures, such as the transfer of sections of the factory with a large proportion of members to a far-off location, and the dismissal of four members opposing the transfer, including the union's president, Nim Savouen, and secretary, Va Kunthea. The members were reinstated in October following the intervention of the Arbitration Council, the Garment Manufacturers Association in Cambodia (GMAC) and Puma (one of the buyers), but then found themselves faced with wage discrimination. The management is still refusing any form of dialogue with the C.CAWDU and is pressing workers to join a yellow union.

Sous Chantha convicted without evidence then released: Sous Chantha, the head of the union affiliated to the Coalition of Cambodian Apparel Workers' Democratic Union (C.CAWDU) at the United Apparel Garment factory in Sen Sok Khan was condemned to 10 months in jail on 24 June on drugs charges. He had been arrested in 2010 (see 2011 edition of the Annual Survey). The lack of any genuine evidence during the trial exposed the fact that he had been framed, in retaliation for his switch in union affiliation (his union was previously affiliated to a federation close to the employers). He was released on the day of the verdict, having been detained in custody whilst awaiting trial.

Two hotels in Siem Reap wage all-out attack on unions: On 4 July, the Cambodian Tourism and Service Workers' Federation (CTSWF) formed unions at two five star establishments in Siem Reap, Angkor Village Hotel and Angkor Village Botanical Resort Hotel. Between 25 July and 6 August, 67 of the 90 employees at the two hotels were unfairly dismissed by the owners, Olivier Piot, a French national, and Tep Vattho, a Cambodian who also holds a French passport. On 30 August and 26 October, the Arbitration Council and the provincial court of Siem Reap ordered that the dismissed workers be reinstated, but the management refused to comply with the rulings. On 23 November, Morm Rithy, vice president of the CTSWF and Ron Ravan, another CTSWF representative, were arrested by police during a peaceful demonstration in front of Angkor Village Hotel (which

had been prohibited by legal order). Morm Rithy was released that night and Ron Ravan the following day.

On 14 December, the same judge at the Siem Reap court issued a verdict overturning his ruling of 26 October. This new verdict legalising the employees' mass dismissal was not based on any new evidence but was the result of the political influence used by the hotel owners. The hotels also contacted the dismissed workers (including by sending police officers to their homes), proposing them a sum of money in exchange for their resignation.

Anti-union discrimination at Cambrew: In July/August, the Cambodian Food and Service Workers' Federation (CFSWF) organised a strike by beer promotion workers employed by brewing firm Cambrew Ltd., which is 50% owned by Carlsberg, to press the company to respect the legislation on the payment of overtime worked on days off. The workers were threatened with dismissal during the strike. The president of the union was offered a large sum of money and a supervisory post if she agreed to join a yellow union. The CFSWF reports that 21 of the women who had taken part in the strike were sanctioned following the action: they were transferred to other establishments where they were not able to sell as much beer (implying a considerable fall in their income) and faced a range of discriminatory measures, such as being taken to the workplace in a different vehicle to those who did not take part in the strike. Five of them accepted money from Cambrew to leave the company.

Cambrew refuses to negotiate with the CFSWF. The brewery deals with a yellow union whose representatives are employed as beer promotion worker supervisors.

CINTRI continues to block unionisation: CINTRI, a waste collection firm in Phnom Penh owned by the Canadian group CINTEC, continued with the campaign started in 2010 to suppress employees' attempts to form an independent union (see 2011 edition of the Annual Survey). In August, the Cambodian Food and Service Workers' Federation (CFSWF) notified the management that the workers had elected trade union representatives. These representatives were called in by the management and pressured into signing a letter renouncing their posts in the union. As a result, the Labour Ministry refused to register the organisation. Workers supporting the formation of a CFSWF-affiliated union were warned that they would lose their jobs if they persisted.

Union leader at Generation International suffers another violent assault: On 17 October, Phao Sak, president of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWK)

at the International Generation Co. footwear factory in Trapeang Ample Village (Samrong Torng district, Kampong Speu province) was assaulted at work by another employee close to the management. The beating was so severe that he lost consciousness and medical care was needed to treat his wounds. According to the FTUWKC, the assault was the result of a disagreement in collective bargaining negotiations headed by Phao Sak. The union representative had already been very seriously injured in an assault by two unknown individuals in 2010, also against the background of tough collective bargaining negotiations (see 2011 edition of the Annual Survey). The FTUWKC reports that International Generation produces for major brands such as Brantano, André, Caravelle and Emilia Lucax.

Kampot Cement and KC Gecin persist with union busting operations: On 28 October, the provincial court of Kampot ordered the reinstatement of Chhun Peou and Tep Mao, two Kampot Cement employees fired shortly after being elected president and treasurer of a branch of the Building and Wood Workers Trade Union of Cambodia, BWTUC (see 2011 edition of the Annual Survey). Kampot Cement refused to accept the verdict and went to appeal. It dismissed a number of other BWTUC supporters during 2011 and is refusing all dialogue with the union.

Another company from the construction sector, KC Gecin Enterprises, managed to complete its destruction of the BWTUC branch union set up in 2010 (see 2011 edition of the Annual Survey), dismissing all the members still employed by the construction firm.

Cambo Handsome scales up anti-union operations: On 25 November, Van Rin, president of the Workers Friendship Union Federation (WFTU) at the Cambo Handsome Ltd garment factory on the outskirts of Phnom Penh, found a T-shirt that did not belong to him in the storage compartment of his motorbike parked in the factory grounds. On notifying the security guard, the latter called the management, which alerted the police, and Van Rin was arrested and detained under humiliating conditions. Hundreds of workers went on strike, demonstrating to call for his release. Van Rin was released after two days but his employment contract was suspended. Two other trade union representatives at Cambo Handsome were also suspended: Wy Davy, vice president of the WFTU, and Wy Davuth, vice president of the Cambodian Labour Union (CLU) at the factory. The company also presented them with a demand for the payment of 13,000 dollars in damages for instigating the strike action.

The WFTU reports that Cambo Handsome had already suspended then fired two of its union leaders in February, and

that its representatives are often harassed at the company. The factory produces clothing for Gap, JC Penny and Old Navy.

ILO calls to order Cambodian justice system: In November, following a complaint by the ITUC, the ILO Committee on Freedom of Association (CFA) renewed its appeal to the Cambodian 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 and 2011 editions of the Annual Survey). It also demanded that the government ensure that Born Samnang and Sok Sam Oeun, who had been falsely accused of murdering Chea Vichea, then imprisoned and later released, be cleared of the charges against them and given back their bail money. The CFA's list of recommendations also included a renewed call for the government to open independent judicial inquiries into the physical assaults on 13 trade unionists.

It should also be noted that, in March, the Supreme Court ordered the release on bail of Thach Saveth, who had been condemned to 15 years in jail in 2005 for the murder of Ros Sovannareth, by a trial as blatantly unfair as that of Born Samnang and Sok Sam Oeun.

Screening of documentary on murder of Chea Vichea still banned: As in 2010, the authorities banned, on at least three occasions, the screening in Phnom Penh of the documentary "Who Killed Chea Vichea?" (see 2011 edition of the Annual Survey), on the killing of the trade union leader in 2004. The documentary raises awkward questions for the government, underlining that the murder would not have been possible without the knowledge of senior figures in the political establishment.

Seventy one workers still not reinstated after taking part in national strike in September 2010: Of the 817 employees dismissed or suspended for taking part in the nationwide strike of September 2010, which mobilised 200,000 workers (see 2011 edition of the Annual Survey), 71 workers from 11 factories still have not been allowed to return to their posts, despite calls from the government and a court of justice to reinstate them.

Some factories agreed to reinstate the dismissed workers, but have not respected their obligation to pay the salaries owed since the end of the strike.

E-Garment reneges on pledge: The Coalition of Cambodian Apparel Workers' Democratic Union (C.CAWDU) reports that, despite the pledges made by the management in 2009 and 2011, the E-Garment factory in Kandal province has still not reinstated 41 employees dismissed between 2007 and 2010

on account of their trade union activities. The C.CAWDU also denounced the pressure placed on workers at the factory to stop them from joining the union.

Assorted anti-union intimidation: Several other cases of anti-union intimidation were reported during the course of 2011. One such case involved the Kennetex garment factory, which, according to a complaint filed by the Coalition of Cambodian Apparel Workers' Democratic Union (C.CAWDU) with the Arbitration Council, intimidated workers wanting to join its union and fired two workers standing for union leadership posts at the factory.

The Free Trade Union of Workers of the Kingdom of Cambodia reported that the M&V garment factory hounded workers wanting to join its union. The company refused to renew the short-term contracts of around 400 workers who showed support for the FTUWKC. Most of them were then re-offered employment if they promised not to join this union.

On 3 October, the Taiwanese garment factory Meroson Cambodia Co Ltd in the Dangkor district, on the outskirts of Phnom Penh, fired three workers who had been elected as representatives of the union affiliated to the Cambodian National Confederation for Labourers Protection (CNCLP). After a two-day strike, the workers managed to secure their reinstatement. The Cambodian Union Federation (CUF) also reported that three of its trade union representatives had been dismissed in October.

In December, the Union Federation for Labour Rights (UFLR) likewise reported that its representative, Sin Vanhong, was fired from the Shinglecom Cambodia garment factory shortly after forming a union there.

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: 1,341,330,000
CAPITAL: Beijing
ILO CORE CONVENTIONS RATIFIED: 100 - 138 - 182

Labour activists and rights groups are regularly harassed while internal migrant workers continue to be discriminated against. Child labour is believed to be on the increase as a result of the relative slowing down of the economy amidst the global recession and law evasion from companies, including multinationals. 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 2011

Background: 2011 witnessed an increased number of labour disputes and collective actions - in the manufacturing province of Guangdong for example some 300,000 cases were reported in 2011, almost three times the amount in 2007. Civil society unrest and strikes continued while corruption remains endemic. Media and internet censorship and the extensive repression of critical civil society groups continued. China formally overtook Japan to become the world's second-largest economy although domestic inflation and price increases were the source of discontent for ordinary workers.

A report issued in January by the International Federation of Journalists (IFJ) outlined over 80 restrictive orders issued in 2010 and highlighted the continued arrest and sentencing of journalists who fail to observe internal censorship rules on the reporting of protests and strikes alongside other sensitive events.

Forced labour: 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 and which avoids the judicial system and its relative protection. 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 and growing 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 2011. For example, in May, it was reported that prisoners in northern China had been forced to spend nights working as online gamers for virtual gold. In September, a group of around 30 disabled men were freed from a brick kiln in the central province of Henan after an investigation by an undercover television reporter. The reporter disguised himself as a mentally disabled person near a local train station and was sold to Wan Chengqun, a kiln operator in Zhumadian, for 500 yuan (USD8) and later transferred to a kiln from which he escaped. Some of the men rescued had been forced to work for many years without pay, enduring beatings and poor food and living conditions.

In April, in the Xinjiang Uighur Autonomous Region, a factory owner and his wife who used a group of mentally disabled people as slave labour for more than four years were sentenced to four and half years and two years in prison. Reports said at least a dozen workers, eight of them mental disabilities, were forced to work without pay and with no protective equipment.

The workers had been supplied by a shelter for homeless people in a neighbouring province. The China Association of Mentally Handicapped People has reportedly found similar cases in ten different provinces.

Role of the official Chinese trade union: 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. It focused efforts in 2011 on wage bargaining.

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.

Strikes: The number of strikes - both spontaneous and organised, 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.

The increasingly commonplace nature of strikes has meant that despite the ambiguity of their legal position, some local authori-

ties 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.

Official union support for workers' grievances: The All China Federation of Trade Unions (ACFTU) has not been involved in a 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 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 in Africa but also in the Middle East. Chinese workers who complain of poor conditions have faced repercussions on their return to China.

In March, around 100 Chinese construction workers protested at the Guangzhou airport after arriving home from Libya. The workers had returned to China on chartered flights from Libya, but refused to leave the airport for fear that their wages would not be paid. The workers said the employer - Hunan Tianying Construction Co. Ltd. - based in central Hunan Province had withheld 15,000 Yuan (about 2,282 U.S. dollars) of salary per worker for their work in Libya. After securing agreements over payments, the workers agreed to leave.

Discrimination and abuse of migrant workers: Institutionalised discrimination against migrant workers from rural areas remains a serious problem despite recent legislation. They suffer from low wages and excessive working hours. One ACFTU survey found young migrant workers still earn around half the salary of urban workers. This especially holds for migrants working in construction sites and small construction venues where workers have few avenues for redress in the event of non-payment of wages or other abuses.

In April, 18 migrant workers died in a fire while locked in an illegally constructed garment factory near Beijing. All are

presumed to be migrant workers. 23 others were injured. The fire led to some 80,000 migrants being expelled from the district which was home to hundreds of small and often illegal workshops. Nearby factories lowered their salaries to mop-up the now unemployed migrant workers. In June, alleged rumours of the beating to death of a pregnant migrant hawker led to three days of rioting in south China. At least 19 migrants were reportedly arrested although workers report at least 100 were detained. Clashes also occurred in nearby Chaozhou, where hundreds of migrant workers demanding unpaid wages at a ceramics factory attacked government buildings and set vehicles ablaze.

Restrictions on trade union elections and collective bargaining: Although the Trade Union Law states that trade union officers at each level should be elected, most officials are appointed. In addition, elected candidates are subject to approval by the provincial-level All China Federation of Trade Unions (ACFTU) committees.

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 and increasingly by workers. In the wake of its inaction during the strikes at Honda in 2010, the union there agreed to hold elections directly for its enterprise officials as demanded by workers. Despite the potential repercussions there are some grassroots enterprise unions formed by the workers themselves through the use of official factory elections which are of some benefit to the workers. The adoption of collective bargaining to resolve disputes has recently seen a minimal increase. In April, it was reported that a new union established by and for migrant workers in Tianjin managed to negotiate a collective agreement on pay rises, working conditions and working hours with a local labour supply agency.

Continued harassment of the Dagongzhe Centre: In 2007, Huang Qingnan, a worker at a migrant rights centre in Shenzhen was beaten and severely stabbed by unknown assailants. The centre itself was attacked on several occasions and other staff intimidated. Reports emerged in 2011 of the continued harassment and the threats made against the centre and the non-recognition of the appropriate disability status of Huang Qingnan, effectively reducing the amount of compensation available to him.

Taxi drivers and bus drivers beaten while on strike: During the summer, in the south and central parts of China, there was a series of strikes by taxi drivers protesting rising fuel prices and stagnant wages. Drivers were calling for higher wages and higher fares in response to increased prices. In Hangzhou for

example, around 1,500 taxi drivers went on strike for three days in August. In March in Lanzhou, some 5,000 striking taxi drivers surrounded the provincial government offices demanding an end to rising taxes and fines. Their protest was met by around 300 police - several people were injured.

In January, a group of bus drivers and conductors were injured in a clash with police during a wage dispute. The strike began when conductors on various bus routes in Shenzhen demanded talks with management over wage levels and wage setting policies. However, management refused to talk to the workers and the police were called. Clashes erupted and several workers were injured.

Strike breaking and disputes over company closures: In March, some 2,000 coal miners from the soon to be closed Baidong mine blocked roads and clashed with police over inadequate redundancy payments. One miner was beaten and arrested and taken to the local police station where he was later released. Police spokeswoman reportedly denied that there had been any protest, but said 100 officers had been dispatched to keep order. Earlier in March several thousand workers at the Shanghai Zhengtai Rubber factory protested company lay-off plans and marched through the city.

In January, in Hubei Province, several hundred laid-off textile workers clashed with police over demands for proper severance pay. They were trying to prevent police from allowing the factory owner to leave the plant without promising to pay owed wages and other benefits. The Wuhan 3541 Garment General Factory made uniforms for the People's Liberation Army. It had gone bankrupt in 2007 laying off over 4000 workers who were still waiting for unpaid wages. The factory was surrounded by hundreds of riot police.

Truck drivers on strike fight with police: In April, some 2,000 truck drivers clashed with police as protests and strikes over fuel prices entered their second day in Shanghai. The drivers, who blocked roads with their trucks, were demanding the government take action about rising fuel costs. According to workers, police arrested at least six people and beat up some protesters with batons. Truck driver's strikes were also reported at various other ports in and around Shanghai.

Electronics workers seeking severance pay beaten by police: On 12 and 13 May, workers at the Nanjing Huafei Colour Display System Co., Ltd. protested over alleged corruption during the factory's bankruptcy. Around 1,500 police were deployed to surround the factory and stop workers from marching. The factory was a joint venture between the state-owned Huadong Electronics and Philips Electronics, and was one of

the major manufacturers of colour CRT displays. After declaring bankruptcy, it reportedly laid-off all of its workers and offered to pay them severance payments far lower than the prevailing rates. The workers were unable to negotiate and on May 12, they marched through Nanjing, reportedly headed by the company chief executive. Several people were believed to have been injured after police tried to disperse the march. Web posts about the protest were reportedly deleted immediately after.

Handbag workers beaten on strike: Around 4,000 workers at the Simone Handbag factory in Panyu, south China went on strike on 20 June over low pay and overly strict management. According to workers, police surrounded the factory to restrict access to the strikers. Several workers stated they had been beaten and that management was threatening workers with dismissal if they did not return to work. The strike was not reported by local media in order to reduce the possibility of copy cat strikes taking place as had happened last summer in the south of China.

Electronics workers on strike over discriminatory payments: In December, some 8,000 Chinese workers went on strike at a Nanjing factory owned by the South Korean corporation LG Display, shutting down some 80 production lines. According to quotes from workers, the strike was in reaction to discrimination against local workers who received substantially lower bonuses than Korean workers. Management reportedly threatened to close the factory and prosecute strike leaders while police reportedly instigated several confrontations.

Foxconn – problems remain: Continued reports of poor working conditions, ill health and protests emerged out of factories making products for Apple. Despite extensive audits, reports state that more than half of the suppliers audited by Apple have violated at least one aspect of the code of conduct every year since 2007. A wave of strikes at Foxconn in 2010 along with numerous suicides of young workers had reportedly led management to force workers to sign a pledge promising that they won't commit suicide.

Around 420,000 workers are employed at various plants for Foxconn. From beginning of 2010 to mid 2011, at least 14 Foxconn workers in plants in the Chinese cities of Shenzhen and Chengdu have killed themselves. Workers were also forced to undertake excessive overtime and had few days off. Poor working conditions have also been reported at many other electronics factories including those making products for Dell, Hewlett-Packard, I.B.M., Lenovo, Motorola, Nokia, Sony, Toshiba and others.

Watch factory workers on strike: In October around 2,000 workers at the Guanxing Precision Machinery Product Factory, that makes parts for Japanese watchmaker Citizen Holdings Co. Ltd. Went on strike over working conditions, deductions and overtime. The strike began after management had suggested changes to payment calculations. Workers had claimed extensive deductions for bathroom breaks. According to domestic media reports, workers were beaten and had their salaries withheld after they started going on strike. On the 10th day of the strike, police were called to the factory and several workers were briefly detained. The following day after negotiations, most workers returned to work.

The workers who had been detained may reportedly face dismissal in addition to any workers who had not returned to work three days after the majority of workers had agreed to the outcome of the talks.

Fiji



POPULATION: 861,000
CAPITAL: Suva
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The Fijian government, led by a military junta since a 2006 coup d'état, launched an aggressive campaign in 2011 to dismantle the trade union movement by use of brute force, by jailing trade union leaders and by issuing executive decrees that together have deprived most Fijian workers of their fundamental international labour rights.

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. Furthermore, a new Decree adopted in 2011 excludes a number of categories of public employees from the scope of application of labour legislation.

While the ERP promotes and encourages collective bargaining, legislation adopted in 2011 allows non-union representatives as collective bargaining agents. The same legislation provided that all existing collective agreements were null and void 60 days after it entered into force, and new agreements were to be negotiated by the parties before the expiration of this deadline, otherwise the employer was entitled to unilaterally implement new terms and conditions through a new collective agreement or individual contract. Furthermore, according to the new law, employers may renegotiate all their collective agreements if they are considered to be in financial distress; if bargaining fails to result in a new collective agreement, the employer may submit its proposals for a new or amended collective agreement to the Prime Minister for review, and the Prime Minister shall make a decision on the new terms and conditions of the new or amended collective agreement.

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 2011

Background: The Fijian government has been led by a military junta since a 2006 coup d'état.

The media are still heavily censored. Article 16 of the Public Emergency Regulations places all media under government control, by requiring that all broadcasters and editors present any materials that may be published or broadcast for prior review. Military personnel are present in all media outlets and screen all news. Comments by the public, trade unions and civil society organisations are denied publication. Many trade unions have stopped sending out newsletters for fear of sanctions.

On 18 November 2011 the Charitable Trusts Amendment Decree (Decree 48) was enacted. The Decree gives the Prime Minister unchecked discretion to cancel the incorporation of the board of any charitable organisation that receives any government funding if the Prime Minister “is satisfied that the

charitable trust has failed to achieve its objects, or that the board of trustees have acted contrary to the objects of any such charitable trust." If dissolved, the trustees must furnish within 14 days their certificate of incorporation and a list of all assets and liabilities or face a FJD5,000 fine and/or two years imprisonment. Numerous Fijian NGOs are chartered under the Charitable Trusts Act; they are deeply concerned that Decree 48 will be used to usher in a crackdown on civil society organisations that are perceived to be critical of the government. The Citizens Constitutional Forum, an NGO coalition forum, has denounced the decree.

A de facto ban on trade union activity: The Public Emergency Regulations (PER) of 2009 gave unchecked powers to the regime to ban much public assembly in Fiji. In 2011, the regime selectively denied requests for meetings, using the excuse that the meeting convenors were opposed to government policy. In other cases, the police revoked previously-awarded permission and then broke up the meetings.

In the most extreme case, the Fiji Trades Union Congress (FTUC) President, Daniel Urai, and Nitin Goundar, an organiser for the National Union of Hospitality, Catering and Tourism Industries Employees (NUHCTIE), were arrested, detained and charged under the PER for meeting with trade unionists at the hotel where they worked to prepare for collective bargaining. The case remains pending at year end, though the government has yet to produce the required disclosures – including the identity of the person or persons accusing the two of violating the PER (which is required in order to proceed with the case).

It remains unclear whether those charged under the PER will continue to be prosecuted following its repeal. Trade unionists reported that the government instituted a de facto ban on trade union meetings immediately following the visit of Guy Ryder, ILO Executive Director of the Standards and Fundamental Principles and Rights at Work Sector, in August 2011. Essentially all requests are either denied or simply never acted upon before the date of the proposed meeting. Far from being just a nuisance, the ban has had far reaching implications on industrial relations (except in those very few cases where employers continued to cooperate with the unions in spite of the PER).

Essential Industries Decree undermines trade union movement: The Essential Industries Decree of 2011, which currently covers the financial sector, telecommunications, civil aviation and public services, severely restricts trade union rights. On 13 September, ILO Director General Juan Somavia denounced the decree, stating: "By going ahead with this Decree the government has demonstrated the same lack of concern for the views of the international community as it has for the rights and aspirations

of its own people. That means reversing this and other restrictive labour decrees, a return to dialogue with trade unions and employers, an end to assaults on and harassment of trade unionists, and the immediate restoration of basic civil liberties."

Memos surfaced in 2011 suggesting that the decree was written for the regime by a U.S.-based law firm, whose fees were paid for in part by Air Pacific, the Fijian national airline; 46% of its shares are also owned by the Australian air carrier Qantas.

Two articles of the Essential National Industries Decree in particular have devastated trade unions in the sectors concerned. First, Article 2 of the decree provides that the bargaining unit must consist of 75 or more members. In many cases, there are fewer than 75 workers in a job classification, eliminating the right of such workers to form a unit under the decree. Second, Article 7 requires that bargaining unit representatives be employees of the employer with whom they are bargaining. In most cases in Fiji, there is little leadership, institutional structure or expertise at the branch level, with union leadership and technical capacity centralised at the national union level. These people are employees of the union and not of any of the employers where their members are employed. Thus, the relationship between the union leadership and the rank and file is effectively severed by the decree. Those union representatives who attempt to support the bargaining efforts of inexperienced new bargaining units can face stiff penalties and prison terms under the law.

Employers in sectors not even covered by the decree have invoked it in order to justify elimination of dues deductions, unilateral changes to collective agreements and refusal to bargain.

Workers are resigning from unions en masse, as they either see no use in belonging to an institution that cannot effectively represent them, are threatened by management to leave the union, or resign out of a general fear that trade unionism is a dangerous undertaking in Fiji today. The decree also bans the automatic deduction of trade union dues from workers' salaries (unless the employer agrees to do so). Some leaders predicted that their unions would not be able to hold on financially for too much longer unless the situation changed quickly.

Army keeps close control over sugar mills: Since 2009, sugar mills have been occupied by the military, which has assumed control over many aspects of their operations – including human resources. The Fiji Sugar and General Workers Union (FSGWU) reports that the military has assumed the power to discipline and fire workers. The President of the FSGWU - Ba Branch was beaten by military officers on 18 February 2011, along with Felix Anthony, the national secretary of the Fiji Trades

Union Congress (FTUC), and again on 22 June. In conjunction with the second attack on the president, he was suspended from work for two weeks without pay and was transferred from his job as a locomotive driver to that of a general employee in the track shop (which implied a drop in wages from USD4.17 to USD3.64 per hour). The military stated that the reason for the transfer was his status as a trade union leader.

The military interrogated the union president on a monthly basis in 2011, accusing him of sabotaging the Fijian sugar industry. He reported that the soldiers told him that “if you make one wrong move, we will kill you.” In June 2011, the Commissioner Western Division (a civilian post occupied by a Lieutenant-Colonel) announced at a meeting with mill workers that there is no longer a union representing mill workers. In November 2011, HR manager Subril Goundar told the union president that he would no longer recognise him as the representative of the workers. On several occasions, Mr Goundar called in workers to his office to discharge or discipline them; there was no investigation or any consultation with union representatives. The grievance machinery and progressive discipline machinery in the CBA, which remains in force, has been ignored. Workers who are caught talking to the union president have been threatened by management and the military with discipline or discharge.

Despite annual wages increases provided for in the CBA, Mr Khalil reports that there have been no wage increases for several years. Further, overtime provisions are routinely violated, with workers either not being paid the overtime premium (1.5-2x) or not being paid at all for overtime work. Indeed, the CBA is respected only in the breach. Cases have been filed over dismissals and other breaches of the CBA. However, these cases are slow to be processed, if ever. The Ministry, which receives the cases and provides mediation, often delays action on the cases for months on end.

Widespread violations in sugar cane plantations: The Sugar Cane Growers Council was disbanded in 2009. With the dismantling of these various institutions, unions allege that the cane growers have been completely side-lined from the industry, over which the Fiji Sugar Corporation (FSC) now has total monopoly. Furthermore, since it is no longer obliged to cooperate on industry matters, it has begun to withhold vital information that growers are entitled to under the partnership provisions. Further, the National Farmers Union, as the largest trade union representing cane growers, was prevented from holding its general body meeting and branch annual general meetings in 2011. These meetings, which are generally held before the onset of the crushing season, are used as a forum to discuss problems farmers face as harvest gets underway. In

recent months, they have been unable to hold any meetings at all. In 2010, dues deductions were also halted.

In 2010, the Labasa Cane Producers Association (LCPA), which covers cane growers in the Northern Division, was created. According to trade unions, the LCPA is not a representative institution of cane growers and is under the influence of the FSC. Trade unionists were also adamant that they were not consulted about the formation of the LCPA. FTUC also reports that the military intimidated and threatened farmers into joining the LCPA - while at the same time the government instructed the FSC to stop dues deduction from NFU members. Farmers were also told that by joining the LCPA, they would get a higher price for the cane supplied to the FSC – which did not in fact materialise. The NFU also states that access to services has been restricted if the farmer is not a member of the LCPA.

The LCPA is established under the Industrial Organisations Act. Article 3.1(iii) of the LCPA constitution provides that officials of any other industrial association or political party cannot be office bearers of the LCPA – meaning that no trade union officer can ever be part of the governing body of the LCPA. Similar cane producer associations are planned but not yet established for the other cane growing regions. The Western Division is expected to be next.

Rights of civil aviation workers denied: The Essential National Industries Decree (ENID) has severely affected the membership base of the Transport Workers Union (TWU), which represents cabin crew, baggage handlers and engineers. Roughly 90% of TWU members are employed by Air Pacific. Article 2 of the ENID defines a “bargaining unit” as a group of at least 75 workers employed by the same employer. However, only the cabin crew collectively number more than 75 workers.

All other groups fail to meet that threshold and are thus ineligible to form a new bargaining unit. These workers have individual contracts that were drafted and imposed by management. Dues deduction was also eliminated. With the elimination of the non-cabin crew members, the union lost 50% of its members overnight – roughly 250 workers. The cabin crew have a bargaining unit which was recognised by management. However, under Article 7 of the ENID, the leaders and staff of the TWU, who are not employed by Air Pacific, cannot represent the bargaining unit and engage in bargaining on their behalf. It is reported that members are under strong pressure to withdraw from the TWU. Within the 60 days provided in the ENID, Air Pacific imposed a new CBA which diluted the wages and took back previous gains with regard to overtime pay, meal allowances, clothing allowances, annual leave, sick leave, etc.

There are 78 pilots for Air Pacific, just over the minimum required to form a new bargaining unit under the ENID. The decree gave the parties 60 days to negotiate a new agreement. The union signed a contract with Air Pacific at 4am on 9 November after lengthy and difficult bargaining. The situation forced the union to accept major concessions in the new agreement. These include reductions in annual leave, sick leave and the elimination of long service leave. The contract also contains deep cuts to travel and meal allowances which reduce significantly the amount pilots are compensated. The union bargained with the company on the basis of the old numbers which reflected poor profitability. However, just after the agreements were signed between Air Pacific and the various bargaining units, Air Pacific announced greatly improved profits for the company for the previous year. The union believes that the timing of the profit results was intentional and that the union was intentionally misled. If the results had been released earlier, the arguments given for the application of the ENID at Air Pacific wouldn't have held.

Air Pacific is also a major client of Air Terminal Services (ATS), which provides ground handling services at Nadi International Airport, including line maintenance, catering and cabin services, freight sales and handling. ATS is owned by the Government of Fiji (51%) and its employees (49%). Its workers are represented by the Federated Airlines Staff Association (FASA), which has a chair on the ATS Board.

Rajeshwar Singh, FTUC representative on the ATS Board, was removed from the board on 31 December, just days after being reappointed unanimously. The government claimed that he breached his fiduciary duty to the ATS board because of his meeting with Australian trade unionists urging a boycott. Mr Singh does not deny the meeting but rejects the allegation that he called for a boycott. FASA reported that permits to meet were routinely denied for no reasons, and in some cases in the past permits were granted and then revoked at the last minute once the union had taken on the costs of renting meeting space. They also believe that their telephones are monitored and are thus very circumspect about what they say.

Fiji's top trade union leader subjected to beatings and threats:

Felix Anthony, National Secretary of the Fiji Trades Union Congress (FTUC) and General Secretary of the Fiji Sugar and General Workers' Union (FSGWU), was arrested, threatened, insulted and beaten up several times by government agents.

On the evening of 12 February, three military officers took him from his home to military barracks in Lautoka, before taking him back home. During the transfer officers threatened him and his family.

On 18 February, Felix Anthony was told the Prime Minister wanted to meet him at a sugar mill in Ba, in Western Fiji. He attended the meeting with two other trade union leaders, including the president of the Ba branch of the FSGWU. Following the meeting the three union officials were beaten by army officers. Mr. Anthony's eardrum was damaged as a result of the beating and the two other trade union leaders also needed medical attention. They were released that evening under threat of further violence. On 1 April, Felix Anthony was again threatened by one of the military officers who had already given him a beating.

When the FTUC nominated Mr. Anthony to participate in the 100th session of the International Labour Conference in June in Geneva, the government failed to submit his credentials (he was finally able to participate thanks to the help of the ITUC). On 4 November, he was again held in police custody (without charge) while the police searched his union's offices and his home.

Felix Anthony was prohibited from travelling abroad in the last few months of the year, without any justification by the regime. He lodged a complaint against the government because of the ban, but the clerk of court refused to register it.

FTUC President arrested twice on baseless charges: On 3 August, Mr Daniel Urai, President of the Fiji Trades Union Congress (FTUC) and General Secretary of the National Union of Hospitality, Catering and Tourism Industries Employees (NUHCTIE), and Nitin Goundar, an organiser with NUHCTIE, were detained and questioned at the Nadi Police Station, apparently for having met with union members regarding pending collective negotiations. They were released on bail on 4 August. On 29 October, Mr Urai was arrested again, this time at the airport upon his return from the Commonwealth Heads of Government Meeting in Perth, Australia, where he spoke out against human and trade union rights violations perpetrated by the Fijian government. He was again released on bail, but was accused of "inciting political violence by urging to overthrow the government". Mr. Urai is subject to a curfew that restricts his freedom of movement in the country. By the end of the year the case concerning the two charges against him had still not been heard.

Freedom of Association Committee again calls for the reinstatement of Mr. Koroi: In November, the ILO Committee on Freedom of Association again recommended to the government that Mr. Koroi be reinstated immediately to his previous role as principal, with no loss of salary or benefits. Tevita Koroi, President of the Fijian Teachers' Association (FTA) and a member of the Council of Pacific Education, was fired from the public service on 30 April 2009. On 10 December 2008, the Fiji Public Service Commission had informed Tevita Koroi that he

was suspended from his position as principal. The Commission criticised Mr. Koroï for speaking out publicly against the military coup. (see the 2011 edition of the Survey).

Government refuses entry to international union delegation:

On 13 December, an international trade union delegation, led by ACTU Australia President Ged Kearney, was refused permission to enter the country on arrival at Nadi airport and deported. Delegation members' mobile phones were confiscated until their departure. The delegation had planned to meet Prime Minister Bainimarama to seek a fresh dialogue on human and labour rights in Fiji.

GSP Pressure: In December 2011, the AFL-CIO submitted a country practice petition to the US Trade Representative urging that Fiji be withdrawn from the list of countries benefitting from the Generalised System of Preferences (GSP) until the government respected the conditions regarding internationally recognised workers rights.

Hong Kong SAR (China)



POPULATION: 7,050,000
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. The law does little to protect trade union rights and if anything inhibits the development of trade unions and their activities.

TRADE UNION RIGHTS IN LAW

Legal restrictions on trade unions' activities in the Trade Union Ordinance have not been revised despite repeated criticisms by unions in Hong Kong and the ITUC. These include provisions in the Trade Union Ordinance that restrict trade unions from using funds for political purposes, from receiving financial contributions from foreign organisations without obtaining permission from the Chief Executive of Hong Kong and from appointing and electing candidates from outside the union's sector or occupation as union officers. These provisions were enacted in 1975 by the ex-colonial government against the background

of the 1967 riots. The obsolete provisions are inhibiting, rather than promoting healthy, sustainable development of trade unions and trade union activities 36 years afterwards - as Hong Kong has become one of the most globalised economies and metropolitan cities in the world.

There is no institutional framework for the recognition of unions and collective bargaining.

Although the right to strike is permitted by law, it is limited. The Public Order Ordinance authorises the use of force to break up strike pickets and demonstrations and employers can seek an injunction 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 but not reinstatement. This is one of the major reasons inhibiting members of the trade unions in participating in industrial actions and instead succumbing to employers' coercion with the objective of breaking the strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: The Minimum Wage Law was finally implemented in May 2011 but it disappointed most unionists in its final shape and also excluded migrant domestic workers. Migrant domestic workers continue to have their monthly wage set separately by the government without reference to maximum working hours. Their monthly wage rose for the first time since 1998, by 4.5%, from 1 June. Many workers suffered from real wage loss due to high inflation rates and at the start of 2011, the number of people living in poverty in Hong Kong was 1.26 million, or about 18.1% of the population. Despite a robust economy, more than a quarter of employees faced pay cuts of up to 10% during the year.

Under Hong Kong's Basic Law, non-citizens are entitled to permanent residency if they have ordinarily resided in the city for a continuous seven years; however Hong Kong's 292,000 foreign domestic workers are specifically excluded from these provisions under immigration laws. A Filipino domestic helper won her legal bid for permanent residency in Hong Kong in September 2011. She had launched her case in 2010 after previous attempts for permanent residency were denied.

Escalating use of force by police: The use of force by the Hong Kong Police has escalated over the last two years during assemblies and demonstrations, particularly protests and demonstrations staged outside the Government Office and the

Liaison Office of the People's Republic of China (PRC) in Hong Kong. The use of physical force, arrests and elective prosecutions show a heightened level of intolerance towards individuals and organisations exercising the rights of expression, association and assembly.

The Hong Kong Journalists Association and the Hong Kong Press Photographers Association protested against the suppression of press freedom and freedom of expression by the Hong Kong authorities during the visit of the Vice Premier of the PRC, Li Keqiang, to Hong Kong on 20 August 2011. Earlier in 2011, the Hong Kong Journalists' Association protested after the police used disproportionate force against members of the news media who were reporting on the public rally against the government on 1 July 2011, the 14th anniversary of the handover of Hong Kong to China.

No recognition of collective bargaining rights: There is no institutional framework for the recognition of unions and collective bargaining. Employers in general continue to refuse to recognise unions as well as refusing to implement agreements that have been negotiated. Although roughly 23% of the workforce is unionised, unions are unable to force management to engage in collective bargaining. Less than 1% of workers are covered by collective agreements, and those that exist are not legally binding. Without legal protection to guarantee these rights, workers are subject to arbitrary and unilateral actions by employers and, as a consequence, are denied job and income security.

The Hong Kong Confederation of Trade Unions (HKCTU) is consistently excluded from the Labour Advisory Board (LAB), the tripartite consultative body established by the government, which does however include pro-government union federations. This exclusion means it is denied the right to participate in tripartite negotiations on labour laws and policy and is 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-democracy HKCTU and the pro-Beijing Hong Kong Federation of Trade Unions (HKFTU).

Consultation rather than bargaining: The Hong Kong SAR government has lauded tripartite committees at the industry level as useful tools for promoting bipartite voluntary negotiation. The Labour Department has set up nine tripartite committees covering catering, construction, property management, retail, hotel and tourism, logistics, printing and theatre as well as the cement and concrete industry. These committees are consultative only in nature, loose in organisation, and do not assume any

legally binding responsibility to establish or promote collective bargaining mechanisms at corporate or industrial level.

The "collective agreements" that the government claims were signed in the food processing and security services industry were not known by workers in the two sectors. Nor are the industrial affiliates of the Hong Kong Confederation of Trade Unions (HKCTU) in these sectors aware of the existence of these agreements. As the government continues to resist collective bargaining legislation, there is no procedure and scope to define negotiations. The result is that talks in these tripartite and industrial committees tend to be on issues un-related to labour standards, with no accountability to workers in the industries.

Weak protection against anti-union discrimination: Cases of dismissal or harassment for trade union activity are reported each year. However, due to the difficulties establishing anti-discrimination, litigation against employers for this offence remains a weak tool for victimised workers. The Hong Kong Confederation of Trade Unions (HKCTU) has been critical of the lack of effective protection against anti-union discrimination in Hong Kong, evidenced by the low number of complaints filed by the Labour Department and the even lower number of successful cases against employers - not more than two since 1997.

Exemption of public servants from collective bargaining: The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has repeatedly urged the government not to exclude workers in this sector as a whole from collective bargaining. Nevertheless, the Hong Kong government insists that there is no need for collective bargaining in the public sector, on the grounds that well-established and effective machinery for consultation concerning the conditions and terms of employment of civil servants is in place. However, civil service reforms since 2002, involving transfers, reductions in wages and benefits, retrenchment and contracting-out to the private sector have demonstrated very clearly that the government has been free to act unilaterally without consulting the affected civil servants. Labour relations in the public sector have thus been very strained.

Exclusions and loopholes in the new minimum wage law: Hong Kong's minimum wage bill, which was passed by the legislature in 2010, came into effect on 1 May 2011. The setting of the minimum wage rate at HKD28 per hour was an administration-dominated exercise as no amendment was allowed when the Minimum Wage Ordinance went to the Legislative Council for approval - contrary to normal legislative practice in Hong Kong. There is no regulation or guidelines on whether meal breaks and rest days should be paid. The issue is left to consultation between employers and employees. Hence, many

employers, in order to reduce labour costs, have amended the employment contract to state the exclusion of paid meal breaks and rest days. Unilateral amendment of employment contracts to offset the salary rise brought by the new law is particularly rampant in the food and catering, cleaning, security guard, tourist and elderly care sector. Many workers were forced to accept the amendment or lose their jobs. Within a week of the new law taking effect, 14 employers faced possible prosecution after labour inspectors found they may have breached the minimum wage law.

The wage level of migrant domestic workers in Hong Kong is set by government decree. They have no mechanism to collectively bargain with their employers or the employers' association. In anticipation of the new minimum wage law, the migrant workers' unions called on the government to include migrant workers under the new law's protection. However, they were totally excluded in the minimum wage bill legislation process, in the Labour Advisory Council, and in the Minimum Wage Bill Committee.

Dockers union bypassed: In May, the Hong Kong Dockers Union requested a pay rise after years of decreasing wage levels. There was no response from the employer who instead bypassed the union and directly discussed the matter with the employees. The union began to organise workers and protested the move. The employers finally agreed to a 4% rise after a threat of strike action from the union.

Collective bargaining denied in several companies: In the absence of legislation - and thereby an objective procedure of determining the representative status of trade unions for collective bargaining purposes - workers and trade unions are often forced to take industrial action to press for their demands. Employers refuse to recognise the union and to bargain without legal penalty. In none of the following industrial actions reported by the Hong Kong Confederation of Trade Unions (HKCTU) has the employer consented to negotiate with the trade union as the collective bargaining partner in the interest of restoring industrial peace.

In June, Swire Coca Cola HK Limited refused to sign a bonus scheme agreement for new permanent staff members with Swire Beverages (Hong Kong) Employees General Union even though the union had submitted a written request.

Vitasoy Employees Union submitted a written request for a regular meeting and union recognition in September 2010. The management rejected the request. The union again sent a letter to the chairmen of Vitasoy International Holding Limited in June 2011, and was rejected again.

In July 2011, Campus Facilities Management Company Limited Workers Union submitted a written request for a salary negotiation. The management refused. The union had no choice but to take industrial action. In the end, the company offered only a slight pay raise to workers.

Most of the main operators of Hong Kong container terminals outsource the work to sub-contractors. Workers are paid low wages and their working hours are long. The Union of Hong Kong Dockers submitted a written request for salary negotiations in both 2010 and 2011. The operators, including Hong Kong International Terminals Limited, DP World Hong Kong, Asian Container Terminals Limited and Modern Terminals Limited, refused to negotiate with the union.

Mainland Chinese charged recruitment fees and passports withheld: Unionists suspect that many of Hong Kong's private residential care homes for the elderly may have been illegally underpaying care assistants from the Chinese mainland and withholding their travel documents. In July, the Community Care and Nursing Home Workers General Union protested to the Hong Tak Institution for Old Age, accusing the institution of extracting five months' salary from six female care assistants as a fee - charged with no prior agreement - for obtaining the job, of not paying overtime, and of withholding workers' travel documents. All six care assistants at the facility came from Guangxi province through the Labour Department's Supplementary Labour Scheme, the purpose of which is "to alleviate manpower shortages". The Labour Department reportedly did not investigate the case despite the union's complaints in 2010.

City University Staff Association harassed: In July, the City University Staff Association (CUSA) was informed by management that the union's office which had been in use for six years was to be taken back. No arrangement was made to provide new space. The university simultaneously stopped collecting trade union dues from the wage slips of union members. Management explained its action on the grounds that the union had failed to hold its annual general meeting. Two protests were held by CUSA. Some union members from the teaching staff put up flyers on their office doors in support of the union. The security guards took photographs to identify the teaching staff involved in the action. CUSA protested and asked the management to erase the images to protect its members. This request was refused by management.

Striking lift workers replaced: In September, around 70 elevator technicians from Thyssen Krupp Elevators went on strike over low wages and working hours as many were forced to work long hours to achieve adequate pay. Some of them were required to work 33 consecutive hours a day. About 80 % of

the workforce joined the strike. During the strike, the company recruited temporary workers to replace the strikers. This was criticised for putting the safety of the elevator users at risk for the purpose of breaking up the strike. After a three day strike, management agreed to increase the basic salary.

India



POPULATION: 1,224,000,000
CAPITAL: New Delhi
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 111

India's workers faced numerous efforts to undermine effective union representation - often with the help of the government. Many workers were arrested during mass national protests. Despite these adversities, India's unions continued to press for improved worker rights. Importantly, Indian's courts also issued decisions limiting the use of casual and contract employees.

TRADE UNION RIGHTS IN LAW

Many restrictions on trade union rights 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.

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 special economic zones, a burdensome 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 2011

Background: Despite the serious social and economic problems faced by India's peoples, social activist Anna Hazare captured their hearts and minds in his fight against rampant corruption in India's government affairs. On 27 August, Hazare ended his 12-day fast that united India in pressing for legal reforms against corruption. India's lawmakers have pledged to act on Hazare's demands. The protest bore fruit when India's parliament approved the "Lokpal" or ombudsman bill on 28 December. The law created a powerful new ombudsman tasked with probing and prosecuting senior politicians and civil servants suspected of graft.

On 23 February, around 200,000 workers demonstrated in New Delhi demanding price controls on essential commodities, strict enforcement of labour laws, employment protection, a stop to privatisation of government services, and the universal application of social security for all workers. Workers from major trade unions centres to include the Centre of Indian Trade Unions (CITU), the Indian National Trade Union Congress (INTUC), the All-India Trade Union Congress (AITUC), the Hind Mazdoor Sabha (HMS), the All-India United Trade Union Centre (AIUTUC), the Trade Union Coordination Centre (TUCC), the All-India Central Council of Trade Unions (ACCTU) and the United Trade Union Congress (UTUC) along with Independent Workers' and Employees' Federations, participated in the march.

On 8 November, over 1,000,000 workers under the banner of all 11 trade union centres [CITU, the Bharatiya Mazdoor Sangh (BMS), INTUC, AITUC, HMS, AICCTU, AIUTUC, UTUC, TUCC, Labour Progressive Federation (LPF), and the Self-Employed Women's Association of India (SEWA)] courted arrest in demonstrations to express their dissatisfaction with the United Progressive Alliance (UPA) government's policies towards working people. Workers from both the organised and unorganised sector in more than 500 out of the 640 districts in the country demonstrated to support demands that included: a minimum wage of INR 10,000 per month; a decrease in price of essential commodities; a halt to further privatisation of government services; universal social security coverage; and compulsory registration of trade unions within 45 days. Police arrested over 122,000 demonstrators in Tripura and 32 workers were injured in Malda, West Bengal, when police charged demonstrators with canes.

On 10 March, Union Labour Minister Mallikarjun Kharge said that India would not ratify ILO Conventions 87 and 98 – core conventions on the right of workers to form a union and engage in collective bargaining. Kharge said that unions in India were governed by central and state statutes and were not dependent on ratification of ILO conventions.

Both the garment sector and the tea industry saw significant strikes. In Ludhiana, Punjab, nearly 2,500 textile workers from more than 155 factories went on strike on 21 September under the banner of the Textile Mazdoor Union (TMU) for higher wages and safe working conditions. On 25 July and 9 August, some 2,500,000 Progressive Tea Workers' Union (PTWU) members across 158 gardens in the Dooars and 50 in the Terai areas of Jalpaiguri District, West Bengal, went on one day strikes against the tea estate managers for not agreeing to their demand for a daily wage of ₹250 (USD5.00).

Strike against outsourcing plan at Bosch plant declared illegal: In late September, 4,000 workers at the German-owned Bosch plant in Adugod, Karnataka, represented by the MICO Employees' Association (MEA) went on strike to protest the company's plan to outsource work. MEA ended the strike on 14 October after Karnataka government officials declared the strike illegal.

Workers score victories against precarious work in court: India's courts issued numerous decisions that limited the current and future use of casual and contract employees. However, court decisions are often openly flouted and ignored by State and local governments and private enterprises.

On 18 January, India's Supreme Court invalidated a Punjab and Haryana State practice in place since 1978 that had kept employees from becoming a regular employee. The States had been giving employees a one day break after 179 days to prevent the employee from attaining regular status.

On 27 March, the Supreme Court ruled against the Gahauti State government regarding its practice of preventing employees from becoming regular employees by imposing a one day break of service on employees every six months. The case involved workers with the Border Roads Organisation (BRO) represented by the Vartak Labour Union (VLU).

On 11 March, about 950 workers at the Wheels India Ltd (WI) unit at Ranjangaon, Pune, represented by the Workers of Wheels India Employees' Union (WIEU), affiliated of Shramik Ekta Maha Sangh (SEMS) went on strike in support of the union's demand that WI comply with the statutory provisions of the Contract Labour Act (Regulation and Abolition) of 1970

which states that contract labour cannot be used for work that is permanent in nature. WI employs 159 regular workers and 800 contract workers performing permanent jobs. WIEU demands that WI convert contract workers to regular status with equal pay and benefits provided to regular employees.

On 21 March, the Chhattisgarh State High Court ruled that Swiss-own Holcim Cement's subsidiary Associated Cement Company Ltd (ACC) at Jamul had to convert 100 of its contract workers to regular employees. However, Holcim refused to implement the order. ACC workers are represented by the Pragatisheel Cement Shramik Sangh. Holcim bought controlling interest in ACC and Ambuja Cement in 2006-2007 and has continued to frustrate the legitimate rights of contract workers at these plants.

On 2 November, the Madras High Court ordered the reinstatement of 85 temporary sanitation workers of Rajapalayam Municipality. The workers, who the city had employed since 1989 on a year-to-year basis, went on strike in 2002 to demand the conversion of their employment to regular status. Even though the strike ended without resolution, the Municipality dismissed the workers and outsourced the work to private contractors. The High Court ruled that the Municipality could not dismiss the workers in the absence of any specific misconduct.

Employer retaliation against striking workers, with government help: On 3 February in Bhopal and other locations in Madhya Pradesh, 202 striking nurses represented by the Madhya Pradesh Nurses Association (MPNA) were arrested and 14 were suspended from work for striking in violation of the Emergency Services Maintenance Act (ESMA). The main issue in the strike was that the Madhya Pradesh government failed to implement the provisions of the Sixth Pay Commission.

On 3 March, the Council of Teachers' Association (COTA) and the Manipur State Government signed a Memorandum of Understanding (MoU) that settled a rolling hunger strike that started on 19 January. Manipur police arrested and imprisoned 239 teachers during the strike. The teachers were released from prison as part of the strike settlement. They too struck over the fact that the Manipur government had failed to implement the provisions of the Sixth Pay Commission.

On 26 April, about 800 Air India (AI) pilots represented by the Indian Commercial Pilots' Association (ICPA) went on strike after negotiations failed with the airline over wage parity issues and better working conditions. The ICPA represents pilots who flew for the domestic carrier Indian Airlines before a merger with Air India. AI declared the strike illegal and on 27 April AI dismissed six ICPA union leaders including its President A S

Bhinder and General Secretary Rishabh Kapur, suspended two other pilots, withdrew recognition from the ICPA, and sealed ICPA offices in Delhi and Mumbai. In addition, the Delhi High Court ordered the ICPA to end their strike. When ICPA members refused to return to work, the Delhi High Court initiated contempt proceedings against ICPA on 29 April and subsequently issued contempt notices to nine ICPA officials on 3 May. On 6 May, ICPA ended the strike after reaching a settlement with AI management. AI agreed to reinstate 15 dismissed pilots, reinstate the union's representation status, and participate in a three-member committee formed by the government to investigate the pilots' demands. However the contempt proceeding against ICPA remained unresolved. On 5 August, the Delhi High Court told the ICPA leadership to publicly apologise for the strike and the ICPA complied.

On 20 September, the Andhra Pradesh State Road Transport Corporation (APSRTC) terminated 1355 contract workers for participating in a general strike in Telangana.

On 7 June in Maharashtra, Brihanmumbai Municipal Corporation (BMC) Commissioner Subodh Kumar warned municipal employees who participated in union strikes or agitations that they stand to lose their jobs and housing. In a memo issued to the more than 80,000 municipal employees and their unions, Kumar also said that striking workers would compensate the Municipality for financial losses caused by any strike from their salaries.

On 8 June, a Gurgaon city court in Haryana issued restraining orders against the members of the Haryana Roadways Sarv Karamchari Union (HRSKU) from picketing within a 200 meters radius from the outer periphery of the Roadways depot.

On 24 October, unions representing 750 workers at the Taiwan-based Wintek Industries (Wintek) mobile phone parts factory in Chennai, Tamil Nadu, went on strike in support of their demand for a wage increase. On 18 November, Wintek dismissed 200 contract workers and 28 union members. The unions ended the strike on 24 November.

On 7 November, police arrested over 1,000 contract teachers in Chhattisgarh, who went on strike on 1 November in support of their demands for a salary increase. The teachers were arrested for violating the Essential Services Maintenance Act (ESMA). The teachers were detained in Raipur several jails in Raipur District. It was also reported that several teachers from Raipur were missing after their arrests.

As the year ended, it appeared that a strike by 6,500 members All Rajasthan In-Service Doctors Association (ARISDA) in Rajasthan State was coming to an end. ARISDA went on strike

on 21 December in support of their demands for a pay raise and promotions based on defined time frames. They were supported by nearly 3,500 resident doctors, 20,000 National Rural Health Mission (NRHM) contract employees and the Rajasthan Medical College Teachers Association who joined the strike. The state government invoked the Rajasthan Essential Services Maintenance Act (RESMA) in response to the strike and ordered the striking doctors to return to work. On 25 December, state officials dismissed Chief Medical and Health Officers (CMHOs) Yaduveer Singh Rathore and Dulichand and ten other doctors throughout the state for being involved in the strike. During the strike, the state suspended 64 doctors and arrested 515. Those arrested included ARISDA President GD Maheshwari, ARISDA General Secretary Nasrin Bharti, ARISDA Vice-president Ajay Choudhary, President of Jaipur Association of Resident Doctors (JARD) Ashok Jhalaria and Senior Resident Doctors' Association President Rajvendra Choudhary. All those arrested were charged with violating RESMA and Section 151 of India's Code of Criminal Procedure (CrPC). On 31 December, the state government lifted RESMA and issued orders for the release of the 70 doctors who remained in jail paving the way for ending the 11-day strike.

Police violence against trade unionists who demand their rights: On 6 March, near Badal Village, Punjab, police attacked and injured scores of demonstrating members of the Contract Multipurpose Health Workers Union. Police attacked the demonstrators when the union members attempted to march towards the Punjab Chief Minister's native village to lodge a protest and demand regularisation of their jobs. Six injured workers were admitted to hospitals in Badal and Lambi Villages, while 30 others, including 25 women, were detained by the police.

On 7 April, Police Inspector T. Trinadha Rao repeatedly attacked female government Accredited Social Health Activists (ASHA) workers with canes when they were demonstrating outside District Medical & Health Officer's office in Vizianagaram, Andhra Pradesh. District General Secretary of the Andhra Pradesh Voluntary Workers Union (APVWU) B. Sudha Rani said that Rao's assaults included an attack on a woman who was five-months pregnant. Two women, Allu Satyavathi and Garbhapu Bhanu Kumari, were seriously injured and admitted to the district headquarters hospital for treatment. Twenty-four ASHA workers and a few Centre of Indian Trade Unions (CITU) leaders were arrested.

A group of workers who went on strike in April at a brick kiln factory in Kheda District, Gujarat, were reportedly warned that the owners would "kill them and rape their women" for refusing to work and complaining about wages to the authorities. After the warning, about 40 workers fled the factory.

Hired thugs attack garment workers attending May Day rally. On May 3, armed thugs hired by owners of the Ankur Udyog (AU) garment factory in Gorakhpur, Uttar Pradesh, physically attacked and fired gunshots at hundreds of company employees after they attended a May Day rally in Delhi. Over 20 employees were injured and 18 were hospitalised, including one worker who has a bullet wound in his back. Police made no arrest in connection with the incident.

On 3 June, VN Dyers Yarn and Textile Mills (VN) in Gorakhpur, Uttar Pradesh, agreed to reopen their plants and reinstate 18 dismissed workers in to end a four-day sit-in strike. About 500 VN Dyers workers were locked out after walking off the job on 10 April in a dispute over wages. On 20 May, 25 VN workers were severely injured and 73 arrested when police attempted to stop them meeting with the District Magistrate over their dispute. The workers occupied the yarn mill on 30 May when the VN owners announced that they would restart it with new employees.

On 21 October, police cane charged around 250 nurses of from the Asian Heart Institute (AHI), Mumbai, Maharashtra, who were protesting over the suicide of a fellow nurse on 18 October. Three nurses were injured in the attack. The nurses were also protesting AHI's bonded labour policy of retaining the nurses' licenses for a period of two years. If the nurse wants to obtain his/her licenses before the 2 year period expires, a payment of IRS 50,000 (USD1,000.00) must be made to AHI. On 12 November, the Indian Professional Nurses Association (IPNA) brought the plight of the nurses at the AHI to India's Supreme Court. The IPNA noted that nurses at AHI and at other facilities throughout India are not paid minimum wage but are compelled to sign vouchers that say that they are. In addition, the IPNA noted that nurses were compelled to execute service bonds at the time of their joining service and most of the private hospitals were withholding their original licenses.

On 4 November, two workers and a reporter were hospitalised after police fired teargas and cane-charged workers picketing at Dr. Reddy's Laboratory (DRL) in Pydibhimavaram, Andhra Pradesh. DRL workers are represented by Centre of Indian Trade Unions (CITU). DRL is India's second-largest pharmaceutical manufacturer, employing 13,500 workers with markets in India, Europe and the US.

On 26 November, nine workers were detained and several injured when police used tear gas and batons against striking workers at the state-owned Wonder Cement factory in Chittorgarh, Rajasthan. The strike was sparked after factory management only paid IRS100,000 (USD2,200) compensation to the family a worker who was killed in a work related accident.

On 6 December, police baton charged about 190 nurses represented by the United Nurses Organisation (UNO) who went on strike at the Amrita Institute of Medical Sciences (AIMS) in Kochi, Kerala. Three nurses were injured in the attack. The nurses went on strike after AIMS dismissed the UNO President and transferred the UNO General Secretary to another facility. ANO was formed on 2 December. The strike ended on 8 December when AIMS agreed to rescind the actions against the UNO leaders and enter into negotiations with the union.

Union Recognition Denied: Ford India workers strike for recognition: On 7 March, Ford India Employees Union (FIEU) served a 15 day strike notice on Ford India's (FI) plant at Maraimalai Nagar in Tamil Nadu. The union's primary demand is that FI recognise the union.

Comstar continues to deny union recognition: About 425 Comstar Automotive Technologies Pvt Ltd (Comstar) workers represented by the Comstar Automotive Technologies Employees' Union (CATEU) went on strike on 11 August in support of their demands for union recognition and negotiations for on a new contract that expired last March. Since the strike began, Comstar has suspended four workers for distributing leaflets to their co-workers and filed a false complaint with police that workers assaulted a company official. CATEU member Rajasekar said that Comstar has refused to recognise the union since its formation in 2004 and has been exerting pressure on workers to join a committee formed by management. Comstar is located in Maraimalai Nagar, a suburb of Chennai, Tamil Nadu, and manufactures auto components for Ford Motor Company, Volvo, Tata Motors and others.

Maruti-Suzuki India denies union representation: Between 3 June and 21 October, workers at the Maruti-Suzuki India Ltd (MSI) plant at Manesar, Harayana, fought unsuccessfully for the registration of the Maruti Suzuki Employees' Union (MSEU). Japan's Suzuki Motor Corporation owns a 54.2% stake in MSI. The four and a half month struggle was marked by two MSEU strikes, one lockout imposed by MSI, the arrest of employees, MSI's summary dismissal of over 1,000 contract workers and sympathy strikes by thousands of other workers. During the course of the strikes and lockout, MSI dismissed 80 workers and suspended 49 – including many MSEU leaders. Police arrested MSEU President Sonu Gujjar, General Secretary Shiv Kumar, and Executive Member Ravinder Kumar as they left a negotiations session with MSI and the Harayana Labour Ministry officials. They were charged with various violations of the Indian Penal Code included rioting, assault and making death threats. The Harayana government also denied to process MSEU's application for union registration. A private labour contractor who contracts with SMI opened fire on striking workers

wounding three. The 30 MSI workers who still faced discipline pending investigation after the last strike settlement in October resigned after reaching a settlement with MSI. Former MSEU leader Shiv Kumar confirmed that the 30 suspended workers resigned after each accepted a cash and severance package totalling IRS 1,600,000 (US\$31,140.00).

Unilever stalls union recognition: Nearly four years after Unilever's personal products factory at Doom Dooma, Assam, tried to destroy the union with a punishing six-week lockout, and almost one year since the IUF and Unilever formally concluded an agreement to settle the dispute under the auspices of the UK government, the workers are still waiting for their union to be recognised as their collective bargaining agent.

Hyundai installs yellow union: On 12 May, the Indian subsidiary of Korean-owned automaker Hyundai, Hyundai Motor India, Ltd (HMIL), recognised the newly-formed United Union of Hyundai Employees (UUHE) after refusing to recognise Hyundai Motor India Employees Union (HMIEU) since 2007. In response, HMIEU demanded the holding of secret ballot to determine which union has a majority representation and served a strike notice on HMIL. HMIEU is affiliated with the CITU and elected Centre of Indian Trade Unions (CITU) General Secretary A. Soundararajan as HMIEU President. HMIL had previously refused to recognise HMIEU on the grounds that the company had a committee to take care of workers' issues. On 23 November, police arrested 23 members of Hyundai Motor India Employees Union (HMIEU), including HMIEU General Secretary, Sridharan when they attempted to stage a hunger strike at Irrungattukottai, Tamil Nadu. They were released the same day.

Workers Score Victories: Bonded labourers rescued: On 26 May, authorities rescued 13 bonded labourers, including five children, from a rice mill in Ponneri, Tamil Nadu. The labourers had worked at the mill for as long as six years. On 17 July, authorities rescued eight bonded labourers and their families from a rice mill in Ponneri. The labourers had been at the mill for seven years. On 28 November, Indian officials in Bokaro District, Karnataka, rescued 18 workers who had been held captive in a cement factory for the past five months. The workers said they were physically abused and forced to work 16 hours a day.

Air India: In early February, the Delhi High Court invalidated Air India's (AI's) 26 May 2010 withdrawal of recognition of the Air Corporation Employees Union (ACEU) because the union went on strike. The court ruled that the withdrawal was procedurally flawed. On 5 July, the Madras High Court high court ordered Air India to reinstate S. Surendranath, the Chief Aircraft Engineer and Chennai Regional Secretary of the All

India Aircraft Engineers Association (AIAEA) with back pay and benefits. Surendranath was terminated on 26 May after AIAEA members struck over the safety violation. The court ruled that the termination notice did not contain any reason why the petitioner was dismissed.

Norwera Nuddy Tea Estate: On 18 May, a settlement was reached in the long-running dispute between workers and Amalgamated Plantations Private Ltd (APPL) at the company's Nowera Nuddy tea garden in northern West Bengal, India. APPL is majority-owned by Tata Global Beverages, part of India's Tata Group. The dispute began in August 2009 when workers spontaneously protested the abusive treatment of a pregnant tea worker, Ms Arti Oraon, by the garden hospital doctor. In response, management imposed two lockouts, the second of which lasted 3 months. Under the terms of the settlement: 1) workers and APPL withdraw all criminal cases; 2) APPL will pay workers for time they were not allowed to work under the second lockout; 3) APPL will offer the family members of two dismissed workers permanent jobs while the two dismissed workers will be given a cash settlement; 4) APPL will make a cash payment to Ms. Oraon's child as a gesture of goodwill; and 5) a joint union-management will meet to resolve grievances and to address awareness of maternity benefits. The settlement is a result of 3 sets of direct negotiations between APPL and the IUF India office.

Workers Locked Out: On 24 June, tyre manufacturer Madras Rubber Factory (MRF) lifted a two-day lockout at its Kottayam plant in Kerala following a settlement agreement between state labour department officials, MRF management, and the Indian National Trade Union Congress (INTUC), representatives. Over 1,300 workers went on strike on 20 June to protest the suspension of a trainee accused of taking unauthorised leave. MRF officials responded by suspending three INTUC union officials for stopping production. Under the agreement, the three suspended INTUC representatives were reinstated but the status of the dismissed trainee remained unresolved.

On 26 July, work resumed at the Kolkata-based Love Tea Company - owned Kalaincherra Tea Estate (KTE) in Assam's Cachar district after KTE imposed a nine day lockout on its 800 workers represented by the Barak Valley Cha Shramik Union, the Indian National Trade Union Congress (INTUC). The lockout was the result of a disagreement between two female workers and their supervisor on 15 July over workload issues. The disagreement escalated when KTE workers surrounded the Garden Managers house the following day.

Volvo dismisses striking for union leaders: More than 600 workers of Volvo Buses India Pvt Ltd represented by the Volvo Bus Workers' Union (VBWU), CITU, at the Hoskote plant near Bangalore, Karnataka, went on strike 1 August in support of their demands for the conversion of temporary workers to permanent status, a wage increase, and the reinstatement of the four dismissed workers, including two union officials. An agreement to end the strike was reached on 15 August. Under the terms of the settlement, the company agreed to a wage increase retroactive to 1 April 2010. However, the company did not agree to reinstate the four dismissed workers. The VBWU agreed to return to work pending an investigation into the allegations against the four dismissed workers. Volvo Buses, in which the Swedish parent holds 70% stake, is a joint venture with Bangalore-based bus body builder Azad Group.

Anti-union dismissals: On 10-11 August, IL-JIN Electronics (I) Pvt. Ltd (IJE) in, Noida, Uttar Pradesh, dismissed 22 workers, including all HMS union officials, and stopped bus services after HMS began discussion with IJE on converting contract for workers to regular status. IJE is a subsidiary of LG and Samsung, Korean Companies manufacturing circuit boards, air conditioners Accessories, washing machines, refrigerators and microwave ovens.

On 11 November, management officials at the Western India Shipyard, Ltd (WIS) dismissed one worker and suspended 14 others following a heated discussion between WIS management officials and workers on the amount of Diwali bonus. WIS workers are represented by the Union of Western India Shipyard (UWIS). On 12 November, 200 UWIS members went on strike to protest the dismissal and suspensions. WIS revoked all disciplinary actions and work resumed on the second shift.

On 22 March in Chandigarh, Haryana and Punjab, Tribune Trust Management (TTM) newspaper suspended 12 Tribune Employee Union (TEU) officers and members including TEU's President Balbir Singh Jandu and General Secretary. The suspension came after TEU members held a protest against over TTM's failure to investigate a sexual harassment complaint lodged by TEU member and Senior Sub-editor Chetna Keer against TTM Manager MPS Kahlon.

Indonesia



POPULATION: 239,000,000

CAPITAL: Jakarta

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

Two workers were killed in West Papua when police open fire on striking workers at US-owned Freeport McMoran's Grasberg (FMG) gold and copper mine. Several cases of police assault against striking workers and arrest of union leaders were reported. Indonesian domestic workers - working at home and abroad - faced harsh working conditions. In law and in practice, the right to strike is nearly impossible to exercise.

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 that 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 2011

Background: Protection of basic trade union rights, improving working conditions, the establishment of a meaningful minimum wage, the use of contract and temporary labour to thwart union activity, and the implementation of a comprehensive national social security scheme were at the forefront of the issues addressed by Indonesia's unions. Despite the creation of nearly 4 million new jobs and the decrease of the unemployment rate, the lack of secure and decent jobs remain a major issue in the country. On 28 October, the Parliament passed the Social Security Providers Bill (BPJS), thus clearing the way for long-awaited pension, medical, job-related accident, unemployment and other benefits to millions Indonesians.

During 2011, the Asian Human Rights Commission (AHR) said it witnessed a deterioration of the human rights situation in Indonesia in terms of religious freedom, the role of the judiciary and accountability for violence by security forces.

Precarious work the new norm: According to the National Solidarity Committee (KSN), many Indonesian workers were forced to work in exploitative working conditions since most of them were contract-based with no social protection and job security. The number of permanent workers in the formal labour force fell from 67% in 2005 to only 35% in 2011. The government allows businesses to outsource or recruit workers on a contract basis to lure foreign investments. Trade unions are waging a campaign to revise Labour Law 13/2003 to improve regulation of contract and agency labour. Precarious work is particularly acute in the nation's numerous export processing zones (EPZs). It is estimated that 98% of workers in the EPZs on the island of Batam (home to 25 EPZs hosting 800 multinationals – mostly electronic manufacturing) are on contract or agency work. Some workers describe working on repeated three month contracts, then working for an agency and then brought back on a new short term contract – all to avoid workers from ever becoming permanent workers (workers employed for three years at the same company are entitled to permanent work). Workers face low wages (USD100 per month), long hours and in hazardous working conditions. On May Day and other times during the year, Indonesia's union members pressed the government to end contract labour and to implement the national social security system (SJSN). The workers' demands found unusual support when Indonesia's highest court found the country's President, Vice President, Head of Parliament and eight Ministers guilty of not implementing the law on Social Security (UU SJSN and RUU BPJS). The Court ordered the defendants to implement the Social Security law through the

introduction of regulations for the formation of a National Social Security System.

Garment workers exploited: In April, the International Textile, Garment and Leather Workers' Federation (ITGLWF) released a report [An Overview of Working Conditions in Sportswear Factories in Indonesia, Sri Lanka & the Philippines] documenting the working conditions in 83 sportswear factories in Sri Lanka, the Philippines, and Indonesia. The report found that up to 85% of employees in the factories in Indonesia are employed on short term contracts or on a temporary basis. The report also noted that trade union officials in Indonesia are subjected to disparate workloads that are designed to prevent them from conducting union activities at lunch or after work. Other findings included: 1) Workers are frequently forced to work in excess of 100 hours overtime per month; 2) A factory locked 40 workers who failed to meet production targets in a small room, without water or ventilation, for three hours. Workers at the same factory were forced to work up to 160 hours overtime per month; and 3) At two factories in Indonesia workers would have to work 15-20 years to secure a loyalty bonus to make up for non-payment of the minimum wage. This bonus has never been paid to a worker.

Agreement to respect freedom of association signed at major garment suppliers factories: On 7 June, a historic agreement was signed by Indonesian textile, clothing and footwear unions, including International Textile, Garment and Leather Workers Federation affiliates SPN and Garteks, major supplier factories, and the major sportswear brands, including Adidas, Nike and Puma, to ensure that freedom of association is respected.

Union succeeds in converting contract workers: In mid-August, PT Cussons Union that represents permanent and contract workers at PT Cussons (PTC) in Tangerang, Indonesia, successfully concluded negotiations and was able to convert 110 contract workers to permanent jobs. During negotiations PTC refused to extend dues check-off for contract workers and threatened to lay off 200 contract workers without making any severance payments. After two weeks of negotiations, the company reversed its decision and converted 110 of the 200 contract workers to permanent job.

Garment workers abused: According to an expose by the Associated Press (AP), workers making Nike's Converse brand shoes, often for as little as 50 cents an hour, alleged that supervisors regularly physically assaulted and verbally abused them. Nike admitted that abuses occurred but insists there was little it could do to stop it. One worker said she was kicked by her supervisor for making a mistake cutting rubber

for soles. In another incident, 6 workers were made to stand in the hot sun for 2 hours for missing production quotas. Others were slapped, scratched or had shoes thrown at them. Some workers who protested the treatment were fired. An internal Nike report released to the Associated Press showed that roughly two-thirds of 168 factories making Converse products worldwide failed to meet Nike's standards for contract manufacturers.

Indonesian domestic workers abused and exploited: According to an International Labour Organisation survey, a majority of domestic helpers stated they had experienced some form of physical abuse, mental abuse, and indicated they had been sexually harassed. Ill treatment can be as simple as employers forcing house staff to work up to 20 hours a day and not giving them time to have a break during the day or have a day off from work. Thirty nine percent of the domestic workers in Java surveyed stated they were not allowed to take breaks during the day, while 55% said they did not get a day off during the week. On 14 February 2011, Amnesty International said that Indonesian domestic workers, the vast majority of them women and girls, will remain vulnerable to exploitation and abuse unless the country's parliament enacts a Domestic Workers' Law. Indonesia imposed a moratorium on sending workers to Saudi Arabia after Indonesian housemaid, Ruyati binti Saboti was beheaded for the alleged murder of her employer on 18 June 2011. In Saudi Arabia, there are 23 Indonesians, mostly migrant domestic workers, who face the threat of the death penalty. On 30 May, Indonesia and Malaysia signed a memorandum of understanding that lifted a two-year ban on the sending of domestic workers to Malaysia. Indonesia implemented the ban following widely reported abuse of Indonesian workers in Malaysia.

Garment worker miscarries after police assault: A protester demanding her labour rights suffered a miscarriage due to police violence. On 6 May, Ms Iis Suparti, a worker at PT Micro Garment (PTMG) in Bandung who was part of a demonstration of 148 other PTMG workers at the company's factory to protest against PTMG labour rights violations. The protest was the latest of several protests by the factory employees to secure their rights. Despite the legal and peaceful nature of the protest, the Solokan Jeruk local sector police chief disrupted the demonstration when he grabbed the megaphone from Ms. Tri Rubiati Sanik, the Executive Chairman of the Joint Workers Struggle Solidarity Centre (Pusat Gabungan Solidaritas Perjuangan Buruh- GSPB-, the labour union), and threatened to arrest Ms. Sanik. In the scuffle that followed the police stuck and shoved Ms. Suparti causing her to fall. Mrs. Suparti, who was pregnant, was taken to the nearest hospital where she suffered a miscarriage.

Arrest of union officials and striking workers: On 15 March, police arrested eight nurses and midwives in connection with their involvement in a strike at the Jayapura District Hospital in West Papua. The eight were charged under Articles 160 and 335.1 of Indonesia's criminal code for allegedly inciting their co-workers to take part in a strike. The eight women, Leni Ebe, Popi Mauri, Stevi Siahaya, Luthrinu, Siska Mandosir, Yolanda Inauri, Dolita Ataruri, and Imbenay, were detained at the criminal investigation unit of the Papuan police command. The status of those arrested was not known at the end of the year.

On 24 August, police arrested and remanded for 30 days FKUI Union Chairman Teuku Nantasyah (Nanta) at the Lafarge Cement Indonesia (PT.SAI-Lafarge) in Aceh on false charges of stealing rope from the company. Lafarge also dismissed Nanta in connection with the incident. The arrest followed Nanta's involvement in the struggle for workers' rights against Lafarge management officials and contractors for a number of months. Nanta was released from police custody on 21 September but he has not been reinstated to his job.

Struggle for union leader's reinstatement continues: Members of the Angkasa Pura 1 (AP1) union, affiliated to Public Services International (PSI), have continued their campaign to reinstate their union leader Arif Islam. All other union leaders who were dismissed by PT (Persero) Angkasa Pura 1 after union members went on strike at several of Indonesia's airports on 7-8 May 2008 have been reinstated.

Joy over Nestlé settlement with Panjang workers turns to nightmare of dismissals: On 31 March, agreement was reached in a longstanding dispute that brings recognition and bargaining rights to the Union of Nestlé Indonesia Panjang Workers (SBNIP), affiliated to the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF), at the Nescafé factory in Panjang. However the negotiations that ensued were difficult and eventually deadlocked over Nestlé's wage proposals. With negotiations at an impasse, SBNIP members went on a sitdown strike. Nescafé denouncing the strike as illegal and ordered people back to work.

On 5 October, the local Labour Department called SBNIP and Nestlé to mediation. In this mediation SBNIP agreed to end the strike at 1.00 pm the same day. A written agreement regarding the end of the strike and return to work was signed by Nestlé and the union and witnessed by the Labour Department. SBNIP members on the second shift reported for duty at 2:00PM and completed their shift. But when SBNIP members arrived for the third shift at 10.00 pm they were faced by a cordon of security guards at the factory gates, with riot police on standby inside

the factory grounds. Security guards called out the names of union members, handed them “resignation” letters one by one and then sent them away. The same letters were also sent to their homes. Dozens of termination letters were issued on 6 October. The situation was unresolved at the end of the year.

Garuda pilots strike over pay discrimination: Workers at Indonesian airline PT Garuda, represented by the International Transport Workers Federation (ITF) affiliated Ikatan Awak Kabin Garuda Indonesia (IKAGI) have been denied their collective bargaining rights since 2009. Garuda has unilaterally imposed new regulations and intimidated union members and members of the executive board. On 28 July 2011, some 600 pilots with state-run carrier PT Garuda represented by the Garuda’s Pilot Association (GPA) went on strike because Garuda was paying its Indonesian pilots less than recently hired foreign pilots. The strike ended the same day after the company agreed to consider GPA’s demand for equal pay. In October, Garuda announced that it would not employ foreign pilots in the future.

Hotel workers gain recognition and reinstatement of union leader: On 17 February, the Guci Hotel Independent Trade Union (GHITU), affiliated with Federasi Serikat Pekerja Mandiri (FSPM) and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUFA), secured an important victory at the Guci Hotel (GH) in Bandung following an attempt to bust the union. FSPM not only secured the reinstatement of GHITU Unit Chairman, Ian Triyana, who GH dismissed on 6 February, but also won recognition rights, permanent jobs for contract workers and implementation of an 8-hour working day for all staff.

On 23 March 2011, the Bandung District Court declared Early Sobari and Yudhasari Pardikan, two members of Hyatt Indonesia Union Council, FSPM, at the Hyatt Bandung Regency (HBR) hotel, innocent of criminal acts. HBR had brought charges of embezzlement of USD15 against the two and suspended them from work in April 2008 in an attempt to curb their union activity.

Indonesian security forces kill two strikers: On 27 June 2011, about 10,000 workers represented by the PT Freeport Indonesia Workers’ Union of the Chemical, Energy, Mine Workers Union (CEMWU or SP KEP SPSI) at the US-owned Freeport McMoran’s Grasberg (FMG) gold and copper mine in Indonesia’s Western Papua region went on strike to demand an increase in wages. The strike ended on 13 July when FMG pledged to negotiate with the union on wages and reinstated six union leaders dismissed when the strike began, with back pay. FMG also paid strikers their wages for the eight-day strike. When negotiations on wages failed, the union resumed its strike on 15 September. On 10 October, Indonesian security

forces fired on striking workers killing Petrus Ayemsekaba, 30, and injuring ten more. One of the injured, Leo Wandagau, succumbed to his injuries on 15 October. Negotiations between FMG and the union resumed on 21 November. An agreement was signed in Jakarta on 14 December between SP KEP SPSI and the management ending the strike.

Japan



POPULATION: 126,500,000
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. Trade union rights are guaranteed by law, but are restricted in the case of national and local public sector workers.

TRADE UNION RIGHTS IN LAW

The Japanese Constitution recognises the right to organise and the right to collective bargaining, but these rights are restricted especially in the case of public workers, state-owned industry workers and for workers in private companies that provide essential services. The police, prison staff, Japan Coast Guard personnel, and members of Japan’s Self-Defense Force are not permitted the right of organisation. In 2010, the government announced it would consider permitting the right to organise for fire department personnel, but in 2011 it was decided that the considerations would be postponed partly due to the change of prime minister. In local governments, because of the trade union registration system, a separate public worker trade union must be established in each administrative district, i.e. city, town or village. In addition, as salaries for management and office personnel are determined by law or by municipal bylaws, there are no collective bargaining rights. In the private sector, workers mainly carry out collective bargaining at the company level.

Strikes are illegal for national and local public sector workers. Under the law, public workers who incite others to strike are subject to a fine, up to three years’ imprisonment, dismissal, salary reduction, or disciplinary action. Private sector workers, except those in businesses considered to be essential by the government, have the right to strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: In August, the President of the Democratic Party of Japan, Yoshihiko Noda took over from Naoto Kan as the Prime Minister of Japan, becoming the sixth Japanese prime minister in five 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 35.3% of Japanese employees were non-regular workers in the period between July and September 2011.

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.

Revision of the Immigration Control and Refugee Recognition Act as a Countermeasure against Abuse of the "Training 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.

The number of businesses found to be infringing the regulations has greatly increased (1,627 in 2009, infringement rate 70.5% to 2,328 in 2010, infringement rate 74.0%). In contrast, the number of claims from overseas technical intern trainees for infringements of regulations relating to labour standards has greatly decreased. However, further verification is required to discover whether the above situation has been caused by the revision of the immigration act.

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 2010, 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, Republic of



POPULATION: 48,100,000
CAPITAL: Seoul
ILO CORE CONVENTIONS RATIFIED: 100 - 111 - 138 - 182

Police violence and criminal sanctions against strikers continued along with increasing use of law suits claiming huge amounts of damages against strikers and unions. 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 further restricted union activity.

TRADE UNION RIGHTS IN LAW

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 1, 2011; however, only a single bargaining channel is allowed. A move opposed by the trade union confederations.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: 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.

The FKTU and the KCTU jointly announced that they would seek five key revisions of the labour law, including expanding the definition of employee and employer (to address concerns related to precarious work), improving procedures for setting up trade unions (restricting the administrative authorities’ discretionary intervention in union recognition by limiting the scope of the inspection), guaranteeing discretionary bargaining between labour and management under the trade union pluralism system, giving unions and employers the authority to decide on the payment of full-time union officials and restricting the right to terminate collective bargaining agreements.

In May, a new trade union confederation took steps towards establishment in 2011. The New Hope Labour Union will include

unions from Seoul Metro, Hyundai Heavy Industries, Hyundai Mipo Dockyard and the Federation of Local Public Enterprises, accounting for about 150,000 workers.

“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 during 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.

In April, it was reported that prosecutors had been collecting DNA samples from workers convicted of engaging in strikes and other activities. The practice, which currently targets workers who took part in a Ssangyong Motor strike and the occupation of Daelim Motor, had reportedly been taking place at district prosecutor’s offices across the country since March.

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 inferior 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 levels, includes provisions that will further deregulate private employment agencies, expand indirect employment, and increase precarious employment. 2011 figures show that the employment condi-

tions of irregular workers are much worse than before with average pay now at almost half of those employed on regular contracts.

Interference with trade unions: In January, the Ministry of Employment and Labour rejected a National Human Rights Commission of Korea (NHRCK) recommendation from October 2010 to reduce its interference in labour union establishment procedures and union membership criteria. It also reportedly ignored demands to allow temporarily unemployed workers and job-seekers into unions. In May 2010, a senior policy advisor of the Trade Union Advisory Committee (to the Organisation for Economic Co-operation and Development TUAC-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. Trade unionists also criticised a new Trade Union Act that went into effect in July 2010 and which reduces the number of full time union officials. The number of full-time unionists in workplaces with less than 300 workers has reportedly decreased by 25%.

Multiple unions welcomed, but unions express concern about impact of single bargaining channel on minority unions: On 1 July, a new law went into force which allows multiple labour unions at a single workplace. The law was first enacted in 1997, but had been postponed for a decade. Under the revised law, only two people are needed to form a trade union. Supporters see the law as a means of improving worker's rights to establish trade unions at enterprises that had established pro-management unions, or enterprises which had previously banned unions. Both Samsung and POSCO have maintained a "no labour union" policy so far by establishing a pro-management, or "ghost" labour unions, thereby blocking the creation of the real ones. The ministry expects 400 to 500 new unions to be founded over the next 12 months, adding to the total in 2009 of 4,689.

However, the requirement to establish a single bargaining channel faced strong opposition from FKTU and KCTU. Under the new system, workers can establish up to two or more trade unions at the enterprise level. It remains possible for multiple unions to bargain separately with the employer – only if the employer agrees, which is viewed as unlikely. In most cases, unions will have to determine a representative trade union to conduct bargaining with the employer. If multiple unions fail to establish a single bargaining channel on their own, the trade union composed of a majority of workers (including a union delegated authority by an alliance with smaller unions) would be the representative union. If there is no majority union, the multiple unions need to create a joint bargaining team in which

they all participate. Unions are opposing the requirement to establish a single bargaining channel, arguing that it will restrict minority trade unions' bargaining rights.

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. The unilateral termination of collective agreements, one of the most central elements in labour-management relations, increased by some four times at public institutions

In July, the number of improper labour activity reports received so far for 2011 was 459, more than the entire total of 451 received in 2010.

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.

There are around 700,000 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 increased the sometimes violent deportation raids in workplaces and homes. Nearly 80 percent of migrant workers said that they had experience of being verbally abused at their workplaces while over 25 % reported physical abuse. In September, it was announced that the government was suspending the entry of migrant workers from Vietnam after significant numbers failed to return home after their work visas expired.

Crackdown on unions and increasing use of lawsuits: According to reports, compensation being claimed by management over labour disputes is increasing despite an agreement eight years ago between labour and management restricting large indemnification suits after a series of workers suicides had resulted from large lawsuits. Several trade unionists were in jail in 2011 for strike related activity.

In an examination of five large workplaces facing labour-management disputes, the total amount of compensation claims amounted to around 75 billion won (USD69.4 million). This included 30.1 billion won claimed by KEC, 17.9 billion claimed by Kumho Tyres, around 20 billion claimed by Hyundai Motor and its in-house subcontractors, 2 billion claimed by JEL, and

5.377 billion by Hanjin Heavy Industries (including a 96 million won fine against a single union member Kim Jin-suk, who led a crane top protest for much of 2011). Around 910 union leaders and members have been targeted by the claims.

KEC requested 30.1 billion won in damages even after establishing a collective agreement not to collect compensation. The companies that have claimed damages argue that they have suffered major losses due to illegal activities by the unions and that they are following proper procedure in requesting damages and attachments. However, many union officials are reportedly losing personal property and suffering depression as a result. In 2003, Doosan Heavy Industries worker, Bae Dal-ho, committed suicide by self-immolation, protesting the injustice of compensation claims while in October 2003, two union heads took their own lives, Kim Ju-ik at Hanjin Heavy Industries and Lee Hae-nam at Sewon Tech.

Underlying the proliferation of compensation claims is the difficulty workers face in holding legal strikes. All substantive strike efforts are regarded as "illegal", and companies use this illegality as a pretext for taking legal action. In February, Hanjin Heavy Industries undertook restructuring efforts that resulted in 400 lost jobs, including 230 voluntary resignations and 170 dismissals - a strike in response was declared illegal. In-house subcontracting workers at Hyundai Motor carried out a strike asking for conversion to regular employee status in accordance with a Supreme Court ruling, but this too was ruled illegal.

The interpretation from the government and the courts is that restructuring, privatisation, layoffs etc. fall under the category of management rights and therefore strikes to prevent them are not permitted. According to Kwon Du-seop, a lawyer with the KCTU Law Centre, workplace damage claims are primarily being used to suppress the right to strike and to crack down on unions. Concerns also remain over courts favouring management during lawsuits.

On 24 June, the International Metalworkers Federation (IMF) Assistant General Secretary, Fernando Lopes, joined a delegation that visited the National Assembly to report about recent, extensive violence against trade unions in Korea.

Teachers fined for political affiliation: A court in Seoul found 260 out of 272 teachers and public servants guilty of making donations to the opposition Democratic Labour Party. In January, a court fined 134 teachers and government employees the sum of 300,000 to 500,000 Won (USD269 to USD449) for paying membership dues and/or giving donations to the Democratic Labour Party (DLP). Prosecutors were asking for much more including jail terms. The court however ruled that

the teachers were innocent of the charges of joining a political party – contrary to Korean law forbidding teachers from joining political parties.

A local court also ordered a conservative parents' group to pay compensation to members of a progressive teachers' union for posting a list of 15,000 teachers of the Korean Teachers and Education Workers' Union (KTU) on its website in July 2010, disclosing their names and which school they worked at. The court said the disclosure of the names and other information of the unionised teachers violated their privacy rights.

In February, a group of teachers asked the Constitutional Court to review the law that bans teachers from joining political activities. The three teachers, members of the Korean Teachers and Education Workers' Union, were suspended for three months as punishment for voicing their political views, after being convicted by a local court for leading an anti-government campaign over its education policies.

Dismissed guitar makers on strike: Workers at the Cort Factories making guitars were dismissed in 2007 after attempting to organise a trade union. Both the Korean National Labour Relations Commission and courts in Seoul have judged Cort's mass dismissal and the sudden closure of its Korean factories to be illegal. The company was fined but Cort has reportedly used intimidation and violence to secure forced resignations from the workers in order to deny them unemployment benefits and to retaliate against the union through hired thugs. By the end of the year, the workers' case was in the hand of Korea's Supreme Court.

Hyundai Motor's Ulsan plant - contract worker status and legal damages sought: In January, the Seoul High Court ruled that an in-house subcontracted worker, Choe Byeong-seung, 35, dispatched to Hyundai Motor for more than two years must be regarded as a full-time worker directly employed by the company. In February, the hearing upheld the decision. The Korean Metal Workers' Union (KMWU) and its Hyundai Motor irregular workers' branch called on the company to convert all of its in-house contract workers into regular workers. However, the company said it will appeal the ruling and at the same time filed 15 suits requesting damages amounting to 16.2 billion won (USD14.4 million) from workers who occupied the Ulsan, Asan, and Jeonju plants in a demand for recognition of their regular worker status.

Hyundai employs roughly 34,500 workers and nearly one-quarter are contract workers. Choe, for instance, was hired by the car maker through a labour agency, but he sued Hyundai, not the agency, for restitution of his work rights. He was sacked,

allegedly, for exercising his right to belong to a union and was wanted by the police for leading the strike and occupation of the Ulsan No. 1 factory in November 2010. The charges against him include obstruction of operations and violation of the Assembly and Demonstration Act.

The KMWU Hyundai Motor irregular workers' branch voted to hold a second strike despite an end to the occupation to demand that their positions be made full-time, in accordance with a ruling made by the Supreme Court last year. A further 17 other people are also wanted by the police for their role in that strike. Around 1,000 workers at the subcontractor were punished, including 104 firings and 659 suspensions. Similar cases concerning contract workers are currently being heard - in November, around 1,941 contract workers filed an 18-item collective lawsuit against Hyundai Motor requesting recognition of their regular worker status and payment of differential wages. By the end of the year, the case was still pending in its first trial.

12,000 railway workers on trial – 6.99 billion won awarded against union: In January 2011, a hearing on disciplinary measures against over 12,000 workers of Korail began in the Central Labour Relation Committee. In 2009, the workers went on strike over the unilateral termination of collective bargaining. According to the union, the strike complied with the legal procedures required to stage a strike. However, the government called the strike illegal and during the strike arrest warrants were issued for 15 trade union officials. The trade union's office was seized for investigation by police. Later 169 trade union officials were dismissed, and over 12,000 union members who participated in the industrial action faced disciplinary measures.

In March, the Supreme Court ordered the railway union to pay 6.99 billion won (Euro 4.75 million) in compensation for losses caused by an earlier protracted walkout in 2006. This figure is the largest ever compensation for losses from a strike. 400 strikers were arrested at the time.

Samsung suicides and new union: In January, two Samsung Electronics workers threw themselves off a dormitory building in Asan, South Chungcheong Province, less than two weeks apart. Both workers had taken long term sick leave. Despite calls from the family members for more information about what may have caused the suicides, the Ministry of Employment and Labour (MOEL) notified them of a decision not to disclose Samsung Electronics' employment regulations, explaining that they were Samsung's "trade secrets." Groups that have battled Samsung Electronics over occupational leukaemia cases designated the third week of March as "memorial week for workers who have died from semiconductor and electronics industry accidents." In September, another worker committed suicide.

In July, a trade union made up of four Samsung Everland employees filed an establishment notice, becoming the Samsung Group's first union led by workplace employees – only made possible after the new rules on union establishment went into force in 2011. There were nine unions at Samsung Group affiliates but all were reportedly "pro-company" unions or inactive "ghost unions" and had previously effectively prevented the establishment of democratic unions at the company under the old single union system. Previously, the company had taken advantage of the provisions prohibiting multiple trade unions to block the formation of member-led "democratic unions." It is also claimed that the management use incentives, intimidation tactics, and even abduction against employees who attempted to establish unions.

Ssangyong suicides after strike action continuex: A study conducted by Green Hospital on 193 workers affected by restructuring at Ssangyong reported a post-traumatic stress disorder occurrence rate of 52.3 %, while around 80% showed signs of severe depression. The findings come after a major 2009 strike when most workers involved in the strike saw a sharp reduction in their monthly salary. Union officials report that thousands of ex Ssangyong workers are under extreme stress stemming from the loss of their jobs.

Ssangyong laid off around 2,600 workers after an expected takeover by the Shanghai Automotive Industry Corp. in January 2009 failed after the company went bankrupt. Workers were asked to either take a one year unpaid leave or to resign. In May, the union at Ssangyong and management agreed on a tentative wage deal, providing a raise in wages. However, some 450 workers who took 12 months of unpaid leave are still waiting to be rehired as promised by the company in 2009. The laid-off workers are demanding the company to keep its promise, but the company says it is not yet ready despite a promise to rehire them once sales had recovered within a year.

Department store workers reinstated after strike: On 31 October 2010, around 11 workers at the Daejeon Lotte Department store had their contracts terminated after they formed a trade union. Most had been employed at the shop for over ten years. Management initially refused to negotiate with the workers. In response, they camped outside the store in protest despite the wintry conditions. On 29 December 2010, they held a demonstration and press conference. The substandard working conditions of the workers were highlighted in the press conference along with the fact that some workers were being made to clean the houses of rich customers. The department store finally agreed to enter negotiations in early February and an agreement was reached. Under the agreement, six of the 11 workers will be reinstated and the other five workers will get a

job in another company. The jobs of the five workers are to be guaranteed by the minister of labour.

Hongkik University contract cleaners go on strike and are then sacked: Over 30 janitors and cleaning personnel - representing 170 mainly female irregular workers in their 50s and 60s – held a sit-in protest in the main building of Seoul's Hongkik University, demanding the school withdraw the collective termination of their employment contracts. The service company which hired them to clean in the university had its contract terminated shortly after the workers organised a trade union in December 2010. After the school terminated the contract, the service company terminated individual contracts with the workers.

On 20 February, after a 49 day strike, the university reached a tentative agreement with the workers. The two labour supplying companies that fired them agreed to rehire them and further negotiated with the school on their behalf, according to the union members. According to the agreement, the hourly wage will rise slightly to 4,450 won for cleaners and 3,560 won for security workers on the condition of working eight hours a day, five days a week. However in July the university reportedly filed a lawsuit for damages against the workers demanding 280 million won (USD263,000) in compensation. The school said in a statement that they inflicted “significant damage to the school” by spearheading the rally on the first floor of an administration building for 49 days. The amount was set after calculating the amount the school spent to cover their use of water and electricity and to hire substitute cleaners during the protest.

In March, unionised cleaners and guards at three other universities in Seoul – Korea University, Yonsei University and Ewha Woman's University simultaneously went on strike, calling for an increase to their hourly wages. The joint strike by the three unions, which are members of the Korea Confederation of Trade Unions (KCTU), came as a provincial labour committee failed to arbitrate between the unions and the schools in the final round of negotiations.

Vietnamese workers arrested: Between March and April, ten Vietnamese migrant workers working for Taehung Construction, a subcontractor for Hyundai Construction, building a container wharf in Incheon city were arrested over strike-related activities. They were charged with “obstruction of business, interfering with the regular business operations of the company, inciting group violence, and assault with a deadly weapon” for two walk-outs.

The workers had reportedly been forced to work 12-hour shifts with a one hour break, seven days a week for a minimum

hourly wage of 4,110 KRW (2.6 Euros) even though their employment contract stipulated a five-day work week. Initially the workers were granted three free meals a day but the management informed them that starting from July 2010, only lunch would be provided free and Taehung would deduct 240,000 KRW (150 Euros) from their monthly wages for breakfast and dinner. Workers asked for improved wages and food. However, the company responded by threatening to report them to the Ministry of Labour and have them deported. Workers then went on strike in July 2010 and again in January 2011. The workers were then charged with “obstruction of business, interfering with the regular business operations of the company, inciting group violence, and assault with a deadly weapon for two walk-outs. The prosecution claims that the illegal strike caused significant financial losses to Taehung. At the first trial which took place on 26 May, the prosecution sought prison sentences ranging from one to three years for the workers.

Workers locked out of tyre plant: After a membership vote on 10 March 2011, members of the Kumho Tyre Workers' Union affiliated to the Korean Metal Workers' Union (KMWU) and the Korean Confederation of Trade Unions (KCTU) staged a one-day strike on 25 March at two of three Kumho plants in Korea – Gwangju and Gokseong.

Management immediately retaliated on 26 March with a lock-out. When some 3,400 workers at the two plants tried to return to their jobs, Kumho managers insisted they sign individual agreements pledging not to strike. Disputed issues include the refusal of management to negotiate paid time-off inside the factories for KMWU branch leaders to handle grievances and perform other union business.

On 1 April, management lifted its lockout of workers and rescinded its demand that workers sign individual work agreements promising not to engage in further work stoppages. In return for lifting the lockout, the Kumho Tyre Workers' Union said it would end its industrial actions in front of the two plants. In lifting the lockout, the Kumho Tyre Workers' Union recognised the company's fragile financial and market situation.

Kumho, a subsidiary of the Kumho Asiana Group is Korea's second largest tyre manufacturer and the world's tenth biggest. It had shed many jobs over the past two years due to debts and shifting of work to start-up plants in China. A week earlier, Kumho was hit by a massive recall of tyres made in those Chinese plants because recycled content exceeded the allowable requirements. Workers at the company's third tyre plant in Gyeonggi province, where the KMWU also represents staff, were not affected by the dispute.

Strike and occupation in Yoosung factory: On 24 May, 500 strikers staging a sit-in at the Yoosung Enterprise factory in Asan, which manufactures piston rings for Hyundai, Kia, Renault and General Motors in South Korea, were dispersed by around 3,000 riot police. The majority of strikers were arrested. According to the Korean Metal Workers' Union (KMWU), this is part of a general union busting strategy applied by the company.

In 2009, an agreement was signed with the KMWU on the elimination of the night shift. However, successive talks had not resulted in implementation of the agreement. In May, a vote was taken to begin industrial action and on 18 May, the union held a two hour strike with daytime shift workers. Later that day the company announced a lockout against the local members and some 30 assailants surrounded the factory and tried to prevent night shift workers from entering the site. With the help of their day shift colleagues the workers managed to enter the factory. The same night, unknown assailants drove a minivan from a company "specialised in industrial dispute and tenant eviction", into a gathering of workers injuring some 13 workers.

A union busting plan by management was also discovered which sought to induce a strike, impose a lock-out and blockade the factory provoking violence and subsequent repression by police at the factory. The workers remained in the factory until the police dispersed them on 24 May. In June, some 11,000 unionised workers of Yoosung Enterprise attempted to enter its main plant in Asan. They were rebuffed by police. During the clash, 108 riot police and about ten unionists were injured. The unionised employees have been trying to enter the plant en masse since June 15, insisting that all of them should be given their jobs back. However, Yoosung management has been preventing them from doing so, demanding unionists return to work on an individual basis in order to screen out union leaders. The plant has been operated by non-unionised workers since 24 May.

Trade union of security guards at US military bases in Korea on strike has faced lawsuits: US Force Korea (USFK) has outsourced security guard service for its bases in Korea. G4S Secure Solution Ltd. In September 2011, G4S won the latest bid to the contract with USFK. For decades, previous contractors including G4S itself always respected the succession rights of employment. However, in September G4S denied the employment succession and laid off 150 workers. In addition, G4S offered drastically deteriorated working conditions, including reducing the wage level by 30% and increasing working hours by 68 hours per month by changing the shift system (from 4 teams and 3 shifts to 3 teams and 2 shifts).

Hence the trade union of 864 security guards at US Bases in Korea (Joeun System Trade Union), an affiliate of the Federation of Korean Trade Unions (FKTU), tried to negotiate with G4S for the employment succession and the previous terms and working condition at least. G4S rejected the offer and started a new recruitment process.

As of the 1st of December 2011, the union went on strike while making every effort to resolve the dispute through dialogue. G4S, however, proposed to re-employ 300 out of 864 workers. FKTU has also proposed dialogue with G4S, who rejected any further negotiations in terms of the employment succession rights.

G4S has been found to violate the Labour Standard Act in terms of working hours by the Ministry of Employment and Labour, who filed the case to the public prosecutor's office. The union demanded of USFK the termination of the current contract with G4S as the contract was not in compliance with Korean Labour Laws.

Hanjin workers on strike for almost a year: On 9 November, after 11 months of conflict the Korean Metal Workers' Union (KMWU) and the management of Hanjin Heavy Industries agreed on an end to the dispute about mass dismissals at the Korean shipyard. The provisional deal called for the Hanjin ship maker to reinstate 94 laid-off workers within 12 months. Union leaders reported that they had to end the sit-in protest to evade 'fine bombs' which were reportedly expected to be as much as 1 million won per day per member who participated in the protest.

Kim Jin-suk, a member of the executive committee for the Busan office of the Korean Confederation of Trade Unions (KCTU) who had staged a sit-in atop a Hanjin crane for 309 days to protest the layoffs, finally came down after the union's agreement. At the same time, the local Busan District Court dismissed the police's request for warrants for Kim Jin-suk and three other protesters — two former Hanjin Heavy employees and one regional labour activist who were also accused of leading union members in the strike as well as obstructing business and intrusion.

Workers had taken extensive strike action after the company announced plans to lay off around 400 workers. Although an initial agreement was reached in June, some 100 workers continued protesting including Kim Jin Suk who had earlier refused to call off her protest despite an injunction for her removal and daily fines being levied against her. Hanjin filed a lawsuit against Kim, the KCTU, and the Hanjin trade union requesting 110 million won in damages.

The strike had began in December 2010 because management reportedly violated the local collective bargaining agreement

signed on 26 February 2010, which stated that “the company stops, as of today, its mass restructuring redundancy development which started from December 18, 2009.” During the almost year-long strike, workers faced several lock outs and violent police confrontations as well as arrests and overnight occupations. Union members were only able to enter the company premises on negotiation days while some 600 workers were ordered to vacate the factory. In July, around 50 people were arrested and dozens injured after police used water cannons and tear gas to disperse protesters. On 28 August, police used the cannon to disperse 800-supporters while in October, 59 more workers were arrested.

In August, a parliamentary hearing on the Hanjin mass dismissals was organised and called for the chairman of Hanjin to appear before the hearing – the first time in Korean history. The hearing also urged the chair to reconsider the dismissals which he refused. Previously, in 2003, a worker Kim Ju-ik, head of the HHIC chapter of the Korean Metal Workers' Union (KMWU) had held a protest over similar issues on top of a crane at Hanjin for 129 days until he finally hung himself.

Migrant union chair threatened with deportation, administrative court rules against immigration services: 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 2010, Michel Catuira, president of the Seoul-Gyeonggi-Incheon Migrants' Trade Union, was summoned to appear before the Immigration Office for unlawful political activities. In February 2011, the Seoul Immigration Office cancelled his employment visa status and ordered him to leave the country. The Ministry of Labour had pressured several times on the company that hired Mr Catuira, and finally the authorities cancelled the employment permit of the business owner on 1 December 2010. The Ministry of Justice then alleged that Michael Catuira had broken immigration law and summoned him for questioning on 22 December. On 15 September 2011, however, a Seoul court cancelled the government deportation order finding that he had not been falsely employed and that the acts taken against him by the government were due to his association with the MTU.

In November, the ILO issued recommendations that the government refrain from taking action against Mr Catuira until a final court decision had been made and also that it “refrain from any measures which might involve a risk of serious interference with trade union activities and might lead to the arrest and deportation of trade union leaders for reasons related to their election to trade union office”.

Since the MTU was founded in 2005, the government has arrested six of its officers, supposedly for violations of Immigration Control Act. Of these six, five were deported. In addition, the South Korean government has refused to recognise MTU's status as a legal union, claiming that its founders, who were undocumented migrants, did not have the right to do so. Pressure recently increased on the MTU in the wake of its activities protesting the death of a Vietnamese migrant worker as the result of an immigration raid.

Laos



POPULATION: 6,200,000
CAPITAL: Vientiane
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 111 - 138 - 182

Elections held purely for show have done nothing to change the situation in Laos: a total absence of trade union rights and the repression of any dissent. The single trade union remains closely linked to the Lao People's Revolutionary Party, the only political party with legal recognition.

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 2011

Background: In a country where no opposition is tolerated, the 30 April legislative elections were purely for show. Voters only had the right to « choose » from a list drawn up in advance by the single party, the Lao People’s Revolutionary Party (LPRP). The so-called “independent” candidates also had to have the party’s approval. The result: of the 132 members of parliament elected, four are not LPRP representatives. Choummaly Sayasone, head of the LPRP, was given a second five year term as President. Thongsing Thammavong retains his post as Prime Minister.

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 and regulations. This quasi-official function of the LFTU 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. There is little evidence that the union is able to effectively protect workers’ rights in particular in private sector companies.

Repression of the freedom to demonstrate and of association: Four leaders of the “Student movement of 26 October” remain in prison, more than 11 years after organising a peaceful protest in Vientiane in October 1999 for social justice, democratic reform and the respect of human rights. They have already served the ten years in prison to which they were sentenced. They are Thongpaseuth Keuakoun, Sengaloun Phengphanh, Bouavanh Chanmanivong and Keochay (their comrade Khamphouvieng Sisa-At died in prison in 2001 as a result of torture and ill treatment). The authorities promised to

release Sengaloun Phengphanh and Bouavanh Chanmanivong in 2012.

Nine other people remain in prison for taking part in 2009 in demonstrations converging on Vientiane to demand justice and respect for their fundamental rights. The nine include two women Kingkoe Phongsely and Somchit and seven men, Soubinh, Souane, Sinpasong, Khamson, Nou, Somkhit et Sourigna.

Macau SAR (China)



POPULATION: 544,000
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. Problems exist over a new and potentially discriminatory law for migrants while concern remains over trafficking.

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 2011

Background: The continued lack of a union law allows the exploitation of workers in all sectors. In the private sector, there are cases of non-paid overtime work, while in public service, workers have no way of claiming a pay rise to alleviate the impact of inflation. While the local economy is growing, there is also a growing gap in income, in particular between manufacturing industry and the gaming sector. Low pay tends to be concentrated in certain groups, such as those with a low level of education, insecure jobs, workers in small enterprises, youth, women and minorities. Although there are no signs of collective bargaining being introduced, the government has started a debate over introducing a minimum wage system. Cleaning, security and property management could become the first three industries chosen by the government in an initial implementation phase for the minimum wage.

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.

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".

Employment relationships one-sided: It is common practice in Macau for workers not to have formal 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. Given 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. The use of subcontractors in the construction industry adds to the problem. In a case publicised in July 2011, 33 workers who claimed they were owed wages said they had been told that they were no longer employed by the contractor for whom they had been working (without an employment contract) but were instead employed by a sub-contractor, who had no money to pay them.

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 in the same job, and contracts are between labour recruitment agents and the employer, rather than directly between the employer and the employees. There is also little supervision of recruitment agencies, which often demand exorbitant fees from migrant workers.

The new law on the Employment of Foreign Employees from October 2009 remains discriminatory and is too vague. It imposes a levy on employers of non-resident workers. The bill gives a six month re-entry ban on workers who terminate their contracts and prohibits the transfer to other job categories. The government said in November 2011 that it is planning to include new exceptions to the six-month ban. It is considering relaxing the ban to allow non-resident workers to change jobs immediately provided they keep working in the same industry.

Malaysia



POPULATION: 28,400,000
CAPITAL: Kuala Lumpur
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105
(denounced) - 138 - 182

Malaysia's trade unions operated in an uncertain political atmosphere during 2011. Legislation to amend the existing employment law was passed by Malaysia's lower house of Parliament. The amendment, if enacted, would allow employers to use contract or agency labour to avoid union representation and other statutory obligations for workers.

TRADE UNION RIGHTS IN LAW

Changes to Employment Law: On 6 October, Malaysia's lower house of Parliament, Dewan Rakyat, passed amendments to the Employment Act of 1955 which the Malaysian Trade Union Congress (MTUC) said would erode protection for workers as employers will no longer be directly responsible for the welfare of their employees. MTUC President, Mohd Khalid Atan, said that the organisation is concerned that workers under contract for labour cannot be organised into unions and noted that workers will be disadvantaged because of different standards and conditions for workers in similar positions and by being prevented from unionising and using their collective strength in negotiations. Malaysia's upper house of Parliament, Dewan Negara, had not acted on the amendments by the end of the year.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: According to Malaysia's trade unions, wages in the country have been depressed, in part because of the availability of cheap migrant labour particularly in the construction and manufacturing sectors. Malaysia's unions struggled to win a living minimum wage for all workers. In early November, the Penang branch of the Malaysian Trade Union Congress (MTUC) called on all state governments to follow the legislation passed in Selangor by adopting a minimum wage of RM1,500 for all civil servants. Key indicators show that Malaysia's economy remained sound. The annual inflation rate as of December 2011 was 3%. The unemployment rate was 3% in October of 2011. Gross Domestic Product (GDP) expanded 5.8% in the third quarter of 2011 over the same quarter in the previous year.

Human rights issues remain a serious concern. In early March, the Malaysian Home Minister said that the government had caned 29,759 foreign workers between 2005 and 2010 for various immigration offences. The Malaysian Trade Union Congress (MTUC) condemned this inhuman treatment and reminded the government that employers, especially those involved in supplying foreign labour, were often cheating ignorant foreign workers into believing that they were entering the country legally.

In late June, authorities arrested 30 activists, including one opposition MP, and accused them of conspiring to overthrow the government and to revive communist ideologies. On 9 July, in Kuala Lumpur, police arrested more than 1,600 people and used tear gas and water cannons to disperse more than 50,000 protesters marching to demand electoral reforms. Demonstrators defied a government decree that that banned the rally.

On 15 September, Malaysian Prime Minister, Najib Razak, said he was committed to repealing the Internal Security Act (ISA) and the Emergency Ordinance laws that allow indefinite detention without trial. Razak also said that police laws would be amended to allow freedom of assembly according to international norms and that the government would give more freedom to media groups. Despite the pledges of reform, on 29 November, Malaysia's parliament enacted a ban on street protests. The law replaces legislation that required a police permit for public gatherings but contains a range of new restrictions including an outright ban on street marches.

Secret ballot system abused: Workers opt for the union that is to represent them by mandatory secret ballot. The Immigration Department and the employers prohibit foreign workers from taking part in these elections or any union activities. The Department of Industrial Relations (DGIR), however, includes them in the overall figures for the purpose of determining union membership. This can heavily dilute the votes in favour of a union and often results in the denial of union recognition. Furthermore, according to the Regulations, workers who do not vote are considered to be against the union. Even those who have passed away are required to vote.

Inefficient disputes settlement machinery: The disputes settlement machinery remains grossly inefficient, and cases of victimisation and unfair dismissals remain unresolved for as long as five years. Such inordinate delays make a mockery of the legal protection accorded under the Industrial Relations Act.

Migrant workers face horrifying conditions: Gross violations of migrant workers' rights have provoked a serious debate in Malaysia. In October, Cambodia imposed a ban on labour

migration to Malaysia for domestic work following allegations of extreme abuse. According to Human Rights Watch, “Cambodian women and girls often have to surrender their passports to their agents or employers, making it harder for them to leave if they are mistreated. Many work for 14 to 21 hours a day without rest breaks or days off. And many are forcibly confined to their work places, are not given adequate food, and are physically and verbally abused. Some have been sexually abused by their employers. None of the workers Human Rights Watch interviewed said they had received their full salary.” Under Malaysian labour law, migrant domestic workers are excluded from basic protections, such as a weekly day of rest, annual leave, and limits on working hours. Amnesty International also reported that nearly 30,000 migrant workers were caned between 2005-2010 for various immigration offenses. Caning is extremely painful, leaving lasting physical scars.

On 14 February, human rights activist Charles Hector was sued for over USD 3.2 million by electronic firm Asahi Kosei (M) Sdn Bhd for defamation after he posted on his blog reports he received from Burmese migrant workers detailing violations of labor and human rights at the company. The 31 Burmese migrants, who were employed by an employment agency that supplied the workers to Asahi Kosei, were alleged to have been paid wages far lower than promised when they agreed to migrate to Malaysia and faced numerous illegal wage deductions, among other violations. The facts of the case were not in contention; rather, Mr Hector was found liable and was forced to issue a retraction because he had associated the abuses with Asahi Kosei rather than the subcontractor, even though Asahi Kosei managed the labour of the migrant workers.

10,000 workers denied collective bargaining rights: On 28 September, the Malaysian Trade Union Congress (MTUC) submitted a memorandum to the Ministry of Human Resources Malaysia (MOHR) listing and detailing the trade unions’ struggle to achieve collective bargaining rights in nine companies involving more than 10,000 workers. According to the MTUC, as a result of MOHR’s failure and inefficiency, union recognition, which is a prerequisite for collective bargaining rights, remain unresolved for seven years. The MTUC called for a review of the regulations which were often applied to delay and deny unions’ claims for recognition.

Many employers refuse to respond to the Department of Industrial Relations’ (DGIR) and Department of Trade Unions’ (DGTU) request for information on their company’s industrial activity and a list of their employees’ names, despite the 2008 amendments to the Industrial Relations Act 1967, aiming to address numerous weaknesses and resolve recognition claims.

In some cases employers even refuse to allow officers from the DGIR and DGTU to enter the company premises.

Furthermore, after the implementing regulations were drawn up, unions were not properly informed about the submission requirements of the new regulations. This, despite the fact that according to the DGIR, the use of the old form invalidates the claim and then unions have to withdraw their claim and wait for six months before filing a new one. This rule is considered illegal by the MTUC.

Many arbitrary rulings from the DGIR invalidated several unions’ claims for recognition. This happened at Renesas Semiconductor (formerly NEC). Despite showing proof of delivery and the company’s confirmation of receipt, the DGIR has ruled that since the union’s claim was hand delivered by the president of the union, it was deemed invalid. The union made four unsuccessful attempts to send the claim by mail. The union subsequently reported to the DGIR that Renesas Semiconductor had refused to accept delivery.

The Electrical Industry Workers’ Union’s claim for recognition at the Formosa Prosonic Manufacturing and Liebherr Appliances companies remained unresolved for nearly four years and the DGIR claimed that it was powerless to do anything.

Finally, the MOHR and the DGIR have imposed a ban on picketing or any form of action to protest against employers’ refusal to accord recognition.

Migrant workers struggle for rights: Malaysia has a total of 1.9 million registered migrant workers, constituting approximately 21% of the workforce, making Malaysia the largest importer of labour in Asia. It is estimated there are another 2 million undocumented migrant workers. On 1 August, Malaysia implemented an amnesty programme for its undocumented migrant workers. Under the provisions of the amnesty, those without documents were to be fingerprinted for a biometrics database and allowed to stay in Malaysia if they had a job. If they were not employed, they would be allowed to leave Malaysia by 31 October without penalty. On 30 May, Malaysia and Indonesia signed a memorandum of understanding (MoU) on migrant labour that ended a June 2009 moratorium by Indonesia on sending workers to Malaysia. Under the terms MoU, Indonesian migrant workers will have the right to retain their passports, to one day off each week, paid annual leave, and access to communications. The MoU also provided that the minimum wage for migrant workers will not be lower than in Indonesia and that overtime will be paid. On 5 May, Malaysian police arrested two Burmese migrant workers after they complained of crowded living conditions at an appliance factory.

On 13 July, the Malaysian Trade Union Congress (MTUC) urged the authorities to investigate a newspaper agent who allegedly abused ten migrant workers from India and failed to pay them wages. Five out of ten men were allegedly wrongfully detained and charged in court for working illegally in the country. The MTUC instituted legal proceedings against the employer.

Dismissal of union official of the Malaysian newspaper

Utusan Malaysia: On 21 April, Malaysian newspaper Utusan Malaysia (UM) dismissed senior journalist and President of the National Union of Journalists Malaysia (NUJ M), affiliated to the International Federation of Journalist (IFJ), Mr. Ha'ta Wahari, after suspending him on 11 January. The newspaper dismissed Wahari on charges of tarnishing the newspaper's image when he publicly expressed concerns about the newspaper's biased news coverage. UM is owned by UMNO, the dominant political party in Malaysia's ruling coalition.

Domestic workers face abuse and even death: On 21 June, Deputy Human Resources Minister, Ms. Maznah Mazlan, told parliament that a total of 18,716 domestic workers ran away from their employers' homes last year. In 2010, 247,069 foreign housemaids were employed in Malaysia, with 76.7% from Indonesia. The Malaysian Trade Union Congress (MTUC) urged the government to ratify ILO Convention 189 on Domestic Workers in order to effectively address the problems encountered by migrant domestic workers in the country.

According to an MTUC survey on 510 domestic workers' (mainly Indonesians and Filipinos) wages and working conditions, 26.4% complained that they did not get their wages and 7.8% complained that they were physically and verbally abused. 90% reported that they were not given a day off, while the remaining 10% who got a day off were not allowed to leave their homes. In some cases, they were only allowed two days in a month. Furthermore, 53% were required to work more than 16 hours a day. This also included domestic workers being sent to various places to work. Despite a significant rise in wage levels, 61% have reported that their monthly wages are now paid into their bank account.

On 5 June, Indonesian domestic worker, Ms Isti Komariyah, died at the University Malaya Medical Centre. She had not been paid any salary since she began work for a couple at Taman Sea Petaling Jaya in December 2008. Police classified the case as murder and detained her employers in connection with her death. On 6 July, Ms Va Sokhoeun, 38, a domestic worker from Cambodia sought refuge in the Cambodian embassy in Malaysia. She claimed that her employer had withheld her pay for seven months and that she had been sexually assaulted. On 25 July, Cambodian embassy officials in Malaysia began an

investigation into the death of a Cambodian domestic worker in Penang following allegations made last week that she was abused. In August, Malaysian rights' group Tenaganita said that it had rescued 41 domestic works from Cambodia from abusive employers.

On 14 October, Cambodia banned its citizens from going to work in Malaysia as domestic workers.

Union president dismissed at Renesas Semiconductor: On 28 August, Renesas Semiconductor (formerly NEC) dismissed the president of its workers' union for an article he published on his blog. The article merely reported on the status of the union's claim for recognition.

Yellow union at Maybank - registered by government: On 30 January, the National Union of Bank Employees (NUBE) claimed that the government's registration of the in-house union at Maybank violated Section 12 of the Trade Unions Act of 1959 and called for the registration to be nullified. Maybank chief executive, Datuk Seri Abdul Wahid Omar, said that while 61% of Maybank employees in the clerical/non-clerical category are NUBE members, others had decided to form the Maybank Non-Executive Union (Mayneu) on 3 January.

On 21 September, NUBE accused Maybank of backing the in-house union to avoid an 80-month bonus claim for bank employees. In addition, NUBE Secretary-General J. Solomon said that Maybank's support for Mayneu was a violation of a High Court stay order on the registration of the in-house union. On 24 November, Malaysia's High Court dismissed a defamation suit brought by Maybank against NUBE. The court ruled that NUBE, as a registered trade union, cannot be sued for defamation. The court held that Section 21 and 22 (1) of the Trade Unions Act of 1959 was clear that such actions against a trade union in relation to a trade dispute "is not maintainable in any civil court nor can it be entertained by any court." The court was satisfied that there was in fact a "trade dispute" between Maybank and NUBE in reference to the insufficient bonuses provided for the lower level of staff of the bank. The court ordered Maybank to pay RM15,000 in costs to the NUBE. In its suit filed on 22 April, Maybank alleged that NUBE and its Secretary-General J. Solomon, had published articles containing defamatory statements against Maybank on the union's website earlier in the year.

Electronics and pulp workers make gains: On 27 January, workers, a majority of them women, at ST Microelectronics in Muar, Johor, voted to join the newly formed Electronics Industry Workers' Union (Southern Region). The struggle for union representation started in August 2010, when the union filed for

recognition. ST Microelectronics is an Italian-French electronics and semiconductor manufacturer headquartered in Geneva, Switzerland.

In July, the Paper & Paper Products Manufacturing Employees' Union (PPPMEU), International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), gained ground-breaking collective bargaining agreement language on contract and agency labour (CAL) with Kimberly Clark at the company's Kluang, Johor, pulp and hygiene products mill. Kimberly Clark is a global paper products company. The new language provides that CAL workers are now covered by the provisions of the collective bargaining agreement.

Maldives



POPULATION: 316,000
CAPITAL: Male
ILO CORE CONVENTIONS RATIFIED:

Exercising the trade union rights recognised in law is still difficult. Two luxury hotels, the Conrad (Hilton group) and the Alidhoo Resort, dismissed a total of 41 workers for going on strike.

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 2011

Background: Mohamed Nasheed, a former political prisoner, has been in power since the first multi-party presidential elections in 2008. The young democracy is under threat from acts of religious intolerance by a fanatical minority, targeted principally at journalists and bloggers.

Trade unions confined to uncertain role: Although the legislation partially recognises fundamental trade union rights, there are no mechanisms in place to facilitate the exercise of those rights. There are no clear procedures for example on how to register trade unions, which therefore register themselves as "associations". Workers associations have been set up, notably, in the tourist industry and education, but their ability to defend their members is limited by the uncertainties surrounding their mandate and their status, as well as the absence of laws defining their role and the procedures for negotiating with employers.

Few migrant workers dare join workers' associations: The law and its implementation do not provide enough protection against anti-union discrimination, making many workers hesitant to join existing associations. This particularly affects migrant workers who make up about a quarter of the population, and many of whom suffer exploitation. Several networks trafficking migrant workers to the Maldives have been identified by the authorities, Bangladesh being a prominent source.

Labour Relations Authority ineffective: The Labour Relations Authority, an institution under government control, is responsible for carrying out workplace inspections and receiving workers' complaints. It is unable to function efficiently due to a shortage of staff and financial resources, while lacking the power to apply its decisions. According to workers' associations it tends to side mainly with the employers.

Employment tribunal decisions not applied: The employment tribunal responsible for enforcing respect of employment law does not have the power to ensure its decisions are applied. The Tourism Employees Association of the Maldives (TEAM) reports that no decision taken in the workers' favour has been applied since 2009.

The Conrad sacks 29 strikers: On 4 June the luxury hotel chain Conrad Maldives Rangali Island, situated on the island of Rangali and owned by the Hilton Worldwide group, dismissed 29 workers, claiming weak profits in the low season. The Tourism Employees Association of the Maldives (TEAM) notes however that these 29 employees were the same people who had led strike in the hotel in March. TEAM took the case to the

employment tribunal, pointing out that the management had not been able to show why out of a staff of several hundred workers it was these 29 people who had been sacrificed, when they had been employed for between three and nine years.

Twelve workers dismissed following a strike at the Alidhoo Resort: On 21 July, workers at the luxury Alidhoo Resort hotel, situated on the Haa Alifu atoll, went on strike to demand unpaid wages. That evening, 12 workers were dismissed as a result. The police were called to take them off the island.

Mongolia



POPULATION: 2,756,000
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 the government’s 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 by 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 2011

Background: An estimated one-quarter of the country’s population is now believed to reside in a vast shantytown on the outskirts of the capital, Ulan Bator, living in the traditional round felt tents (gers). Most ger district residents have limited access to electricity and no running water, sewage or central heating. Many suffer from limited education, few transferable job skills, no official documents and high unemployment.

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. Despite the fact that Mongolia has ratified all the eight core labour conventions, it continues to face problems, notably discrimination against women in employment.

Public concern has been growing over the lack of visible benefits for the public from major mining deals, with conflicts and confrontations increasing dramatically in the last few years. On 3 January the Mongolian government announced a tripartite memorandum with trade unions and the employers’ union to solve conflicts, complaints and matters regarding mining.

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, and the average age of child miners is just 14 years. Over 30,000 children work as jockeys each year.

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 Asian countries. Local NGOs have also reported an increase in internal sex trafficking and forced prostitution.

Draft legislation on combating trafficking in persons was debated in 2011. The aim of the proposed stand-alone law is to prevent trafficking and protect victims through improved rehabilitation and reintegration assistance and compensation. The draft law was approved by MPs on 28 October. Around 200,000 Chinese are estimated to be working in Mongolia. A decision to employ 6,949 workers from China in the Oyu Toloï mine in May prompted calls for a labour inspection by the Mongolian Labour Union.

North Korean workers exploited: Mongolian law specifically prohibits forced labour but reports continue to emerge regarding the situation of North Korean workers employed there, mainly in mining, factory work, utilities, transportation, construction, customer service and health service. Mongolia increased its quota of North Koreans allowed to work in the country from 2,200 to 3,000 in 2011. It is believed that the North Koreans are prohibited from leaving work and are unable to complain about working conditions, with labour brigades usually overseen by North Korean officials maintaining similar tight controls to those faced by the workers back in their totalitarian homeland. In October, journalists uncovered some 80 North Koreans working at the privately owned Eermel garment factory producing for a well known British brand. While the workers are given food and a place to sleep, their wages are apparently paid directly to a North Korean government agency.

Nepal



POPULATION: 29,950,000
 CAPITAL: Kathmandu
 ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 138 - 182

Dozens of trade union members were threatened, dismissed or beaten. Nepali migrants are particularly exploited. The social partners signed an agreement to maintain industrial peace.

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 2011

Background: The political situation remains unstable. The prime minister, Jhala Nath Khanal, resigned on 14 August, having failed to break the deadlock in the talks aimed at adopting a new constitution. On 28 August, just days before the expiry of the Constituent Assembly's mandate, Baburam Bhattarai, a senior member of the United Communist Party of Nepal-Maoist, became the fourth prime minister in four years. The Constituent Assembly's term was renewed for a fourth time, and it was given six months to come to an agreement on the new constitution. The many human rights violations committed during and after the civil war remain largely unpunished.

The International Federation of Journalists and its affiliate, the Federation of Nepali Journalists, have underlined that journalists are increasingly exposed to threats from business and political circles.

Nepali migrants still severely exploited in the Gulf: An estimated six million Nepali workers live abroad. Around 700,000 of these find themselves in the Persian Gulf States. Every day, 600 migrants leave Nepal legally, whilst another 600 migrate illegally. They are often employed in the hospitality and construction industries, or as security guards and domestic workers. In January, Anti-Slavery International and the ITUC launched a campaign to denounce the severe exploitation they often face in the Gulf. Many fall into the hands of unregulated recruitment agencies, which promise them a better living abroad. They usually have to borrow large sums of money to be able to pay the recruitment agent, only to find themselves being paid half of what they were promised or not being paid at all once they reach the Gulf. With the exception of Bahrain, the sponsorship system remains commonplace across the region. Under this system, migrant workers' visas are linked to one employer or 'sponsor', and in most countries they have no right to seek alternative employment. Combined with the low pay, this practice means that many thousands of migrant workers find themselves trapped in exploitation or even forced labour.

Pay rises and social security in exchange for peaceful industrial relations: The main trade unions and employers' associations signed an agreement in March providing for increased pay and the creation of a social security net. In exchange for this agreement, the social partners pledged to maintain industrial peace for four years, and not to resort to any form of

lockouts, closures or strikes that contravene the labour legislation. In 2011, trade unions campaigned to urge the government to ratify ILO Convention 87.

Two microcredit institutions flout trade union rights: On 10 January, three trade union activists received beatings from managers of Gramin Bikas Mahila Utthan Manch, a microcredit agency. The union secretary was dismissed and five members had their wages suspended for belonging to a union. During the same month, 200 workers from the Swabalamban Micro Finance Development Bank were confronted with acts of harassment by the management, which was refusing to bargain collectively. By the end of the year, the Bank had accepted to engage in a dialogue with the union.

Education sector trade unionist threatened: The General Federation of Nepalese Trade Unions (GEFONT) has reported that Priya Poudel, vice president of the union at the Budhanilakantha school, was threatened with dismissal on account of his trade union activities.

Police charge on striking workers from Nepal Pharmaceutical Labs: On 28 April, Nepal Pharmaceutical Labs management called in the police, who charged against striking workers with brutal force. More than 20 workers were injured, including ten trade unionists. The strike had been called by the Nepal Independent Chemical and Iron Workers' Union (NICIWU), affiliated to the General Federation of Nepalese Trade Unions (GEFONT). The union ultimately managed to negotiate an agreement with the management.

Court rules in favour of 133 dismissed workers: On 14 September, a labour court ordered that the 133 workers dismissed by Shanti Sewa Griha after trying to join a union be reinstated and paid compensation. Shanti Sewa Griha is an organisation providing assistance to people suffering from leprosy.

Lock-out at Shangri-La Casino: On 1 December, the management at Shangri-La Casino in Kathmandu staged a 40-day lockout following the registration of a union by its employees. The Nepal Independent Hotel, Casino and Restaurant Workers' Union, affiliated to the General Federation of Nepalese Trade Unions (GEFONT), protested against the lockout to the Labour Ministry.

Himal Power Ltd staunchly rejects social dialogue: On 15 December, in Dolakha district, Himal Power Ltd (HPL) dismissed 89 employees belonging to the Nepal Independent Chemical and Iron Workers' Union (NICIWU), affiliated to the General Federation of Nepalese Trade Unions (GEFONT). GEFONT has reported that the dismissals are directly linked to the manage-

ment's refusal to talk to the union within the framework of collective bargaining negotiations. The company has remained staunch in its rejection of talks for many months, in spite of interventions by the Labour Ministry and a labour court. HPL is a joint venture comprising Norwegian and Nepalese investors.

New Zealand



POPULATION: 4,360,000
CAPITAL: Wellington
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105
- 111 - 182

In 2011, government amendments to the Employment Relations Act 2000 came into force reducing workers' rights. Film and computer game industry workers no longer have the right to organise or bargain collectively under employment law. Unions face difficulties in accessing workplaces. Many employers put pressure on workers not to join a union.

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 2011

Background: General elections for the House of Representatives (single-chamber parliament) were held in New Zealand on November 26, 2011. The Centre-right National Party got 60 seats, the Labour Party 34, the Green Party 13, the New Zealand First Party 8, the Maori Party 3, while the Mana Party, UnitedFuture and ACT New Zealand all win a seat each.

The general unemployment rate is 6.6% and 23.4% for those under 20 years at September 2011. At March 2011, 20.9% of wage/salary earners were union members representing 17.4% of the employed labour force. The Government has reduced staffing in the public sector by over 2,000 people since 2009 with the expressed intention of reducing numbers further in 2012. An explosion at Pike River Mine in 2010 killed 29 workers including a union delegate. The Royal Commission investigating the disaster has heard of negligence over health and safety practices. The Commission will report in 2012.

Expensive legal actions over employment issues including union access: In 2010 and 2011, unions succeeded in nine law suits taken to the Employment Relation Authority and Employment Court against food companies: Talley's Group Ltd, AFFCO Ltd, and Open Country Dairy Ltd over employment issues including union access. Talley's Group have acquired majority ownership shares in AFFCO Ltd and in Open Country Dairy in recent years. Only one of the cases resulted in a fine being imposed for breach of good faith. In other cases, the employer was ordered to comply with legislation such as enabling union representatives to have access to the worksite. The Meat Workers' Union spent over NZD100,000 in litigation costs on disputes at one worksite. It was successful in Court but was only awarded a portion of this sum to cover costs.

It can take years and applications to three different judicial bodies for unions to get a final determination when employers are hostile to unions and well-resourced. In 2011, the Service and Food Workers Union (SFWU) and the Public Service Association (PSA) finally gained a pay-out for night duty residential care workers who had been paid below minimum wage for many years. After three years of legal action and years of negotiations the government mediated a law change for a partial pay-out that gave years of back-pay to the workers, but not the full amount that was owed. The cost of taking legal action is a drain on unions.

Increased use of contract workers: Private and public sector employers are hiring more workers as contractors rather than employees. Contractors are not covered by most New Zealand employment law which includes the right to organise, the right to take collective action, and the right to lodge personal grievance cases for wrongful dismissal. In 2011, the CEO of Ports of Auckland has threatened to make all union members redundant and replace them with contractors.

Pressure not to join a union: Some workers have been pressured by employers not to join a union, or to sign an individual contract rather than a collective agreement, by financial incentives or through fear of the loss of a job, or demotion to a lower ranked job.

In 2011, AFFCO Meat Company offered employees at some of its plants an additional extra 3% in wages to accept individual employment agreements [IEAs] in preference to a collective employment agreement [CEA]. Those accepting IEAs were promised secure jobs and a NZD1,000 attendance bonus for 98% attendance. Meat Workers Union (MWU) members were laid off, but workers on IEAs with shorter service, were kept on. The employer had previously agreed to seniority guaranteeing longer employment. AFFCO employed non-union workers ahead of union members at AFFCO meat works at Imlay; Rangiuru, Horotiu, and Moerewa. MWU applied to the Employment Court to stop AFFCO's actions. In April 2011, the Judge ruled in the union's favour and said that AFFCO had to engage union members in accordance with seniority lists. The Judge found that AFFCO had favoured non-union workers in offering them longer contracts than unionised workers and that this practice was discriminatory. In a separate case in 2011, the Employment Relations Authority found that AFFCO had demoted a skilled senior employee down to a basic labourer's position because of his union activities.

Even when legal action is successful, financial and other pressures may result in employees leaving the union. Industrial and legal action was initiated between the Dairy Workers Union and Open Country Dairy Ltd in 2009 following a bitter dispute with the company who reduced conditions of employment and union rights. The dispute was concluded in 2011 and the union won the right to collective bargaining in Court, but the decision came too late for the workers and only 6 of the 34 locked out workers retained employment with the company. Those six workers subsequently accepted financial incentives to leave the union. Open Country Dairy now has no union members.

Difficulties with union access: From 1 April 2011, union access has required formal application with one working day notice which should not be unreasonably denied. Nevertheless some

employers have refused unions entry to a workplace or made access difficult for union representatives. Organising at worksite is rendered more and more difficult as restrictions on union access are impeding unions' ability to organise worksite meetings.

Sky City Casino issued a trespass order against two Unite union officials in January 2011 to prevent entry during an industrial dispute. The union successfully challenged the legality of the order. AFFCO Ltd denied access to union representatives from both the Public Service Association (PSA) which represents meat inspectors and the Meat Workers Union (MWU) at its Imlay plant prior to 1 April 2011.

Talleys Ltd restricted union access to one-on-one meetings with individual workers at one worksite rather than allow a union group meeting. Workers were only allowed to attend meetings on their breaks and had to travel to an out-lying block to attend. Union rules required 50 percent of union workers to ratify any decisions and the access restriction prevented union decisions from being ratified. The Employment Court has now required the employer to admit union representatives to that site but each subsequent denial of access has required separate legal action to gain access.

The Employment Relations Authority upheld the AFFCO's action in respect of the MWU at one worksite because of potential disruption to a new shift in spite of the union seeking the visit over introduction of the new shift without consultation. In a similar case between AFFCO and MWU over access to discuss a new shift with members, the Authority upheld the union's right of access.

During a 2011 industrial dispute, Canterbury Meat Processing Rangitikei (CMP) Company Ltd denied access to union representatives. Meat workers were given a new contract to sign that cut their pay by 20%. 111 meat workers were locked out when they took industrial action and refused to sign the new contract. The Meat Workers Union was only able to support the locked out workers because of substantial financial support from other unions.

Collective bargaining obstructed for workers in the film and computer games industries: Workers in the film and computer games industries are contractors rather than employees - unless this is explicitly negotiated - as a result of changes to the Employment Relations Act (ERA). The ERA (Film Industry) Amendment Act 2010 denies film and computer game industry workers the opportunity to bargain for a collective employment agreement or to be represented by a union in employment negotiations. There is no specific union for computer game developers. Furthermore, the government changed immigration

regulations in 2011 to enable easier access for overseas film workers to work in New Zealand. The union for the film sector fears loss of work and undercutting of wages and conditions.

Film and computer game worksites have restricted access on security grounds for commercial reasons. This impedes unions' ability to gain information on informally reported health and safety lapses. Both sectors report workers regularly working in excess of fifty or sixty hours a week or more. The Department of Labour investigated a complaint against a games company in July 2011 from a contractor working 14 hour days, 7 days a week, for 4 weeks. The Department did not find sufficient evidence to lay charges but industry consensus was that such working hours were common. Two people received minor injuries in an explosion at Sir Peter Jackson's Wellington film studio. The Fire Service put out the fire and investigated the explosion but was prevented by a secrecy order from speaking on the incident. Private reports have been received of previous accidents but information is difficult to gather with the security requirements.

Development of yellow unions: In industries, including transport and security, there are employer initiated organisations taking the role of unions without real independence. Workers at these companies are signed up to the employer organisations without reference to independent unions.

Union members harassed including the fast food sector: There are informal reports from union officials and union members directly affected by anti-union hostility at workplaces, particularly in the fast food and service sector. Some union members in fast food sector, meat and fish processing have reported harassment or intimidation from employers.

Harsh working conditions on foreign fishing vessels in New Zealand's territorial seas: New Zealand's territorial seas represent an economic exclusion zone (EEZ). Non-unionised workers on foreign chartered vessels (FCVs) in the EEZ are regularly harassed and abused. There have also been reports of employers in the fishing sector using surveillance and threats of intimidation to prevent testimony into conditions of work on FCVs in New Zealand waters. Some union representatives helping non-unionised FCV fishing workers have been followed and there are informal reports of surveillance by private investigation agents.

In 2011, there were 27 FCVs operating in the EEZ under charter arrangements with NZ companies. A report by Auckland University into the working conditions on FCVs stimulated media interest into claims of abuse of crew in November 2010 together with a union petition documenting other abuse. This led to the Government setting up a Ministerial Inquiry in 2011

on conditions on FCVs to report in 2012. Workers on FCVs are covered by a legal Code of Practice required of vessels licensed to fish in the EEZ, with industry specific regulations under NZ's Minimum Wage Act. According to reports, the regulations are consistently broken and workers are not receiving minimum wages. Research indicates serious labour and human rights abuses are common with many crew forced to work in substandard conditions. The university research also reported allegations of sexual abuse.

Pakistan



POPULATION: 173,593,000
 CAPITAL: Islamabad
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111

Trade union rights are not fully guaranteed in law at the federal or provincial level. In practice, trade union rights are also 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. Pakistan was found to be the deadliest nation for journalists with at least seven deaths. Precarious work and increasing privatisation were major causes of industrial action in 2011.

TRADE UNION RIGHTS IN LAW

On 30 April 2010, the Industrial Relations Act of 2008 expired, reviving the much-criticised Industrial Relations Ordinance of 1969. Further, pursuant to the 18th Amendment to the Constitution of Islamic Republic of Pakistan, matters involving industrial relations devolved to the provinces. A subsequent ruling by the Supreme Court on 2 June 2011 abolished the role of the National Industrial Relations Commission because the relevant federal legislation no longer existed. Thus, national, industry-wide trade unions could no longer exist. As a stop-gap measure, all four provincial governments enacted Provincial Industrial Relations Acts. The legal vacuum at the federal level was filled in by the promulgation of the Industrial Relations Ordinance 2011. However, this law lapsed after 120 days. The law was extended by a National Assembly Resolution on 17 November, 2011. This extension is set to expire on 17 March, 2012.

However, the IRO of 2011 contains many of the same flaws noted with the IRO of 2008. These include the exclusion of several classes of workers from the scope of application, a requirement that only trade unions of workers engaged in the same industry may be registered, prohibits trade unions from registering if there are already two or more unions in the establishment, group of establishments or industry in which the trade union is connected unless it has more than 20% of the workers in the establishment, group of establishments or industry, the right to dues check off and to call a strike a reserved only for the most representative trade union, and several impermissible requirements for holding union office, among others.

A trade union cannot bargain collectively unless it has over 30% of the employees as its members. The law also provides that where such a single trade union does not have 30%, various other forms of worker participation, such as works councils and joint management boards, could seriously undermine the trade union.

As to the right to strike, under the IRO 2011, go-slow actions are considered an unfair labour practice, strikes longer than 30 days can be prohibited by government order, and a party or the government can unilaterally compel arbitration, undermining the right to strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: Political instability and violence continues as major elections are planned for 2012. Protests occurred throughout the year.

An estimated 84% of Pakistan's population live under the poverty line. A food price hike of over 10% in the first few months of 2011 – with the price of wheat rising by 10% and the price of rice by 13.1% – has pushed another 6.94 million Pakistanis into poverty this year.

Violence, arrests in demonstrations and strikes: Strikes 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.

On 11 January, police and paramilitaries attacked a peaceful protest organised by workers Karachi Airport, injuring many and arresting union leaders.

Two were injured when police used batons and teargas to stop low-paid contract employees of provincial education department in Karachi on 18 February. At least 12 were arrested.

In March, batons and tear-gas were used against a demonstration by female health workers in Sindh province. Around 36 of the protestors were said to have been arrested.

At least eight doctors were injured and 50 arrested during a demonstration in Quetta on 14 June.

In July, extra troops were deployed to disperse mass protests in Karachi. At least 65 people were killed.

Anti-union discrimination: Employers often strongly resist the unionisation of their employees, resorting to intimidation, dismissal and blacklisting. Managers at the Reko Diq project of Tethyan Copper Co. suspended 12 union activists in April, while the General Secretary of the Syngenta Employees Union Pakistan was sacked on 22 December.

Continued danger to journalists: Six journalists were killed in Pakistan during the first seven months of the year. Mohammad Rafique Baloch, a senior journalist and vice-president of the Karachi Union of Journalists (KUJ) was on his way to the Sindh High Court, in Karachi on March when he was kidnapped, beaten and later released. In May, senior journalist Nasrullah Afridi and member of the Tribal Union of Journalists (TUJ) was murdered in Peshawar. Provincial authorities had failed to provide him with security despite being aware of threats to his life. In May, the body of journalist Syed Saleem Shahzad was found. Reports suggest that Shahzad was detained by members of the intelligence arm of the Pakistan military, the Directorate of Inter-Services Intelligence (ISI). Shahzad had reported receiving threats from ISI members.

High level of informal and casual labour undermining union rights: Many employees work in the informal sector, which is characterised by insecure employment, harsh working conditions and absence of social protections. Labour in the informal sector is typically employed on a temporary, casual and contractual basis and can be retrenched at any time without any legal barriers. Informal sector labour is unable to organise in unions or lawfully challenge violations of occupational health and safety. Much of the country's informal labour force works from home and are generally vulnerable to exploitation. This is a particular problem for women, since around 65% of the country's estimated 8.52 million home-based workers are female.

Labour Victories: The president of the Lucky Cement Factory Workers Union was released from prison on 15 January. He was one of five union leaders who had been arrested in September 2010 and released in November 2010 only to have been arrested again. The judge ruled that the district coordina-

tion officer had detained him unlawfully under Section 3 of the Maintenance of Public Order.

In the long-running Pearl Continental case, the provincial Labour Court ordered on 26 February that 20 union members and officers be reinstated, almost nine years after they had been sacked. Two of the union members had been sacked for absenteeism in March 2002 while they were illegally jailed. It was alleged that they had committed criminal acts but in 2009 the cases against them were dismissed. A decision is still pending in the case of 11 other union members dismissed in June 2002.

Three members of the Employees Old Benefit Institution (EOBI) trade union who had been sacked were reinstated on 10 June by court order. They had been fired on charges of maligning the chairman and other senior officials of the EOBI through complaints to senior staff and the media.

Continued danger to workers at the Gadani Ship breaking yards: An International Metalworkers' Federation (IMF) report highlighted the continued danger to workers at the Gadani Ship breaking yards and ongoing obstacles to union organising at the shipyards. Despite an agreement in 2009, over the provision of safety gear, the death toll from work related injuries keeps on rising and employers in the yard are violating the basic law on occupational health and safety.

Bonded debt labour is common: Estimates of victims of bonded labour vary widely but the total, combined with those in forced marriages and women who are traded between tribal groups to settle disputes or as payment, is thought to exceed one million.

Syngenta Union Leader dismissed: On 23 December 2010, Imran Ali, the General Secretary of the Employees Union of the Swiss-based agri-chemicals multinational, Syngenta, affiliated to the Pakistan Federation of Chemical, Energy, Mine and General Workers (PCEM) - an International Federation of Chemical, Energy, Mine and General Workers' Union (ICEM) affiliate - was sacked without notice after reportedly refusing to stop trade union activities. The union was due to submit a draft collective agreement which would have been effective as of 1 January 2011.

On the same day, some 50 contract workers who had filed a case for permanent worker status were threatened by Syngenta's security chief. On 18 December, the labour court decided in their favour, entitling them to permanent employment immediately. Syngenta Pakistan management refused to acknowledge the judgement.

On 28 December, paramilitary forces were called to the company. Throughout January, the company refused to reinstate Imran.

Contract workers dismissed after strike: Efforts by employers to force workers to accept short-term contracts led to industrial action at the Karachi Electric Supply Company during the first half of the year. Meanwhile, at least 35 contract workers demanding their rights at Nestlé's dairy factory in Kabirwala lost their jobs and many were jailed on fabricated charges as management sought to criminalise the union's struggle in support of permanent jobs for contract workers.

According to workers, the police investigation found the charges false and they were released on bail after two days in jail. On 27 July, the labour court directed management to reinstate all dismissed workers but management refused to accept the court order.

Airline staff beaten during strike: In February, members of the People's Unity of Pakistan International Airlines (PIA) Employees Union and the Pakistan Airline Pilots' Association (PALPA), who work for Pakistan International Airlines, protested after the airline suspended five pilots and put 70 other workers on compulsory leave when they complained over new code share agreements with Turkish Airlines. On 9 February, protesting workers were beaten by police and paramilitary forces. These clashes also injured two women and several members of the media. People's Unity called a strike call after the PIA Collective Bargaining Agent President was shot dead in a drive-by shooting on 9 July.

Striking junior Doctors injured and detained: Junior doctors went on a nationwide strike in March to protest low pay and long working hours. Further action was taken in July after the government failed to honour its commitments with respect to revision of pay scales and regularisation of doctors working on a contract basis. The government responded with an ultimatum threatening dismissal and applied to the High court to declare the strike illegal. In June, at least 50 doctors were arrested and 8 wounded after police baton-charged a march of striking doctors in Balochistan.

Union agreement ignored and unionists dismissed: In April, despite a pledge by Tethyan Copper Company managers (TCC - a joint venture copper-gold project owned by Barrick Gold of Canada and Antofagasta Ltd. of the UK) to negotiate with the All Pakistan Labour Federation (APLF) and the TCC union over working conditions, management refused to do so. The parties had agreed to continue talks after workers suspended a hunger strike in front of the company's offices, during which 12 workers were dismissed. Management reneged on reinstating five

of the 12 union activists, and then on 14 April sacked four TCC Employees' Union leaders, including President Ghulam Hayder Baloch and Chairman Mazir Ahmad Baloch.

Use of anti-terrorism legislation against textile unionists in Faisalabad: More than 100,000 textile and garment workers went on strike in July in Faisalabad to secure a 17% pay increase that had been passed by the government but which employers refused to pay. In November, the Anti Terrorism Court sentenced six trade union leaders involved in the strike to a total of 490 years in jail on what the International Textile, Garment and Leather Workers' Federation (ITGLWF) has described as falsified charges. The six are leaders of the Labour Qaumi Movement (LQM) in Faisalabad.

The ITGLWF strongly condemned the brutal campaign waged by employers on workers and unions in Faisalabad, Pakistan. Workers were attacked by armed men employed by factory owners. Some have been shot while others have been badly beaten. Textile factory owners and henchmen resorted to violence by throwing stones and bricks on a peaceful march of workers, while police used tear gas. Twenty-five workers were injured including Mr. Tahir Rana, the president of LQM Faisalabad district, who was critically injured. Around 100 workers were also arrested.

Protests against power company privatisation: Pakistan Water and Power Development Authority (Wapda) Hydro-Electric Central Labour Union held nationwide protests against the privatisation of power distributing companies in 2011. In January, workers ended a sit-in outside the offices of the newly privatised Karachi Electric Supply Company protesting the sacking of 4,300 workers following earlier protests over redundancy payments. The workers were reinstated.

On 2 November, Wapda, Lahore Electricity Supply Company and Pakistan Electric Power Company employees demonstrated against the proposed power generation company's privatisation in the cities of Peshawar, Faisalabad, Lalamusa, Okara, Sukkur and Hyderabad. Scores of workers were sacked for alleged act of sabotage.

Philippines



POPULATION: 93,200,000
CAPITAL: Manila
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

It was another tumultuous and tragic year for the trade union movement in the Philippines. Four trade unionists were murdered and one union member was kidnapped and arbitrarily detained. KMU legal counsel, Remigio Saladero, Jr. was once again the target of dubious government criminal charges. Union busting to avoid or destroy unions continued.

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 2011

Background: The legacy of political corruption continued. Former Philippines President Gloria Macapagal Arroyo was arrested in her hospital room on election fraud charges and later charged with attempting to take kickbacks in awarding

telecommunications contracts. Arroyo was also the subject of lawsuits which implicated her in the human rights violations of the Morong 43 who were arrested and tortured in 2010 and another that linked Arroyo to the Amputuan massacre in which 57 people were killed in November 2009.

On 27 March, the Trade Union Congress of the Philippines (TUCP) renewed its call for a minimum wage hike amid the ongoing increases in the prices of fuel prices and basic commodities. In a dispute dating back to 1957, a leader of the peasant group Kilusang Magbubukid ng Pilipinas (KMP) asked the justices on the Philippines’ Supreme Court how long it would take them to issue a verdict on the Hacienda Luisita land dispute case. The dispute involves a 6,453-hectare sugar estate controlled by the family of President Benigno Aquino III. Human rights abuses continued unabated. Two journalists were murdered. Worker safety remained at the forefront of union concerns as well. On 27 January in Makati City, Metro Manila, ten CE Construction workers were killed, and one critically injured when their overloaded scaffold platform plummeted over 20 floors. On 7 October, six workers were killed and seven more injured when a 42-ton elevated ramp fell on workers at Keppel Subic Shipyard in Olongapo.

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”.

Widespread anti-union practices remains unpunished: 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.

In 2009, the ILO Conference Committee on the Application of Conventions and Recommendations (ILCCR) examined the Philippines' violations of Convention No. 87 and "remained concerned at the allegations of a continuing situation of violence against trade unionists and urged the Government once again to ensure that all the necessary measures were taken to restore a climate of complete freedom and security from violence and threats and bring an end to impunity so that workers and employers could fully exercise their freedom of association rights." In September 2009, the ILO conducted a high-level mission, the results of which imply that the government was complicit in violations. The mission's outcome asked the highest level of the government to make a statement "instructing all government actors to make special efforts to ensure that their actions do not infringe upon the basic civil liberties of trade unionists".

Reacting to the ILO missions' findings, the government established the National Tripartite Industrial Peace Council (NTIPC) on 20 January 2010 as a high-level monitoring body on the application of international labour standards. However, the NTIPC has been criticised as inadequate because it lacks adequate funding and a dedicated secretariat that is staffed by qualified persons. For instance, the Council only recently started looking into cases of trade union killings, harassments, intimidation, torture and enforced disappearances that took place in 2010.

Four trade union leaders murdered: On 8 March, Celito Baccay, 31, board member of MAGIKWO (Maeno-Giken Workers Organisation) at Maeno Giken, Inc. was shot and killed in Langkaan Village, Dasmariñas, Cavite. Maeno Giken, Inc. is a Japanese-owned manufacturer of steel, iron and stainless steel products at First Cavite Industrial Estate, Dasmariñas, Cavite. Baccay was instrumental in the formation of the union at the company in 2009.

On 23 March, Noriel Salazar, Union President of Cocochem or the United Coconut Chem. Inc. in Bauan, Batangas, was shot and killed in the town of Alitagtag by two unidentified assailants.

On 12 April, Santos V. Manrique 'Ricky', 49, President of the Boringot Small-scale Miners' Cooperative and Chair of the Federation of Miners' Aggregation in Pantukan (FedMAP) was shot and killed by an unidentified assailant at his home in Pantukan, Compostela Valley Province. Ricky had been active in the campaign against the entry of big-scale mining as a leader of two groups of small-scale miners, Chair of the municipal chapter of the environmentalist alliance Panalipdan, as well as a village

councilman. On 25 January FedMAP had filed a petition against the Nationwide Development Corporation (NADECOR) and the Russel Mining Corporation which planned to enter into mining in Boringot.

On 9 May, Elpidio "Jojo" Malinao, 49, was shot and killed by an unknown assailant in the town of Bay, Laguna Province. Malinao, a forest guard, was the Vice-president of the University of the Philippines Los Baños (UPLB) Chapter of the Organisation of Non-Academic Personnel of UP (ONAPUP), and a national council member of ONAPUP in Laguna. Malinao was killed after attending a court hearing on a case against forest law offenders in the Makiling Forest Reserve.

President Aquino supports outsourcing at Philippine Airlines: In a struggle against outsourcing jobs that started in 2010, on 25 March, President Benigno Aquino III affirmed an earlier Department of Labour and Employment (DoLE) ruling allowing Philippine Airlines (PAL) to lay off 2,600 employees represented by the Philippines Airline Employees Association (PALEA), affiliated to the International Transport Federation (ITF), as part of a programme to spin off its ground service operations. Aquino doubled the severance package to the 2,600 PALEA members subject to lay-off from P50,000 to P100,000. The PALEA protested the decision, claiming the mass lay-off was illegal and amounted to union busting. Despite PALEA's best efforts to legally challenge the DoLE's ruling and its strike in late September, PAL contracted out jobs on 1 October. PAL told laid off workers that they could apply for jobs with the outsourcing company on salaries of just 11,000 pesos (USD261) a month for a six-day work week. This amount was at least half their former pay.

Workers picket over retirement ploy to bust the union: On 1 April, about 300 workers represented by the Kahugpungan sa mga Trabahante sa Superstar (KTS) union picketed the Superstar Coconut Products Inc. (SCPI) in Barangay Maa to protest the company's bribery, intimidation, and harassment of union members. The KTS claimed that the company was trying to bust the union by enticing rank-and-file union members to resign by accepting an early retirement scheme. KTS was formed in November 2010 and certified as the workers' representative by DoLE this past March.

Arrest of union member by the police: On 19 April, members of the Philippine National Police, Regional Public Safety Battalion (PNP-RSPB) and the Philippine Army 62nd Infantry Battalion kidnapped and interrogated Elizar Nabas, 34, a member of the National Federation of Sugar Workers (NFSW) in Escalante City, Negros Occidental. He was interrogated and his abductors tried to force him to admit that he was a member of the New

People's Army (NPA). Nabas is currently in the Bacolod City Provincial jail facing arson charges.

Anti-mining indigenous woman leader assassinated: On 27 April, Florita "Nang Flor" Caya, Vice-President of a rural peasant women's organisation LAKAMBINI, affiliated to the National Movement of Farmers Associations (the Pambansang Kilusang mga Samahang Magsasaka – PAKISAMA) was shot and killed by unknown assailants. Nang Flor had recently been elected the general manager of Unified Tribal Council of Elders and Leaders (UTCEL), a group of indigenous peoples (Mandaya, Manobo, Mangguangan & Dibabawon) recently able to obtain a Certificate of Ancestral Domain Title to more than 30,000 hectares in the Compostela Valley in Mindanao. Ms. Caya is the third national leader of the PAKISAMA murdered in the past three years, all in Mindanao.

Harassment against union's legal advisor continues: On 20 May, Deputy Regional Prosecutor Elnora Largo-Nombrado with the Regional Trial Court in San Pablo, Laguna, issued subpoenas to the chief legal counsel of the Kilusang Mayo Uno (KMU) trade union Remigio Saladero, Jr. and 71 other activists, collectively known as the "Southern Tagalog 72", demanding that they appear in court on 24 June and submit affidavits in connection with charges of multiple murder and multiple frustrated murder. On 5 February 2010, Saladero was released from prison after being held for more than three months in prison on trumped up charges. Six days after his release, Saladero and 60 other individuals, were charged with the murder of Ricardo Garmino who was killed on 29 July 2008 in San Rafael, Rodriguez, Rizal. On 13 November 2010, the Rizal Provincial Prosecutor dismissed the charge against Saladero and the other individuals. Saladero was first arrested on 23 October 2008 on numerous counts of murder in connection with the 2006 bombings of a telephone relay site in Puerto Galera, Mindoro. Saladero was also charged with arson and inciting to rebellion in connection with the bombing of another telephone relay site in Lemery, Batangas.

Abrupt closure leaves 200 union members jobless: Saying it was suffering serious financial losses, on 24 May, Mustad Terminal Tackle Inc. (MTTI) in Novaliches, Manila, abruptly announced the closure of its factory leaving about 200 workers represented by the Mustad Terminal Tackle Workers and Employee's Association (MTTWEA-ADLO), affiliated to the Kilusang Mayo Uno (KMU), jobless. MMTI is a Norwegian-owned multinational company that produces fishing hooks, rigs and flies among other metal fishing equipment. MTTWEA-ADLO filed a case of illegal closure against MTTI with the Department of Labour and Employment (DoLE). MTTWEA-ADLO President Maria Elena Alejandro said that the company is clearly violating

the workers' right to job security. She also questioned the legitimacy of the sudden closure of the company. Alejandro said that company officials did not show any proof of the company's "serious financial losses."

Sometimes things do go better with Coke: On 14 June, in a meeting between Coca-Cola Philippines Bottlers Inc. (CCBPI) management and the Alliance of Coca-Cola Unions Philippines (ACCUP), affiliated to the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), CCBPI committed to creating 741 new permanent jobs in 2012. This will be the first step in reversing more than a decade of outsourcing and casualisation that destroyed permanent jobs and drastically reduced union membership in 19 bottling plants and distribution centres across the country.

On 1 April, Department of Labour and Employment (DoLE) Secretary Rosalinda Baldoz ruled to affirm her previous decision in favour of the Flight Attendants' and Stewards' Association of the Philippines (FASAP) in its collective bargaining dispute with Philippines Airline (PAL). Baldoz confirmed her decision of 23 December 2010 that granted salary increases to FASAP members, increased the rice allowance, raised the compulsory retirement age to 60 years old and improved pregnancy and maternity benefits. Baldoz also directed PAL to reinstate the Flight Pursers who were retired while the case was pending.

Dole suspected of union busting as it closes banana plantation: On 17 June, Dole Philippines Inc.—Standard Philippines Fruit Corporation's (Stanfilco) announced the closure of a 140-hectare banana plantation in Guinuyuran, Valencia, Bukidnon, affecting some 400 workers. Most of the terminated workers are rank and file members and officers of the Guinuyuran Labour Union – Alliance of Progressive Labour (GLU-APL). Earlier, Dole Philippines-Stanfilco said it would shut down the Guinuyuran farm due to banana plant diseases and poor harvest. However, Cesarlito Dayata, GLU president, refuted Stanfilco's claims, stating that the Guinuyuran plantation remained highly profitable. An APL spokesman accused Dole Philippines-Stanfilco of engaging in an illegal lockout and union-busting.

Philippines Supreme Court overturns ruling in favour of dismissed union members: On 22 July 2008, the Supreme Court ordered the reinstatement with full back wages of 1,400 flight attendants represented by the Flight Attendants' and Stewards' Association of the Philippines (FASAP) who were illegally re-trenched by Philippine Airlines (PAL). PAL appealed the decision and filed two motions for reconsiderations. On 7 September, the Supreme Courts 2nd Division ruled in favour of FASAP. How-

ever, the high court rescinded its ruling on 14 October saying it had been erroneously issued by the Second Division when the Special Third Division was supposed to handle the case.

Government interference in legitimate picket line: On 20 September, the Metropolitan Manila Development Authority (MMDA) Sidewalk Clearing Operations Group (SCOG) ordered striking workers represented by Philbless Inc. Workers Union (PBIWU) at Philbless Inc. (PBI) to vacate the picket line and then demolished structures set up by the strikers. The PBI workers had been on strike since 15 April 2010.

Karnation 20 saga continues: On 1 March, Labour Arbitrator Napoleon V. Fernando released his decision concerning the dismissal of 20 Karnation employees in 2007. Fernando ruled that Karnation had illegally dismissed employees and ordered Karnation to reinstate the workers “without loss of seniority rights” and to pay “full back wages” amounting to P1,177,696.00 from March to November 2010. However, on 27 October the judge of the Regional Trial Court in Morong, Rizal, increased bail for the Karnation 20 from P60,000 to P80,000. The Karnation 20 were incarcerated for almost three years. Two of them died due to respiratory ailments inside prison. The 20 Karnation workers were falsely charged, arrested, and imprisoned in 2007 in connection with picketing activity after launching a strike against unfair labor practices committed by the company.

Victory for contract workers: On 14 November, the Philippines Court of Appeals, 7th Division, upheld the right of about 70 ABS-CBN television “talents” to receive the same compensation and benefits as regular network employees. The appellate court said the National Labour Relations Commission (NLRC) committed “grave abuse of discretion” when it twice threw out the petition of a group of “talents” in 2008 and 2009 who sued ABS-CBN for refusing to consider them as regular employees. The court held that the employees were able to adequately establish that they had an employer-employee relationship with ABS-CBN under Article 280 of the Labour Code of the Philippines. The appeals court ruling could benefit hundreds of media workers who have filed similar labour suits against ABS-CBN and other broadcast companies.

Cadiz Trucking lays off workers to avoid union election: On 24 November, Cadiz Trucking Services in Negros Occidental laid off 81 workers when the company suddenly shutdown operations days before a union certification election scheduled for 5 December. The workers are members of the Cadiz Trucking Services Progressive Workers’ Union, a union registered and certified by the Department of Labour and Employment (DoLE) on 29 June and affiliated to the affiliated to the Kilusang Mayo Uno (KMU). CTS transports consumer goods in Western

Visayas. The company owns other companies in the same business and it is likely that CTS operations will be transferred to the sister companies.

Singapore



POPULATION: 5,080,000
CAPITAL: Singapore
ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105
(denounced) - 138 - 182

Foreign domestic workers still have little opportunity to organise to defend their rights or demand improvements in their conditions of work. Trade union activities remains strictly regulated and the authorities have broad powers to intervene. Singapore was one of only nine states that did not vote for passage of International Labour Organisation (ILO) Convention No. 189 on Decent Work for Domestic Workers.

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. Exceptions have been made and all government officers and employees, except members of the Singapore Police Force, the Civil Defence Force, the Singapore Armed Forces, the Prisons Services and the Narcotics Services, can join trade unions. 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 2011

Background: 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, which requires a permit for any "cause-related activity," defined as a show of support for or against a position, person, group, or government, even if only one person takes part.

The ruling People's Action Party (PAP) has been in power since 1959, occupies 81 of the 87 parliamentary seats that have full voting rights. In the May 2011 elections, PAP retained power with the smallest margin of popular votes (60.1%) since independence.

Despite recommendations contained in the UN's first Universal Periodic Review of Singapore, Singapore refused to consider the repeal of its Internal Security Act and other laws that permit detention without charge when the executive branch claims national security or public order is threatened. Singapore was one of only nine states that did not vote for passage of International Labour Organisation (ILO) Convention No. 189 on Decent Work for Domestic Workers.

With the exception of five unions, the rest of the country's 60 unions are affiliated with the National Trades Union Congress (NTUC), which is closely linked to the ruling People's Action Party (PAP). The NTUC Secretary General currently serves on the PAP Central Executive Committee. The NTUC secretary general also holds a seat in the Cabinet as a minister in the Prime Minister's Office. The NTUC-PAP relationship, which dates back to founding of the NTUC in 1961, is described as "symbiotic" and was formally endorsed in 1980 at the NTUC Ordinary Delegates Conference. It was publicly reaffirmed in December 2004. Currently, there are at least 14 PAP MPs with direct or former ties to the NTUC.

Need to update labour laws: The government's tight rein on industrial action, and the tradition of non-confrontational industrial relations, has meant that there have been only two officially recorded days of strike action since 1978. There were no strikes in 2011.

Rights of foreign domestic workers and other migrant workers still restricted: Restrictions on migrant workers' rights to serve as an officer, trustee or staff member of a union (without prior written approval by the Minister) affect a significant percentage of the country's workforce. According to the Ministry of Manpower statistics, at the end of 2010, the total work force in Singapore was 3,105,900 with 1,113,200 (35.8%) noted as non-residents.

A government-mandated standard contract for migrant workers does not address issues such as long work hours and poor living conditions. Instead of guaranteeing one day off per month and a set number of rest hours a day, it makes such breaks a matter of negotiation between employer and employee. It also fails to provide protections against denial of annual or medical leave (though employer-provided medical insurance is required), requires immediate deportation of pregnant workers, and stipulates that no foreign domestic workers may marry a Singaporean. Some 4,000 foreign maids ran away from their employers' in 2010 according to their embassies and shelters for foreign workers. Most complained they were homesick or stressed by difficult work conditions. Since April 2011, Singaporean employment agencies can charge a worker a fee not exceeding one month of his salary, for each year of the duration of the approved Work Pass or employment contract, whichever is shorter, subject to a maximum of two months' salary. Separately, agencies are required to refund to workers 50% of any fee charged if the worker's employment is prematurely terminated within six months of its commencement, and it is not terminated by the worker.

The NTUC advocates for the rights of foreign domestic workers and other migrant workers through its Migrant Workers' Forum. It 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. Since its opening, the MWC has provided emergency housing and/or food assistance to more than 460 workers and employment-related advice, advocacy services and representation in case resolution to more than 2,000 workers. The MWC also runs enrichment courses benefitting more than 1,800 workers. The MWC has promoted "Fair Employment Practices & Treatment of Migrant Workers" to more than 70,000 migrant workers and employers through various platforms.

Sri Lanka



POPULATION: 20,800,000
CAPITAL: Colombo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Violations of trade union rights continue, particularly in the export processing zones. In May, the police harshly repressed a workers' demonstration, leaving one person dead and 270 injured.

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 2011

Background: The government ended the State of Emergency that had been in force for nearly 30 years, but the legislation and other measures still give the police excessive powers of detention. Thousands of people are still being held without trial, often for years. Human rights activists who denounce the violations committed during and after the civil war continue to be the victims of assassinations, threats, attacks or long prison sentences. Power is being concentrated more and more in the hands of the friends and family of President Rajapaksa. Sri Lanka has one of the worst records in the world for violating freedom of the press.

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 hindered 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.

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.

Poor rights enforcement in export processing zones: Labour inspection labour inspection An authority responsible for ensuring compliance with labour laws and legal provisions relating to protection of workers through the inspection of workplaces. 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.

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.

A study by the ITGLWF (International Textile, Garment And Leather Workers Federation) in the export processing zones found that at least six factories in the zones banned all union representation and did not even respect the BOI guidelines on creating employees councils.

Harassment of trade union activists by Bratex: The Bratex (pvt) Ltd. women's underwear factory, in the Katunayake export processing zone has sought in several ways to intimidate trade union activists from the Free Trade Zones and General Services Employees' Union (FTZ&GSEU).

On 11 February a strike began at the factory over pay demands. On 14 February two workers, Amal Santha and U.W. Gayan Pradeep Kumara, were accused of attacking Bratex staff. They were arrested and detained by the Katunayake police. That evening, as the workers were gathering outside the police station to demand the release of their two colleagues, police officers attacked them and arrested three more people: Asela Dharmapriya, the FTZ&GSEU representative in the Katunayake zone, Asoka Basnayake, a union member, and M. Prasad, a photographer. The latter was released after his photographs were deleted from his camera. The others were released on bail on 18 February.

From 14 February onwards, striking workers were subjected to various forms of intimidation to force them back to work, including sending police officers to their homes in cars supplied by Bratex. During the visits, the police had with them a list of 10 men workers and 10 women workers suspended by Bratex. These 20 people were members or representatives of the FTZ&GSEU. They were questioned by the police, then released on bail.

On 17 February, 33 workers affiliated to the FTZ&GSEU (including the 20 people sought by police a few days earlier) received a letter saying they were suspended on disciplinary grounds. Bratex put up their photographs at the entrance to the Katunayake zone, effectively blacklisting them. Their photographs were also sent to the zone's police.

Nurses union lodges complaint with ILO: The Government Nursing Officers Association (GNOA), the Health Services Trade Union Alliance (HSTUA), and the Trade Union Confederation (TUC) lodged a complaint with the ILO Committee on Freedom of Association. The complaint concerned the intimidation of nursing staff who had taken part in a strike in 2010 (see the 2011 edition of the Survey), the transfer of 34 GNOA activists to distant hospitals to prevent them from taking part, and the authorities' refusal release from duty the president of the GNOA, Saman Rathnapriya. He was refused release from duties at the beginning of the year, even though he had been granted it for the previous four years. The unions considered this to be an act of reprisal against the union president for his role in the strike.

One person killed and hundreds injured when police fire into crowd of workers: A coalition of 26 trade unions was formed to oppose the introduction of a pension fund bill, designed to meet one of the conditions set by the International Monetary Fund for a loan of 2.6 billion dollars to Sri Lanka. On 24 May tens of thousands of workers marched through the streets of Colombo and in the Katunayake export processing zone to protest against the bill. On 29 May, people linked to the government distributed false leaflets in the zone, claiming to be from the trade union coalition, calling for support for the bill. The following day the workers went out onto the streets in protest at this manipulation. The police used extreme violence to repress the demonstration, using automatic weapons and tear gas. A 22-year-old worker, Roshen Chanaka, was killed in the shooting which also left hundreds injured (including 15 police officers). The police then began to harass and intimidate union delegates and workers, by preventing them from leaving their factories for example and by attacking some workers as they left the zone. Women workers were humiliated by the police, and some were even struck with iron bars. Trade union offices were searched by the police, without a warrant. The police finally handed over security in the zone to the army. The head of the Sri Lankan

police force resigned following this repression and two police officers were arrested. In the end the bill was withdrawn by the government.

Thugs attack teachers' demonstration: On 6 July, in Kurunegala, a peaceful demonstration by members of the Ceylon Teacher Services Union (CTSU) was attacked by about 50 thugs wielding sticks. Fifteen teachers were injured. The union believes the thugs had close links with the government.

Unions not recognised: Once a parent union is registered, the branch unions that subsequently form are not legally required to individually register themselves with the Department of Labour. Recognition of a union at the plant or branch level is achieved when the employer recognises and enters into collective bargaining with the plant-level and the parent union. Several companies refused to recognise plant-level unions in 2011.

Tensil Structures Pvt., Ltd. rejected the FTZ-GSEU after they discovered the union formation. The company engaged the branch union, but refused to deduct union dues from worker paychecks and to remit the dues to the FTZ-GSEU, despite the branch union specifically requesting the deduction.

At Mirrai Pvt Ltd, management intimidated the unionised workers and internally transferred the President and Assistant Secretary of the branch union from the ironing section to the sewing section of the factory (a transfer viewed as retaliatory by the union) after they were notified of the formation of the branch union.

The Progress Union was not recognised at Kinetecs, DSL Toys, Sees Lanka, Upali Garments, Mazda Plastics, Melborne Metal, and CD Packing. The National Workers Congress was not recognised at United Tobacco Processing, Sky Fan Asia, Alitex, Dainin Lanka, Brandix, Sha Lanka, and Passion Trade.

Despite the repeated failure of these companies to recognise plant and branch level unions, the government brought only two unfair labour practice cases before the Magistrate's Court. Both cases failed.

Employees councils used to frustrate unions: Employees' councils are being promoted inside the Export Processing Zones (EPZ) as an alternative to union recognition. Management-controlled employees' councils are staffed by supervisors and office-based workers, and management sets the agendas for meetings and limits discussion of issues. The use of employees' councils to subvert the will of workers to form a union is a violation of the right to organise and bargain collectively.

A number of companies are promoting employees' councils where a union is trying to register and is being unrecognised.

Mirrai Pvt., Ltd. instructed the branch union of FTZ-GSEU to go through the employees' council of the factory. Brandix continues to promote the employees' council in the Koggala EPZ even though the National Workers Congress is attempting to gain recognition. In addition, several companies are promoting employees' councils where unions are registered: Mag Pack (Pvt) Ltd. instructed the branch union of FTZ-GSEU to go through the employees' council of the factory after the branch union requested an appointment from management to discuss demands. DSL Lanka is trying to undermine Progress Union's plant-level union by establishing an employees' council. Finally, Ranmalu, Suluta, Koggala Garment, Trandsetter, Sky Sport, I.C.L., and Brooky Diamond are promoting employees' councils as an alternative to the branch level National Workers Congress unions.

Taiwan



POPULATION: 23,000,000

CAPITAL: Taipei

ILO CORE CONVENTIONS RATIFIED: Not a member state

Teachers have finally been given the right to form trade unions.

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 2011

Background: In 2011, workers protested an increasing number of deaths from severe overwork and demanded the amendment of Article 84-1 of the Labour Standards Law. That article states that working conditions for certain jobs can be established through negotiations between employer and employee, excluding them from articles that set maximum hours, overtime and holidays. In another protest, workers called on the government to raise the minimum hourly wage to NTD112 (USD3.86), instead of NTD103 as planned.

In late-November, the president, in the midst of a re-election battle, proposed changing the work week from 84 hours every two weeks to 40 hours a week after meeting representatives from 10 labour unions. The government's proposal would also make it harder for companies to put employees on unpaid leave.

Trade union rights for teachers at last – but with limitations: After years of waiting, the legislative amendments that came into force on 1 May allowed the creation of an education union. The National Federation of Teachers' Unions (NFTU) was born, replacing the National Teachers' Association created 12 years earlier, with 80,000 members. Teachers do not have the right to strike, however.

AIG insurance subsidiary fined nearly 10,000 dollars: In January, Nan Shan Life, the Taiwanese subsidiary of the American insurance giant AIG, was fined TWD 300,000 (USD 9,930) for stripping the union's spokesperson of his title of regional manager following comments he made in the media about the sale of the company. The labour department authorities in Taipei recognised that this punishment was discrimination against him in his role as trade union spokesperson.

Thailand



POPULATION: 69,100,000
CAPITAL: Bangkok
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 138 - 182

Union leaders were dismissed from KFC. A labour activist was arrested for violating Thailand's lèse majesté laws. The extortion of migrant workers including trafficking and bonded labour continued. The legal framework is not conducive to trade union activities.

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 only 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 2011

Background: Yingluck Shinawatra became Thailand's first woman Prime Minister in July. Yingluck is the sister of former Thai PM Thaksin Shinawatra who was ousted in a military coup in 2006. Historic floods affected some 28,000 businesses and factories in 31 provinces affecting nearly ten million workers. Thailand's central bank put the damage to industry at more than 100 billion baht (USD3.3 billion).

Effective 1 April 2012, the minimum wage in Bangkok and six other provinces will be raised to THB300 baht/day (US\$9.70), an increase of about 40%. The remaining 70 provinces will see the minimum daily wage raised by 40% as well. Puae Thai also implemented a minimum wage of THB15,000 (USD485.00) per month for all government workers who have a bachelor's degree effective on 1 January 2012.

With respect to the political violence of 2010, Puae Thai MP Sunai Julponsathorn said he will petition the International Criminal Court (ICC) to take up crimes against humanity for the 91 people who were killed during the military crackdown on red shirts in April and May, 2010. In addition, Thai Deputy Prime Minister Chalerm Yubamrung said that Thai investigators have clear evidence that the military was responsible for the death of Reuters cameraman Hiro Muramoto during the political upheaval. Human rights issues, especially those involving migrant workers and trafficking, remained serious problems.

Migrant labour still at peril in Thailand: There are more than 2 million migrants, mainly from Burma, working in Thailand. On 19 August, UN special rapporteur on human trafficking Joy Ezeilo said that corruption and poor law enforcement had undermined Thailand's efforts to crack down on human trafficking, which remains rampant. Migrant labourers were trafficked and placed in bonded labour in Thailand's fishing industry.

Thai immigration officials and Burmese brokers were reported to have extorted Burmese migrant workers as they fled the epic flooding. Workers without documentation were especially at risk of exploitation. First, brokers charged workers exorbitant fees (3,000-4,000 baht) to get to Mae Sot, a major border crossing between Thailand and Burma. Many thousand Burmese workers were reportedly held at an immigration detention centre there. Police and immigration officials detained them and shook them down for cash before deporting them into Burma in the middle of the night where combat between the government and ethnic armies is on-going. Burmese officials also sought to collect from workers returning to Burma.

Strikes, picketing and protests ruled illegal: On 27 January, Ms. Jitra Kotchadej, former advisor to the Triumph International (Thailand) Labour Union (TITLU), Ms. Boonrod Saiwong, former TITLU Executive Secretary and Mr. Sunthorn Boonyod, staff member of the Labour Union Center, were formally charged with violating Section 215 and 216 of the Penal Code for gathering in a group of ten people or more, inciting people to cause unrest, and ignoring police orders. The charges stem from an August 2009 protest of about 400 TITLU members to petition former Thai PM Abhisit Vejjajiva to help in their labour dispute with Body Fashion.

On 28 July, Thailand's Central Labour Court upheld the State Railways of Thailand's (SRT's) dismissal of seven State Railway Union of Thailand (SRUT) leaders and also ordered the seven to pay the authority THB15 million baht (USD500,000) in compensation for damages resulting from a 2009 strike. The court found the defendants guilty of inciting workers to go on strike, disrupting train services and causing SRT serious financial damage. The seven union SRUT leaders are President Mr. Sawit Kaewwan, Vice-presidents Mr. Phinyo Rueanphet, Mr. Banchong Bunnet, Mr. Thara Sawaengtham, and Mr. Liam Mokngam, Secretary Mr. Suphichet Suwanchatree, and Director of Education Mr. Arun Deerakchat.

In December, a Chonburi Provincial Court fined 17 leaders of the Michelin Thailand Workers Union THB1,500 (USD50) in connection with the union's picketing of the plant in 2009. The court had originally imposed a one and a half year jail sentence and a THB3,000 (USD100) fine but suspended the jail time and reduced the fine because the accused plead guilty and had no previous criminal convictions.

Thailand's lèse majesté laws used to harass labour activist: On 30 April, the Department of Special Investigation (DSI) arrested former International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) Projects Coordinator and labour rights activist Mr. Somyot Prueksakasemsuk on charges of violating Thailand's lèse majesté law. Somyot is also a leader of the 24 June for Democracy Group, and the managing director of 'Voice of Thaksin'. According to a complaint filed with the DSI by the Centre for the Resolution of the Emergency Situation (CRES), Somyot violated Section 112 of the Criminal Code by publishing statements in his magazine that could be deemed an insult to the monarchy and a threat to national security.

Unions not on the menu at KFC: In May, Yum Restaurants International (Thailand) Co (YRI), the operator of the KFC fast food chain dismissed Ms. Apantree Charoensak, Mr. Krit Suangaranan and Ms. Siwaporn Somjit who were instrumental in the formation of a union at YRI. Shortly after the Thai Ministry

of Labour approved the registration of the Cuisine and Services Thailand Workers Union at YRI, the company dismissed the three union leaders. After the dismissal of the three leaders, YRI intimidated and harassed the remaining YRI workers to get them to withdraw their support for the union. On 6 July, Apantree, Krit and Siwaporn filed a complaint with the Labour Relations Commission alleging that YRI illegally dismissed them because of their union activity. On 8 December, YRI reinstated the three labour leaders in compliance with a court order. YRI is appealing the reinstatement order.

Migrant worker protests against labour rights violations: On 3 January, more than 300 Burmese migrant workers protested against labour rights violations of the SYK Autopart Import-Export Co. Ltd in Bangkok's Bangkhunthian District. The workers were successful in pressing their demands for the company to pay for national holidays, sick leave, the right to obtain temporary passports and work permits, and the implementation of procedures to accurately record hours worked.

On 27 April, about 1,000 Burmese migrant workers at Saha Farm, a chicken processing factory in Phetchabun Province, protested against physical abuse by Thai security guards. The protesters briefly held two Thais hostage, before setting them both free. Thai police detained and questioned 30 protest leaders.

On 7 July, more than 400 Burmese migrant workers at the PTK shoe factory in Chedi Sam Ong in Kanchanaburi Province went on strike for higher wages. There are five PTK shoe factories with more than 2,000 Burmese workers in Chedi Sam Ong who were working a 10 hour day and earning THB7 per hour or THB70(USD2.25) for the employee's ten hour shift. The workers agreed to return to work on 9 July after PTK officials agreed to pay the workers an extra THB15(USD0.50) per day. At the time of the strike, the statutory minimum daily wage for Kanchanaburi Province was THB181(USD5.85). On 12 July, about 300 Burmese migrant workers at the Watana Footwear Company, Ltd (WFC) in Chedi Sam Ong went on strike and demanded the same wage rate increase granted by PTK to its workers. At the time of the strike, workers at the factory earned between THB65 and THB80 for a nine-hour workday, depending on their experience. On 19 July, the workers agreed to return to work after WFC officials agreed to increase wages by THB15 per day. On 27 July, it was reported that the Burmese migrant workers who led the strikes at the shoe factories in Chedi Sam Ong had been dismissed and blacklisted. A Burmese migrant worker for Watana Footwear Company said that his Thai bosses distributed a list of around 40 names to factories in the area to warn them against employing the men.

Ricoh dismissed 41 workers to stop union registration: In December, Japan-based Ricoh International dismissed 41 workers and union activists at its plant in Rayong industrial zone in Rayong Province the day before workers were to register their union with the Thai Ministry of Labour. Ricoh manufactures printers and photocopiers and employs 724 workers at its factory in Rayong. The workers decided to form a union following three strikes over a three-year-period over labour rights, unsafe working conditions, low wages and forced overtime.

Migrant labour subject to trafficking and forced labour: Thai authorities are still on the hunt for a fugitive police officer implicated in a trafficking case involving Cambodian men who were forced to work aboard Thai fishing boats. The officer's victims included seven men rescued in Malaysia earlier in the year after escaping from slave labour on Thai fishing boats. Two Cambodian men who were told by a labour broker that they would be gardeners in Thailand were instead forced to work on Thai fishing boats.

On 7 December, Thai police and human rights activists rescued four women Burmese migrant workers from forced labour at a shrimp factory in southern Thailand. The four women were part of a group of 39 Burmese migrant workers who had been trafficked by Thai authorities after being in jail for 32 days for entering Thailand illegally in October. After being rescued, they were deported back to Burma.

Timor Leste (East Timor)



POPULATION: 1,200,000
CAPITAL: Dili
ILO CORE CONVENTIONS RATIFIED: 87 - 98 - 182

The government tends to side with the employers and twice allowed the police to crack down hard on trade union protests.

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 2011

Background: East Timor, independent since 2002, is one of the poorest countries in the world, despite its oil and gas reserves. UNMIT (United Nations Integrated Mission in Timore Leste) troops have completed the handover of policing to the local forces of law and order, and are due to leave the country in 2012, after the election of a new government.

Government remains passive in face of employer abuse: The East Timor Trade Union Confederation (KSTL) regrets the government's failure to protect workers' rights, exposing them to unfair treatment by the employers. The police intervened in trade union actions twice in 2011, yet the government did not react, either to the police violence or to exploitation by the employers.

US Mission recognises it was in the wrong: In 2010 the US Mission to East Timor opposed the union membership of one of its employees, dismissed him, and refused to meet the General Workers Union of Timor-Leste (SJTL) (see 2011 Survey). Following national and international pressure, the Mission recognised that its staff had the right to join a union. The SJTL met the Mission on 3 February and was able to settle the matter of the unfair dismissal of its member.

Three workers dismissed for their trade union activity swiftly reinstated by Sigma supermarkets: On 24 May a delegate and two members of the General Workers Union of Timor-Leste (SJTL) were dismissed by the Sigma supermarket after calling for better standards of hygiene for the staff. On 6 June, after a one hour strike, the SJTL won the reinstatement of all three, and the satisfaction of the workers' demands.

Arrest of 15 workers and two trade union delegates in the Turismo Hotel affair: responsables syndicaux dans l'affaire du Turismo Hotel: On 11 October the General Secretary of the

General Workers Union of Timor-Leste (SJTL) Mr Almério Vila Nova, another trade union official, Mrs. Henita Casimira, and 15 workers from the "Hotel Turismo" were arrested by police while preparing to hold a peaceful protest movement outside the Ministry of Justice. They were planning to protest against the dismissal of 19 hotel workers affiliated to the SJTL. The union believed the Justice Minister, Lucia Lobato, had played a key role in the dismissal. They were held in a police cell for two days and one night before being released for lack of proof of any criminal offence.

Mandiri Bank turns on trade union leaders: On 30 November, Joaquim Gonzala, head of the Advocacy and Networking Department for the workers' union at the Indonesian bank, was dismissed for defending the rights and interests of the union's members. The union's president and vice-president, Helder Barreto and Leonardo Amaral, sought conciliation with the bank but were dismissed in turn. The General Workers Union of Timor-Leste (SJTL) organised a strike beginning on 19 December within the Mandiri bank to protest at the dismissals, which were in violation of the country's labour legislation. The protestors were dispersed the following morning by the police, following discussions between the police commander and the bank managers. At the request of the SJTL and the East Timor Trade Union Confederation (KSTL), a tripartite mediation meeting was organised by the national labour authorities. According to the KSTL the government clearly sided with the bank managers at the meeting, and no solution was found.

Vietnam



POPULATION: 87,800,000
CAPITAL: Hanoi
ILO CORE CONVENTIONS RATIFIED: 100 - 111 - 138 - 182

The right to freedom of association and to collectively bargaining remains substantially restricted in Vietnam. In many cases, official trade unions are dominated by management at the enterprise level. This, and the failure of dispute settlement mechanisms to provide an effective channel to redress grievances, has led non-union workers to organise wildcat strikes. Since 2009, the government and the Vietnam General Confederation of Labor (VGCL) have worked on redrafting the Labour Code and Trade Union Law respectively, though as of the end of 2011 no proposals were finalised or sent to Parliament for ratification. Workers organising independently of the VGCL can at times face arrest or other sanction.

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 2011

Background: The 11th Congress of the Vietnamese Communist Party was held in January followed by National Assembly elections in May. Prime Minister Nguyen Tan Dung was reappointed. While many looked for signs of meaningful political change from the Congress, those hopes were not realised. Human rights defenders and democracy activists were arrested and sentenced throughout the year. Human Rights Watch reported that at least 33 dissidents and peace activists were sentenced to a total of 185 years in prison and 75 years suspended for exercising the freedom of speech and association, despite these being guaranteed in the Constitution. Political prisoners are frequently tortured during questioning, and they are often refused family visits or even visits by their lawyers.

The Vietnamese media are closely controlled by the authorities. There are no private independent media. The government blocks access to politically sensitive sites. Internet cafe managers are required to monitor and record their customers' online activity. Internet writers who dare criticise the authorities on the Internet risk being harassed, interrogated and sometimes imprisoned. Human Rights Watch reports that at least four bloggers were arrested for “subversion” “propaganda against the State” and for publishing articles calling for democracy or human rights. Two of them were sentenced to three and four year prison terms.

About 1000 illegal strikes: Workers who take part in strikes that do not have government approval risk sanctions, but the conditions to be met for organising a strike legally are so restrictive it is almost impossible to respect them. There was a huge increase in the number of illegal strikes during the year from 423 the previous year to nearly 1000 in 2011. Most strikes are linked to the fact that workers wages have not kept up with inflation, which reached 18%.

In its latest report the ILO's Better Work-Vietnam project notes that of the 78 factories involved in its programme, three have refused to reinstate all eligible workers after a strike, and one factory punished workers who went on strike.

From 24-29 June, over 90,000 workers at the Pou Yuen shoe factory which supplies major footwear brands such as Adidas, went on strike to demand better wages. Several sources reported that workers were arrested and/or dismissed following their action.

Collective bargaining restricted: Unions affiliated to the Vietnam General Confederation of Labour (VGCL) have limited

scope for collective bargaining given the management domination of the union in many enterprises. Recently, the VGCL statutes were amended in order to limit certain high-ranking managers from serving as union leaders. In its last report, the ILO's Better-Work Vietnam project pointed out that in three quarters of the factories involved in its programme it is not possible for the union to meet with the workers without management being present.

40.000 detainees subjected to forced labour: People dependent on illegal drugs can be held in government detention centres where they are subjected to "labor therapy". A Human Rights Watch (HRW) report condemns the abuses committed in these centres: detention without trial (routinely for as long as four years); beatings with truncheons, electric shocks and being deprived of food and water for infringement of the centre's rules, including the requirement to work, etc. Some products produced as a result of this forced labour are exported, including to the United States and Europe. According to HRW, at the beginning of 2011 about 40,000 people were incarcerated in 123 centres of this type, including children.

Verdict of three workers rights activists, mistreated in custody, confirmed on appeal *irmé en appel pour trois défenseurs des droits des travailleurs:* On 18 March the courts confirmed on appeal the seven to nine year prison sentences handed down in 2010 to three workers' rights activists who had distributed leaflets and organised a strike by 10,000 workers at the My Phong shoe factory in the Tra Vinh province (see the 2011 Survey). All three have been ill treated in prison and are being detained in inhumanly unhealthy conditions. Do Thi Minh Hanh, a young woman of 26, has lost her hearing in one ear, and has swollen joints and stomach pains as a result of beatings received in detention. The other two, Doan Huy Chuaong, 26, and Nguyen Hoang Quoc Hung, 30, have also been beaten in prison.

Concern for the health of these three activists is all the greater following the death in detention of two political prisoners Nguyen Van Trai and Truong Van Suong, in July and September.

Europe

The year in Europe was dominated by the reverberations of the continuing economic crisis, which hit hardest in Greece. Labour laws have been amended in several European countries, often as integral parts of austerity measures pushed through to bring down budget deficits. This has eroded trade union rights across the region, and at the same time social dialogue was often perfunctory or strained. Anti-union discrimination was again widespread in 2011, even in some countries with long traditions of industrial relations, but particularly in Georgia, where neo-liberal economic reforms have set back the rights of employees and trade unions; in Turkey, where union activities are heavily restricted; and in Belarus, where Lukashenko's regime continues harassing and intimidating independent trade unions.

Within the European Union (EU), Greece has been at the centre of the eurozone debt crisis. In a bid to reduce its debt, and with membership of the eurozone precluding any opportunity to devalue its currency, the Greek government – pushed by the memorandum of Economic and Financial Policies of the European Commission, European Central Bank and International Monetary Fund (the 'troika') – has instead had to pursue an 'internal devaluation', i.e., reducing wages and living standards sharply.

This situation has had consequences in terms of trade union rights in relation to freedom of association and collective bargaining. Changes were introduced to the rules on collective bargaining in the autumn with the new system prioritising enterprise level bargaining and not just sectoral or occupational agreements. It has also allowed associations of persons to enter into bargaining agreements, a measure targeted at smaller enterprises. Union bodies have seen some of these moves as destabilising the industrial relations framework and weakening the role of trade unions.

Although at their most stark in Greece, these issues have also been faced by trade unions in Portugal, which also required a bailout and where the government is effectively pursuing an internal devaluation. Hungary and Romania are other EU member countries which in the face of the financial crisis have implemented far reaching changes to their respective labour laws that particularly undermine national and sectoral level collective bargaining systems, to the detriment of working people and trade unions. EU and national court decisions related to minimum-wage bargaining procedures in Ireland or demands on Portuguese collective bargaining arrangements (even if the product of joint trade union/employer decisions) have been enacted in the similar spirit of erosion of established social dialogue institutions instead of using them to resolve the problems.

Outside the EU, events in Georgia have been of particular concern. Although the Georgian economy is enjoying a high growth rate, deregulation and other radical neo-liberal policies of the government of Michael Saakashvili have been accompanied by high unemployment. Anti-union discrimination is rife, and the

lack of protection therefrom is believed to be a major factor in the estimated 100,000 drop in union membership since the adoption of the country's labour code in 2006, which also undermines collective bargaining. Both private and state employers have discriminated against trade unions.

Georgian trade unions have long complained about violations of their rights, but criticisms from the ILO as well as from citizens petitions have often fallen on the government's deaf ears. In 2011, in the context of trade and the Generalised System of Preferences, violations were reported by European and American union confederations, but whilst the former were not taken up by the European Commission, the latter has resulted in the US Trade Representative launching an investigation into these violations.

In Turkey trade union rights remain inadequately enshrined in law - a situation that is reflected in the large number of violations in the country in 2011. Severe restrictions remain in place on freedom of association, whilst collective bargaining is difficult due to high recognition thresholds. The right to strike is also limited. The provisions of a new draft trade union law fall well below European and international labour standards; discussed in parliament at the end of 2011, it was still being condemned by union organisations for being regressive. Widespread outsourcing of work in Turkey continues to undermine workers' rights in the country, as they are unable to unionise.

In 2011 there were numerous reports of discrimination against workers because of their union membership. Some of the worst examples include the dismissal of 25 union activists in the chemical and oil workers' union, the imprisonment of a union leader at the leather goods company DESA's plant in Duzce for alleged terrorist activities, the firing in April of 110 metalworkers in Birselik for union membership, and the imprisonment of 25 members of the teachers' union Egitim Sen, under the country's anti-terrorism legislation.

In Belarus, the regime of President Lukashenko continues ignoring the ILO Commission of Inquiry recommendations and heavily restricts freedom of association, particularly by applying a short-term contract system to discriminate and to intimidate activists and members of independent unions and by implementing obligatory registration procedures of a permissive nature by the authorities to prevent development of independent trade union organisations.

Whilst the situations in Greece, Georgia, Belarus and Turkey have warranted particular attention, several other issues have been causing concern. Across Europe many trade union bodies have voiced their frustration at the poor nature of social dialogue, particularly in Albania, Bulgaria, Czech Republic, Serbia and Ukraine, but this is to an extent reflected in other countries because of the austere economic times. The changing nature of employment is also a subject of some disquiet, notably in the use of short-term contracts, which makes unioni-

Europe

sation more difficult. Belarus is by far the most extreme example here, but other countries, including Croatia, are a cause of worry.

Dismissals for trade union membership and activism have been reported in many central and eastern European countries, including Bosnia and Herzegovina, Bulgaria, Czech Republic, Macedonia, Poland and Serbia. Western Europe is not immune either, with dismissals reported in Belgium. A lack of confidence in the legal mechanisms to protect union rights is unsurprisingly apparent in Belarus, Kosovo and the Russian Federation. In Albania and Moldova weak enforcement by the labour inspectorate is also at issue.

These remain challenging times for the labour movement in Europe, with austere economic policies threatening to undermine the role and relationships of trade unions.

The rising wave of policies against working people in Europe

Grigor Gradev, PERC Executive Secretary

The pressures on labour relation systems continue to lead to a dramatic loss of trade union and worker rights. The main trends identified in 2010 have systematically intensified and set new 'records' in 2011.

The situation for workers has only been aggravated by the nature and targets of the so-called rescue programmes imposed and implemented by the "Troika" - EU, ECB, and IMF in a number of EU member states. In 2011 we also witnessed the readiness of governments in other countries to be guided by the same approaches to address the challenges of the crisis.

The drive towards unilateral policy-making and drastic measures has a profound impact and long-term consequences for national and European systems of social dialogue along three main lines:

The attempts to bypass social partners and established mechanisms of dialogue have led to the outright rejection of joint positions, proposals or normative drafts prepared by trade unions and employers.

Governments increasingly proceed on that basis to try to discredit the rationale and undermine the architecture of collective and individual labour relations which underscore social peace, opening instead the gates of social and political unrest.

Second, the unilateral policy approach was extended to the international level. Opinions or advice provided by specialised bodies such as the ILO expressing concern over violations of fundamental labour standards related to reforms undertaken have been ignored in a number of cases.

And third, the rising number of instances where previously traditionally negotiated solutions and regimes of operation are increasingly replaced by normative prescriptions and rigid legal frames to consolidate the results of the unilateral policies. The EU economic governance policies and particularly the latest "fiscal pact" provide particular momentum along these lines even for countries not severely hit by the crisis. Obviously, eventual corrections of extreme solutions imposed in this way will necessitate major political mobilisation and actions.

As expected, the policies and actions outlined above have changed the practice of social dialogue at different levels across the region, in a range of cases leading to a fundamental restructuring, and in extreme cases to a complete destruction of dialogue. The ensuing

erosion of the legitimacy of the political systems and the political elites has been best demonstrated by the mobilisation of youth movements, demanding more direct democracy, growing in parallel to the mounting trade union protest actions. The EU controversial policies to the challenges of the crisis as well as the actions discrediting the European Social Model have depressed the trust of its citizens to the lowest level on record and turned it to convenient argument for regimes pursuing specific types of “democracy”. and actions.

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Albania



POPULATION: 3,204,000
CAPITAL: Tirana
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

Many companies remain hostile to trade unions, avoiding collective bargaining, and demoting and dismissing trade union members. With extremely rare labour inspections and legal proceedings for the violation of workers' and trade union rights taking years to resolve, many workers do not dare join a union.

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 2011

Background: Around 20,000 protesters gathered on the streets of Tirana on 21 January, demanding early elections after the Deputy Prime Minister resigned in a corruption scandal. The anti-government demonstrations resulted in four people killed, dozens injured and more than 100 arrested. Following the local elections on 8 May, demonstrations again broke out in a number of cities over alleged electoral fraud, while the opposition Socialist Party boycotted parliament until September. Growing tensions between the government and opposition, as well as the general climate of mistrust in state institutions, diverted attention from much-needed reforms.

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. Many companies remain very hostile to trade unions, seeing them as an obstacle to freely managing their relationship with the workers, and try to avoid collective agreements. In some companies, trade unions are denied contact with the workers, and there have been cases of violent anti-union behaviour.

Weak law enforcement: The Labour Inspectorate is very under-resourced, with the result that very few companies are inspected, despite numerous complaints lodged by trade unions. Labour inspectors often do not have the right professional background as they are recruited principally according to political preferences.

Workers' and trade union rights are not efficiently protected by the courts, which are overloaded and may take up to three years to review cases of anti-union harassment. Some of the judges assigned to labour cases are not specialised in labour issues.

Bad working conditions in textile and footwear sector: Violations of workers' and trade union rights are especially frequent in the textile and footwear sector, which accounts for around 35% of exports and employs around two thirds of all workers in the private non-agricultural sector. Out of approximately 100,000 workers, around 90% are young women, while child labour is not uncommon. The rate of unregistered workers in the industry is estimated at around 40%. Union membership in the sector remains very low, owing to threats of dismissal against anyone joining a union.

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 the 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.

Government breaches basic principles of social dialogue: The Confederation of Trade Unions of Albania (KSSH) reported that the government violated established mechanisms of tripartite social dialogue, which is conducted through the National Labour Council. At the first Council session of 2011, held on 22 February, the agenda was decided unilaterally, which was against the rules of procedure. Moreover, the agenda included two bylaws on occupational health and safety which had

already been adopted by the government two months earlier, without the prior tripartite consultations required by law.

Anti-strike measures in chromium mines: Around 700 miners went on strike over pay and working conditions on 4 July, at the Bulqiza chromium mine, owned by ACR, a subsidiary of the Austrian company DCM Decometal. There have been a number of strikes in the Bulqiza mine in recent years due to poor working conditions. During the strike, the employer refused to negotiate with the trade union, and instead offered better contracts individually to a number of workers, in an effort to persuade them to stop the strike.

The Ministry of Economy, Trade and Energy applied for a court decision to ban the strike inside the mine, on the basis that the strike was damaging the mine and putting the life and health of the strikers at risk. The district Court in Dimbra ordered the strikers to leave the mine, but stated that they had the right to strike. The strike was eventually continued outside the mine until an agreement was reached with the employer at the end of September.

Although the strike was called off, the trade union remained under pressure, facing criminal charges and judicial civil proceedings. Exploiting the weakness of the Albanian Courts, the employer is seeking huge financial compensation for damages from the trade union.

Azerbaijan



POPULATION: 9,188,000
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 enter-

prise. 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 2011

Background: The economy of the Azerbaijan was challenged in 2011 by the slowdown of economic growth. The Confederation of Trade Unions of Azerbaijan (AHIK) focused on protecting rights in the workplace.

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 one to three months, deprivation of annual leave days 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.

McDonalds union dismissal taken to court: In 2011, the Confederation of Trade Unions of Azerbaijan (AHIK) filed a lawsuit against McDonalds for the dismissal of the Chair of the Baku McDonalds restaurants' union, Arif Babaev.

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. At 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, only 10 employees confirmed that they indeed wanted to be members of the unions.

At the end of the year, the case was still pending before court.

Belarus



POPULATION: 9,595,000
CAPITAL: Minsk
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

The year did not meet the expectations of the independent unions in terms of any progress by the government in implementing the ILO's recommendations. Intimidation and pressure on workers forcing them to leave independent trade unions continued as before. Employers and the authorities continued to deny independent unions the right to bargain collectively and sign collective agreements. Discrimination based on union affiliation remained widespread.

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. The legal framework for trade union rights was further undermined when on 17 May 2011 amendments were introduced to the Law on Trade Unions deleting any reference to ILO Conventions and Recommendations as setting out the basic principles of labour and trade union rights in the country.

Foreign assistance may not be offered without the consent of the authorities. This has still not been changed despite the recommendations of the ILO Commission of Inquiry. In fact, as the BDKP has pointed out, no clear and time-bound action plan for the full implementation of all the recommendations of the Commission of Inquiry has yet been prepared.

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.

In November 2011, the regime adopted amendments to the Law on Mass Activities concerning rallies, demonstrations, picketing and other mass actions, seriously limiting the rights of trade unions and their members. 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 2011

Background: When Alexander Lukashenko, widely referred to as Europe's last dictator, began his fourth term as President in January 2011 the EU responded by reinstating a travel ban on him and freezing his assets. The regime confirmed its authoritarian reputation when it put more than 30 political activists, including four opposition leaders, on trial for their part in the December protests over alleged vote rigging in the December 2010 elections. In May opposition leader Andrei Sannikov was sentenced to five years in prison for organising the protests. Then in July hundreds were beaten, manhandled and arrested after a month of nationwide anti-government protests. In November prominent human rights activist Ales Belyatski was sentenced to four and a half years in prison, supposedly for tax evasion, in a move believed to be politically motivated. The country also faced economic woes with its most serious balance of payments crisis since independence which drained its hard currency reserves.

No real effort to resolve trade union rights violations: There were no major moves by the government during 2011 to resolve the systematic violations of labour and trade union rights. The small changes introduced were more a demonstration of restraint, compared to the brutal interference in trade union activities and structures that took place in the past. The aim would appear to be to demonstrate that independent trade unionism has its "space" and can work "freely" as long as they remain within an acceptable framework. As soon as the activities of the Belarusian Congress of Democratic Trade Unions (BKDP) did start to have an impact among the working people of Belarus, however, the government instigated and supported actions aimed at swiftly putting an end to any initiative that could result in the expansion of independent trade unionism in the country.

Independent unions still under pressure: The BKDP reported that the independent unions and their members at the “Naftan” Oil Refinery, the OAO “GrodnoAzot” chemical company and OAO “Mozyr” Oil Refinery were still under pressure in 2011 and that anti-union discrimination still exists at these and other companies.

Extensive right to draft short-term contracts: Following Presidential Decree No. 29, 1999, legalising fixed short-term contracts, the use of one-year fixed term contracts has become so widespread that 90% of the workforce are now employed on such contracts, with no obligation of renewal. Refusal to switch from a permanent to one-year contract has been considered a legitimate cause for dismissal.

ILO recommendations still not implemented, EU trade benefits are withdrawn: Since 21 June 2007, following the conclusions and recommendations of the ILO, the Council of Ministers of the European Union has partially restricted the access of Belarus to the more favourable provisions of the EU GSP trade policy. Despite the ILO Commission of Inquiry recommendations, as well as numerous conclusions by the Committee on the Application of Standards (CAS) of the International Labour Conference (ILC) and of the ILO Governing Body, the Government of Belarus has so far failed to act constructively on the key recommendations and bring labour and trade union rights into line with international labour standards. The Action Plan for the implementation of the recommendations of the Commission of Inquiry that was prepared by the government in 2009 (see the 2010 edition of the Annual Survey) has given rise to more politically correct rhetoric and some cosmetic adjustments, but has failed to address the substance of the violations.

Any action on the part of the government, like restoring the preferential rate of the premises rented out to the Belarusian Congress of Democratic Trade Unions (BKDP) in 2010, or allowing the possibility of signing national tariff and collective agreements, will not solve the problem of the true restoration of trade union rights in Belarus. The efforts made by the government were directed at technical issues rather than the substance of the recommendations of the Commission of Inquiry. This is clearly demonstrated by the continuing obstacles to registering newly created unions and by the pressure still imposed on members of independent unions, using the short-term contract system. The number of violations of trade union rights has been increasing. Members of trade unions affiliated to the BKDP are still suffering from anti-union discrimination, including dismissals and the non-renewal of employment contracts, pressure and harassment.

Arrest and detention of members of independent unions: Pavel Stanevski, an SPB (Free Trade Union) activist from Grodno town was sentenced to eight days in jail by the Frunzenski district court in Minsk. Pavel Stanevski came to Minsk from Grodno on 19 April 2011 to meet his union colleagues and members of “Our House” Civil Initiative. He was arrested the same day. The court found him guilty of disorderly conduct and using abusive language. The policemen acted as witnesses.

The President of the SPB, Mikhail Kovalkov, was detained by the Bobruisk police and spent more than ten hours in detention. The SPB leader described the behaviour of the police as torture through deprivation of food and the illegal limitation of personal freedom, as during his ten and half hours in custody he was not given any food and could only use the toilet room under police escort. Upon release he was given a document confirming that his detention lasted only three hours. The SPB leader considers that the behaviour of the police amounted to psychological pressure. He believes the reason for his detention and ill treatment may have been that on that day the opposition forces were celebrating Freedom Day – the Anniversary of the Proclamation of the Belarusian People’s Republic in 1918.

More discrimination against independent unions: The President of the Belarusian Free Trade Union (SPB) Mikhail Kovalkov, who is also chairperson of the primary SPB union organisation at Bobruisk Tractor Parts and Components Company, was refused access to the workplaces of his union’s members. The members of the independent trade union at this company were also deprived of the right to attend the sports and recreation centre belonging to the company, while the members of the state-controlled union were allowed to use it.

Attempts to dissolve the independent unions: The management of OAO “Mozyr Oil Refinery Company” renewed its campaign for the mass withdrawal of workers from the independent union at the company in 2011. In order to force members of the independent union to leave the organisation they held private meetings and individual talks with workers, after which the workers had to write a petition to say they were leaving the BNP union. These petitions are sent directly to the company accounts department and the front office, without notifying the independent union. The management of Mozyr oil refinery has been constantly interfering in the internal affairs of the independent union in recent years, imposing pressure on its members.

Denial of registration of primary-level trade union organisations: The Polotsk Town Executive Committee refused to register the SPB (Free Trade Union) primary organisation of “Self-employed workers at Polotsk outdoor collective farm

market". Belarusian legislation stipulates that primary-level union organisations be registered by local state registering bodies. But the requirement to submit a legal address for the registration procedure often proves an insurmountable obstacle for the independent unions in Belarus.

A confirmation certificate issued by the Manager of the "Sofia" artwork and handicrafts factory containing guarantees for the provision of premises for rent and accommodation for the executive body of the primary union was attached to the SPB application for registration. The Polotsk municipality considered that the letter of guarantee had no legal force, and it became the grounds for denying the registration of the SPB primary union organisation.

Interference by local authorities in trade union activities: On 20 January 2011 the Ministry of Justice sent a fax message to the Free Metalworkers' Union (SPM) asking it to submit, within five days, information on the total membership of the SPM as well as the number of members in its affiliates, names of union leaders and information about trade union dues. The SPM union replied to the Justice Ministry, asking it to explain the reasons for the urgency of its request. Instead of explanations, on 27 January three Justice Ministry clerks visited the SPM union, which shares the Belarusian Congress of Democratic Trade Unions (BKDP) premises, and demanded to see the minutes of the SPM governing body for the last two years.

Collective bargaining rights withdrawn at oil refinery: The Belarusian Independent Trade Union (BNP) primary-level organisation at the OAO "Naftan" oil refinery once again faced the infringement of collective bargaining principles. The joint commission on bargaining and concluding a new collective agreement was set up at the enterprise at the end of May 2010. It included representatives of the employer of the company, "Belkhimprofsojuz" – another union at the company, and three representatives of the primary BNP organisation. It was agreed that the BNP and "Belkhimprofsojuz" would act as representative parties, each on behalf of its members. However, on 28 January 2011 the employer illegally excluded the BNP primary organisation from the collective bargaining process and from signing the collective agreement. The BNP primary organisation urged the employer to start negotiations and sign a separate collective agreement. However, the employer refused to renew negotiations with the BNP primary union on the grounds that the collective agreement between the workers and the company had already been signed.

Pressure on members of independent unions after the events of 19 December 2010: Michail Kovalkov – President of the Free Trade Union (SPB) was interrogated in the KGB prem-

ises. The interrogation lasted for more than two hours. He was warned that he should not participate in illegal mass events any more. A video camera was used during the interrogation and finally he was told that from that time on his activities would be under special KGB surveillance.

On 14 January 2011 the premises of the Radio Electronics Workers (REP) Union were searched by special police forces on the pretext of checking whether the office had been used as the headquarters of one of the candidates running for the presidency. During the two-hour search the office machines, appliances and equipment were seized, as well as some of the union's internal documents. As a result the activities of the union were paralysed for a certain time. The Belarusian Congress of Democratic Trade Unions (BKDP) viewed the search as a gross violation of trade union rights, and a violation of the inviolability of housing and security of property, which are guaranteed by law and the ILO Conventions ratified by Belarus.

On 21 January 2011 the leader of the REP Union Gennady Fedynich was interrogated by Minsk municipal police. The police were interested in his participation in the events of 19 December 2010, the day of the presidential election.

The REP union information officer Nikolai Gerasimenko was subjected to a similar procedure at the Frunzenski Police Station in Minsk.

On 2 February, the apartment belonging to the BKDP Occupational Health and Safety inspector Vladimir Lozovski was searched by three KGB officers. They explained that the search was in connection with the protest rally on 19 December 2010. Several CD-Rom discs were seized.

Right to picket denied: The Novopolotsk local authorities refused to allow the "Naftan" union to organise picketing on 25 February 2011, using the spurious excuse of the influenza epidemic and quarantine that had been introduced in town. The second attempt to organise picketing was scheduled for 5 April but the "Naftan" union was again denied permission by the local authorities on the grounds that only sector-level unions can organise protest actions but not their organisational structures including primary-level organisations. According to the Law on Trade Unions of Belarus and the BNP statutes, all its organisational structures including primary-level unions have full rights including the right to organise mass actions and apply to the local authorities on relevant issues. Moreover, a primary union organisation had been registered and had the status of a legal entity. It is common practice for local authorities to invent different arbitrary grounds to deny mass trade union action, but this particular case was unprecedented. The Free Metalworkers'

Union (SPM) was also denied the right to organise picketing on 1 May, Solidarity Day, in Minsk, Mogilev and in a number of other cities and towns.

Dismissals, pressure and denial of legal address to deter independent unions: The end of the year saw a sharp rise in the spontaneous disaffiliation of workers from the official Federation of Trade Unions of Belarus (FPB) in different regions of the country. The reasons given for disaffiliation ranged from the traditionally low level of wages and salaries to the insulting and humiliating treatment of workers by employers. The latter reason was mentioned for the first time. The workers say that the FPB unions not only fail to protect them but become a part of this systematic humiliation and pressure.

The event that attracted the most attention was the mass departure of workers from the FPB at the RUPP "Granite" company in Mikashevichi, a town in the south of the Brest region, at the end of December 2011. The company carries out open mining of natural rocks and produces crushed stones for the production of various construction materials and employs 3,200 workers. Nearly 600 workers announced their joint disaffiliation from the FPB. More than 200 workers, mainly quarry dump truck drivers, applied for affiliation to the Belarusian Independent Trade Union (BNP), affiliated to the Belarusian Congress of Democratic Trade Unions (BKDP). At the founding general meeting they set up a primary-level BNP union. The employer, the local authorities, the police and KGB officers launched a big campaign against the newly formed independent union and its leaders and members.

The management launched a series of actions to put pressure on the union members and deter other workers from joining the union. Those attacks were clearly aimed at preventing the development of independent trade union organisations. Although the newly formed primary-level union followed the procedure laid out by Belarusian legislation, the management of the company refused to recognise it or to provide it with a legal address. This legal address, considered by the International Labour Organisation as an obstacle to trade union registration – and as such a violation of fundamental rights - is still necessary under Belarusian law to obtain legal status. Oleg Stakhaevich, the leader of the newly formed independent union at the RUPP "Granite", affiliated to the BNP, and two more union activists were illegally dismissed from their jobs.

Belgium



POPULATION: 10,712,000
CAPITAL: Brussels
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

Trade union rights are not sufficiently protected in law or practice. Employers and the public authorities tried to prevent strikes. At least ten trade union representatives were dismissed. Four workers were injured in strike pickets.

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 2011

Background: On 6 December, after it seemed to have been on the verge of breaking up several times, the country formed a new government. Belgium's political crisis was of unprecedented length: 18 months without a federal government since the 2010 legislative elections. The political leaders from the North and South, with the notable exception of the Flemish nationalists, finally succeeded in agreeing on a programme of important institutional reforms, and very severe austerity measures.

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 FGTB-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.

The tactics of the far right: On 28 February the Antwerp Court of Appeal ruled in favour of the Employees National Centre (Landelijke Bediendenn Centrale in Dutch, LBC) in a case brought against it by a former union delegate removed from his union post. In 2004 he stood as a candidate for the Flemish regional elections, for the far-right party Vlaams Belang. Following an initial judgement that invalidated his removal, the Court of Appeal ruled in favour of the CNE-LBC’s decision, arguing that the party’s programme was clearly anti-union. On 8 July, a trade union with close links to the party, the Vlaamse Solidaire Vakbond (VSV), was created with a view to breaking what it saw as the “illegitimate” monopoly of the three main Belgian trade union centres in the 2012 “social elections” (to elect the members of the works council and the workplace health and safety committee).

Binding pay rise ceilings restrict collective bargain: After two trade union organisations rejected the text on the multi-sector agreement, the caretaker government set the “wage standard” (a ceiling on pay rises over a two year period) at 0.0% for 2011 and 0.3% in 2012. On 1 July the Employment Minister confirmed that the standard was binding, that its application would be checked and that infringements would be penalised. Sectoral and company collective agreements cannot therefore grant pay rises above this standard, on pain of being invalidated. In May, two new collective agreements in the stone quarrying industry were rejected on these grounds. In the view of the Liege branch of the FGTB, which negotiated the agreements with the employers, “the Belgian tradition of social dialogue is being trampled underfoot”.

Facing the risk of a negative interpretation of the EU Agency Workers Directive: With a view to the transposition of the European Temporary Agency Workers Directive, employers organisations argued that collective agreements which restrict the use of temporary workers are in breach of the directive. If the government agrees with their argument, the transposition of the directive into national law could lead to an upsurge in temporary contracts to the detriment of permanent workers and of the right of trade unions to bargain collectively, if temporary agency work is *de facto* no longer considered a specific subject for collective bargaining.

Proposals for not very social reforms: Major socio-economic reforms were announced at the time of the governmental agreement. They included the acceleration of the degressive sliding scale of unemployment benefits and further restrictions on access to early retirement. The agreement implicitly restricts the possibility for public sector employees to take strike action, particularly prison guards and railway workers, not excluding the introduction of a minimum service requirement. There are also the six socio-economic “recommendations” of the European Commission, notably the reform of the salary indexation system and of the legal retirement age, as well as the rules on facilitating access to the labour market. Employers seized on these recommendations as a pretext to demand their immediate application.

Strikers attacked: During the 4 March general strike a lorry driver from the F. Michel Logistics company in the Houdeng industrial zone tried to force his way through a strike picket, injuring two trade unionists, one of whom had to be hospitalised. In Bruges a bus driver also inflicted light injuries on two trade unionists at a barricade.

Public authorities try to ban strike: On 22 April, the mayor of the Uccle commune decided to prohibit a public sector union

from forming a strike picket outside a school on the grounds that classes were resuming after a school holiday. The union challenged the decision which was finally overturned by the highest administrative court.

Illegal wage penalties at Arcelor Mittal in Gand: During an industrial dispute at Arcelor Mittal in Gand over the negotiation of a new collective agreement, staff took part in go-slow strikes in September, stopping work every quarter of an hour. Management – ignoring the fact that a mediator had been appointed by the Labour Ministry – reacted by docking the workers' wages for every quarter of an hour the strikers stopped work. The unions challenged these penalties, which were not provided for in the company's employment regulations. An agreement was reached on incorporating wage penalties into the new collective agreement, of no more than the equivalent of a quarter of an hour's work.

Attempts at strike-breaking in the chemical industry: On 17 October, during a strike at the Ineos chemical company in Fe-luy, the governor requisitioned nearly half the staff to work, on what it described as tasks in the "public interest". The unions appealed to the Council of State which ruled in their favour, on the grounds that a requisition can only be made if there is a situation requiring work in the public interest.

On 26 October, during a strike at the Mac Bride company in Estaimpuis, specialising in cleaning products, the management assigned workers to production tasks that had been left by striking workers, ignoring the fact that they did not have the right skills for the tasks in question.

Discouraging protest: On 28 October, six students who interrupted an election meeting by the group of European liberals were handed one month suspended sentences for "inciting rebellion" (despite the completely peaceful nature of their protest). No trade unionists were involved, but the verdict could discourage organisations, trade unions and their members who wish to take protest action and could contribute to criminalising dissident opinion.

Anti-union strategies in the run up to workplace elections: Several press articles, not just press releases from employers organisations, frequently mentioned the possibility of dismissing workers and their representatives before January 2012 in order to avoid having to hold "social elections" (to elect the members of the works council and the workplace health and safety committee) or to limit the (larger) amounts that would have to be paid in compensation when dismissing workers' delegates on works councils and health and safety committees. False infor-

mation was also spread concerning the possibility of allowing trade union representatives to take early retirement.

Smear campaigns against striking workers: During the week before a large demonstration by the three Belgian national trade union centres, an employers' organisation (UNIZO) launched the website "<http://www.wewontstrike.be/>" "<http://www.wijstakenniet.be/>" in which it spoke of the irresponsibility of the trade unions in calling a general strike during an economic and financial crisis and of the fact that by their action the unions were compromising Belgium's economic recovery.

Bosnia and Herzegovina



POPULATION: 3,760,000
CAPITAL: Sarajevo
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

The right to organise is seriously limited in practice, and employers use different types of pressure and intimidation to prevent the workers from joining a union. Legal protection is inefficient, and the unemployment rate is among the highest in Europe, so the workers often tolerate violations of their rights because they don't want to lose their job. Unlawful dismissals of trade union members and shop stewards continue.

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 2011

Background: Bosnia and Herzegovina was run by a caretaker government for 14 months after the October 2010 elections until the formation of a new government was eventually agreed at the end of December 2011. The implementation of much needed reforms, as well as progress in accession to the EU remained hampered by political polarisation along ethnic lines, affecting all levels of the country's complicated system of government. Above all, Bosnia and Herzegovina remains deeply divided between the Bosniak-Croat Federation of Bosnia-Herzegovina and the Serb dominated Republika Srpska, which in April 2011 considered calling a referendum on whether to continue cooperation with the country's war crimes tribunal.

Anti-union employers: There are serious obstacles to exercising the right to organise, especially in the private sector, with numerous violations of trade union rights in practice. Newly established private companies, including multinationals in the retail sector, are using various types of pressure and intimidation to prevent workers from organising. The high unemployment rate is among the underlying causes of massive violations of trade union rights by employers, in both the private and public sectors. As employers can easily find new workers, those in employment often put up with a degradation of their rights. Dismissals of trade union officials and reprisals for organising strikes are not infrequent. As the right to sick and maternity leave is often not respected, with labour contracts often being unlawfully terminated because of pregnancy, female workers are especially vulnerable. At the same time, legal protection mechanisms do not function properly, due to a large backlog of cases, lengthy and expensive court procedures, widespread corruption and the problematic implementation of court decisions. Labour inspection is also weak and insufficient. As a result, when faced with problems in organising, workers often give in to the pressure exerted by employers. Cases of violations of trade union rights are rarely taken to court.

Restrictions on trade union registration: In 2008, the Confederation of Trade Unions of Republika Srpska (SSRS) filed a request with the RS Ministry of Labour and Disability Protection to amend the Book of Rules on the registration of trade union organisations. According to the rules, only presidents of trade union organisations may be registered; and only if they have an open-ended employment contract. As a consequence, many companies cannot establish trade unions, as there are no workers with open-ended contracts. SSRS therefore asked that workers with fixed term contracts be given the right to be registered in the Register of Trade Union Organisations and

enjoy special protection. However, this amendment has not been implemented.

Dismissed for joining the union: After the creation of a branch of the Metalworkers' and Miners' Union of Republika Srpska at the metal pipe plant Unis, in Derventa, on 10 February, management dismissed 13 union members with open-ended contracts over the following three months, and did not extend fixed-term contracts for a further 12 members. The grounds given for their dismissals were unsatisfactory work performance, although some of those dismissed had worked for the company for more than 30 years. Dismissed unionists reported that they were openly told by the plant director that the reason for their dismissal was union organising. Žika Vidić, President of the company union, avoided dismissal due to his position as a union official, but was instead demoted from mechanical engineer to technician and was sent on six-months' compulsory leave. On 18 May the Labour Inspectorate of the Republika Srpska (RS) ordered 13 workers to be reinstated. The Ministry of Labour and Veteran Protection of RS confirmed the decision on 14 June. Instead of complying with the decision, the employer began court proceedings against the Ministry, but the District Court in Doboj ruled against the employer. At the end of the year the dismissed unionists had still not been reinstated.

Coal miners pressured into leaving union: Management at the RMU Đurđevik coal mine, a subsidiary of public electric utility Elektroprivreda BiH, exercised pressure against the organisation of a new trade union. Said Muhić, Halid Bajrić, Samir Hodžić and Avdija Klanjac, who initiated union organising, were sent on two-weeks' compulsory leave on 26 April. Although the new Workers' Trade Union of RMU Đurđevik was eventually registered on 17 August, and affiliated to the Trade Union of Coal Mine Workers of BiH the day after, 50 out of 350 members had left the union before end of the month due to constant pressure from management. The workers have appealed for protection of their trade union rights to 11 different state institutions, including the Ministry of Justice of FBiH and the BiH Ombudsman for Human Rights.

Trade union leader dismissed in public company: Vernes Buljugija, President of the Railroad Engineer Trade Union of the BiH Federation was suspended from work on 9 August because of repeated statements by him in the media about violations of the law at the publicly owned Railways of BiH, including non-payment of wages and violations of the collective agreement. His suspension was officially due to the unauthorised leaking of confidential information. Buljugija stated that everything he had said was already publicly accessible through court verdicts and audit reports. After an unlawful work stoppage in support of Buljugija on 10 August, trade union leaders Jasmin Kurić,

Mirsad Husković and Hasib Topalović were also suspended. Following the required consent of the Minister of Work and Social Policy of BiH, all four trade unionists were dismissed on 28 September. They subsequently went on hunger strike. On 3 December, the Municipal Court of Sarajevo confirmed that Buljugija had not leaked confidential information and ordered him to be returned to work.

The Trade Union of Railway Workers of BiH, operating in the same company, reported on interference in trade union activities by management. The union lost 300 members as a result of constant pressure on them to renounce their membership. Management refused to deduct union membership fees from wages, put the union under pressure to terminate the collective agreement, prohibited the union delegation from participating in international meetings of railways unions, and supported the formation of a yellow union.

Dismissed after organising new union: In the food producing company Klas, in Sarajevo, more than 100 workers decided to leave the Independent Trade Union of Workers in Agriculture, Food, Tobacco Industry, Water Management, Commerce, Catering and Tourism in BiH (PPDIVUT) and join the Trade Union of Commerce of BiH (STBiH), in an effort to better protect their rights. A day after the founding assembly of the new union branch was held on 10 November, newly elected shop steward Safet Papić, and his deputy Huso Pobrić, were dismissed for grave violation of their employment obligations, without the required consent of the Ministry of Labour and Social Policy. On 2 December, the Municipal Court of Sarajevo ruled Prpić's dismissal was illegal and ordered him to be reinstated.

Dismissal and attack on trade union president: In February, the president of the enterprise level trade union at Dermal R in Kotor Varoš, Zdravka Ilić, was dismissed for her trade union activities and continuous demands for the respect of labour law and the collective agreements. The labour inspectorate ruled that the dismissal was unlawful, and ordered the reinstatement of Zdravka Ilić. It also instructed the employer to enable her to pursue her trade union activities. When the company refused, Zdravka Ilić contacted the labour inspectorate to take her inside the company. While waiting for the inspectors in front of the company gates, the company director physically and verbally attacked her. He also barred her and the labour inspectors from entering to the company premises.

After Zdravka Ilić contacted the Confederation of Trade Unions of Republika Srpska (SSRS) and the media informing them of the attack, the director suspended production in the company for the three days. He later instigated disciplinary proceedings against Zdravka Ilić. She was once again dismissed without

the consent of the Ministry of Labour and Disability Protection of RS. In August, the company re-instigated disciplinary proceedings and fired Zdravka Ilić for not coming to work, again without the consent of the relevant minister. Her dismissal came after she had been told she was not allowed to enter the factory for more than a year.

In December, the Ministry of Labour and Disability Protection gave its consent to the notice of dismissal. Consent was given without any thorough investigation of the case but mainly on the grounds that the formal requirements for the disciplinary proceedings were met.

By the end of the year, court proceedings were in progress.

BiH Ministry of Justice flouts court ruling to register SSSBiH: Despite pressure from the ILO, the Government of BiH has since 2002 refused to register the Confederation of Independent Trade Unions of Bosnia and Herzegovina (SSSBiH) in the register of Citizens' Associations. It has given various pretexts for not doing so, but has failed to prove the legal basis for its actions. SSSBiH appealed to the Court of BiH and instigated legal proceedings.

The Court of BiH granted the appeal, annulled all the decisions delivered by the BiH Ministry of Justice and the BiH Council of Ministers Commission for appeals and ordered the Ministry to enter SSSBiH in the Register of Associations, given that there are no legal obstacles to doing so. However, by the end of 2011 the Ministry had not implemented the Court of BiH's decision.

Dismissed unionists reinstated: Trade union leader Mijo Kelava, and union members Ivica Šimunović, Cecilija Petrović and Ankica Miličević-Šimunović, were dismissed from Radio Hecreg Bosna on 13 April 2010, after founding a new trade union organisation. The previous company branch of the Independent Union of Professional Journalists of BiH (NNS) was deregistered by the Ministry of Justice of FBiH on 2 April 2010, thus forcing workers to terminate their strike over unpaid wages. After the new organisation was registered under the name Trade Union of Journalists of Radio Hecreg Bosna, the employer initiated court proceedings against the Ministry of Justice, requesting it to be deleted from the register of associations. On 16 March, the County Court of Mostar ruled the employer's suit was unfounded, without the right of further appeal. While Kelava was ordered to be reinstated by court decision in June 2010, three other union members had to wait for the same decision to be made in their cases until April 2011.

Wood and mine workers denied trade union rights: In the wood processing company Budućnost, in Šamac, during a

strike organised in October, workers were denied the right to strike inside the company premises. In the RMU Banović coal mine, workers decided to boycott the traditional Miners' Day celebrations on 21 December, due to continuous discrimination against members of the Trade Union of Coal Mine Workers of BiH, including lower salaries, demotion, banning the use of the bulletin board for trade union communications and the formation of a yellow union.

Bulgaria



POPULATION: 7,494,000
 CAPITAL: Sofia
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 105 - 111 - 138 - 182

Unions were operating in a difficult economic environment and violations of trade union rights, particularly dismissals of union representatives, were reported in several companies. Public servants remain 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 2011

Background: The economic situation remained difficult in 2011 with modest economic growth and unemployment above 10%. However the government's budget deficit target of 2.5% was likely to be met. A centre right candidate was victorious in the October presidential election.

Social dialogue in the National Council for Tripartite Cooperation was strained at times with little agreement on issues relating to salaries, pensions and benefits, culminating in the Podkrepa union and the Independent Trade Unions in Bulgaria (CITUB) withdrawing in November. The issue of pensions was the cause of this breakdown. The government had made proposals to raise the retirement age for all categories of labour; a proposal that contradicted the 2010 tripartite agreement for economic stability. Some 35,000 people protested against the plans at a national rally in Sofia on 30 November.

There were also protracted disputes over restructuring and redundancies in the state run railway and postal sectors.

Union confederation seeks legal changes: The Confederation of Independent Trade Unions in Bulgaria (CITUB) launched a campaign on 9 May 2011 to protect workers' rights and promote the role of trade unions. Under the motto "Security through the law, flexibility through collective bargaining", CITUB proposed a number of legislative changes. These included a provision in the penal code to safeguard the right of association; new legislation to enforce the right to collective bargaining; a new strike law to end the current inconsistencies between the constitution which guarantees the right and the Law for Settlement of Collective Disputes.

Transport union leader dismissed in Plovdiv: At the freight transport company "Trans City" SA in Plovdiv, employees established a trade union organisation led by Ivan Stefchov Geshev, a conductor. Before the trade union was formally established Mr Geshev received threats of dismissal if the establishment was to go ahead. On 2 February, the employer received the license of the trade union's legitimacy, and Mr Geshev was elected as leader of the organisation. On the same day he was dismissed.

Union leader at grain producer dismissed: "Rossitza Grain Fodder" is a producer of mixed grain feeds in the city of Pavlikeni. Company employees decided to establish a trade union organisation following clear violations of labour legislation, including poor wages, non-payment of over-time, and no respect for breaks as stipulated by law during working time. The establishment of the trade union was led by Gencho Kolev, who

worked as an operator in the company. On the day of the establishment meeting he was dismissed on the grounds that he lacked the necessary education and qualifications, even though he had been working for seven years in the same position.

Congress centre dismisses union officials: Following the ministerial decision of 4th May to change the status of the NDK Congress Centre to that of a joint stock company, the new management team at NDK began a series of anti-union activities, including dismissals of trade union officials. These moves were in violation of the country's labour code. Amongst the four officials dismissed were the Chair and Secretary of the trade union "Federation Culture at CITUB" at the congress centre.

Transport union leader dismissed in Sofia: Domestic and international bus transport companies, "Etap Address" and "Group Plus" Ltd, are parts of Etap Group SA based in Sofia. As a result of unpaid wages and deductions from wages for technical materials, tensions in the group escalated. In order to defend their employment rights, employees established a trade union organisation. At the same time, anti-union actions began and the leader of the trade union, Anatoly Gospodinov, was dismissed. After his dismissal, the trade union organisation disintegrated.

Striking workers replaced in bitter railway dispute: A one hour warning strike was held by railway workers on 10 March 2011 calling for an end to employee redundancies and for improved working conditions. On the same day, a memorandum and two agreements were signed by the Ministries of Transport and Labour together with the leaders of Bulgaria's main trade union federations, Independent Trade Unions in Bulgaria (CITUB) and Podkrepa, concerning the future development of the railways as well as improving conditions for railway workers.

Although signed in a spirit of mutual cooperation the management of Bulgarian State Railways (BZD) and its holding company have since broken the agreement, through lay-offs, redundancies without consent, a refusal to negotiate a collective agreement with the unions, reductions in services, and privatisation of the profitable freight part of the network. As a result, the dispute became increasingly bitter and an indefinite strike by BZD employees began on 24 November 2011 and lasted 24 days, with trains not running on any day between 8am and 4pm.

CITUB reports that lock-outs have taken place with strikers being replaced by their non-striking heads and team leaders.

Bank dismisses trade union leader: The leader of the trade union organisation at the branch of the Economic and Invest-

ment Bank in Montana, Margarita Yordanova, was dismissed in violation of the labour code, in particular its rules relating to staff cuts and trade union leaders' protection. After intense court battles, the dismissal was declared illegal and Ms Yordanova was reinstated in her previous position. The employer had been using methods of harassment in the working place including, lack of a set working place, and lack of defined duties, as well as trying to transfer her to a branch in another city against her will.

Croatia



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

Unlawful dismissals of shop stewards and trade union members continue to undermine the right to organise and to strike. Trade unionists whose rights have been violated usually manage to obtain a court decision in their favour, but these are not always respected by the employers. At least three shop stewards were dismissed.

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 2011

Background: Concluding the negotiations in June 2011 and signing the EU Accession Treaty in December, Croatia is set to become 28th EU member state on 1 July 2013. Elections held on 4 December 2011 resulted with the change of Government after eight years, and brought to power centre-left coalition led by Social Democrat Prime Minister Zoran Milanović. High level corruption investigations have continued, including the trial against former Prime Minister Ivo Sanader which started in September. Although the country finally exited recession in the first quarter of 2011, unemployment continued to increase until the end of the year.

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. Faced with 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 for shop stewards and union activists to face reprisals, including dismissals, for organising industrial action or for publicly speaking about companies' illegal business practices.

Dismissed for joining the union: Prompted by repeated violation of workers' rights, 12 lorry drivers employed by the Džajić Pro-met road transport company, in Zagreb, joined the Trade Union of Croatian Drivers in December 2010, electing Tomislav Pavlek as shop steward. After informing the employer about the election of their shop steward, all 12 union members were called for individual interviews, and requested to leave the union or face salary cuts or dismissal. In addition to Pavlek, only four drivers remained union members. On 28 February, the employer dismissed Pavlek and the remaining four union members.

Union dissolved under employer pressure: On 16 June, the Trade Union of Istria and Kvarner (SIK) announced that its enterprise level organisation at the public water management company Vodovod, in Pula, was closing down. The decision came after the last of 22 members in the company left the union because of employer pressure. Anti union harassment had been going on for some time. The shop steward, Stanko Radulović, was harassed by the company director Darko Višnjić for months, due to his involvement in collective negotiations in the company. He was finally dismissed, without the union's consent, on 6 June 2010. On 19 July, the Municipal Court in Pula ruled in favour of Radulović, who had sued Vodovod for unlawful dismissal.

Unlawful collection of union membership data: The Croatian Tax Administration, in a circular letter sent on 19 May 2011, requested its employees to fill in forms containing personal data, including their nationality and trade union affiliation. The request was in violation of the Constitution and the Law on Personal Data Protection, as there was no legal document providing for the collection of this kind of data. Following a report filed by the Trade Union of State and Local Government Employees of Croatia, the Croatian Personal Data Protection Agency confirmed the action was unlawful and ordered the Tax Administration to discontinue further collection and processing of such data.

Dismissed during strike: Workers at the stone quarrying and processing company Jadrankamen, in Pučišća on the island of Brač, went on strike on 12 December for the fifth time in a year, in protest at the non-payment of wages and social contributions, and violations of the collective agreement. The management sued the Independent Trade Union Jadrankamen on the basis that the strike was unlawful, but on 13 December the County Court in Split ruled the strike was legal. The President of the enterprise-level union, Tonči Drpić, was nevertheless dismissed on 15 December.

Journalists right to strike undermined: Members of the Trade Union of Journalists employed by Croatia's largest circulation daily, Večernji list, in Zagreb, owned by the Austrian Styria Media Group, went on strike on 23 March, following the employer's refusal to sign a new collective agreement. The management hired security guards and locked the entrance to the company on the day the strike began, preventing workers from holding their strike at the workplace. The management also requested each worker to individually state if he/she was on strike or not, and hired freelance journalists to replace workers on strike.

During a strike organised at the local daily Glas Istre, in Pula, in November 2010, the judge of the County Court in Pula Ondina Vidulić Matijević ruled that the production of a newspaper is an activity that cannot be terminated during a strike and issued a back to work order for 20 workers, thus effectively restricting the right to strike for remaining journalists who subsequently had to terminate the strike. In a subsequent hearing at the County Court in Zagreb, the court retroactively annulled the original ruling, stating it has not only significantly limited, but rendered impossible, the right to strike, and as such was legally unfounded. Although without effect for the strike in Glas Istre, the decision could be significant for future journalists' strikes, as it clearly stated it is unacceptable to issue back to work order in the media insofar as it would undermine the right to strike.

Anti-union harassment against shop stewards: Dalibor Tudić, shop steward of the Trade Union of Tourism and Services of Croatia (STUH), resigned in June 2011, following eight months of constant anti-union pressure and mobbing by his employer, the sport-betting company Pelikan kladionice, in Zagreb. Among other things, STUH reported that the employer unlawfully amended Tudić's employment contract, prevented his trade union work and banned him from entering the company premises.

Just two days after a branch union of the Trade Union of Wood and Paper Industry was established in the Pan paper manufacturing company in Donji Andrijaševci in November, newly elected shop steward Marinko Matić was unlawfully demoted. Employees decided to form a union after months of being paid their wages in coupons which could be used only in the company's shops.

In October, the New Trade Union, affiliated to the Croatian Trade Union Association, filed criminal charges and requested a labour inspection of the companies Presoflex gradnja, in Požega, and Sunčana staza, in Zagreb, because they would not allow trade union activity in the company. According to the New Trade Union, both companies have dismissed shop stewards without union consent, as well as workers over 60 years old, which is also in violation of the Labour Law.

Persistent anti-union pressure against drivers union: The Municipal Court in Sinj ordered the reinstatement of Anto Buljan and Branko Norac, shop stewards from the Trade Union of Drivers and Traffic Workers of Autoprijevoz, who were dismissed in April 2010 without the consent of their union. In the case of Buljan, the employer appealed but the County Court in Split confirmed the first-instance decision. In October 2011, the employer filed a suit against Buljan, demanding compensation for damaging the company's reputation by going on hunger strike the previous year. On 16 November, union members Ivan Čupić, Slavko Bračulj and Igor Tokić started a hunger strike after being made redundant, while only six weeks earlier four new drivers were employed on fixed-term contracts, due to the increased volume of work. On the first day of their action, the employer hired security guards who attempted to oust the workers from the company premises, and after failing to do so, locked them into the building. The workers were unlocked only after the arrival of the police. The Croatian Association of Trade Unions (HUS), which also has a branch in the company, reported the employer's attempt to dismiss their shop steward Veljko Nasić in July 2011. Both unions also stated that the employer is sponsoring a yellow union among newly employed workers. Following an investigation initiated in 2010, in September 2011 the County State Attorney's Office in Split issued

an indictment against the owner and company director Joško Jerkan and two other members of the management for a wide range of malpractices in the company's operations.

Czech Republic



POPULATION: 10,490,000
CAPITAL: Prague
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

The government's approach to social dialogue is perfunctory and the difficult financial climate has also created a difficult environment for trade unions. This is reflected in the many violations of union rights reported in different sectors of the economy. 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, in relation to collective bargaining, is coupled with a number of restrictions. To call a strike, both a two-thirds majority of the votes cast in a ballot and the participation of one half of total number of employees in the voting procedure is needed. Furthermore, these strikes 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. Legal framework for other types of strike is still lacking despite relevant constitutional provisions and decisions of the Highest Court of the Czech Republic.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: Like other European countries, the Czech economy was hit by the global economic crisis with an increasing unemployment rate at 9% of the workforce and GDP growth around 1.7% for 2011.

The right-wing coalition government pushed through a series of austerity reforms in the areas of employment, health, pensions, tax and social security, hitting vulnerable social groups hard and weakening workers' rights and the position of workers' representatives.

Social dialogue has been formal with the government very reluctant to engage in consultation and not respecting social partners' positions. A day of protest was held in Prague on 21 May, with 50,000 people taking to the streets and further protest activities were held on 17 November, the anniversary of the Velvet Revolution.

Poor climate for good industrial relations: The implementation of a raft of austerity social reforms by the country's right-wing coalition government has created a harsh environment for trades unions. Indeed the lack of consultation and provision of information during the government's reform process has been indicative.

CMKOS report regular difficulties in the areas of collective bargaining, the right to information and consultation, the freedom to organise and in discrimination against trade union activists. The government's programme is having a damaging cumulative effect on both workers' and unions' rights.

Amendments to the Labour Code which take effect from the beginning of 2012 have already impacted on the collective bargaining system as the government seeks to shift employment contracts as a matter for relations between the employer and the individual worker. With the introduction of a minimum membership threshold, employees in small enterprises could lose union rights. Other amendments chip away at unions' role, including ending the need for employers to consult with unions on matters relating to individuals, as well as ending the requirement of mutual agreement on some workplace issues.

CMKOS believes there was a political agenda behind moves by the finance ministry to stop a strike in the transport sector in June; a belief that was vindicated by the courts when CMKOS won an appeal.

The opt-out from the EU's charter of fundamental rights also remains an area of considerable concern.

Conflict at opera merger: Employees of the State Opera in Prague who voiced their protest against the Ministry of Culture's decision to merge Prague's opera houses were threatened by the management with dismissal and other punishments. In addition, the initial decision was taken without consulting the Trade Union of Professional Singers of the Czech Republic on the potential impact of the merger.

Hotel forces trade union chairman out: The Parkhotel s.r.o. in Prague, which is contending with serious financial problems, placed the chairman of the organisation's trade union under such pressure that he decided to end his contract of employment. He nonetheless continues to run the trade union office.

Metalworkers' union reports intimidation in Brno: Following the establishment of a local trade union organisation of OS KOVO (Czech Metalworkers' Union), the management of a globally-known company in Brno started to mount pressure on the trade union committee members, as well as on other workers, inviting them to withdraw their membership of the union or not join it at all. The management established a works council composed of employees close to management and downgraded the contract of the trade union organisation's chairman (despite having a university degree he was transferred to manual work). Thereafter, the management introduced administrative steps with a view to dissolving the trade union organisation and refused entry to the premises of a representative of a higher trade union body who had been invited to participate in a public meeting of members.

OS KOVO had to intervene to remedy the situation. The name of the company involved has been kept anonymous at the request of the union.

Flagrant abuse of migrant forestry workers: In a very worrying development, the abuse of several hundred migrant workers in the Czech state forest sector was widely reported in 2011. Workers from Vietnam, Slovakia, Romania and Ukraine were hired by sub-contractors in 2009 to work in the state forests but were left unpaid over a period of months.

The Czech State Forestry enterprise (Lesy CR) had subcontracted work to two Prague based companies Affumicata a.s. and Wood Servis Praha s.r.o. In the case of the Vietnamese workers, it is thought that they were tricked into signing educational rather than employment contracts. Lesy CR said that they could were not responsible for the actions of subcontractors, whilst

the parent body of Lesy CR, the agriculture ministry stated that it could not be held responsible for employment matters.

French embassy ignores request for dialogue: The French embassy in Prague has ignored repeated requests from employees who had established a trade union organisation and wished to enter into social dialogue. A number of important issues such as the merger of the embassy's cultural department with the French Institute remained outstanding. The union has sought a collective agreement through the use of a mediator, but there has again been no response from the employer.

Building workers' union reports several violations: After considerable delay, a foreign company (name withheld at the request of the union) communicated the name of the person authorised to represent the company in labour relations. Thereupon, the branch of OS STAVBA (Czech Building Workers Union) submitted a draft collective agreement and nominated its negotiating team. It included an outside expert (officer of the union), whose participation the employer opposed. The employer provided information exclusively to the chairman of the trade union organisation and was prepared to negotiate directly only with him. This was not in accordance with the relevant provisions of the labour code, according to which information has to be provided to the statutory body of the union, which is the company trade union committee. These provisions also clearly define groups of persons to be present at the bargaining table.

At the same time, the employer announced his decision to withdraw from the existing collective agreement. Several other provisions of the labour code were violated by the employer, including submitting draft individual contracts to employees although the trade union was negotiating collectively.

Numerous violations in the forestry sector: The Trade Union of Workers in the Woodworking Industry, Forestry and Management of Water Supplies has reported a serious situation in the State Enterprise "Lesy České Republiky" (Czech forests), where a great number of complaints have been received concerning the violation of trade union rights, including failure to provide information and to consult, obstructions in the process of collective bargaining, as well as of workers' rights (unlawful cuts in wages, bullying, pressure to terminate contracts of employment).

France



POPULATION: 62,700,000
CAPITAL: Paris
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

The right to strike was strongly contested both by employers and the authorities. The ILO Committee on Freedom of Association, addressing a complaint on this issue, called on the government to prioritise dialogue. Strikers were unfairly dismissed. Strike breaking became the norm, as seen at the Paris Charles de Gaulle Airport, where police officers were sent in to replace private security guards. Political attacks were orchestrated in a bid to throw trade unions into disrepute, creating a climate of mistrust.

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 2011

Background: As the debt crisis threatened the eurozone, the government announced an austerity plan, including drastic cuts in public spending, in a bid to save over 100 billion euros and reach a zero deficit by 2016. The new plan represents a continuation of the austerity measures already imposed through the General Review of Public Policies, for example, or the pension reform.

At the end of 2011, France entered campaign mode, ahead of the 2012 presidential election. In October, François Hollande was selected as the Socialist Party's candidate for the 2012 presidential elections.

Complaint to the ILO concerning abusive requisitioning at end of 2010: In February, the Confédération générale du travail (CGT) lodged a complaint with the ILO Committee on Freedom of Association against the French government, following the requisitioning in the oil industry during the massive protests against the pension reform in October 2010. Trade unions had strongly criticised the government's reaction to the protests at the time: its all-out refusal to negotiate, attempts to weaken the protest movement and abusive requisitioning of workers. The CGT estimated at 160 the number of striking workers requisitioned. The confederation pointed out that the authorities' aim was not to ensure a minimum service in an essential service but clearly to break a strike. In November, the Committee on Freedom of Association requested the government "to ensure that, in future situations where a non-essential service is paralysed, but where measures to ensure a minimum service could be justified, the workers' and employers' organisations concerned are involved in the decision-making process, and that measures are not imposed unilaterally".

Anti-union discrimination regularly condemned by courts: Acts of anti-union discrimination were punished by courts on several occasions during 2011. On 12 April, for example, the appeal court of Nîmes condemned computer company Dell to pay damages and interest to a CGT union representative for discrimination and moral harassment, based on "unjustified sanctions following any procedure with any trade union overtones, the comments made regarding the activities related to his trade union position, his physical sidelining combined with the suppression of all his tasks... conduct which constitutes harassment aimed at weakening working conditions in a way likely to affect rights and dignity." Several court cases were won by union representatives, whose career development was deemed to have been clearly blocked on grounds of their union involvement by employers such as Wagon automobile, Renault, the Caisse générale de sécurité sociale (social security department) in Reunion and the Caisse primaire assurance maladie (public health insurance department).

Representation issues: The new rules on representativeness approved by the two largest trade union centres, Confédération française démocratique du travail (CFDT) and Confédération générale du travail (CGT), have been contested by several unions, including the Confédération générale du travail-Force ouvrière (CGT-FO), which filed a complaint with the ILO, alleging that the legislation concerning social democracy, passed in

2008, infringes freedom of association and the right to collective bargaining. Representativeness criteria based on voting strength has become mandatory, with the setting of representativeness thresholds of 10% of the votes for unions and representatives in elections at company or workplace level and 30% for collective agreements to be declared valid. The CGT-FO complaint refers to the criteria for the appointment of union representatives, the procedure to determine representativeness in the event of restructuring, the uncertainties during the transition period, the duration of the mandates and the constant electioneering that could undermine social dialogue, which the law was designed to improve.

In November, the ILO Committee on Freedom of Association concluded by inviting the government to examine the possibility of revising the legislation with regard to the appointment of trade union representatives and to refer the examination of various other criticisms to the High Council for Social Dialogue (HCDS), which is due to issue an opinion on the results of the assessment of union voting strength in 2013, at the end of the first electoral cycle after the legislation's entry into force. As regards the representativeness thresholds, the committee considered them to be compatible with the principles of freedom of association.

Trade unionists unfairly dismissed: Many employers continued to fire striking workers and union activists, as in the two following cases.

On 22 February, following a strike at one of its sites in La Courneuve (Seine-Saint-Denis), the management of the U.S. delivery company UPS initiated dismissal procedures on grounds of "gross misconduct" against five employees, including two members of Force Ouvrière (FO). The company claimed that they had "deliberately and actively blocked the free circulation of delivery trucks", by virtue of which they were suspended, despite the fact that all of the drivers and warehouse staff were on strike. Following trade union pressure and an inquiry by the labour inspectorate, UPS had to overturn its decision and reinstate the suspended workers.

At the end of February, the management at the PSA Peugeot-Citroën factory in Aulnay upheld its decision to dismiss the Confédération générale du travail (CGT) union representative, Ahmed Berrazel, despite the labour inspectorate's verdict that the dismissal was "clearly linked to his trade union activities and duties". Ahmed Berrazel, aged 29, has already been the target of five disciplinary actions and an 18-day suspension in recent years. Following support actions led by the union, however, the management finally withdrew its Ministerial appeal and suspended the union representative for six days rather

than dismissing him. Tensions are high within the PSA group, which announced 5,000 job cuts in France in 2011.

FN attempts to infiltrate unions: Several trade unionists who presented themselves as candidates with the far-right Front National (FN) during the local elections were expelled by their union organisations. The unions called on their members to be vigilant, reminding them that trade union values are not compatible with the ideas of this party advocating "national preference". The CGT, FO and CFTD union centres denounced the FN's entryist tactics seeking to exploit trade unions for its own political gain. The Front National responded to the expulsions by announcing the formation of a national circle for the defence of unionised workers, Cercle national de défense des travailleurs syndiqués (CNDTS), to fight against "the intolerable attacks on democratic principles being perpetrated by the main trade union centres".

Member of Parliament proposes ban on strikes during peak holiday travel periods: Following Air France's announcement of its unilateral decision to cut working conditions, the unions gave notice of plans to strike (subsequently withdrawn), provoking a bitter reaction from a parliamentary deputy, Lionnel Luca, who is close to the Transport Minister. In a demagogic attack expressing his anti-union sentiment, the deputy called for a strike ban during peak holiday travel periods, recalling that he had already presented a bill to this end in the past.

The daily newspaper Ouest-France held an opinion poll on the controversial issue, which revealed that two out of three people oppose the measure, quoting their support for the right to strike as the grounds for their opposition.

Employers' strike breaking tactics: In August, several trade unions denounced an initiative by the Paris transport department, Régie des transports parisiens (RATP), aimed at replacing striking drivers with managers and supervisors, who were offered a monthly bonus of 100 euros for being available in the event of a strike. Whilst the law on minimum services in public transport provides for measures to ensure the continuity of the service in case of a strike, it also establishes an obligation to engage in dialogue and to take dispute prevention measures. The need to respect this obligation is erased in this scenario. Trade unions consider the initiative to be discriminatory.

The use of private contractors is becoming increasingly commonplace, not only in airports but also for the surveillance of ministerial or court buildings. Trade unions also denounced the poor pay and working conditions of private security guards.

Malicious leaks in the press: On 14 December, several trade union confederations and an employers' organisation called for the publication of a report of the commission of inquiry into the funding of the social partners with which they had collaborated. The report was not voted on, which, in principle, means that its content, the hearings and the discussions within the commission are confidential. However, incomplete and biased information reported by the press managed to discredit the workings of trade unions, despite their compliance with the new rules enacted by the law of 2008 on the publication of audited accounts.

Georgia



POPULATION: 4,300,000

CAPITAL: Tbilisi

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

The trade unions of Georgia face direct attacks from the authorities of the state. An 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. Georgia has become one of the worst cases in Europe as far as the rights of workers are concerned.

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 2011

Background: The government of Mikheil Saakashvili, the president of Georgia since 2003, has implemented in the country the most radical variant of neoliberal economic policy, with the total privatisation of state assets, abolishment of the majority of social guarantees, and extreme deregulation, including the deregulation of labour market. Economic growth in 2010 was 7%, but it doesn't influence subsequently the well being of the majority of population. Manufacturing and agriculture remain weak. The government officially acknowledged 15% unemployment by the end of 2011; but the alternative sources gave other estimations, of up to 41% unemployed. The economy is supported by substantial external borrowing; with external debt equal to 35% of GDP, and public debt 43% of GDP in 2011. The political situation in the country is characterised by the domination of the president and his party, United National Movement, which has constitutional majority in the parliament since the elections of 2008, while the opposition is fractured and feeble. The protest actions of opposition in the capital of the country, Tbilisi, were dispelled by police in May 2011.

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. The GTUC estimates that union membership decreased by more than 100000 people since the adoption of the Labour Code because of lack of protection against anti-union discrimination.

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, in particular, sections 37 (d) and 38 (3), which allow the employer to terminate a contract with an employee without any reason, provided one month severance is paid.

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.

The year 2011 has brought a new tension between the government and GTUC, while GTUC had to ask the international trade union movement to hold solidarity campaigns on several occasions.

In June 2011, the ITUC and the ETUC have requested an investigation regarding compliance with its EU General System of Preferences (GSP+) which allows Georgia to benefit from trade preferences. The request pointed out the restrictions imposed by the Georgian government on the country's workforce on freedom of association and collective bargaining. It also details the absence of protection for workers from being sacked for union membership or from other forms of discrimination. However, the EU Commission refused to accept the case for review despite the higher standard.

However, in October 2011, the United States Trade Representative (USTR) accepted for review a petition under the Generalized System of Preferences (GSP) filed by the American Federation of Labour and Congress of Industrial Organizations (AFL-CIO) alleging that the government of Georgia had failed to "take steps to afford internationally recognised workers' rights" in both law and practice. As a consequence, a formal investigation and a public hearing into the matters raised in the complaint will be launched.

Hercules Steel – trade union activists fired, strikers repressed by police: The workers of the Hercules Steel plant at Kutaisi, had established their union on August 4, the company immediately fired six of its elected representatives, provoking a warning strike by the workers on 2 September. The company then fired more of the workers, after which the workforce launched a full-scale strike with several members also going on hunger strike. On the 15th of September the workers were forced to end their strike and return to work in a sudden raid by an overwhelming force of police yesterday. Fifty police vehicles, led by the local Governor, descended on the strikers

and detained more than 40 of them for several hours. Managers then went to workers' homes to threaten them, and police made several more workers sign statements that they would go back to work.

A strong international solidarity campaign was held to protect the rights of the trade union members, as well as the rights of the victims of trafficking -130 workers from India, who were found working also at Hercules Steel at Kutaisi. As a result, the arrested members and leaders of the union were released, restored at workplaces, and the management of the company agreed to acknowledge the union as representing both Georgian and Indian workers of the plant. The executive director of Hercules Steel at Kutaisi, Raji Kumar Sureika, was fired. However, in practice the collective bargaining process has not progressed and union is still facing difficulties, and workers are advised not to have contacts with the union.

The LTD "Georgian railway" interferes into trade union elections: The LTD "Georgian railway", in violation of the existing collective agreement, unilaterally issued an order number 5881/2, according to which, the transfer of membership dues was terminated in July 2010. The administration of the company intended to bankrupt the trade union and limited a free exercise of workers collective rights. The court ruled against the union complaint and based its decision on the provisions of law on "collective bargaining" that was abolished back in 2006. Recommendations of the Tripartite Social Partnership Commission to parties to engage in the collective bargaining process to resolve the conflict were ignored by the railway administration.

The company began downsizing the workforce. Lay offs have begun, generating a climate of fear. On 25 March 2011 activists of the union were called to Tbilisi in the head office of the Georgian Railway. The administration of the railway informed that it does not approve any trade union activity. Besides, they were also told that they could stay and carry out union activities, but could face dismissals.

On 8 April in Khasuri, Ms. Gocha Chubinidze, the head of the Carriage Depot of the Georgian State Railways advised delegates not to attend the Railway Workers Trade Union Congress and threatened them with dismissals. Also In Khashuri, the Head of the Rail Track Department, Mr. Zaza Chkoidze, threatened 8 delegates with dismissal, if they attended the congress. The Head of the Railway Station, Mr. Vasil Kurtanidze, threatened one of 2 delegates with dismissal, if he attended the congress. On 10 April, in the morning when delegates from Khashuri were in the station aiming at arriving to Congress, some uncertain people came and tried to convince delegates not to go to Tbilisi. As a result, some delegates went back

and didn't come to congress. In result only 9 delegates out of 24 elected attended the Congress. From Samtredia, another region, only 15 out of 38 elected delegates attended the Congress. In Tbilisi a few days before the congress the delegates were threatened by the representatives of the Ltd „Georgian Railway's administration in Rail-track Department and also in Carriage-Exploitation Department.

As a result of the mentioned interference, the congress attended 69 delegates instead of 130; therefore it was an obvious danger of deranging the congress. Despite that interference, the congress was held, the constitution was amended and governing bodies were elected.

On 22 June, Merab Targamadze, a member of board of the Georgian Railway Workers Union, was fired by the administration without prior notice accordingly by the article 37 section D of labour code. Taking into consideration above mentioned facts and active trade union work carried by Targamadze it becomes obvious that he was dismissed on account of his trade union activity. This particular case also serves as a clear demonstration of the railway administration to use all illegal means in order to disturb the unions and subject the members to the discrimination.

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.). 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 dialoguewith the Ministry of Science has intensified for a while since then, and collective agreements have even been signed in two regions.

However, since June 2010 collective agreements on 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. (See 2011 Annual Survey). Nevertheless, a trade union delegate was elected as president.

A pressure on the ESFTUG continued in 2011. The officials in the Ministry tried to urge the newly elected president of the union, Maia Kobakhidze, to resign. After she has refused the proposal, she was intimidated by the anonymous people by phone, who threatened to kill her. The Ministry continues to ignore the leader of the union, and to avoid dialogue with ESFTUG. Furthermore, the Ministry of education, without any consultations, issued an order prohibiting check-off system.

Attack on a union at the Agrarian State University: Lasha Gotsiridze, a week after he has been appointed as Head of the University, in violation of the collective agreement, issued a verbal order that terminated the transfer of the union membership dues on the union account, by which the functioning of the primary union unit has been put under the threat. Recommendations of the Tripartite Social Partnership Commission to parties to engage in the collective bargaining process to resolve the conflict were ignored by university administration.

Germany



POPULATION: 82,300,000
 CAPITAL: Berlin
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
 - 105 - 111 - 138 - 182

Civil servants still do not generally have the right to strike. Despite solid industrial relations, some employers remain hostile towards unions. As a result, union members experience discrimination, while some negotiations are held with yellow and rather unrepresentative unions with only a 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 2011

Background: In 2011, the German government positioned itself in the centre of efforts to address the Eurozone crisis, though it came under criticism for pushing austerity at a time when the economies of several countries are contracting and high rates of unemployment have led to mass demonstrations in several European capitals. Unemployment was lower in Germany than in other European countries, largely due to active labour market policies that helped shield workers from the brunt of the crisis – policies which were successfully advocated for by the trade unions. Additionally, efforts at labour law reform were staved off, unlike in other countries in Europe where deep reforms were imposed. There has been, however, a marked increase in precarious work, though trade unions are actively working to establish limits on temporary agency work and other temporary employment. After the earthquake and tsunami in Japan, the DGB, together with its eight member unions and a broad coalition of NGOs, advocated for a new direction in the energy sector away from nuclear to renewable energy. In 2011, human rights groups appealed for law enforcement to more effectively investigate and prosecute hate violence.

No statutory right to strike for civil servants: Even though the Düsseldorf Administrative Court ruled that teachers who gain tenure as civil servants should not be punished if they go on strike, the legislator has taken no recognisable initiative to at last enshrine civil servants' right to strike in the law.

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 circumstances, for instance to secure jobs.

Where wage concessions have been made, they have mainly been offered in exchange for job security. One problem is wage and social dumping through collective agreements concluded by yellow unions or unions with a limited membership and hence limited ability to assert themselves. Labour courts are increasingly casting doubts on this practice.

One such pseudo union, the Collective Bargaining Association of Christian Trade Unions (CGZP) has for many years set low-wage standards in the temporary employment sector. After

the Federal Labour Court of Germany denied the CGZP the right to conclude collective agreements and thus rejected its trade union status, Berlin's regional labour court confirmed that all collective agreements concluded by that union were invalid.

In a similar case, the regional labour court in Hamm ruled that the Trade Union Wood and Plastic (GKH), an affiliate of the Association of Christian Trade Unions, does not have the right to conclude collective agreements. For years this pseudo union concluded collective agreements throughout Germany agreeing low wages, long working hours and poor working conditions with employers' organisations in the carpentry, joinery and model-making 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, for example, can be denied access to companies, and employers may engage in anti-union propaganda. Moreover, employers are regularly seen to discriminate against unions, resulting in dismissals, demotions, transfers and discrimination regarding the recruitment of active union members, especially if they strive to establish works councils.

Greece



POPULATION: 11,359,000
 CAPITAL: Athens
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
 - 105 - 111 - 138 - 182

All events in Greece have been overshadowed by the severity of the country's financial and economic crisis, which has led to a sharp fall in living standards. Trade unions have also felt the impact as reforms demanded by the EU and IMF in return for assistance bite.

TRADE UNION RIGHTS IN LAW

Basic trade union rights are guaranteed, although with certain limitations. The law stipulates that workers have the right to form and join trade unions without prior authorisation. Police have the right to organise and to hold demonstrations, but not to strike. Twenty members are required to form a trade union, which constitutes a restriction to the right to organise given

the prevalence of small enterprises in the Greek labour market (approximately 90 per cent of the workforce).

Collective bargaining is also recognised, although the law stipulates that retirement-related matters are excluded from the scope of collective agreements and permits the unilateral denunciation of collective agreements concerning the supplementary pension funds of bank employees. In the context of the economic crisis, the government adopted measures that further restrict the right to collective bargaining: in 2010, the principle of the most favourable treatment for the worker was abolished and provisions allowing direct State intervention in the system of free collective bargaining and industrial relations framework were adopted. In 2011, further provisions were adopted allowing employers at the enterprise level to withdraw from the application of sectoral collective agreements, thereby nullifying the binding nature of collective agreements. Furthermore, other measures empower associations of persons to conclude collective agreements at enterprise level where no trade unions operate given the minimum membership requirement to form a union (20). This is likely to seriously undermine the position of trade unions as the representative voice of the workers in the collective bargaining process. In the current framework, the fact that associations of persons can only be constituted in enterprises where there are no unions provides no guarantees for workers' choice of representation given that unions cannot legally be formed in enterprises of fewer than 20 workers.

Although workers in general enjoy the right to strike, it is limited for public servants, employees of local government agencies and judicial officials, as well as in enterprises of public nature or of public benefit if deemed vital to serving the basic needs of the society. In addition, the criteria for declaring a strike illegal are vague, as the courts issue their rulings after weighing the opposing interests of workers and employers, assessing the broad implications of the strike and applying the proportionality principle. All strikes must be called by recognised trade unions, and wildcat strikes are prohibited.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: Politics in Greece has been dominated by the country's ongoing debt crisis, which reverberated around Europe in 2011. Severe austerity measures, demanded by the EU and IMF, have been implemented to tackle the crisis, resulting in a sharp fall in living standards. Far from addressing problems, the programme seems to be pushing Greece towards economic and social collapse at an exponential rate. Every economic indicator has worsened. The economy has shrunk by about 20% since 2008 – the deepest recession since World

War II-and is expected to shrink further by about 25-30% to wartime levels over the coming years. More than one in ten jobs has been destroyed. Unemployment stands at 21% and the total number of unemployed exceeds one million, with GDP declining at 5%. Youth unemployment reached 51.1%.

The government of George Papandreou fell in November and he was replaced by former central banker Lucas Papademos at the head of an interim government of national unity. The drive to solve the crisis has had an impact on the way trade unions operate and has also had an impact on workers, pensioners and their families due to loss of income as a result of job losses, successive wage and pension cuts as well as the imposition of continuously heavy direct and indirect taxation. Workers and trade unions have also experienced serious institutional disempowerment due to the far-reaching measures of structural labour market adjustment.

The debt crisis and its impact on trade union rights: Greece was at the centre of the European debt crisis throughout 2011. While attention has focused on the consequences for the Greek economy, welfare state and social security system, the crisis has also had a significant impact for trade unions and how they can operate.

In a bid to reduce its debt, and with membership of the euro-zone precluding any opportunity to devalue its currency, the Greek government – pushed by the memorandum of Economic and Financial Policies of the European Commission, European Central Bank and International Monetary Fund (the ‘troika’)- has instead had to pursue an ‘internal devaluation’, i.e. reducing wages and living standards sharply. For example, working hours were extended throughout the public sector from June 2011.

This situation has had consequences in terms of trade union rights in relation to freedom of association and collective bargaining. Changes were introduced to the rules on collective bargaining in October 2011, with the new system prioritising enterprise level bargaining and not just sectoral or occupational agreements. It has also allowed associations of persons to enter into bargaining agreements, a measure targeted at smaller enterprises.

Union bodies, including the General Confederation of Greek Workers (GSEE), have regarded some of these moves as destabilising the industrial relations framework and weakening the role of trade unions. The chairperson of the Economic and Social Council of Greece has also stated that social dialogue has not really had a chance, as the dynamics of the crisis have hindered progress.

Diminished role for unions in collective bargaining: The General Confederation of Greek Workers (GSEE) believe that the conditions set out in the Troika’s Memoranda have been aimed at abolishing the system of minimum standard-setting through collective agreements, a system that has served Greece by maintaining social stability and promoting development for over 20 years. Furthermore, the recent significant interventions in the system of collective bargaining have been aimed at reducing wages in the private sector and essentially replacing collective bargaining not simply with enterprise agreements but with individual contracts.

Discussions between the government and the Troika to effectively eliminate the extension of sectoral collective agreements have taken place despite the support expressed for them by both trade unions and employers’ organisations. The introduction of the special enterprise collective agreements by Act No. 3899/2010 was a first step in the direction of weakening sectoral agreements so as to reduce wages without providing guarantees for workers.

According to the GSEE, the intention of the government and the Troika to eliminate the role of trade unions in the collective bargaining process was reflected in the possibility of allowing atypical ‘associations of persons’ that were not trade unions to conclude special enterprise collective agreements. The role of trade unions in concluding collective agreements on working time arrangements had already been undermined and an ‘association of persons’ entitled to conclude such collective agreements. The government began preparing to build on this measure by allowing for the conclusion of enterprise collective agreements without the presence of a trade union so as to facilitate the negotiation of such agreements in medium, small and very small enterprises, which constitute 99% of Greek enterprises and had been covered until then by sectoral collective agreements. The law did not allow for the creation of trade unions in enterprises with less than 50 employees, hence the intention to allow collective agreements to be negotiated with informal ‘associations of persons’ created on an ad hoc basis, i.e., with individuals that the employer would essentially invite for discussion without any guarantees of independence.

This situation has disempowered the Greek unions, and has been further compounded by changes to the system of arbitration and mediation. The High Level Mission of the ILO, which visited Greece in September 2011 expressed deep concerns about these changes to the ‘detriment of social peace and society at large’.

Reinforcement of employers and their managerial prerogative: The conditions set out in the Troika’s Memoranda have

also increasingly reinforced the employers and their managerial prerogative. According to the General Confederation of Greek Workers (GSEE), this has created an unfair playing field for trade unions and workers. The main measures include: the introduction of the "labour reserve" concept in the public sector as pre-dismissal, the possibility for the employers to unilaterally impose reduced term rotation work and suspension (nine and three months respectively); the drastic increase in the collective dismissal threshold (reduction of severance pay, shortening of notice period) as well as an extension of the trial period of employment (to one year) without severance pay in the event of dismissal; the abolition of the payment of the total amount of severance pay (bi-monthly instalments); the facilitated dismissal of older workers close to retirement and the extension of the duration of temporary agency work to three years from 12+6 months.

Trade union leaders arrested: On 24 November 2011, the Greek police arrested Nikos Photopoulos, president of the power workers' union GENOP/DEI, along with some 14 other trade union activists. They were charged following a sit-in at a power company's computer centre, held to protest against the Greek austerity measures, which include imposing a swingeing property tax levied regardless of income or wealth, and cutting off power to people unable or unwilling to pay it. They were due to appear in court on 10 January 2012 to face charges that could see them jailed for up to five years. The General Confederation of Greek Workers, GSEE, is calling for the charges to be dropped.

Hungary



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

With its overwhelming majority the Hungarian government has pushed through controversial changes to the country's labour code, impacting on collective bargaining and making the right to strike yet more restrictive. Hungary's perilous economic situation has also harshened the operating environment for trade unionists.

TRADE UNION RIGHTS IN LAW

The Constitution and the Labour Code recognise the right to organise and the right to collective bargaining. Despite this fairly solid legal framework, some problematic areas exist. The new Labour Code adopted in 2011 failed to address some key trade union rights. It lacks enough dissuasive sanctions to ensure the protection against trade union discrimination and it does not offer sufficient protection to trade union officers. In addition, the new law limits freedom of opinion and expression with the objective to protect the lawful economic interest of the employers or their prestige. Therefore, workers are not allowed to express opinions on their employment within or outside working time... The protection against dismissal and the right to free time for officials are exclusively granted to trade unions authorised to conclude a collective agreement, i.e. those that reach the 10% threshold.

The new Labour Code also imposes restrictions on the right to collective bargaining. Only one collective agreement can be concluded at the enterprise level, by one or more unions acting together which number of members reaches 10% of the number of employees covered by the collective agreement. If this threshold is not reached, work councils have the possibility to conclude "work agreements" with the effect of collective agreements. Also, works councils have the priority or the exclusive right, to the detriment of trade unions, to be consulted on several important issues.

With the amendment in 2010 of Act VII of 1989 on strikes, the broad prohibition of the "abuse of the right to strike" may lead to abuses and the restriction of this right on the part of the authorities. 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. In addition, workers in transport services and their organisations are prevented from going on strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: At the end of 2011 the Hungarian economy remained in very poor shape, with modest growth of 1.4% and unemployment at 10.6%. Of bigger concern has been the budget deficit and the likely need for an IMF/EU bailout. The right-wing Fidesz government of Viktor Orban introduced sweeping constitutional changes in 2011 following its landslide election victory in 2010. Opposition to these changes has

been intense, and both domestic and international in nature. Substantial and controversial changes were also made to the country's labour code and a bill to this effect passed through parliament in December. Unions were involved in organising numerous protests against these changes.

New legal code undermines union rights: With its overwhelming parliamentary majority the Hungarian government has been able to pass employment and labour relations legislation without consulting trades unions.

Changes have been made to the tripartite interest reconciliation system, with a new body the National Economic and Social Council (NGTT) replacing the National Interest Reconciliation Council. The NGTT will not be a decision-making body and only the cabinet will be able to decide on wage and employment regulations. Both employers and union were against these reforms.

In addition, measures aimed at deregulating the labour market will also have a significant impact on collective bargaining and consultation rights. A shift in favour of works councils to the detriment of unions is foreseen, and employers will gain powers to discriminate against unions they dislike.

Government pressure on the unions led to division, with only half the Federations agreeing to the new rules on collective bargaining.

Growing difficulty in exercising right to strike: Changes made by parliament to the law on strikes at the end of 2010 have led to rendering strikes illegal in companies providing core services to the population, unless the parties involved have agreed on the sufficient level and condition of services. When this condition is not met the level will be determined by the courts. With no detailed provisions laid out there is now considerable legal uncertainty.

This state of affairs has been exemplified by two cases: In the spring of 2011 the Trade Union Federation of Bus Drivers decided to call a strike after bargaining with three county-level bus companies broke down, and requested that the court determine the core level of services that should be provided. The court has since twice rejected the union's application, and has stated that the union has a vested interest in determining the conditions, even though the law is clear that the court needs to adjudicate on this.

The Trade Union of United Electricity Workers sought to strike in June 2011 in protest at several of the government's social and employment reforms. Here again the unions met with a lack

of decision-making from the courts in determining minimum levels of service, thereby making any strike action illegal.

Controversial media law also impacts on unions: The 'hectic decision-making' of Prime Minister Viktor Orban's government has been much criticised and the new media law in particular. The suspicion has been voiced that levels of employment were kept at 49 in three of the organisations subject to reform - Magyar Televízió, Magyar Rádió and Duna Televízió - to avoid the obligation to set up works councils.

Chemical Workers Union President taken to court: Hungarian Chemical Workers Union President, Tamas Szekely, has had court proceedings launched against him by the tyre manufacturer Bridgestone, without any prior consultation or notification. The case relates to a 2009 report in the union journal about occupational health problems suffered by an employee, Tibor Skoflek. The move follows changes to the Hungarian Labour Code that enable employers to take action relating to activities under the previous legislation.

Chief shop steward dismissed: The chief shop steward of the Trade Union of Economic Experts at the Airport Security Trading and Service Zrt group, an outsourced part of the Malev Zrt group, was dismissed in December 2011 without consent of the higher level workers' representation body being sought. A court case was ongoing at the time of going to press.

Italy



POPULATION: 60,551,000
CAPITAL: Rome
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Although trade union rights are well protected in law, those rights are not enjoyed by the majority of Italy's migrant workers, many of whom work in slave like conditions. Essential service rules are used to undermine the right to strike. There was good news in the public sector, where an agreement was reached allowing workplace representation elections to go ahead. The overall decline in the economic and social situation led to the resignation late in the year of the Berlusconi government.

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. The law also prohibits anti-union discrimination.

The right to reinstatement is only applicable where an employer has more than 15 workers in a unit or more than 60 workers in the country, but the Government announced a "labour market reform" reducing the scope of reinstatement for illegitimate individual dismissals. This measure was the three main national centres.

The right to collective bargaining is also guaranteed, and concluded collective agreements are legally enforceable. The Berlusconi Government, however inserted a provision in a budgetary law (art. 8 of L. 138/2011) allowing company and territorial level agreements to deviate from the Sectoral National Collective Agreements that regulate the working rights and conditions in Italy. This provision was adopted despite an agreement between the social partners (three main trade union confederations and the main employers' organisation, Confindustria) on 28 June to respect national collective agreements, not to resort to legal derogations, and establishing common criteria to reach agreements at company and/or workplace level.

The right to strike is enshrined in the Constitution, which stipulates that the right shall be exercised according to law.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: In 2011, unemployment increased significantly, and in particular among youth, with peaks of 39% in the southern regions. Financial speculation, contributed to the collapse of the state budget, with the national debt at 120% of GDP.

The government reacted with heavy cuts to state expenditures, reducing social services and imposing heavy sacrifices primarily on workers, pensioners and local authorities.

In November, the Berlusconi government resigned and a new government of "national coalition" was supported by a large majority in Parliament (95%), with the main goal of avoiding the state's financial meltdown.

The first reforms introduced by the Monti Government targeted the pension system by introducing a criteria of 41-42 years worked to receive a pension (now based on a pro-rata of contri-

butions) and raising the retirement age to 67 for both men and women progressively since 2013 to 2022.

As a result, hundreds of thousands of elderly workers, dismissed from companies before the approval of the new law (on many occasions according to collective bargaining agreements), find themselves both without a job and without a pension.

Collective bargaining rights: Violations of freedom of association or collective bargaining rights are possible when employers choose to negotiate and sign agreements with particular unions, regardless of their representativeness.

Collective bargaining in the public sector: The right to strike is problematic with regards to essential services as the duration of and the reasons for a strike must be announced in advance.

In 2009, the government froze public salaries for 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 extend the retirement age for female public servants from 60 to 65, again without prior consultation. 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.

In 2011, the adoption of the European semester and of the Euro Pact Plus by the European Council has imposed severe measures on the Italian budget in order to reduce the debt. This decision has brought a renewed focus on cuts in public spending, with further reductions of precarious contracts in the public sector, particularly at the national administration level leading to the loss of as many as 35,000 jobs.

Work place representatives' elections: During 2011 an agreement was finally reached by the main national trade union centres with the government to end blocking elections for work place representatives in the public sector.

Migrant Workers: 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, in comparison to 12 months for nationals.

More than 500,000 irregular migrants are still living and working in the black labour market in Italy. Trade unions have denounced systematic violations of human and trade union rights for workers, mainly migrants, under the gang-master system (caporalato). The unions estimate that thousands of workers are subjected to human trafficking and slavery conditions.

In 2011, under pressure from trade union and public campaigns, a new law was approved recognising "caporalato" as a crime punishable with up to six year in prison.

Right to strike: Until late in 2011, the Berlusconi government was known to make excessive use of essential services as established through ILO jurisprudence to restrict this right.

Violations: FIAT-Chrysler refused in December 2011 to recognise elected representatives of a union, despite their representativeness, and refused to collect union dues on its behalf.

Kosovo



POPULATION: 2,000,000
CAPITAL: Pristina
ILO CORE CONVENTIONS RATIFIED:

The private sector remains out of reach for trade unions, in spite of the Labour Law that came into force in January 2011, and the Law on Trade Unions adopted in July. Anti-union pressure from employers and inefficient court protection mean that many workers are afraid to join a union, or even to report violations of their rights. The large informal economy also puts many workers outside the scope of the unions.

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.

The Law on Strikes was adopted on 22 July 2010, while the Law on Trade Union Organisations was adopted on 28 July 2011 and Law on Social and Economic Council was adopted on 21 July 2011. The Law on Labour and Law on Trade Union Organisations 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 2011

Background: Hashim Thaçi was reappointed Prime Minister in February 2011, following his win in the December 2010 elections, and for the first time the cabinet included a member of the Serbian minority. After the appointment of Behgjet Pacolli as President was overturned on constitutional grounds, parliament eventually elected the Deputy Director of the Kosovo police, Atifete Jahjaga, as the first woman and non-partisan President of the Republic. EU-facilitated dialogue with Serbia started in March 2011 and, in spite of being slowed down by ethnic tensions and clashes in Northern Kosovo during the summer, resulted in five deals on technical issues by the end of the year. By September 2011, Kosovo was recognised by 87 UN Member States, including 22 of the 27 EU Member States.

Private sector non-unionised: In spite of the Labour Law, which came into force on 1 January 2011, and the Law on Union Organisation adopted in July 2011, the private sector remains almost completely non-unionised. Weak law enforcement and the lack of effective protection by the courts mean that workers continue to be threatened with dismissals or other forms of anti-union discrimination if they join a union. Violations of workers' rights have increased in recent years, after the privatisation of state-owned companies began. Around 30% of all employees are employed in the informal economy, without any guarantee of even the most fundamental workers' rights.

Weak labour law enforcement: Workers and employers are still not very familiar with the newly adopted Labour Law and its implications, while both the Labour Inspectorate and courts lack the capacity to enforce the labour legislation and oversee its implementation. The Labour Inspectorate has only around 50 inspectors to cover more than 100,000 registered companies. The number of complaints submitted remains disproportionately low, as workers fear reprisals from employers, or are simply unaware of the legal remedies available.

The inefficiency of the courts, which have received more than 130,000 labour related cases since 2008, but have solved only around 14,000, results in workers often not trying to enforce their rights through the legal system. Even the binding

decisions of the Independent Oversight Board, which receives complaints from civil servants, often remain unimplemented. A large number of violations of workers' rights, including physical assaults, continue to occur in all sectors including in international organisations, although the situation is most severe in the private sector. Overall, supervision and implementation of the labour legislation, including the right to organise, remains a serious challenge for national institutions and trade unions.

Maternity improvements undermined by employer discrimination and budget shortages: The new Labour Law, which came into force on 1 January 2011, increased maternity leave from 12 weeks to 12 months, as well as maternity leave pay from 12 weeks to nine months. As this increased the cost of employing women workers, however, many employers in the private sector, especially small and medium-sized enterprises, started to be more reluctant to hire women workers or began employing them on one-month contracts. The application of improved paid leave provision is further hindered by the insufficient government budget allocation for this.

Human trafficking and forced labour: In spite of some progress in the prosecution and prevention of trafficking of human beings, Kosovo remains a place of origin, transit and destination for victims of trafficking, most of them being women and children. There was an increase in the reported number of underage victims trafficked for sexual exploitation. Child-trafficking for the purpose of begging and other forced labour remains at high levels.

Latvia



POPULATION: 2,068,000
CAPITAL: Riga
ILO CORE CONVENTIONS RATIFIED: 87 - 98 - 100 - 105 - 111

Economic conditions continue to make it difficult for trade unions and members to fully utilise their rights. In particular there are difficulties in the right to collective bargaining, both in law and in practice.

TRADE UNION RIGHTS IN LAW

Certain limitations apply despite basic trade union rights being guaranteed in the Constitution. Border guards are not allowed to form or join trade unions.

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. Furthermore, the criteria to determine the most representative organisation is uncertain and in a time of economic crisis there is no effective mechanism to prevent employers from leaving the relevant employers' organisation and therefore withdrawing from the sectoral collective agreement.

The right to strike is restricted. If the legality of the strike is challenged in court, the strike cannot be started until the decision of the court has been issued. Furthermore, solidarity strikes are illegal unless the dispute concerns a sectoral level collective agreement. 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, exceeds the ILO definition.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: After steep economic decline in previous years, the Latvian economy has returned to growth (estimated at 4.6%). However, unemployment is still high at 14.8% and budgetary consolidation measures are still being implemented. Prime Minister Valdis Dombrovskis was once again returned to power after September's parliamentary elections, but his coalition government has no formal majority.

Telecoms company seeks to undermine collective agreement: In January 2011, the Communication Workers Trade Union (CWTU) discovered that the management of Riga-based Lattelecom was failing to comply with its responsibilities provided for by a collective agreement, particularly in relation to the company pension fund.

A compromise was reached by the Conciliation Commission and on 16 March the parties signed an agreement reducing Lattelecom's contributions by half. However, after signing the employer embarked on an anti-union campaign with the intention of damaging the image of the trade union and discrediting it in the eyes of employees, thereby seeking to gain an opportunity to withdraw from fulfilling the compromise agreement.

A positive and effective intervention by the State Labour Inspectorate improved the situation. This obliged Lattelecom to make contributions to the pension fund and fulfil its responsibilities. Subsequently, however, Lattelecom employees were prevented from communicating with the CWTU (by making it impossible

to connect to the CWTU webpage and to send e-mails to the e-mail addresses of the CWTU officials).

Following a meeting of the National Tripartite Cooperation Committee on 27 May, a reconciliation agreement was signed on 15 July, which restored normality and the internet connection was re-established. Nonetheless, challenges still remain; on 20 October it was reported that Lattelecom denied the CWTU Vice President access to Lattelecom facilities in Liepaja.

Lithuania



POPULATION: 3,324,000
CAPITAL: Vilnius
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The austere economic climate is only slowly improving - a situation which continues to present challenges to the trade unions, both in terms of securing their own rights and also in terms of defending the interests of their members.

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 20 members or one-tenth 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 replace striking workers in certain sectors, when minimum services are not provided, 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 2011

Background: Following the very sharp decline in the economy in 2009 and 2010, the Lithuanian economy returned to growth in 2011, forecast at 6.7% in the third quarter. However, unemployment remained high at above 15%. Trades unions protested against austerity measures in March 2011, with a particular focus on raising the minimum wage, which is one of the lowest in the European Union.

Victimisation of trade union leader: The chairman of the trade union at the State Border Guard Service, Vladimir Band, was threatened by his employer with dismissal in December 2010. The union refused to give its consent to this move. In a subsequent court case brought by the employer, the court ruled on 31 March 2011 that Mr Band had been victimised because of his trade union duties. State officials were however not punished for this violation.

Company director loses job for signing collective agreement: The director of the state-owned company Turto Bankas, Jonas Budrevicius, signed a collective agreement with the trade union, which reduced employees' pay for a limited period of one year. A decision was made to dismiss Mr Budrevicius in August 2010 because the collective agreement was not in favour of the company. On 9 June 2011 a court ruled in favour of Mr Budrevicius and awarded him redundancy pay. However, the appeal court overturned this decision on 16 November 2011. Lithuanian trade unions believe this is indicative of the Lithuanian government's unwillingness to promote collective bargaining and demonstrates why the density of collective agreements in the country is so low.

Beer declared essential to stop strike at Carlsberg: On 10 June members of the Lithuanian Trade Union of Food Producers (LPMS) voted in favour of strike action at the Carlsberg brewery in Lithuania in support of their demand for a decent company-level collective agreement. Management sought to stop the strike taking place and took legal action to have it declared illegal. Ten days later the Klaipeda district court suspended the start of the planned strike for 30 days on the grounds that the production of beer was recognised as 'vitaly essential' in Lithuania. On 5 July the Klaipeda city district court ruled that the strike was legal. The management of Carlsberg Lithuania then appealed against this decision and in turn on 5 August the Klaipeda regional court annulled the decision of the lower court, ruling that the brewery strike announced in June was indeed illegal. The LPMS has appealed to a higher court in an attempt to get the verdict overturned, and has also submitted a complaint to the ILO as the suspension of the right to strike

for such a long period contravenes ILO norms. The case is also important as it involves a private manufacturer.

In the meantime, Carlsberg Lithuania has sought to put pressure on union leaders and activists at its plant, including dismissing nine activists and re-engaging them on poorer, temporary contracts.

Macedonia, the former Yugoslav Republic of



POPULATION: 2,022,547
CAPITAL: Skopje
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

Anti-union discrimination continued, including dismissals, interference in union elections, and even attempts to break up enterprise-level union organisations. At least three journalists were dismissed for their trade union activities in response to the deterioration of media freedom, including the shutting down of some independent media outlets.

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 provisions 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.

Concerning the right to strike, the Labour Relations Act 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 2011

Background: Elections held on 5 June brought victory to the governing centre-right VMRO-DPMNE coalition and a new mandate to Prime Minister Nikola Gruevski. The death of a

young man during celebrations held in Macedonia Square after the parliamentary elections provoked a wave of public protests against police brutality which continued to be held every day until mid-July. Renewed demonstrations against police brutality took place in September. The policeman responsible for the death was removed from police duty and held in custody pending trial.

Several European human rights NGOs raised concerns over the deterioration of media freedom in the country. In a report published in October, the OSCE representative for freedom of the media considered that there were “worrying trends” concerning the media in Macedonia. It highlighted the lack of implementation of a “stable and professional legal framework” that could foster media freedom. The report also pointed out problems faced by journalists. A European Commission report on Macedonia also noticed that “the media continue to be subject to interference from political and business interests,” stating that “intimidation of journalists and selective enforcement of legislation against media companies are increasing causes for concern”. A number of key independent media outlets, including three dailies and one national TV station, were closed down in clearly targeted actions by the tax authorities for allegedly unpaid taxes, thus virtually eliminating criticism of the government from the press.

Ineffective labour inspection despite new laws: According to a report published in November 2011 by SOLIDAR, an NGO network advocating social justice, changes to the law on labour inspection strengthened the rights of workers and the competences of inspectors. Labour inspectors should respond to every request from a worker to carry out an inspection in the company. Ineffective labour inspection is not due to weaknesses in the law, therefore, but rather to labour inspectorates that do not or cannot function effectively. The main problem is the small number of labour inspectors, while another important factor is the political influence on the body which distorts its impartial and proper functioning.

Anti-union discrimination: Pressure and mobbing are commonly used against trade union members and representatives. 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. In addition to the inefficiencies of the labour inspectorate, distrust of the legal system has increased in recent years as a result of stronger political control. Some companies have allegedly tried to interfere in trade union elections, or even break up enterprise level trade union organisations.

Some positive progress despite marginalisation of social dialogue: The criteria for the representative participation of social

partners in bipartite and tripartite social dialogue were finally implemented, and the trade unions began signing collective agreements in the public sector. However, both bipartite and tripartite social dialogue remains weak, with insufficient participation of the social partners in policy development processes.

According to the Federation of Trade Unions of Macedonia (CCM) and the Confederation of Free Trade Unions of Macedonia (KSS), the two representative trade unions participating in it, the Social and Economic Council (SEC) established in 2010 at national level, is still being further developed. Social and Economic Councils have been established at local level with the participation of trade union representatives. There are three local SEC in Kumanovo, Strumica and Kavadarci, and ten more are being established in the larger municipalities.

Although the government took steps to address the excessive use of fixed term contracts in the civil service, which is illegal, a significant number of temporary positions remains.

On a positive note, thanks to a social partners' initiative, the Law on European Works Councils was adopted which gives workers the right to information and consultation and to participation in works councils on transnational issues and the promotion of social dialogue. Furthermore, for the first time since the country's independence, a law on the minimum wage was adopted and the minimum wage set. Furthermore, amendments were being made to the law on wages, including a 5% wage increase from December 2012.

Threatened with dismissal if they went on strike: The Union of Macedonian Air Traffic Controllers announced a strike for 19 September, after year long negotiations over pay and working conditions broke down. Prior to the announced strike, the union reported that the government issued threats to the air controllers, warning that they would be dismissed if they went on strike. The Macedonian Air Traffic Control Agency denied the union's claims.

Trade unionists dismissed in media: Tamara Causidis, President of the Independent Trade Union of Journalists and Media Workers (SSNM), was dismissed from the Alsat-M TV station on 9 August. The dismissal followed the protest organised by the SSNM in July against political and business influences in the Macedonian media. While the Labour Inspectorate decided the dismissal was procedurally in line with the law, Causidis stated it was based on a blank signature for dismissal, which the employer annexed to the labour contract thus dismissing her on a consensual basis and without a notice period. On 11 August, the OSCE Representative on Freedom of the Media, Dunja Mijatović, in a letter sent to Macedonian Foreign Minister,

said she was alarmed by the sharp decline of media freedom and continued repression of the media and critical voices in the country, citing the dismissal of Causidis as a case in point. At the daily Utrinski Vesnik newspaper, in Skopje, two journalists were dismissed after taking part in a protest strike against collective redundancies announced in June 2011.

Moldova



POPULATION: 3,600,000
CAPITAL: Chisinau
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

The social and economic situation in Moldova remains complicated. The trade unions oppose the austerity measures, while the enforcement of labour legislation remains problematic, and the legal framework is not conducive to independent 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 2011

Background: While the government gloats about economic growth, Moldova remains one of the poorest countries in Europe. About 46% of the population lives below the poverty threshold. Moldova is supported by IMF, but it has to implement austerity measures in order to receive credit tranches. This policy is criticised harshly by the trade unions. The year was

marked by the increased tension between the trade union movement, and the government and employers.

In practice: The amendments to the Labour Code were elaborated and proposed by the confederation of employers. The new bill has been roundly condemned by the National Confederation of Trade Unions of Moldova (CNSM). The leadership of the Confederation points out that the new amendments would undermine the trade union's right to protect its members from arbitrary dismissal. As the situation of Moldovan workers is marred by the structural weakness due to widespread informal employment, the reform of the labour legislation gives employers inordinate control over employees, and a powerful tool against the trade unions.

CNSM declared in October 2011 that an attack on the Confederation by the mass-media is a part of a systematic anti-union campaign launched in the country, in order to weaken the trade union movement, and to challenge the trade union's opposition to the neoliberal reforms.

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. Legislative enforcement remains weak. Neither labour inspectorates nor prosecutors' offices have been effective in monitoring and enforcing labour standards, especially the right to organise.

Trade union demands no met; the union activists under criminal trial: The dispute between the sugar plant SA Glodeny Zahar and employees continues. The workers have not received their wages since June 2009. The plant went bankrupt at the end of 2009, and the bankruptcy administration has been reluctant to pay out the wage arrears. When the workers began picketing the gates of the plant in order to prevent the sale of the plant's assets, including sugar which was still at the premises, the five leaders and activists of the trade union organisation of the enterprise – Vasily Guliak, Valentina Semenyuk, Anatoliy Furtuna, Fyodor Svoevolyn and Victor Golibaba - were arrested at the end of 2010. A strong international solidarity campaign was launched, and the trade union activists were released. But the criminal charges were not dropped, and the five trade union activists of SA Glodeny Zahar still face possible sentences of several (from three to eight) years in prison for their trade union activity. Workers' protests continued throughout 2011 without success.

Montenegro



POPULATION: 631,000
CAPITAL: Podgorica
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

Anti-union discrimination remains a serious problem, including dismissals of active trade union members. At least 11 workers were dismissed while on strike. Military personnel, who have the right to organise, faced anti-union pressure.

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 representative trade unions. 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 2011

Background: Five years after independence, the question of national identity and relations between citizens of Montenegro and Serbian origin remained an issue. In August 2011, the opposition threatened to boycott the parliament and conditioned its support for electoral reform, one of the conditions for further progress in EU accession, and granting the equal status to both the Montenegrin and Serbian languages. Parliament adopted a compromise by granting equal status to Montenegrin-Serbian, Croatian and Bosnian. In December, the European Council set June 2012 as a target date for opening accession negotiations with Montenegro, providing the country, among other

conditions, achieves further progress in tackling corruption and organised crime.

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 strikes and highly flexible employment relations amplify the problem. As a result, most of the strikes occur only after months of unpaid wages, usually in the companies already facing bankruptcy.

Dismissed while on strike: In Tei Mont, in Nikšić, 11 out of 14 workers went on strike on 8 November 2010 due to unlawful reduction in salaries up to 50%, in spite of company's good financial performance. During the strike, the employer dismissed five striking workers. On 4 February 2011, the company brought in two workers from Serbia to replace the workers on strike. Although the Labour Inspection warned new workers they were not allowed to perform work for the company, they ignored the warning and continued to work for next three days. The dismissed workers sued the company. The court ruled that the employer should reinstate all workers and pay all unpaid salaries.

International union action against Deutsche Telekom: Workers at Crnogorski telekom, in Podgorica, a subsidiary of Deutsche Telekom, went on strike on 15 March 2010 in protest at violations of their collective agreement. The employer unilaterally imposed a requirement for the majority of employees to work despite the strike, prohibited them from wearing badges or other symbols of solidarity and brought in strike breakers from two other companies. On 7 July 2011, the German union ver.di, Communication Workers of America and UNI Global Union filed a complaint with the OECD contact point, describing Deutsche Telekom's anti-union activities in the US and Montenegro which violated the OECD Guidelines for Multinational Enterprises and company's own published commitments to labour standards. The complaint stated that Crnogorski Telekom hindered the free exercise of collective bargaining and completely undermined the effectiveness of the strike during March 2010 events.

Anti-union discrimination in the Montenegrin Army: After changes to the Law on the Army which granted trade union rights to military personnel in December 2009, two military trade unions were founded in October and November 2010; namely the SOVCG and the SVCG.

SOVCG has reported that the Army began to exert anti-union pressure immediately after the union was founded, resulting in members leaving the union. According to SOVCG, the union

was denied contact with their members during meal breaks, the contracts of army personnel who joined the union were not extended, and for one soldier appointment to a mission in Afghanistan depended on his leaving the union.

On 23 March, captain Rajko Bulatović, during a briefing on a patrol ship in Bar, accused the union of undermining the chain of command, stated that the army did not need a union and urged his subordinates to leave the union. The audio recording of the speech was later published in the media. Also in March, the Ministry of Defence initiated disciplinary proceedings against SOVCG President, Nenad Čobeljić, due to his media statements. The Ministry invoked the provision of the Law on the Army whereby army personnel are not allowed to speak in the media without the prior consent of a superior officer. Čobeljić argued he was as a union leader, pointing out the problems faced by military personnel, including trade union discrimination, and alleged malpractices in allocating military accommodation. On 29 November, Defence Minister Boro Vučinić ordered Čobeljić to be removed from his position as the Head of Department for Operations and Training in the Logistical Base of the Army of Montenegro.

Court orders not respected: The construction company Novi Prvoborac, in Herceg Novi, has refused to bargain collectively, violated the right to strike and unlawfully dismissed workers, including trade union leaders, since 2008. By the end of 2010, the courts had overruled a total of 71 dismissals on the grounds that they were unlawful. Some of the workers were eventually reinstated in 2011, but only on one-month contracts instead of the open-ended ones they previously had, and not in Novi Prvoborac but in a subsidiary company Kamen Beton. Thirteen such workers went on hunger strike in June. On 30 July, the Basic Court in Herceg Novi ruled that the employer had to compensate unpaid salaries for 40 dismissed workers, for the period between the date of their unlawful dismissal and the court ruling against it, in total an amount of around 400,000 EUR. Given that the company filed for bankruptcy in October however, it remains unclear when, and where from, the workers will get their compensation.

Poland



POPULATION: 38,200,000
CAPITAL: Warsaw
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

As demonstrated by the numerous reports of violations, hostility towards union activity remains commonplace. Undue pressure is often exerted by employers on trade unions and their members. Restrictions on the right to strike remain 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 2011

Background: Parliamentary elections held in October were won by the centre right's Civic Platform, who entered again into a coalition with the Polish People's Party. The result represented stability. Economically, Poland again performed better than much of the EU, with growth of 4.3%. However unemployment remained a blackspot with 10% of the workforce out of work. The government demonstrates little interest in social dialogue on employment issues such as the minimum wage and atypical

forms of employment, and unions often have to contend with hostility in their operating environment. The two largest trade unions (Solidarity and OPZZ) have sought to distance themselves from political parties, reversing the trend of recent history.

Leading discounter dismisses union activists: Leading Polish discounter chain, "Biedronka", stands accused of dismissing workers because of their trade union activities. Solidarnosc members demonstrated against the sackings in January 2011 in Warsaw.

Intimidation and harassment at Bydgoszcz waterworks: Several violations of trade union rights have been reported at the City Waterworks Company Ltd in Bydgoszcz. These have included: management interference in a union meeting; surveillance of the trade union shop steward and head of works council in and outside work, the offering of benefits to non-union members, intimidation of activists; and hindering the union in its day-to-day activities.

Unlawful dismissal at appliance factory: On 10 August 2011, Mr Pawel Owczarek, a member of the trade union organising committee, presented documents on establishing a trade union and workers' representation at the company AWECO Polska Appliance Ltd in Tychy. Five hours later he was dismissed. Later on the same day Ms Barbara Lukaszewska, a member of trade union organising committee, arrived at work and was summoned to the HR department where she too was handed dismissal with three months notice. On 16 August her contract was terminated without notice.

Longstanding shop steward dismissed: Malgorzata Sokalska had been shop steward at the Hotel Jan III Sobieski in Warsaw since 1992. The employer dismissed her on disciplinary grounds but the decision was put to the court of law as the shop steward, who is protected by law, was dismissed without trade union consent and on false grounds. Court proceedings continue and Ms Sokalska is prohibited from entering the company.

Anti-union discrimination at juvenile detention centre: A very difficult situation has been reported at the juvenile detention centre in Pszczyna, where the trade union is obstructed in its activities and where employees are discriminated against on the grounds of trade union membership. Some are pushed into resigning their membership, whilst aggression towards members is tolerated. This has resulted in the forced anonymity of trade union members, with the employer being given only the number of members and no names, whilst dues are no longer collected through the company payroll. The branch Union president has

been subject to additional harassment and intimidation, including being ordered to take psychological tests.

Discrimination continues at water management company:

Anti-union discrimination has resurfaced at PWIK Ltd, a water and sewage management company, in Rybnik, continuing a long history of violations at this company. In particular, the Solidarnosc leader at the company has suffered discrimination, been deprived of the right to be elected to the supervisory board and had an anonymous complaint to the police made against him.

Airline fires President of cabin crew union: The Polish Cabin Crew Trade Union (ZZPP) was in an industrial dispute with the management of LOT Polish Airlines in 2011 concerning rest and working time conditions for cabin crew. During this dispute the union organised a strike ballot and other protest actions which were in conformity with Polish law. In June 2011 two unions, including the ZZPP, established a company focused on participating in the privatisation of the airline. The activities of this employees' company is in concordance with Polish law as well as with the Polish government's programme for enhancing the participation of employees in the privatisation process. On 17th November LOT Polish Airlines dismissed the ZZPP President, Elwira Niemiec, on the pretext of a grave breach of her contractual duties. As president of the union Ms Niemiec enjoys special job security rights and cannot be dismissed without the consent of her trade union board. The ZZPP has concluded that Ms Niemiec had not breached any of her duties as an employee, and had not consented to the termination of her employment.

Portugal



POPULATION: 10,600,000
CAPITAL: Lisbon
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

Unions led protests against austerity measures and the further restriction of workers' rights as a result of changes in economic policy and industrial relations. Union representatives in the transport sector were ordered to work during the general strike, and some employers drafted replacement workers. Other workers were actively discouraged from taking part. Aviation workers faced a unilateral cut in their level of union representation by the employer, and in January two public sector union leaders were arrested after a rally.

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 representativeness of unions, but it is considered that only unions having a seat in the Permanent Commission for Social Partnership are representative. União Geral de Trabalhadores (UGT-P) and the Confederação Geral dos Trabalhadores Portugueses (CGTP). These unions are also referred to by name in law, which serves as an impediment to new trade unions, but is commonly accepted that only those have an effective national representativity. Since the 59/2008 Act, which came into force in January 2009, the collective bargaining framework changed in the public sector. The law is considered to be the minimum standard and collective bargaining can only establish more favourable conditions on all subjects. Collective bargaining has a broader scope than in the past (similar to the private sector) and a larger number of workers are covered since negotiation is possible for all workers, for a profession/group of professions and for workers employed by the same public employer. These collective agreements are legally binding to the parties.

Furthermore, where a situation is considered to be sufficiently serious, 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 (with party-political objectives) are also prohibited.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: In April Portugal became the third EU country after Greece and Ireland to ask for a financial bail-out. The following month the European Union and the International Monetary Fund agreed to a 78 billion euro bailout package, but this was tied to severe spending cuts. One government had already had to resign in March after parliament had rejected an austerity package. In June the ruling Socialist Party lost the parliamentary elections, and the Social Democratic Party formed a coalition with the Popular Party. The government announced a package of measures to meet the bailout requirements in October, which was met with anger from the unions. In addition to cuts to pay and pensions, healthcare and education, workers would face longer working hours and potentially the loss of fundamental workers' rights such as the prohibition of unfair dismissals and the right to collective bargaining. The two main national trade union centres, the Confederação Geral dos Trabalhadores Portugueses (CGTP) and the União Geral de Trabalhadores (UGT-P), jointly announced a massive general strike on 24 November. Hundreds of thousands of workers took part. In general, the action was peaceful, although there were clashes over the definition of minimum services that unions are obliged to guarantee in key sectors. Earlier in the month the civil service unions had staged their own protests against the cuts, with 180,000 people taking part in a demonstration in Lisbon.

The impact of the debt crisis on trade unions: A Tripartite Agreement was reached in March 2011 concerning growth and employment measures and the revision of some aspects of the labour code in relation to compensation in the case of redundancies and dismissals, as well as to collective agreements and lay off procedures. However, these labour law changes have not been implemented yet and further reforms of the labour code are foreseen for 2012 as a result of the Memorandum of Understanding. A new social dialogue process was initiated envisaging a broad scope tripartite agreement (on growth, competitiveness and employment), in which the revision of the labour code was also up for discussion. This was a lengthy consultation process which was interrupted after the government made its announcement about increased working hours. Negotiations were resumed after the November general strike and a new comprehensive tripartite agreement on the subjects of Growth, Competitiveness and Employment was due to be signed in January 2012. The agreement also included a revision of the Labour Code. The UGT reported that it was the only trade union confederation with seat in the Permanent Commission for Social Partnership to sign the Agreement and did so in order to

avoid the introduction of more punitive measures for workers, which are envisaged in the Troika Memorandum.

The crisis had a strong impact on collective bargaining. The number of signed collective agreements decreased from 230 in 2010 to 170 in 2011, and fewer workers (less than 170,000) were covered by the agreements.

Trade union leaders arrested, one charged: Two trade union leaders and a number of activists were arrested on 18 January at the end of a national rally of 500 shop stewards and leaders from the public sector unions, held outside the Prime Minister's official residence in Lisbon. José Manuel Marques, of the Executive Committee of the STAL (National Union of Municipal Workers), and Marco Rosa, of the SPZS (South Zone Teachers' Union) and the Secretariat of FRENPROF (Federation of Teachers Unions) were arrested and taken to Calvário police station. Both were apparently aggressively handled by the police, and Marco Rosa was reportedly handcuffed during the almost three hours that the police held the two trade unionists. José Manuel Marques was charged with "disobedience".

The public sector unions' meeting had been called against the backdrop of increased anger against wage cuts, wage freezes, tax increases, cuts in benefits - together with sharp rises in the price of food, basic needs and commodities.

On 14 February a court acquitted José Manuel Marques of the charges against him.

Workers pressed to refuse to go on strike: SINDETELCO, the telecommunications workers' union, reported that the day before the 24 November general strike an employer in the printing sector sent their workers an e-mail claiming that the company would provide or pay for transportation so that the workers depending on public transportation could go to work. Furthermore, some employees were asked to change their holiday dates (previously established and authorised by the employer) so that the day of the strike could be considered a day of annual leave. Similar threats were also made in the banking sector, where senior managers tried to deter workers from going on strike.

Employer seeks to reduce union representation in violation of collective agreement: The SNPVAC (Flight Crew and Civil Aviation Trade Union) also reported that an employer sought to change an agreement concerning the number of union representatives. The union had less trade union representatives than permitted by law (they were entitled to eight but at the time of the events reported had only seven) and a written agreement whereby an unlimited number of representatives could be appointed. However the employer claimed that the arrangement

was detrimental, and said they intended to change the agreement in order to cut the number of representatives entitled to legal protection to a limit below the one established by law.

Romania



POPULATION: 21,400,000
CAPITAL: Bucharest
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

The government's reforms of the country's labour code and law on social dialogue have led to a dilution in the right to collective bargaining and generated considerable legal uncertainty. In addition, the consequences of previous austerity measures are still being felt by large swathes of the population.

TRADE UNION RIGHTS IN LAW

In 2011, the Labour Code was substantially amended and a new law on Social Dialogue was adopted. In this context, restrictions to trade union rights persist. Although the modification or termination of employment on the ground of union membership or activity is prohibited, the legislation does not seem to foresee sanctions in the case of violations. In addition, a minimum membership of 15 workers of the same enterprise is required to form a union. This may hinder representation of workers' interests by trade unions given that the big majority of Romanian companies have less than 10 employees. Furthermore, in order to be registered, trade unions have to follow a long and cumbersome procedure; workers exercising more than one occupational activity do not have the right to establish or join more than one trade union; state administrative bodies are afforded wide powers to control the economic and financial activity of trade unions; and public prosecutors and judges are not allowed to establish or join a union.

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.

A cumulative membership of at least 5% of the labour force and territorial structures in more than half of the national municipalities is required to be considered representative at the national level. A membership of at least 50% plus one of the workers of the enterprise is required to be recognised as a bargaining agent. Furthermore, in the public sector the following subjects are excluded from the scope of collective bargaining: base salaries, pay increases, allowances, bonuses and other staff entitlements which are fixed by law.

A lawful strike can only be called in defence of workers' economic interests, and compulsory arbitration can be imposed 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 2011

Background: Following the tough austerity measures and large cuts in state spending of 2010, the economy witnessed growth in 2011 of around 2%, the budget deficit stood at 4.4% of GDP, with unemployment at around 7.3%. The government introduced changes to Labour Code and Law on Social Dialogue, diluting collective bargaining rights and weakening workers' employment rights; a situation that has caused serious concern within the trades union movement in Europe.

In November parliament decided to freeze wages and pensions in 2011.

Legal changes hamper union rights: The Law on Social Dialogue, published in the Official Gazette on 10 May 2011, repealed all previous regulations on collective labour agreements and incorporated them under a single umbrella. The new bill restricts certain trade union rights and how social partners can organise. Changes have been introduced into collective bargaining, abolishing the previous national agreement relating to the 32 defined branches of the national economy. This decentralisation in collective bargaining has brought with it uncertainty as the government has not defined the economic sectors in which bargaining can take place. It has already had an impact in some disputes (see Tarom case below). Some commentators argue that collective bargaining has come to a standstill.

Changes to criteria for social partners' representativeness will also impact on unions. Under the previous law, 15 people working in the same economic branch or profession, albeit in

different companies, were required before a trade union could be set up. Now, it takes 15 employees in the same company to establish a trade union. However, as 90% of Romanian companies have up to nine employees, representation of workers' interests by trade union will be out of the question.

Furthermore if a trade union is to be representative and allowed to negotiate a single-employer collective agreement, then at least half plus one of the company's workers have to be affiliated to it (compared to one third under the old law). Consequently, only one trade union may be deemed representative in one company, whereas under the previous legislation it was possible to have three such trade unions.

Despite, intensive consultations with the social partners before the Labour Code and Law on Social Dialogue were adopted and the unions' and the employers' organisations' rather common positions, the government disregarded them and assumed on its own the adoption of the legislation in spite of the social partners' opposition.

The changes of the social dialogue and labor legislation are affecting almost half of the Romanian workers, namely the public servants, i.e. almost 2 million employees out of the total 4.198.500 employees. The Labour Code amendment also seriously hinder and limits the collective bargaining process for public employees, as all the rights established through laws cannot be the object of collective bargaining.

Lack of clarity in new law fuels airline dispute: The Tarom National Technical Trade Union has reported that the management of the national airline, CN Tarom SA, has been refusing to negotiate with the union over a new contract despite the fact that it continues to represent workers. It is understood that the company may be using a gap created as a result of a new law, the Social Dialogue Act, to justify the action. New criteria have been introduced in how social partners represent workers and also to collective bargaining, but the government had not defined the sectors in which agreements can be signed.

Consequences of the implementation of the new legislation: The new laws that changed the representativity criteria already generated great disturbances and abuses.

In SC Electrocentrale Braila SA (energy sector company), there were two unions, the Sindicatul Liber Productie CET representing 50% + 1 workers (800 workers - as required by the new legislations) and the Sindicatul Liber Productie CET Braila, a National Trade Union Bloc (BNS) affiliate representing 400 workers.

Problems arose when the larger union, the representative one, according to the new legislation, negotiated the collective agreement. This agreement should apply to all workers. But in practice Sindicatul Liber Productie CET stated that only its members could benefit from certain provisions included in the collective agreement. The other workers, members of the Sindicatul Liber Productie CET Braila, would only benefit from the provisions included in the individual work agreement, unless the smaller union transfer to the account of the representative one 60% of the collected dues. BNS filed a complaint with the National Council for the Prevention of Discrimination. The decision was still pending by the end of the year.

In September 2011, a similar situation occurred in another power production unit, in the Craiova region. In a company with several subsidiaries in different locations, the Sindicatul Energetic Craiova, a union of just one subsidiary but with a larger number of members (820 members), negotiated the collective agreement at company level.

However, only the members of this union could benefit from the provisions (besides the salary rights). The workers members of the other union, the Sindicatul Independent CET Craiova, affiliated to a BNS federation (780 members) can not have the same benefits. Furthermore, the employer deducts from the salaries only the dues for the members of the representative union, even though they should retain it for all the unions, according to the collective agreement.

National Agency for Integrity pursues union President:

Back in 2007 the National Agency for Integrity introduced the requirement for presidents and other senior union officials to file statements of assets and interests relating to any property acquired during the exercise of their mandates, as well as of any conflicts of interest. At the time the union confederation "Cartel Alfa" stated that this affected the independence and autonomy of trade unions and ultimately violated their freedom of association.

In April 2011 the agency requested from Cartel Alfa documentation relating to all mandates of its President, Bogdan Iuliu Hossu. Given that Mr Hossu has been President since 1990 a retrospective application of the law seemed to be taking place. In addition the request from the agency contained no grounds for the statements, as is required by law.

In an initial court case the in June 2011 the judge upheld the agency's request and ordered Cartel Alfa to pay a civil fine of 200 lei per day, starting from 7th April until the requested documents are received. An appeal was due to be heard in November.

Russian Federation



POPULATION: 142,900,000
CAPITAL: Moscow
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

Violations of trade union rights, such as pressure and harassment by employers, persisted in 2011, as did the inefficiency of the mechanisms that are supposed to provide protection against trade-union discrimination. The right to strike remains limited, and the majority of workers' protest actions face legal obstacles.

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 2011

Background: The consequences of the financial crisis were still felt by workers in 2011. More than 250 labour protests took place in 2011, including more than 90 work stoppages. These protests were caused by wage arrears, restructuring of enterprises, low wages, etc. At the same time, the percentage of radical actions, such as hunger strikes and the blocking

of highways (which were quite numerous in previous years), reduced substantially, from 17% of protest actions in 2010, to 4.5% in 2011.

The political context was influenced heavily by the parliamentary and presidential election campaigns. The trade unions protested against the initiatives of the Russian Union of Industrialists and Entrepreneurs (RSPP) to liberalise labour legislation, enabling employers to unilaterally change the terms and conditions of employment contracts for economic reasons, and to introduce a prolonged working week of up to 60 hours. These amendments to the Labour Code have been rejected for the time being, but may still be an option for the future.

At the same time, the main trade union centres, the Federation of Independent Trade Unions of Russia (FNPR) and the Confederation of Labour of Russia (KTR), campaign for the proposal to prohibit agency work in Russia, which was under discussion in the State Duma at the time of writing as agency work is often used as an union-busting mechanism by the employers.

Trade union leaders face problems with access to the 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 government 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.

Recourse to dispute resolution and strikes undermined:

At least 263 protest actions occurred, including at least 91 collective work stoppages. The huge majority of these actions (around 92%) were held without observing the procedures and requirements of the Labour Code concerning collective labour disputes.

The recourse to unofficial action is a result of the extensive restrictions and complicated procedures in the law; of unfair behaviour by many employers who have no intention of negotiating with workers or resolving collective disputes; and of blatant 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 cases 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 liability for violations of union rights.

There were a number of court rulings in 2011 concerning cases of trade union rights violations committed in previous years. On 19 January, Tverskoy District court again refused to uphold an appeal by the Inter-regional Trade Union of Automobile Industry Workers (ITUA), affiliated to the Confederation of Labour of Russia (KTR) and the International Metalworkers' Federation (IMF), which concerned the decision (in 2009) to include trade union materials into the Federal List of extremist materials.

On 18 January, the regional court of the Samarskaya region rejected the lawsuit brought by activists from the General Motors - AvtoVaz primary trade union organisation, who were fired without any consultation with the trade union in 2009.

In 2011, numerous claims by the activists of the primary trade union organisation at "Tikkurila" near St Petersburg were rejected by the courts. A deputy chair of the trade union organisation, Igor Ramko, another deputy chair, Elena Rostovskaya, the members of the trade union Vyacheslav Vackulenko and Alexander Kalyniuk were dismissed in 2010, and their claims were rejected.

One of the cases in which a court refused to protect the human rights of trade union activists in 2011 was connected with the most outrageous and brutal example of repression against a trade union leader, the case of Valentin Urusov, a leader of the trade union organisation at ALROSA, the largest diamond company in Russia. The leader of the newly established trade union was sentenced to six years in jail in 2008, on trumped-up charge of storing drugs. Despite an international solidarity campaign, Valentin Urusov remains in jail. His appeal was rejected by the Supreme Court of the Republic of Sakha Yakutia on 30 June 2011.

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 that regional unions specify all sectors where an affiliate can be created, although the law provides for no such requirements.

Trade union busting and systematic prevention of trade union activity at Nokian Tyres: The Nokian Tyres primary trade union organisation of the Inter-regional Trade Union of Automobile Industry Workers (ITUA), affiliated to the Confederation of Labour of Russia (KTR) and the International Metalworkers' Federation (IMF) was established on 13 March 2010. By the middle of 2011, the newly established union had been almost totally demolished by the employer. The chair of the trade union, Rustam Zabitov, was forced to quit his job. Cases of direct interference by the company's management in the activity of the trade union during this period have been reported.

On 19 April, the employees of the enterprise were urged by management to sign the collective letter "against the trade union". When the trade union members tried to distribute an ITUA newspaper within the premises in April, they were prevented from doing it by security guards.

When they tried to carry out a survey, via questionnaire, on working conditions within the company on 11 April, Denis Khodyrev, Pavel Utrobin and Vyacheslav Smirnov, all trade union members, were seized by security and held by force in the recreation room. They were later forced to leave the premises of the enterprise. The trade union addressed the State Labour Inspection, but the latter was satisfied with the refutation of Nokian Tyres.

Anti-union action at Arkhangelsk pulp and paper mill: The management of the Arkhangelsk pulp and paper mill (Arkhangelskaya region) began to put pressure on the members and activists of a local trade union affiliated to the Trade Union of Forestry Workers of Russia, itself an affiliate of the Federation of Independent Trade Unions of Russia (FNPR), after the trade union demanded a pay rise for the workers.

The members of the trade union were persuaded to leave the trade union. The union local committee received from its members their management-written proposals to leave the union that had been distributed among the employees. On 14

March, the company informed the trade union that it would stop transferring the checked-off membership fees to the trade union. The office of the local trade union committee within the company's premises had its communications cut off.

Pressure on the trade union was stopped after a solidarity campaign, initiated by the Trade Union of Forestry Workers. However, by the end of the year, the conflict was not solved as the employees' demands for a pay rise had still not been satisfied.

Union busting at Cisco Systems Russia: Since the end of 2009, three members of LLC Cisco Systems have been in a fight with their leadership, defending their legitimate right to decent work and denouncing the violations of workers' rights. In May 2010, feeling more and more under pressure from the company, the workers established a primary trade union in LLC Cisco Systems in order to protect workers' rights on a more formal basis. Since then, the trade union members have been systematically discriminated by management and their remuneration has been cut drastically.

Anti-union propaganda and discrimination was initiated by the management of the company. The chairman of the primary trade union, Andrey Khabarov, and his colleagues have faced numerous reprimands and fines by the management of Cisco Systems. The union has petitioned the court to challenge the validity of those decisions.

On 17 March, the deputy chairman, Aydar Garipov, was dismissed. Just three days earlier, the primary union officially joined the All-Russian Trade Union of Communication Workers (CWU-ru), affiliated to FNPR. On 16 March, the Presidium of CWU-ru adopted the decision to reject the CEO's consent to Gapirov's dismissal. And yet the very next day, Gapirov was fired.

Trade union activists sent a collective appeal to the State Labour Inspectorate of Moscow concerning what they consider to be the illegal firing of Aydar Garipov. The district prosecutor's office of Zamoskvoretsky conducted the investigation, on behalf of the Prosecutor's Office of the Central Administrative District of Moscow.

Assault on trade union representatives at ALNAS: At the beginning of 2011, at the ALNAS factory producing pumps in Almetievsk (Republic of Tatarstan), an industrial dispute arose over pay. Members of the Alnas local union affiliated to the Engineering Workers' Union of Russia (EWU) (affiliated to Federation of Independent Trade Unions of Russia (FNPR) and the International Metalworkers' Federation (IMF), took part in negotiations between the local trade union organisation at

ALNAS and the management of the enterprise. When Lidia Pavlova, the chair of the EWU committee, and Igor Lobachev, the trade union inspector, came to Almetievsk for the meeting on 29 March, they were attacked and threatened with death if they were to come to Almetievsk again.

Union busting at Baltica – Rostov; dismissal of trade union activist: The shop floor trade union organisation of the All Russian Trade Union of Service and Commerce Workers affiliated to the Confederation of Labour of Russia (KTR) and to the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) at the beer factory "Baltica –Rostov" was established in 2002. Since then the management has put a lot of pressure on union activists. They have been constantly discriminated (see Annual Survey 2011). Trade union members have denounced the expansion of different forms of precarious employment which has worsened workers' terms and conditions and is endangering good jobs. It also appears to be a part of the corporation's anti-union policy along with intimidation, pressure and dismissals of activists.

During the last four months of 2011, Baltika-Rostov fired 39 loaders. Others were fired in 2010 and by the end of 2011 only 11 loaders were on the payroll of Carlsberg in Rostov while most of the work was being performed by agency workers. The same had happened to janitors during the spring of 2011, technicians in the bottling department in 2010 and inspectors in the department of control in 2009. Earlier all workers from the constructions and equipment maintenance departments had been replaced by contractors.

In 2010, despite managers' intimidation, along with other workers, the trade union activist, Evgeniy Bykadorov, filed a complaint with the State Labour Inspection about unpaid overtime. After that, Bykadorov experienced strong pressure from management. His work was checked very often, in order to find out any inaccuracy. He got several reprimands. In spite of being nominated by the trade union, he was prevented from taking part in the negotiations on the collective agreement. Finally, Evgeniy Bykadorov was fired on 29 August 2011.

Migrant workers' union in the Arkhangelskaya region abolished: The migrant workers' union, affiliated to the Confederation of Labour of Russia (KTR), in Arkhangelskaya region, headed by Dmitriy Dubonos, a citizen of Ukraine, met with pressure and repression in 2011, after the establishment of a primary union at Northern Railroad in February 2011.

Dmitriy Dubonos's permission to stay in Russia was annulled by the migration service in May. This decision was confirmed by a court in July 2011. As a citizen of Ukraine, Dubonos has

to leave Russia every 90 days, and to return after that. At the same time, legal action against the migrant workers' union was started by the prosecutor's office in June 2011. On 21 October, the trade union was abolished by the court. The decision was confirmed by the Supreme Court in December 2011.

Anti-union actions at Faurecia ADP: Faurecia ADP, controlled by the Faurecia Group, one of the largest automotive parts manufacturers in the world, is located in Luga, a city near Saint-Petersburg. A local trade union organisation of the Inter-regional Trade Union of Automobile Industry Workers (ITUA), affiliated to the Confederation of Labour of Russia (KTR) and the International Metalworkers' Federation (IMF) was established in 2010. The chair of the local trade union, Aleksey Lyaushko, was fired after the establishment of the union. He was later reinstated to his position after a court decision.

On 27 November, a one-hour warning strike was held by the workers, after negotiations with management failed. The key demand was to raise wages, since the workers earn just USD 400-500 on average. The workers who had taken part in the strike were pressured and intimidated by the prosecutor's office in Luga the following day. A representative of the prosecutor's office, Anastasia Zorina, came to the enterprise and tried to make the workers give testimony about the strike, without an official summons.

Anti-union action at Heineken beer factory in St-Petersburg: The conflict between Heineken management in St-Petersburg and the primary trade union of the Agro-Industrial Workers' Union (AIWU) affiliated to the Federation of Independent Trade Unions of Russia (FNPR) and to the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) began in 2009. Workers tried to bring brewery management to the bargaining table over the extent of the usage of agency labour on the site and manipulation of the way working hours were calculated, resulting in almost no overtime being paid. In spite of all the efforts made by the international trade union movement, Heineken refused to recognise the issue as an industrial dispute.

As the negotiations came to stalemate, the primary trade union scheduled a warning strike for 15 December. The management of the enterprise tried to force employees not to take part in it. Seven trade union members wrote to the trade union committee to say that they had been pressured and intimidated by the managers. The managers threatened the strikers and urged them to return to work during the strike.

The workers who went on a one-day warning strike on 15 December 2011 were later prosecuted by the company which considered the strike illegal.

Anti-union tactics including dismissals, discrimination and pressure as well as refusal to hold social dialogue at AvtoVaz: The local union (called 'Unity') of the Inter-regional Trade Union of Automobile Industry Workers (ITUA), affiliated to the Confederation of Labour of Russia (KTR) and the International Metalworkers' Federation (IMF), reported numerous complaints from trade union members at Avto Vaz, the Russian automobile manufacturer, regarding management pressure and discrimination.

After three cases of disciplinary action were taken against her, Olga Boiko, a technical and legal inspector of Unity and chair of the shop floor trade union committee № 3913, was dismissed for her union activity. In 2008 Olga, a paint shop worker at the plant, raised the issue of the reduction in the premium for working in hazardous conditions. The extra payment was cut after an assessment of workplaces, conducted by the management in a non-transparent manner. In 2009 the original pay level was restored. Olga Boiko, however, began to face pressure from the management.

Pressure on trade union members to leave the union remains common practice. Trade union members from shop floor union № 2911 informed the trade union committee on the 30 May 2011 that a foreman, T.Vereina, demanded that they leave the trade union.

Trade union representatives have also been prevented from accessing workplaces. Piotr Zolotarev, chairman of the local trade union organisation of the ITUA at AvtoVaz has been denied free access to the workplaces since 2008, as well the trade union inspectors. In April 2011, his legitimate claim to get a pass to the AvtoVaz premises was again denied. Trade union representatives have to ask for special permission every time they enter the enterprise. They are then accompanied by security all the time they are inside.

Furthermore, the ITUA has been systematically prevented from taking part in drawing up the collective agreement at the enterprise since 2003.

Union busting at Yura Corporation: At the end of 2010, workers at the South Korean company, Yura Corporation Rus LLC, in Ivangorod, formed a primary organisation of the International Metalworkers' Federation's (IMF) affiliate the Russian Inter-regional Trade Union of Autoworkers (ITUA). Over the last two months of 2010, about 200 workers joined the newly formed

union. Workers decided to create a union because of their low salaries of around 11-12 thousand rubles (USD280 – USD300), including bonuses, many problems concerning their living and working conditions, the improper behaviour of managers, and non-compliance with many of the provisions of Russian labour legislation.

In January 2011, the administration of the enterprise set about trying to bust the union, immediately after it became aware of its existence. The employees were pressed to leave the union. Trade union members were deprived of bonuses, their working conditions were worsened, etc. Several trade union activists, including the chair of the union, Victor Mahnov and a trade union member, Tatiana Azarenko were fired. As a result, in July 2011, the primary trade union organisation ceased to exist.

Prevention of trade union activity at Togliatticaoutchouc: The violations of trade union rights at Togliatticaoutchouc described in the 2011 Survey (covering 2010) continued in 2011. For instance, trade union activists were prevented from distributing the trade union's newsletter within the company's premises.

Serbia



POPULATION: 9,856,000
 CAPITAL: Belgrade
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Reprisals against trade unionist activists, or any workers who decide to join the union, are frequent, and include demotion, suspension and dismissal. While many registered trade unions have problems in winning recognition as a representative organisation, employers sometimes engage in negotiations with unregistered unions. At least 40 trade union members were dismissed because of their trade union activities or for participating in a strike.

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 2011

Background: A wave of strikes and protests by public sector workers, including teachers, police and health workers, calling for a pay rises, spread throughout the country in February and March 2011. Following the arrests of Ratko Mladić in May, and Goran Hadžić in July, the two last remaining fugitive war crimes suspects sought by the International Criminal Tribunal for the Former Yugoslavia (ICTY), normalisation of relations with Kosovo remained the last obstacle in long awaited further progress in the EU accession process. EU-facilitated talks between Serbia and Kosovo began in Brussels in March 2011. Although progress was slowed by repeated outbreaks of ethnic violence in Northern Kosovo from July onwards, by the end of the year talks resulted in five deals on technical issues such as trade and freedom of movement. In October, the European Commission recommended Serbia for EU candidate status, but the European Council summit in December decided to postpone the decision until March 2012, expecting further progress in relations with Kosovo by then. However, the level of support for the EU membership steadily decreased throughout 2011, reaching an all time low of 47% in October, partly as a result of worsening economic conditions both in Serbia and Europe and people's preoccupation with bread and butter issues.

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.

Limited social dialogue: Social dialogue, both tripartite and bipartite remains limited, due to problems, amongst others, with the representativeness of the social partners. Several registered trade unions, including four trade union confederations, are not recognised as social partners. Tripartite social dialogue at the national level has a limited impact on the economy, as the consultations between social partners do not take place regularly. At lower levels, tripartite social dialogue is non-existent in most municipalities, as it remains impossible to establish local economic and social councils, mainly due to the lack of representative social partners, particularly on the employers' side. The effects of bipartite dialogue are also limited, as it is not infrequent that individual companies do not respect branch collective agreements, and individual employers sponsor yellow unions.

Trade union leaders dismissed: Six trade union leaders were dismissed in February 2011 by the electrical equipment company Zastava Elektro, in Rača, which since 2010 has been a subsidiary of South Korean multinational Yura. The six included the company union President Nela Obradović, Vice-President Marijana Ilić and Secretary Vera Petrović. The other three dismissed were members of the company trade union committee. Obradović and Ilić were dismissed on the pretext that they did not prevent the leadership of the United Trade Union Sloga, to which the company union is affiliated, from speaking in public about the problems in the company, which damaged its reputation. The company union had only just been founded, in January, and the Korean management was repeatedly accused by Sloga of anti-union pressure, including threatening to dismiss the workers who join the union, as well as of numerous violations of workers' rights and mobbing. The President of Sloga Željko Veselinović stated that after the dismissal of the six unionists the trade union in the company, which organised 120 out of 1000 workers, effectively ceased to exist, as remaining members of the trade union committee gave up union work due to pressure from the employer. The Labour Inspectorate ordered that only two of the dismissed unionists, not including Obradović and Ilić, were to be returned to work. All six of them have filed charges.

Attempt at strike breaking: During a strike at the food processing company Banat, in Banatski Karlovac, in protest at one year of unpaid wages and three years of unpaid social contributions, which took place from 28 March to 4 May 2011, the employer suspended 77 out of 105 workers who were on strike. Thirty of them subsequently received telegrams inviting them to return to work. After they did not respond, they received warnings before dismissal. Moreover, during the strike the employer hired security guards who tried to prevent the workers from going on strike inside the company. After the Labour Inspector-

ate confirmed the strike was lawful, workers were allowed to continue the strike inside the company premises.

Trade union committee dismissed: Prompted by continuous violations of workers' rights, including late payment of wages and non-payment of overtime, 35 out of 170 workers in the furniture production company TRA Duga, in Sombor, founded the Autonomous Trade Union TRA Duga on 4 February 2011. After the company director and owner Mirko Rakonjac was informed of the trade union's establishment, he asked the union President Aleksandar Pelagić to resign from the company. Pelagić refused, and as a result he was immediately suspended from work. On 12 February, Rakonjac presented the union leadership with a reorganisation of posts within the company, dated 1 February. The new organigram did not include the posts of 12 union leaders and members, with the aim of retroactively dismissing them as redundant before the date the union was established. On 5 May, Pelagić and the other six members of the trade union committee (Dragan Trifunović, Miljan Malović, Željko Tomčić, Goran Grudić, Nikola Jovičić and Kristijan Varga) were dismissed, as well as a further five union members. Only four of them subsequently received severance pay. Rakonjac claimed that the trade union did not exist. Dismissed unionists informed the Labour Inspectorate, which was however prevented by the employer from properly conducting an inspection of the company.

Dismissed while on strike: After a strike in the printing house Dnevnik in Novi Sad started in July 2011 to protest at more than one year of unpaid wages and social contributions, 27 workers were dismissed on the grounds that the strike was unlawful. The Labour Inspectorate subsequently decided that the dismissals were unlawful and workers were returned to work, where they continued with the strike. During the strike, unpaid wages for 2010 were paid, but only to workers who did not join the strike.

Work stoppage blocked by the police: Workers employed by the Nibens group from Belgrade, the largest Serbian road construction company in charge of building and maintaining numerous roads and highways in the country, organised a number of work stoppages throughout 2011 due to unpaid wages. During the work stoppage in August, police blocked the entrance to five companies operating within the Nibens group (Vojvodinaput-Bačkaput, PZP Beograd, PZP Kragujevac, PZP Niš and PZP Vranje), preventing the workers from blocking road works on various sites in which the company was operating. In an open letter sent to the Minister of the Interior Ilica Dačić on 12 August, the President of the Autonomous Trade Union of Road Maintenance Workers of Serbia (SSPS) Sonja Vukanović called for an immediate end to the repressive measures against

the workers of the Nibens group, stating that the police has been preventing the freedom of movement of workers, interrogating trade union representatives, and exercising physical coercion on the workers. The SPSS condemned the government's decision to limit the freedom of movement for workers of the Nibens group, and has also addressed the ILO and other international institutions on the issue.

Collective agreement signed with unregistered trade union:

At the newspaper *Večernje novosti*, in Belgrade, management refused to negotiate with the registered trade union, affiliated to the Journalists' Union of Serbia (SINOS), and instead on 7 August 2011 concluded a collective agreement with the United Trade Union (JS), which was not registered at the Ministry of Labour and Social Policy. The new agreement was less favourable for the workers, including in the case of collective redundancies. Dragana Čabarkapa, President of both SINOS and its *Večerenje novosti* branch, stated that company director Manojlo Vukotić for years discriminated against SINOS members and provided financial support for the JS. On 30 November, Čabarkapa put a letter from the Confederation of Autonomous Trade Unions of Serbia (CATUS) on the company bulletin board, stating that CATUS-affiliated Autonomous Union of Printing, Editing, Information and Film Industry Workers of Serbia decided on 10 January to dissolve the JS, due to the fact that the union was never properly registered, nor has ever held elections. Following her action, Vukotić threatened and offended Čabarkapa, who ended the day in the emergency department because of high blood pressure. Next day Čabarkapa was fined for not finishing her work the day before. Vukotić's action was condemned by the Association of Journalists of Serbia, Independent Association of Journalists of Serbia and the European Journalists Federation.

Anti-strike pressure in the police: The police commander exerted pressure on union members to discontinue their strike action on two separate occasions. In February and December 2011, the Independent Trade Union of Police (NPSS) organised strikes in protest at unsatisfactory wages and working conditions. Both strikes were organised lawfully, respecting the minimum service requirements.

According to NPSS President Velimir Barbulov, during the strike which started on 2 February, the heads of certain police administrations were instructed to press union members to stop their strike, and were threatened with demotion if they failed to do so. The strike was called off on 15 February after agreement with the Ministry of Interior which was followed by the signing of a collective agreement for the police forces on 28 February.

During the strike that started on 12 December in protest at violations of the collective agreement, police officer Nenad Bošković from the police station in Babušnica, suffered daily insults and harassment from his commanding officers, including the Head of Police Administration Pirot Goran Krstić, who on 17 December attempted to physically attack Bošković. Following Bošković's request for legal protection, the NPSS applied for disciplinary procedures against Krstić, and filed charges with the Minor Offences Court in Pirot, and instigated criminal proceedings against him with the Basic Public Prosecutor Office in Pirot.

Dismissed trade unionists still not returned to work: In 2010 a court ruled in favour 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 and ordered that they be reinstated. Zlatko Francuski was reinstated in 2010, but then faced demotion, suspension and eventually transfer to another company without his consent. He continues the court proceeding against Gorenje Tiki. In the case of the six other trade unionists, the employer refused to comply with the court orders. Although the Gorenje Tiki trade union filed a request for determining its representativeness in September 2009, the Ministry of Labour and Social Policy had not made a decision by the end of 2011.

Spain



POPULATION: 46,000,000
CAPITAL: Madrid
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The labour reform of 2011 has serious implications for collective bargaining rights. Some Autonomous Communities tried to prevent strikes by imposing excessive minimum services.

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. Certain groups of workers, however, do not have the right to join unions or have restrictions on that right, such as members of the armed forces, the national police force and some regional police forces, and judges, magistrates and prosecutors. Self-employed workers, unemployed workers

and pensioners can join existing unions but cannot form unions to specifically defend their own interests.

The legislation guarantees the right to collective bargaining and establishes that collective agreements are binding, as well as protecting the right to strike.

The government, however, passed a Decree-Law, validated by the Constitutional Court in June 2011, whereby it unilaterally decided to cut the wages of employees in a number of public administrations by 5%, contravening the terms negotiated in collective agreements.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: In December 2011, Mariano Rajoy was elected president of the government, following the victory of the Partido Popular (PP) in the general elections. The electoral campaign was dominated by the crisis and the high rate of unemployment.

In February, the main trade union centres Confederación Sindical de Comisiones Obreras (CC.OO) and Unión General de Trabajadores (UGT) reached an agreement with employers and the government on pensions, collective bargaining, the labour market and other issues. The pact was aimed at ensuring the future sustainability of the public pension system, maintaining a high level of benefits.

Labour reform undermines collective bargaining system: In July, the government passed legislation (Royal-Decree Law 7/2011) seriously affecting the binding nature of collective agreements and the ability of trade union organisations to structure the collective bargaining system.

The labour reform's most serious implications are the precedence given to company-level bargaining, overriding the agreements concluded at sectoral level between unions and employers' associations, the imposition of mandatory arbitration in the event of company adaptation, the non-application of pay rises and the deadlocks in negotiating processes.

This legislation was adopted by means of an emergency procedure and although it has legal force, the content was not debated in Parliament but simply ratified at a moment of political transition ahead of the general election. Moreover, most of its content goes against the agenda being negotiated by unions and employers to seek a joint solution to the bargaining rules.

Autonomous governments renege on commitments regarding trade union rights: The governments of various Autono-

mous Communities reneged on their commitments regarding trade union rights undertaken with public sector unions and the most representative unions in their Communities.

The numbers of hours and people dedicated to trade union activities were cut and the concept of the "workplace", based on which representation rights are legally recognised, was unrealistically redefined. In addition, the institutions in charge of promoting social dialogue between trade unions and employers at regional level on such key issues as health and safety, social consultation on the adoption of legislation, housing, health, etc., were eliminated, under the pretext of the crisis.

The Communities where such measures were taken are Madrid, Murcia, Baleares, Castile-La Mancha and Valencia. In each case, the result is the elimination of the standards agreed to, unilateral non-compliance with commitments undertaken and a regression in the level of participation and recognition of representative activity.

The unions consider these violations to be part of the move to undermine their capacity to mobilise and respond to the social and public spending cuts being made.

Abusive minimum services: The public administration substantially reduced the right to strike by imposing minimum services, which was set at 90% of ordinary services in some instances (as seen with the transport strike in the Autonomous Community of Valencia). The courts are confirming the legality of the administrative resolutions based on criteria devoid of any concern for safeguarding fundamental rights, according to the unions. The right to strike in the transport sector, for example, has been limited during holiday periods, based on the need to facilitate the free movement of tourists.

Anti-union message in media: The unions are seriously concerned at the systematic discrediting of their work by certain media channels. The rolling back of the welfare state and the trend towards individualising labour relations are implicitly or explicitly presented to citizens as an alternative to the collective defence of their interests by trade unions.

Sweden



POPULATION: 9,380,000
CAPITAL: Stockholm
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

Although trade union rights are protected by law, the decision of the Swedish labour court as well as the legislative implementation of the European Court of Justice (ECJ) decision on the Laval case have an impact on the right to take industrial action and consequences for the conclusion of collective agreements.

TRADE UNION RIGHTS IN LAW

Both the Constitution and the 1976 Co-Determination Act entitle both public sector workers, including the armed forces and the police, and private sector workers to form and join independent unions of their choice, without prior authorisation or excessive requirements. The law allows unions to conduct their activities without interference. There is no registration requirement or minimum membership. There are no legal barriers preventing workers, including foreign workers, from joining a union. The Employment Protection Act (LAS) also protects workers, including union members, against unfair dismissal.

The 1976 Co-Determination Act provides for collective bargaining. The law prohibits anti-union discrimination. The Labour Disputes Act (1974) provides for judicial procedures to be followed in disputes concerning collective bargaining agreements and other disputes relating to the relationship between employers and employees.

The Constitution guarantees the right to strike, stating that unions "shall be entitled to take industrial action unless otherwise provided in an act of law or under an agreement". The 1976 Co-Determination Act regulates collective actions. Public sector employees also enjoy the right to strike, subject to limitations in the collective agreements which protect the public's immediate health and security. Parties must give seven working days' notice of a collective action. Mediators can be appointed with the consent of the parties or, in certain cases, by the National Mediation Office without consent. There is no injunction procedure, but the Mediation Office may order a party to postpone collective action for up to 14 days. The parties must cooperate with any mediator, or else are liable for fines. Industrial disputes are normally settled through negotiations between the parties

concerned at the local or national level. The Labour Court, which includes representatives proposed by the social partners, deals with legal disputes on the interpretation of existing collective agreements where negotiations fail, as well as cases involving allegations of anti-union discrimination. In cases of conflicts of interest (for instance in the event of collective bargaining or strike action in support of a new collective agreement), a public National Mediation Office is available to assist the parties if they so wish.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: Sweden's economy after the global financial crisis in 2011 was relatively strong compared to many other European countries. GDP is estimated to have grown by 4.5 % in 2011. In November 2011, 6.7 % of the population was unemployed. The level of youth unemployment was very high, nearly 21 %, which was higher than the EU average. The centre-right government, which has been in power since 2006, was re-elected in September 2010. Since coming into power, the government has introduced significant tax reductions for the part of the population in employment, increased the fees for unemployment benefit insurance coverage, and introduced several restrictions in the sickness compensation. It should be noted that, as regards the unemployment benefit insurance, only 40 % of the unemployed are entitled to compensation. As a result, the gap between Sweden's wealthiest and poorest citizens has increased.

Consequences of the decision by the Swedish Labour Court on the Laval case: A breach of the obligation to keep industrial peace is subject to severe sanction in Sweden. According to the Swedish Labour Court judgement in the Laval case, handed down on 2 December 2009, the trade union organisation's tort liability is strict. Not even the circumstance that the industrial action in the Laval case was lawful under the Swedish legislation then in force had any significance for the tort liability.

Consequently, an error of judgement may cause a trade union organisation financial ruin, as the employer can demand full financial compensation for its loss. The fear felt by the trade union organisations for doing the wrong thing by mistake and putting the organisation at risk of being forced to pay high levels of damages has meant that there has been a severe fall in the number of collective agreements signed as regards foreign companies carrying out business in Sweden.

Consequences of the legislative implementation of the ECJ decision on the Laval case: New legislative rules came into force in 2010 due to the conclusions by the European Court of

Justice (ECJ) on the so called Laval case. These amendments of law entail restrictions in the right to take industrial action against all companies that post workers to Sweden. The most important restrictions are as follows. Firstly, the new legislation prohibits trade unions from trying to bring about collective agreements using industrial action on matters other than those specifically mentioned in the Swedish Posting of Workers Act.

Secondly, the agreement may only contain rules on minimum rates of pay and minimum conditions. The trade union organisations are prohibited from trying, with the help of industrial action, to reach agreements at a higher level than the absolute minimum level that exist in the central collective agreement in the industry.

Thirdly, the new statutory requirements mean that the trade union organisations are, in some cases, entirely deprived of the right to try to regulate working conditions through collective agreements achieved with the help of industrial action. According to the Posting of Workers Act, industrial action may not be taken at all if the employer shows that the workers' conditions are in all essentials at least as favourable as the minimum conditions of a normal Swedish collective agreement within the framework of the Posting of Workers Directive. This means that in these cases collective agreement free zones are created in the Swedish labour market, where it is only possible to conclude a collective agreement if the employer accept it voluntarily.

Switzerland



POPULATION: 7 660,000
CAPITAL: Bern
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

Trade unions remained critical of the lack of sanctions dissuasive enough to prevent unfair dismissals, with several trade unionists affected during the year. Employers exploited every loophole in the labour legislation to challenge or repress trade union activities.

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 bill submitted for consultation in 2010 would increase the penalty for unfair dismissal and improve protection of elected workers' representatives against layoffs. The government has not yet decided whether or not to put the bill before Parliament for approval.

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 2011

Background: The Centre Democratic Union (Union démocratique du centre - UDC) held its ground as the leading political force in the October federal elections. For the first time in 20 years however, the party, which has traditionally campaigned on an anti-Europe and anti-immigration platform, won fewer votes (26%) than in previous elections. With unemployment at barely 2.8% and healthy growth, Switzerland, whose banks manage about 30% of the world's offshore fortunes, remains an enclave of stability and prosperity in Europe.

Sanctions against unfair dismissal still too weak: The reform bill aimed at improving protection against unfair dismissal was rejected by the employers' organisations. The federal government has not yet decided whether to present it to parliament. Current regulations are not dissuasive enough, enabling employers to continue riding roughshod over trade union rights. On 1 March, the courts made a final ruling in favour of a woman employee at the clock parts company Composants Techniques Horlogers (CTH) who was dismissed in 2008 for taking part in trade union meetings. The ruling upheld the view that the dismissal was anti-union and that she had been the victim of harassment: "Her hierarchical superior reproached his colleague for not coming to work the previous Saturday, shouting at her, swearing and banging his fist on the table. He immediately transferred her to a smaller, windowless room, where she was told to check and clean the glass on watches that had already been boxed (...). This work involved using toxic

products (isopropyl alcohol, acetone and F45) which, given the absence of any ventilation, caused the worker headaches and nausea. Until that time, nobody had been assigned to that task full time." The victim was awarded only six months salary in compensation, completely at odds with the seriousness of the events. The case demonstrates the need to provide for the reinstatement of workers who are unfairly dismissed, as the ILO has requested.

Official warning for trade unionist from Lausanne transport:

In April, Aissam Echchorfi, a union representative employed by the Lausanne region public transport authority received an official warning and a fine for the "harassment" of some of his colleagues, because he sent them text messages and e-mails calling on them to mobilise for better working conditions. The Transport Workers' Union (Syndicat du personnel du transport - SEV) has lodged a complaint. The case is due to come to court in 2012.

No trade unionists allowed in car park: On 10 October, further to a complaint lodged by Michelin starred chef Philippe Chevrier of the Domaine de Châteaueux restaurant in Geneva, several members of the UNIA private sector trade union confederation were sentenced on appeal for trespass for distributing leaflets in the restaurant car park to inform employees of the new collective agreement.

Criminalisation of the right to strike: In November the food company Barbey lodged a complaint against the UNIA trade union confederation, demanding 3.3 million Swiss francs in damages for the loss of a client and damage to its image following a strike by staff in May 2010. UNIA complained that this was criminalising the right to strike. The strike was legal and helped staff gain better working conditions. In addition, Barbey won a libel case against a trade union activist even though the issues that he publicly criticised (night work without authorisation, the non-respect of daily rest periods, etc.) had been confirmed by the labour inspector.

Several cases of anti-union dismissal: Two union representatives at the precision instruments company TESA were dismissed on 8 November, just after negotiations in which the unions successfully opposed an increase in working time without compensation. TESA dismissed them using the pretext of a petition circulating among staff denouncing management's disparaging attitude towards its staff.

A woman trade union representative was also dismissed in November by the media company Edipresse for "economic reasons", in breach of the collective agreement, which stipu-

lates that the dismissal of staff representatives must first be discussed between the social partners.

In May, a court ruled that the dismissal of Daniel Sutter, Chairman of the Staff Committee at the Tages-Anzeiger daily, in 2009 (see 2011 Survey) was not unfair, even though it occurred just before important social dialogue negotiations. The case is now before the Federal Tribunal. The Swiss national centre Union syndicale suisse (USS) was also critical of an industrial enterprise in the Tessin canton which informed the chairman of its staff committee of its intention to dismiss him at a meeting called for the annual salary negotiations.

Trade unions banned from public buildings in Tessin: On 29 November, the government of the Tessin canton decided to ban trade unions from its official buildings. One year earlier, the head of the Christian Democrats Party (PDC) in the Tessin parliament complained about trade union leaflets being distributed among the canton's administrative staff during the referendum on performance related pay. The public service union SSP believes the government decided on the ban because it wanted to punish the unions for the failure of the vote in favour performance related pay. A conciliation process was launched between the SSP and the Tessin government.

False accusations against strikers in the health sector: Several strikes took place at the Geneva university hospitals involving hospital porters, nursing assistants, laboratory assistants and cleaners to denounce budget cuts. Management illegally imposed a minimum services on these occupations. It also lodged a complaint against the strikers for putting human lives in danger, which the workers deny.

Turkey



POPULATION: 72,800,000
CAPITAL: Ankara
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

There were many cases of employers dismissing workers simply because of their union membership, notably in the oil, car, engineering, textile and leather industries. There were also several incidents of violence against trade unionists, which in some cases led to injury, such as when police intervened in a demonstration at the entrance of a car seat production factory. Twenty five teachers and one leather worker

were sentenced to prison as terrorists for their trade union activities and 111 people faced prosecution for participating in a trade union demonstration.

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.

A draft Law on collective work is being discussed in Parliament. Allegedly, some provisions of the draft would drastically worsen the situation of trade union rights in the country regarding freedom of association, collective bargaining and the right to strike.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: Recep Tayyip Erdogan began a third term of office in June 2011, following a resounding general election win for his Islamist-leaning Justice and Development Party (AKP). Military strikes were launched in August against alleged Kurdish rebels in the mountains of northern Iraq, then in October rebels from the Kurdistan Workers' Party (PKK) killed 24 Turkish troops near the Iraqi border. Talks on Turkish membership of

the EU continued, but the country has been slow to make the necessary reforms, notably on human rights.

Serious doubts about the extent of press freedoms in Turkey continued following the arrest on 3 March of ten journalists for what the authorities claimed was involvement in an anti-government conspiracy, bringing the total of journalists behind bars to 68. They had all dared to be critical of the government in their articles, and some had received threats related to their actions.

Restrictions on freedom of association: During its 100th Session in June, the ILO Committee on the Application of Standards (CAS) expressed, in its conclusions, “concern about the new allegations of the restrictions placed on freedom of association and assembly of trade unionists.” It urged the Turkish government to report on the respect for trade union rights before the ILO Governing Body session in November -, and to avail itself again of ILO technical assistance.

Employers' anti-union tactics: It is common practice for Turkish employers to file a complaint alleging that a trade union organisation does not have the required majority for bargaining purposes. This is a common method to block trade union recognition. Furthermore, during legal proceedings, union members are often dismissed. In addition, most court cases take years to resolve, which prevent trade unions from functioning freely and efficiently.

New draft law on trade union still failing to comply with International Labour Standards: In its conclusions, the June 2011 ILO Conference Committee on the Application of Standards (CAS) noted that “no specific progress had been made on the long-awaited draft law on trade unions”. However during 2011, there have been on-going discussions between the government, trade union confederations and employers on modifications to Turkish trade union legislation. The new draft legislation called the “Collective Labour Relations Law” is intended to replace the “Trade Unions Law”, coded 2821, and the “Collective Labour Agreement, Strike and Lock-out Strike,” coded 2822. Several Turkish confederations have argued that the new law if enacted would reduce workers' and trade unions' rights and were in breach of European and the international labour standards.

The new draft included some improvements such as the lifting of the public notary requirement regarding union membership, which had been a major barrier to union organising and the fact that legal challenges by employers based on the presence of other unions at workplaces would no longer be a reason to suspend the bargaining authorisation process. However, the proposed system, through “e-government”, maintained

government interference and control in union-member relations. Furthermore, the reduction of the number of sectors makes it more difficult for trade unions to meet the national sector threshold. Despite those modest improvements, the draft still did not comply with international labour standards (ILS). The system of thresholds as a pre-condition for unions to hold bargaining status as well as for plant level and enterprise level collective agreements were still breaching ILS. Furthermore, according to this draft, all bureaucratic procedures for collective bargaining authorisation processes would stay in place. Strike prohibitions remain and strikes are still banned in sectors in a way that goes well beyond the ILO definition of “essential services”. The draft law maintains the power of the Council of Ministers to suspend by decree a lawful strike for public health and national security reasons. The use of such vague terms as “national security” and “public health” often leads to clear and obvious violations of the right to strike. Under the draft law, local courts would have the authority to suspend strike activity under the same vague formulation; a measure that would be worse than current legislation.

At the end of the year, the second draft law had been modified and was being discussed in Parliament. This second draft has been condemned by several trade union organisations for containing regressive provisions compared to the existing law and to the first draft law discussed with social partners earlier in 2011.

EU Commission report deplores limited progress in the area of social dialogue: In its October report on accession, the European Commission stated that “There has been limited progress in the area of social dialogue.” The ban on the contractual personnel of state economic enterprises from establishing trade unions or engaging in trade union activities has been lifted. However, the ban on these personnel engaging in any kind of strike action remains in place. A Prime Ministerial circular allows the participation of civil servants’ trade unions on the boards dealing with the social rights of public employees and disciplinary issues. Constitutional amendments regarding workers’ rights have not been put into effect as the necessary changes in the relevant trade union legislation have not been made.

Social partners have failed to agree on key issues such as the right to organise at workplace level and thresholds for collective bargaining. The Economic and Social Council did not meet during the reporting period. The coverage of workers by collective bargaining agreements has not increased.

Outsourcing undermining workers’ and trade union rights: The steady rise of outsourcing in Turkey is undermining workers’ rights. The Confederation of Revolutionary Workers’ Unions

(DiSK) estimates that around 3 million workers in Turkey are employed by outsourcing companies, often in inhumane conditions. Work accidents and occupational diseases are on the increase because safety measures are ignored by subcontracting firms. Pay can also be a problem as even though the real employer may pay salaries on time, the sub-contracting company may first use the money for their own investments and delay passing the money on to the workers.

It is difficult for outsourced workers to improve their conditions because they are prevented from joining unions. If they try to organise, they lose their jobs. Even if they succeed, the contracting company often launches a new tender, hiring a new outsourcing company. Outsourcing is primarily used in the public sector for services like cleaning, transportation and health, although it is on the increase in the private sector. Even big factories that use mass production are changing their system and prefer to hire outsourced workers without unions.

Worryingly, the Turkish government is preparing to amend legislation in a way that will increase the number of outsourced workers, including by facilitating the hiring of workers on a seasonal basis.

Employers’ attacks on chemical and oil workers’ union: Petrol-İş, the Petroleum, Chemical and Rubber Workers Union affiliated to the International Federation of Chemical, Energy, Mine and General Workers’ Unions (ICEM), came under a barrage of attacks from employers in reaction to its vigorous organising campaign. On 7 January, 15 Petrol-İş members were sacked for their union membership by the India-based Polyplex company, that manufactures polyester film in Corlu province. The company had previously sacked another six union members in December 2010. Petrol-İş also recruited 53 members at Demo Plastik, a subsidiary of the French-based company AFE Plasturje, located in the city of Bursa, which had 109 employees. When local managers learned of the union organising, they immediately dismissed ten trade union activists. All the dismissed people then started to picket outside the plant. The management continued to exert pressure on union members to resign from the union and the situation grew worse. The employer dismissed all the workers who refused to leave the union.

Some progress was made early in the year at Sa-ba Endüstriyel Ürünler İmalat ve Tic. A.S., an auto-parts supplier to multinationals such as Ford, Isuzu, Fiat, and Renault. In December 2010, the company dismissed 99 workers after Petrol-İş started organising. However, after a series of meetings with management, Petrol-İş was recognised as a bargaining partner and all dismissed workers who wished to return were reinstated.

Police attack and arrest union protesters: Around 100 workers at Istanbul Sabiha Gökçen (ISG) were attacked and detained by police on 8 January when they blocked a bridge over the Bosphorus. They were taking part in a thousand-strong protest to demand the reinstatement of 351 ISG workers who were dismissed in December 2010, after they tried to join the civil aviation union Hava-İs, affiliated to the International Transport Federation (ITF). They were joined by road transport unionists from another ITF affiliate, Türkiye Motorlu Tasit İşçileri Sendikası, as well as by postal workers, retired employees and representatives from progressive political parties and organisations. All those arrested were released the following day.

Arson attack on strikers' camp: On 16 January, the "Resistance Tent" sheltering protesting workers was burnt down outside the Grup Suni Deri (Artificial Leather) factory. The workers were protesting over the sacking of 15 workers in December 2010 after they refused to resign their union membership from International Textile, Garment, and Leather Workers' Federation (ITGLWF) affiliate Deri-İş (Turkish Leather and Shoe Workers Union). The employer refused to recognise or negotiate with the union, even though they represented 65 out of the 105 employees at the factory, well exceeding the 50% threshold set by law. His reaction was to tell union members they should leave the union or be fired. The protest began after he carried out his threat.

Anti-union dismissals and harassment at leather factories: On 17 January, the DESA leather goods company sacked 12 workers from its Sefakoy Plant. Of the 12, nine were sacked for attending a meeting of the Deri-İş, the International Textile, Garment and Leather Workers' Federation (ITGLWF) affiliated leather workers' union, while the remaining three were related to the other nine. A further two workers were sacked on 28 January for their union activities. Deri-İş members continued to face harassment and intimidation, particularly the women workers. On 23 June, a union leader at the Duzce plant was sentenced to five months imprisonment, supposedly for terrorist activities through their involvement in the union.

DESA management continued to brand the union's president, organising secretary and officers as terrorists and spread anti-union propaganda, including claims that the union officers were Kurds or Armenians, forcing some into resignation because of the racism behind the propaganda. Following the visit of Klaus Priegnitz, ITGLWF General Secretary, in November, management at DESA and the leadership of Deri-İs have agreed to begin negotiations on steps to ensure basic worker rights are respected.

In May, 16 Deri-İş union members at the Kampana leather factory were dismissed by their employer for taking part in a union-led protest against long hours, low wages and serious health hazards caused by the use of chemicals without proper protection. The dismissals triggered a campaign by Deri-İş against the anti-union attitude of the employer. As a consequence, production was shifted to the Savranoglu plant in Izmir. The union also organised workers there. Three more dismissals followed and the workers set up a picket line. The employer then closed the Izmir plant and ordered the workers to move to Istanbul, expecting them to refuse to leave their families. To maintain organising power however 38 workers agreed to transfer to Istanbul on 3 October. They were given no time off to find accommodation and spent their first night in Istanbul in the factory. The employer dismissed 36 workers on 13 October without severance pay by claiming that they occupied the Istanbul plant. The workers continued to demand that the employer respect their basic rights and accept their union.

Good news for TUMTİS workers: At the beginning of February, 162 transport workers dismissed from a UPS subsidiary for their union membership (see Survey 2011) finally won their jobs back. The workers and their families, their union Türkiye Motorlu Tasit İşçileri Sendikası (TUMTİS) and the national trade union confederation TURK-İş fought hard within the country while the international campaign was led by the International Transport Workers Federation (ITF) and Union Network International (UNI).

Police attack union led protest: On 3 February, police fired water cannon and tear gas to force back thousands of workers and students trying to march on parliament in Ankara in a union-led demonstration against a draft labour law. The workers were protesting against new employment legislation, currently being debated by parliament, which they argue will reduce workers' rights and allow employers to exploit unregulated labour. The government claimed the law was needed to create a more flexible labour model, and Interior Minister, Besir Atalay, warned the unions that a protest would not be allowed at the parliament. Opposition deputies were supporting the protest.

Two injured in protest over anti-union dismissals: Two people were injured on 25 February when police intervened in a demonstration at the entrance of a car seat production factory for D.S.C. in the Kartepe district. Members of the Birleşik Metal-İş, affiliated to the International Metal Workers' Federation (IMF) were protesting at the dismissal of several workers who believed they were fired solely for their union membership. Management claimed it was because of the economic crisis, but only union members were fired, and new workers were hired. Police intervention resulted in Hami Baltacı, the provincial

head of the union, suffering a broken rib and another trade unionist, Sezer Torgut, receiving wounds to his hands.

Anti-union intimidation at engineering company: On 18 March, eight security guards used physical force to remove Ayhan Uygun, education secretary of the aviation union Hava-İs, affiliated to the International Transport Federation (ITF), from a building at Sabiha Gökçen International Airport, Istanbul. Mr. Uygun was attempting to hold a meeting with workers at the engine maintenance company Turkish Engine Centre (TEC) to update members on collective bargaining talks taking place with TEC. It is understood that a disturbance followed, during which a number of union members intervened, and that a protest was held by workers over the guards' actions. Four TEC workers were subsequently dismissed, apparently over their alleged roles in the incident.

110 workers fired for union membership and 12 Birleşik members detained by gendarmerie: On 4 April, all Birleşik Metal-İş members at the MAS-DAF Makina Sanayi factory were fired, a total of 110 workers. The mass dismissals came just months after the same company attempted to undermine union organising efforts in August 2010 by firing 22 of the union's strongest supporters when the trade union applied for authorisation to the Labour Ministry.

The 110 workers began picketing outside the MAS-DAF Makina Sanayi factory in Düzce demanding reinstatement. The workers were detained by the gendarmerie in an effort to stop the union's second round of actions to force the government to intervene. On 19 July, moments before a press conference was to be held announcing the union's plans to ramp up actions with a 234 kilometre march from Düzce to Ankara, the Gendarmerie stormed the rally and forcefully detained 12 workers and union leaders, including Mr. Celalettin Aykanat, executive committee member of DİSK and Birleşik Metal-İş. They were later released and the next day workers and union leaders began their march to the capital city to deliver a strong message to the Turkish government that workers must be allowed to join unions without fear of retaliatory dismissals or anti-union discrimination.

Birleşik Metal-İş, in coordination with the European Metalworkers' Federation (EMF) and International Metalworkers' Federation (IMF), won reinstatement for the workers, but five declined to return to the company.

Textile workers dismissed for joining union: The textile workers' union Öz İplik-İş began to organise at the Bursa Hamzagil Textile factory in April and 36 workers became union members. Management responded by dismissing three of the workers for

their union membership, and began a campaign of pressure and intimidation against other workers to leave the union. Öz İplik-İş has subsequently launched a lawsuit for the reinstatement of its dismissed members. In a similar incident, Öz İplik-İş began organising at SMS Textile in May, and 17 people were signed up as union members. Management retaliated by dismissing eight workers for their union membership.

Police use force to end protest against anti-union dismissals: On 12 April, the police ended a 12-day protest by workers at a cigarette factory in Samsun using tear-gas and water cannons. The workers were demonstrating against 110 lay-offs on 31 March in the wake of the sale of the formerly state-owned company to British American Tobacco (BAT). Although a BAT spokesperson claimed the dismissals were necessary because of shrinking market share, the workers pointed out that those dismissed were union members. The company continued to employ outsourced workers, who had lower pay and benefits.

Prosecuted for taking part in union demonstration: In May, 111 union leaders, members and supporters were indicted for their participation in an April 2010 demonstration in Ankara to support TEKEL (Turkish Tobacco and Alcohol Monopoly) workers, on charges that carry prison terms of up to five years. The demonstration was in protest at the loss of 12,000 jobs following the privatisation of TEKEL tobacco warehouses and the breakdown of negotiations between the government and the TEKGIDA-IS union (affiliated to the International Union of Food workers – IUF) over the future of the workers. Those protests were met with violent interventions by the security forces. The Turkish government later filed criminal charges against 111 union leaders, members and supporters including TEKGIDA-IS' President, Mustafa Turkel, four other national officers and 12 branch presidents, the current and former heads of the national centre, DISK, two former leaders of the public sector confederation, KESK, and other prominent union and social activists.

Intimidation of public sector trade unionists: In July, the public sector workers' union Belediye-İs, affiliated to the European Federation of Public Service Unions and Public Services International (PSI) reported repression and intimidation towards its members in a series of municipalities. Workers were being intimidated into cancelling their union membership with Belediye-İs and to join another union organisation supported by the management. In the Istanbul Metropolitan Municipality, Belediye-İs members were being forced to quit the union through threats exerted by Municipality officials. It was reported in July that managers of the Metro Istanbul government had been threatening and intimidating workers, forcing a number of them to quit the union. Those who later chose to return to Belediye-İş were punished with forced relocation to other jobs

elsewhere inside the municipality. The workers most concerned were municipality employees in parks, gardens, social facilities, and municipal police services.

Metal workers dismissed and locked out for their trade union activities: In July, 62 workers represented by the Turkish metal union, Birleşik Metal-İş, affiliated to the International Metalworkers' Federation (IMF), were locked out by the Turkish subsidiary of the German-owned engineering company GEA Group, after the company claimed that they took illegal strike action during tea breaks and lunchtimes. An expert's report, commissioned by GEA, found these claims to be untrue while a separate investigation found that workers had been denied access to their place of work. In late November, a Gebze court ruled that four workers who were dismissed on 31 May should be reinstated.

Court dissolves Judges and Prosecutors Trade Union: On 28 July, the Ankara 15th Labour Court decided to close down the Union of Judges and Prosecutors (YARGI-SEN). The decision was taken at the session that was the final hearing of the closure case brought by the Ankara Governor's Office, under the terms of Article 51 of the Constitution on the right to organise labour unions.

According to the Law on Public Servants' Unions, presidents, members, judges and prosecutors of supreme judiciary bodies are not entitled to form a union or be a member of one, the Governor's Office petition claimed. Ömer Faruk Eminağaoğlu, Chairman of the YARGI-SEN Board of Directors countered that they had the right to form a union according to ILO standards as well as the United Nations International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. He noted that the Turkish Constitution clearly rules that "In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail". The court ignored his arguments and dissolved the union. YARGI-SEN said it would appeal the decision and, if need be, go to the ILO and the European Court of Human Rights (ECHR).

Union busting at YATAŞ Furniture Company in Ankara: Members of the Wood Workers' Union (AĞAÇ-İŞ) Ankara, affiliated to Building and Wood Worker's International (BWI) were being pressured to rescind their membership and join a different trade union preferred by the management. AĞAÇ-İŞ had started organising activities at YATAŞ after workers there approached them in March, saying they had no collective agreement. They were members of the Öz İplik-İş textile workers' union, affiliated

with HAK-İŞ, but only because the employer had registered them as members, in 2001, without consulting them. AĞAÇ-İŞ managed to register about 100 members despite the hostility of the employer. When the employer found out about the organising drive, three members were fired for their union activities. The other workers were pressured to rescind their membership of AĞAÇ-İŞ. On 11 August, production was stopped and workers were bussed to a notary public to register with Öz Ağaç İş, another HAK-İŞ affiliate. They were promised a wage increase and threatened with layoffs if they refused to register.

Eğitim-Sen and SES executives arrested: On 27 September, in Şanlıurfa, the police arrested 31 members and executives of the Turkish Human Rights Association (İnsan Hakları Derneği - İHD) as well as the Education International (EI) affiliated Education and Science Workers Trade Union (Eğitim-Sen) and the Public Services International (PSI) affiliated Health and Social Service Workers Trade Union (SES). The police also searched the offices and the houses of the chairpersons and executives of the organisations. Among those arrested were the Eğitim-Sen Branch President Halit Şahin, the Eğitim-Sen former Branch President Sıtkı Dehşet and the Eğitim-Sen executive Veysi Özbingöl. The police were in possession of a warrant from the Şanlıurfa Chief Public Prosecution Office mentioning allegations of "propaganda for an illegal organisation" and "participating in activities in line with the action and aims of that organisation"

On 30 September seven of the 31 initially arrested were formally charged with "propaganda of an illegal organisation" under Article 7/2 of the Anti-Terrorism Law and placed in provisional detention. The other 24 persons were released without charges.

Education trade unionists sentenced as terrorists: On 28 October, the Izmir Criminal Court sentenced 25 members of the teachers' union Eğitim Sen, affiliated to the public sector confederation KESK and Education International (EI) to 6 years and 5 months in prison under the country's anti-terrorism legislation. Prominent figures among those sentenced included KESK President Lami Özgen, the former Women's Secretary of KESK, Ms. Songul Morsumbul, Eğitim Sen Women's Secretary Ms. Sakine Esen Yılmaz, and former Women's Secretaries Ms. Gulcin Isbert and Ms. Elif Akgul Ates. The "evidence" against them included possession of books that can be found in any bookstore in Turkey and the holding of union meetings. Owing to the lack of evidence it had appeared that the defendants were going to be acquitted, until two of the judges were summarily removed from the trial just before the final hearing. Even the Chief Justice was in favour of an acquittal. KESK lodged an appeal against the Criminal Court decision.

Victory for Sinter Metal workers – but justice too slow for many: Workers fired for joining the Turkish metal union affiliated with the International Metal Workers' Federation (IMF), Birlesik Metal-IS, finally won justice after a three year, bitter and intense struggle. In December, Turkey's Supreme Court handed down its final ruling, concluding that Sinter Metal, a global parts manufacturer, fired workers for joining the Birlesik Metal-IS. The struggle began in December 2008 when all 378 Sinter Metal blue collar workers, members of Birlesik Metal-IS were illegally dismissed. Weeks later, in January 2009, an additional 16 were dismissed.

The workers and their union launched a legal case for their reinstatement and a call for international global action, with the support of the IMF and the European Metalworkers' Federation (EMF). In December 2010, a court found that the workers were dismissed not for economic reasons but for their trade union membership and Sinter Metal was ordered to reinstate them, or pay 16 months salary in compensation.

The company appealed. In December 2011, the Supreme Court confirmed the decision of the local court. Time had taken its toll however, as in the intervening period, 104 of the original 291 reinstatement cases had dropped out, leaving a remaining 187 workers.

Ukraine



POPULATION: 45,400,000
 CAPITAL: Kiev
 ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
 - 105 - 111 - 138 - 182

Tension between the government and the trade unions has increased. Trade unions face numerous violations, while a number of new neoliberal economic and social reforms are under discussion.

TRADE UNION RIGHTS IN LAW

Basic trade union rights are 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. However, judges have not the right to form or join trade unions.

The right to strike is recognised in the Constitution, but strike action is limited. A strike can only be organised if two-thirds of the workers in the enterprise vote for it. Organised group actions that seriously disturb public order, or significantly disrupt operations of public transport or an enterprise, are punishable by a fine of up to 50 minimum wages or imprisonment for a term of up to six months. The list of essential services where strikes are prohibited exceeds the ILO definition.

The law "On Social Dialogue" of December 2010 stipulates representativity requirements at national, sectoral and territorial levels that may be considered excessive. A draft Labour Code was scheduled for a vote in Parliament in 2010 but its approval was delayed.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: The Ukrainian economy is still feeling the effects of the world economic crisis. Economic recovery continued in 2011, but the consequences of the crisis are still felt by the majority of workers. There were difficult negotiations during the year between the IMF and Ukraine, following the new loan programme agreed with the IMF in 2010. The new structural reforms demanded by the IMF included an increase in the pension age, and the elimination of state subsidies to the gas sector, which would cause a sharp rise in prices. The negotiations reached stalemate, but were expected to resume.

Labour laws disregarded: The Ukrainian trade union movement had to fight in 2011 against proposed reforms promoted by the IMF, and against a new draft Labour Code, which would reduce the right of trade unions to protect their members from unfair dismissal. Despite the protests, the new Code looked set to become law in 2012. The minority trade union centres were highly critical of the new law on social dialogue (which came into force at the beginning of 2011), which in practice excludes minority trade union centres from tripartite social dialogue at the national level, while the Federation of Trade Unions of Ukraine (FPU) found itself the target of an anti-union campaign. The Chair of the FPU, Vasil Hara, was summoned to the prosecutor's office in June; the FPU leadership was accused of the illegal privatisation of trade union assets, and the House of Unions in Kiev was searched by the tax police in August. Vasil Hara resigned on 7 November, and was succeeded by Yuri Kulik.

The FPU and the Confederation of Free Trade Unions of Ukraine (KVPU) noted that trade union rights were repeatedly violated.

The KVPU reports numerous cases of pressure against trade union members, union busting, the inefficiency of the courts and law enforcement bodies when the unions turn to them for protection, and the poor enforcement of court decisions. They additionally note that employers resist the establishment of new trade unions, ignore local trade unions and refuse to collect membership dues (using the check-off system).

Both the FPU and KVPU suffer from anti-union discrimination and interference by the public authorities in their trade union activities, and from employers' failure to respect 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 process. Employers have also refused outright to bargain with trade unions.

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.

The chair of the branch union fired: Iryna Chyzhova, the chair of the KVPU branch union at the OJSC Zaporizhyya Cable Plant, was illegally fired in February. The KVPU complained to the General Prosecutor's Office, and filed a lawsuit against the employer.

Tetyana Burmakova, the chair of NPGU local trade union organisation at the Vatrushcheva mine was fired the day after the management of the mine was informed of the establishment of the local trade union organisation, in May. Her dismissal was a blatant violation of the labour legislation. After the NPGU Chairman appealed to the mine management and negotiated with them, Mrs Burmakova was reinstated in her job.

Discrimination against trade union members and activists: V. Sushytskyi, Chairman of the local branch of the Independent Trade Union of Miners (NPGU) at the "Dobropilska", mine was illegally demoted to a lower paid job in January 2011. Other trade union members faced pressure from managers, urging them to leave the union. Despite appeals by the union to the local prosecutor's office and even to the President of Ukraine, no adequate reaction followed except some standard notification letters saying that no law had been violated.

The members of the local branch of the NPGU at OJSC Marganets Ore Processing Plant encountered additional administrative obstacles to being paid while on sick leave in

February. The NPGU complained to the director of the executive directorate of the Social Insurance Fund for Temporary Disability as well as to the General Prosecutor of Ukraine.

T.Taranuschenko, the chair of the newly established branch of the AI-Ukrainian trade union "Defence of Justice" (affiliate of KVPU) at the National Museum of Folk Architecture and Life of Ukraine received threats of dismissal from management in March. The KVPU sent a letter to the President of the National Academy of Science of Ukraine, as well as to the General Prosecutor's Office of Ukraine, who replied that no violation of the law had been identified in this case.

Trade union member beaten for not leaving union: On 7 June, A.Mironov, a member of the local branch of the NPGU at the Frunze mine run by the state enterprise "Rovenjkyanratsyt" was beaten in one of the mine's rooms in the presence of Mr I.V.Golovko, the chief of section 2 of the mine and some other witnesses because he refused to leave the trade union. V.Sokolov, the Chair of the mine's branch union, and other union activists, testified at the local police station, but the police tried to delay their investigation and finally it was called off. The guilty persons have not had to answer for their actions.

Employer avoids dialogue with the trade union, discriminates against activists: Reorganisation and staff lay-offs took place in February at Prydniprovskaya Railways' Synelnikove locomotive depot in February without the agreement of the trade union committee. The chair of the local trade union (a KVPU affiliate) Tetyana Lymar and her deputies were demoted to lower paid jobs without any agreement with the trade union. Union members faced pressure and were threatened with dismissal. The KVPU complained to the Prosecutor's Office and to the State Labour Inspection of Ukraine. The inspectors found there had been both violations of the Labour Code and of the Branch Agreement. A.M.Sitalo, the Chief of the Prydniprovskaya Railways' Synelnikove depot, has been called to administrative account.

The Ministry of Education and Science, Youth and Sports of Ukraine excluded the Free Trade Union of Science and Education of Ukraine (VAPONU, a minority branch union, affiliated to the KVPU) from the collective bargaining process, and signed a Branch Agreement with only one trade union despite the fact that before the signing of the Agreement a Joint Representative Body of Trade Unions (JRTUB) was created including two trade union organisations. VAPONU appealed to the Ministry.

Twenty seven miners died and 14 were injured on 29 July at the "Sukhodilska-Skhidna" mine, including NPGU members. Another accident took place at the "Krasnokutskaya" mine owned by the State Enterprise "Donbassanratsyt" on 4 August, in which

four miners, all NPGU members, were injured. According to Ukrainian legislation, an investigation has to be carried out into these group accidents, and a representative of the trade union must be included in the commission. In both cases the Chair of the NPGU appealed on the day of the incident to the Prime Minister, asking to be included in the commission. In both cases the government ignored his request. The NPGU complained to the ITUC and ICEM Secretaries General as well as to the ILO Committee on Freedom of Associations, and appealed to the Administrative Court of Kiev.

The Free Trade Union of Medical Workers of Ukraine (FTUMWU – an affiliate of the KVPU) was excluded from the collective bargaining process at branch level. The collective agreement was signed in July by the Ministry of Health Care and the Trade Union of Health Care Workers of Ukraine (the FPU's affiliate), without the participation of the FTUMWU in July 2011.

Employers and local authorities try to prevent trade union activity: The management of the Pavlodor section of the Social Insurance Fund has refused to check-off membership fees to the union (a local organisation of the NPGU), and claimed the union is illegal. The chair of the local trade union, M. Zhytnyk, was repeatedly summoned to the police station. The prosecutor's office illegally seized trade union documents and personal statements by union members related to membership fees in May.

The tax authorities of Lysychansk city have breached legislation on trade unions by not granting the KVPU and NPGU trade union organisations the status of non-profitable organisations. According to Mr V.M.Terosypov, the chair of the KVPU local association in Lysychansk, the members of the local trade union at OJSC "Lysychanskvuhillja" in Lysychansk were summoned to the management's offices and threatened in September. The KVPU Chairman appealed to the tax authorities of Ukraine and to the management of the OJSC "Lysychanskvuhillja", insisting that the legislation of Ukraine be respected.

Management at "Coca-Cola Beverages Ukraine Limited" ignores the union's appeals concerning working conditions and pay. According to R.Zavhorodni, the chair of the local trade union (affiliated to the KVPU), the management ignored his request to provide him with a text of the collective agreement at the enterprise.

United Kingdom



POPULATION: 62,000,000
CAPITAL: London
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100
- 105 - 111 - 138 - 182

The government's austerity measures have hit hard, and trade unions have been at the forefront of protests against cuts, particularly in the public sector. Anti-union practices are not uncommon, and many caveats to the right to strike remain.

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.

TRADE UNION RIGHTS IN PRACTICE AND VIOLATIONS IN 2011

Background: The public spending cuts imposed by the Conservative-led coalition government to clear the country's budget deficit within a parliamentary term have begun to bite. 2011 has seen the UK economy struggling with only minimal growth (0.4%) and unemployment (8.4%) reaching its highest level since 1994. Youth unemployment is particularly high. There was widespread rioting and looting in several English cities in August. The trade union movement has held major demonstrations against public sector cuts with 250,000 people marching

in London on 26 March - the 'March for the Alternative' whilst a nationwide one-day strike took place on 30 November.

Further changes to the right to strike debated: As reported in the previous edition, several cases in 2010 highlighted that there are many restrictions on the right to strike in the UK, and that employers can stop industrial action on complex procedural grounds, particularly in relation to balloting procedures.

In March 2011, the Court of Appeal lifted two injunctions against Aslef and the RMT who, following ballots, had called for strike action in disputes with the London and Birmingham Midland Railway and Serco / Docklands Light Railway respectively. Injunctions had earlier been granted on procedural errors in the ballots. The Court of Appeal clarified the extent of the technical obligations on unions with regard to ballots. Building on its ruling in the British Airways case, it confirmed that minor and accidental ballot errors can be disregarded, if they are immaterial to the result. It opposed applying a 'standard of perfection' test that would 'set traps or hurdles for the union which have no legitimate purpose or function'

Nonetheless, this was still a topic of some controversy in 2011, with the employers' organisation, the Confederation of British Industry, calling on 17 June for changes to the law. In particular, they have called for a minimum threshold to be introduced requiring 40 per cent of members who are balloted to vote in favour before a strike can be called. Under these proposals a simple majority of those voting would not longer be sufficient.

Using derecognition to push through cuts: In August 2011, Plymouth City Council derecognised Unison, the largest union among its staff, after it refused to sign a new collective agreement. Unison alleged that the agreement meant worse pay and conditions for staff and was potentially discriminatory and called derecognition an 'aggressive and disproportionate response'. After the agreement was revised, Unison agreed to sign it if recognition was restored. Re-recognition was granted in mid-September.

The case underlined union concerns that, in the context of public spending cuts, employers elsewhere in the public sector (where recognition is traditionally very high) might use derecognition to push through cuts in pay and conditions – either as a bargaining tactic or as a longer-term strategy.

Agricultural workers threatened by abolition of wages board: Demonstrations took place outside parliament on 25 October in protest at the Public Bodies Bill, which if passed would lead to the abolition of the Agricultural Wages Board, the organisation for setting minimum wages and employment conditions in the

agricultural sector. An amendment to take the AWB off the list of public bodies to be abolished was defeated in the House of Commons. The labour movement now fears downward pressure on terms and conditions for the estimated 150,000 people working in agriculture.

Middle East

The Arab Spring affected almost every country in the region, although in different ways.

A common factor has been the limitations to freedom of association, and the gap between practices on the one hand, and national laws and ratified ILO conventions on the other. As a consequence of these limitations, both the right to bargain collectively and the right to strike are usually 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. In Lebanon, all collective agreements must be ratified by two-thirds of the union members at a general assembly. In Syria, 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.

Public sector workers are barred from forming and joining unions in Kuwait, and government employees do not enjoy freedom of association in Lebanon, Oman and Qatar. Saudi Arabia, Qatar, and the United Arab Emirates have prohibited freedom of association and the formation of trade unions. They allow only non-trade union representation through workers' committees. Iraqi workers in the public sector are forbidden from forming unions not formally sanctioned and controlled by the state, a regulation remaining from the Saddam Hussein era. A long overdue draft labour law, while unsatisfactory, has still not been passed.

Circumventing or violating strikes took different forms, including suppressing and arresting trade union leaders and those participating in strikes. In Jordan, the labour minister refers strikes to a committee to try to force settlements only hours before they occur and without the consent of the concerned trade union in an endeavour to foil the strikes.

Despite this, data from October stated that Jordan had witnessed an unprecedented 607 labour-related protests and work stoppages over the first nine months of 2011. Kuwait also saw a wave of strikes and industrial action in the public sector, which employs close to 80 per cent of the 360,000-strong workforce of Kuwaiti nationals. In Oman, thousands of workers came out onto the streets between February and May to demand reform, job creation, an end to corruption and the resignation of some high-ranking officials perceived as corrupt.

In Bahrain many thousands took part in demonstrations for democratic reforms. The response from the authorities was brutal and many violations against human and trade union rights were committed following the demonstrations. In Syria, all trade union rights have been abolished in the country.

The Iranian government again relied on "security laws" to suppress trade union activity and any form of dissent. Although Mansour Osanloo was finally released

after 6 years in prison during 2011, a large number of union activists, teachers and journalists were sentenced to prison terms on charges of “propaganda against the state”, “disrupting public order”, “spreading lies” and the like.

The Iranian authorities played a cruel and cynical game with Ebrahim Madadi, Vice-President of the Tehran Bus union, who was freed from prison on 30 November (on the eve of the ILO Regional Conference), only to be re-arrested on 7 December. He had been sentenced to three and a half-year imprisonment in the infamous Evin prison in Tehran in December 2008 on charges of “endangering national security”.

Migrant workers have become a pillar of economic development in the Gulf States, especially as it far outnumbers the total number of native residents. Despite the large size (in some countries, like Kuwait, Qatar and the United Arab Emirates, they make up 70-80% of the entire population), they are excluded from the right to freely associate either totally or partially depending on the unique features, laws, and strength of respective trade union organisations in each country.

In countries where migrant workers are legally allowed to join trade unions, such as Bahrain, employers use intimidation to pre-empt these laws from their content and intimidate workers from joining trade unions out of fear of losing their jobs.

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. Employers often also confiscate migrant workers’ passports to make sure they do not leave the country before the end of their contract, even if the terms of the contract are violated.

As domestic workers work primarily in private households, they are mostly invisible, making them a vulnerable workforce. Their rights are often denied and they suffer particularly from exploitation. In June, the International Labour Conference voted in favour of the new ILO Convention 189 on Decent Work for Domestic Workers.

In Saudi Arabia, women domestic workers are frequently deprived of their freedom and food, face sexual and psychological abuse and are beaten by their employers. In June for example, after being alerted by neighbours, the authorities found a Sri Lankan domestic worker who had been held against her will by her employers for 14 years, without pay.

The Arab Spring and independent trade unions: High hopes and new challenges

Mustapha Tlili, Director of the ITUC Amman Office

The Arab Spring of 2011 changed the face of the world, well beyond the confines of the Arab countries.

The end of authoritarian rule in Tunisia and Egypt and the recognition by the two transitional governments of freedom of association and expression – in law and practice – opened up a much wider space for trade union rights for the first time in 2011. In Libya and Yemen, which have also both seen an end to despotism, there is now much greater opportunity to create independent trade unions. It will soon be the case, no doubt, in Syria too.

In Morocco, Jordan, Algeria and Mauritania, the governments have chosen to take the initiative themselves, by introducing constitutional reforms, in most cases including more guarantees for the exercise of public freedoms, including trade union rights. In Iraq and the Gulf States the demands of workers to create their own organisations still come up against the obstinate refusal of governments to recognise this right or, in the case of Kuwait and Bahrain, they recognise the right but do not hesitate to oppose any trade union demands, responding with dire threats and the most violent forms of repression.

The Arab Spring has ushered in a new era, more favourable to independent trade unionism but also – as has been seen in Tunisia and Egypt already – full of challenges. Faced with an outpouring of workers' demands after decades of bad governance, the countries' new authorities have chosen to turn against the trade unions.

In Egypt, the Military Council, having suspended the activities of the former regime's official union, has not hesitated to ban strikes by Decree, classifying them as "crimes". It began by promising to pass a law on trade union rights but a few months later went back on its word by reinstating the official trade union in its former role with all the privileges that went with it. The year ended with a return to the repression of striking workers and the persecution of their leaders, such as the court case against the CTUWS coordinator for statements he made during a debate at the last International Labour Conference. In Tunisia, the new ruling party responded to strikes organised by the UGTT in defence of legitimate demands by launching a smear campaign against the trade union organisation, accusing it of the "premeditated undermining of the national economy and plotting against the government". Some of the party's leaders called on the government to deal with the striking workers with the utmost severity.

In Algeria, in response to the renewed outbreak of social protest and the actions led by the autonomous trade unions and the UGTA grass roots organisations, the government stepped up the level of police violence almost systematically during the year. In Kuwait, the government made numerous threats against the KTUF and workers if they dared make use of their right to strike, even though it is recognised in national law, threatening – in vain – all kinds of punishment. Over in Bahrain, following the vicious repression of the democratic uprising in February 2011, the government persisted in persecuting thousands of workers, who were dismissed or sent to prison.

Within these new parameters created in 2011, in which independent trade unionism has become a part of the struggle for democratic change throughout the region, the situation of migrant workers remains the same: 15 million people still live in a highly precarious situation, with no recognition of their fundamental rights, and no means of demanding their recognition, other than the assistance and protection provided by the trade unions of Bahrain and Kuwait.

The Arab Spring has brought to the fore the irrepressible spirit of a young generation that has hitherto been completely marginalised, deprived of freedom, jobs and any hope of a better life, but has now proved that it is ready to make any sacrifice necessary for the recognition of its fundamental rights. Nearly 50,000 young people lost their lives in 2011, in peaceful demonstrations that criminal governments shamelessly turned into killing fields. By adopting freedom, dignity and social justice, the very values that the bona fide trade union movement has always defended, as their own battle cry, this peaceful youth movement has created the common ground between its own struggle and that of all workers in the region. This has created an historic opportunity for the Arab trade union organisations, emerging from half a century of political authoritarianism, to adapt their internal mechanisms to the new national realities and to work towards their own renewal. Will they be able to meet the challenge of adapting their own structures and priorities to meet the expectations of the younger generation, responding to their aspirations by taking up their just demands and making them their own? The future capacity and vitality of the independent trade union movement depends on the answer to these questions.

Finally, all the events of this year of the Arab Spring have served to highlight the central and very visible role of the women of the region in the struggle for democracy. It is not yet certain however that this process will lead to the recognition of equal rights for women. That is the next major challenge for the independent trade union movement which – if it is to meet it within an extremely difficult process of political transition – will need all the solidarity it can get from the international trade union movement.

Bahrain



POPULATION: 1,262,000
CAPITAL: Manama
ILO CORE CONVENTIONS RATIFIED: 29 - 105 - 111 - 182

Constitutional guarantees recognising the right to strike and the right to join and participate in trade unions were ignored in 2011 as the Bahrain government attempted to systematically quash trade unions in reprisal for their role in political protests.

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 2011

Background: The year was marked by sustained protests and a violent crackdown by the authorities alongside a pervasive campaign against trade union members and ordinary workers participating in the protests.

In March, troops from neighbouring countries were deployed and martial law declared in efforts to contain the protests. Autumn elections to replace parliamentarians who resigned over the handling of the protests were boycotted and denounced by opposition groups.

Migrant workers were victims of systematic violence. In November, King Hamad promised to implement reforms after the release of a highly-critical report by the Independent Commission of Inquiry which detailed beatings, torture, arbitrary arrests, dismissals and a range of other serious rights violations aimed at the country's trade unions in particular. However, violent and deadly dispersals of protests continued till the year's end.

Violent repression of protests: Protests erupted in Bahrain on 14 February, the anniversary of a 2002 referendum which approved the National Action Charter, which included the ruling family's commitment to democratic reforms. Thousands of demonstrators marched in the capital Manama and other cities. Police used teargas and live ammunition against demonstrators leading to the death of a male protestor. The following day, police again killed one person during the protestor's funeral procession. Demonstrations, violent reprisals and deaths continued throughout February and March. While protestors sought to stress the non-sectarian and secular nature of the protests, many saw the protests as being symptomatic of the tensions between the majority Shia community and the minority Sunni leadership.

In February, the General Federation of Bahrain Trade Unions (GFBTU) announced a strike which was widely supported by trade unions. This was then called off following government promises to respect the right to peaceful protests. This promise was not respected.

On 15 March the authorities issued a State of National Safety (SNS) – a state of emergency - and troops from neighbouring countries including 1000 from Saudi Arabia were deployed. The monument in the middle of the Pearl roundabout was demolished as an attempt to symbolically cleanse the city of the main focal point for protestors. Hundreds were injured. In the weeks that followed, the authorities arrested hundreds of protestors and dragged people – mainly Shiites - from their homes and into detention. Many were tortured and most had no access to legal support or outside contact. Troops occupied the main Salmaniya hospital where protestors were taken for treatment; ambulances were prevented from transporting casualties, with the wounded being treated in mosques and houses, often secretly.

In April, the authorities released some 300 people from detention while at the same time arresting others. On 1 June, martial law was lifted but fresh attacks on protestors in towns and villages around the capital took place the next day. Sentencing of detainees, often in military courts, continued until October with estimates of those imprisoned coming to some 2,500. Torture and forced confessions were widespread and sentences were

heavy. Human rights groups estimate that at least 34 people were killed during the protests and at least four people died in custody after torture. Hundreds were injured.

The year ended with shocking brutality against peaceful demonstrators on 1 December and 16 December, Bahrain's National Day. Scores were injured after being tied up and beaten. The injured were taken to private homes for treatment due to the continued repression of medical workers and their patients. The protests had been timed to coincide with a four day visit of the UN and Bahrain's National Day.

Migrant workers - abuses remain and discrimination rife:

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, it is estimated 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%. 77% of the workforce is made up of migrant workers, most of whom come from South Asia and work in low-skilled, low-paid jobs. The majority are highly vulnerable temporary workers, concentrated in the construction industry and domestic service sector, where working and living conditions are harsh.

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.

2011 saw a marked increase in the number of complaints from foreign domestic workers with some 216 official cases. Most concerned the non or late payment of wages. Households were also increasingly using illegal means to hire domestic workers due to the sharp increase in charges from labour agencies after the temporary ban on foreign workers imposed by sending countries during the protests. The breakdown in the rule of law during the protests resulted in increasing violence and the emergence of xenophobia against South Asian migrants exacerbated by sectarian issues.

Violence towards migrant workers: In the midst of the political crisis, the General Federation of Bahrain Trade Unions (GFBTU), reported attacks on workers including migrant workers. Since 17 March, eight migrant workers have died and approximately 88 sustained various injuries. Ten Pakistanis are in a critical condition. Seven Bangladeshis have been hospitalised, three

have died and four are under treatment. The murder of a Bahraini man by a Bangladeshi worker sparked angry reactions from politicians. The Bahrain government put a ban on recruitment of any further 'untrained' workers from Bangladesh.

Many migrants are unable to leave or unwilling to leave due to outstanding debts. Some were relocated to safer parts of Bahrain but many have remained in the middle of the conflict areas. One Sunni Bangladeshi national was reportedly attacked by Shiite demonstrators who cut off his tongue. Temporary bans were put in place by many sending countries during the protests.

Systematic violence towards migrant workers in Bahrain and south Asians in particular intensified during the protests. Bangladeshi, Indian and Pakistani expatriate communities were targets of widespread violence and intimidation which was further fuelled by reports of the government recruiting mercenaries from South Asian countries, in particular Pakistan. Some Bangladeshi expatriates in Bahrain say they have been forced to take part in pro-government rallies. Violent attacks have been exacerbated by the fact that Bangladeshi and Pakistani migrants are predominantly Sunni and seen as pro-regime by many.

Groups have also claimed that the influx of Sunni nationals from outside in the last 15 years is the government's attempt to change the sectarian demographics of Bahrain. Reports also emerged of migrants being recruited to take the place of dismissed and striking workers in violation of the right to strike and putting migrants further at risk as they cannot easily refuse.

Over 2000 expatriates fleeing their homes sought refuge at the Pakistani embassy after attacks by protestors on their neighbourhoods. In one instance, 40 South Asians were locked in a restaurant which protestors then attempted to set on fire before being stopped by intervention from community leaders. Discriminatory legal structures such as the kafala system and the multi-tiered visa process which gives different levels of rights to individuals based on nationality further entrench xenophobic attitudes.

Dismissals in public and private sectors for involvement in the protests: Between 2,600 and 3,500 workers in both the public and private sectors were dismissed for their alleged involvement in the protests of 2011. Many workers had to identify their co-workers from police photographs of marchers. The government has so far failed to reinstate the vast majority. Some of those who have been reinstated had to agree to unacceptable and illegal conditions to get their jobs back, including agreeing not to join a union.

Government workers, especially those in health, education and municipal services, continue to be suspended or fired for their actual or suspected participation in trade union and political activity earlier in the year. Numerous trade union leaders are also now facing criminal prosecution.

Campaign against trade unions and the General Federation of Bahrain Trade Unions (GFBTU): The government pursued a sustained campaign against trade unions. Many trade union members and activists were targeted for imprisonment and accused of leading a conspiracy to overthrow the regime. Salman Jaffar Al Mahfoodh, the General Secretary of the GFBTU was arrested along with many from the GFBTU leadership. By the end of 2011, six members of the GFBTU executive board remained dismissed, as well as some 44 members of the executive board of GFBTU-affiliated unions.

In November, the government announced the dissolution of the GFBTU and unilaterally amended the trade union law to prohibit the establishment of a general federation of labour, such as the GFTBU; empowering the Minister of Labour to determine which union federation engages in national level bargaining and represents Bahraini workers at international fora; and prohibiting trade union leaders found guilty of charges from running again for five years.

It is feared that an amendment to allow multiple unions and to prohibit unions based on religious or sectarian lines will be used to deregister existing trade unions by falsely claiming they were formed on sectarian lines.

Teachers union leaders arrested: Despite national legislation which prevents the unionisation of teachers, the Bahrain Teachers Association has generally acted as a union. In April, however, it was dissolved. On 25 September, the president and female former vice-president, Mahdi 'Issa Mahdi Abu Dheeb and Jalila al-Salman were sentenced to ten and three years' imprisonment respectively by the First Instance Court of National Security, a military tribunal. Jalila al-Salman was taken from her home on 19 October by more than 30 security officials, including riot police and later refused bail. Jalila was arrested after speaking out about the continued repression and abuse of teachers in Bahrain.

It is believed that both Jalila and Madhi were targeted solely on account of their leadership of the BTA and for peacefully exercising their rights to freedom of expression, association and assembly. Both alleged that they have been subjected to beatings and abuse while in prison. Another nine BTA officials are facing criminal prosecution, including the General Secretary, Mrs Sana Abdul Razzaq.

Nineteen students at Bahrain University were arrested alongside members of the Teachers' Association and the payment of salaries of certain lecturers and union members was stopped. 111 employees of the Education Ministry were reportedly punished for participating in protests. The employees will reportedly be prosecuted for "flagrant violations" of the country's civil service law, as a teachers strike during the protests was described as politically motivated and aimed at "crippling schools". Over 8,000 teachers have been affected since the beginning of the crackdown. Education institutions were closed and salaries not paid or delayed. According to the BTA, 2,500 teachers have been brought in from Egypt to replace dismissed Bahraini teachers. Another 6,500 unqualified local recruits have been hired.

Beatings, arrests and death sentences for medical staff:

On 23 October, sentences were confirmed for a group of 20 doctors, nurses, and paramedics on charges including forcibly taking over the Salmaniya Medical Complex and refusing treatment to patients based on sectarian affiliation.

The court also convicted them of transparently political offences, such as "instigating hatred against the ruling system," "incitement to overthrow the regime," and "spreading false news." They were handed sentences ranging from five to 15 years each. They reported abuse and torture in detention including sexual abuse and weeks of solitary confinement.

Reports also emerged of the disappearance of some medical workers.

Journalists targeted: At least 68 journalists working for two leading Bahraini newspapers, Al Wasat and Al Bilad, were singled out for sacking, arrests and charges of treason during the protests. Others were forced into exile in a systematic harassment of independent media. Senior journalist Mansour Al Jamry, editor-in-chief of Al Wasat and his colleagues Walid Nuwayhid, the paper's editing manager and Akil Mirza, member of the Bahraini Journalists Association (BJA) lost their jobs in this campaign which affected at least 68 media staff. In October, a court convicted the newspaper and fined Mansoor Al-Jamri and Walid Nuwayhid, Aqeel Mirza, and Ali Al-Sharifi, a journalist, 1000 Bahraini Dinars (Euro 2,015) for "publishing news that defamed the image of Bahrain abroad".

Nazeeha Saeed a reporter for France24 and Radio Monte Carlo was arrested on 22 May over her coverage of the repression and was badly beaten by her interrogators. In October, Jamal Zuwayyed, a columnist with Akhbar Al Khaleej, the oldest newspaper in circulation in Bahrain, was attacked for his reporting of the protests. Photographer Mohammed Almoukhray was

also beaten by security forces while covering the protests. On 9 December, during a violent clash with police who overran a peaceful demonstration, two New York Times staff were tear gassed and detained. The government claimed the detentions were for their own protection.

BAPCO trade union leader dismissed: 293 workers at the Bahrain Petroleum Company (BAPCO) were dismissed during the protests after a special committee was set up to investigate cases of absenteeism, which was reportedly 60% of the workforce on 16 to 17 March. The BAPCO Trade Union President Abdul Ghaffar Abdul Hussain was also dismissed for instigating employees to take part in a general strike. A subsequent parliamentary investigation committee reported that the oil minister and BAPCO executives should also be suspended and investigated because BAPCO employees were “deeply involved” in the demonstrations and benefited from “undue” administrative protection that amounted to “incitement to strike.” By August, some 101 workers had reportedly been reinstated. The union leader remains dismissed.

Gulf Air unionists dismissed: The government is pursuing criminal charges against Gulf Air union leaders with the clear intent of undermining the union. In April, 217 Bahrain-based Gulf Air workers were dismissed. All are members of the General Flight Attendants Union. Amongst those dismissed were union leaders. While some have returned to work many have not been reinstated in their original jobs. Union leaders have been excluded. A senior member of an aviation company said workers at his company had been targeted by the government and that employees were questioned about their attendance and whether they had taken leave- the security forces “were trying to use those questions to get the employee to answer specific questions on whether they’d been part of protests”. Several workers were questioned and one was apprehended.

In November, Habib Alnabbool, Chair of the Gulf Air union, went on trial after claims he was tortured, interrogated, humiliated, blindfolded and forced to sign documents he was not allowed to read.

Grand Prix workers dismissed: The Bahrain Grand Prix was cancelled because of the instability. Foreign race officials later discovered that almost a quarter of the workers at the Sakhir circuit had been detained in April and later dismissed, reportedly for cheering the cancellation of the Grand Prix. By the end of 2011, 29 workers remained dismissed.

DHL unionists threatened: In October, Shukri Hassan, president of the Bahrain DHL workers’ union and eight of his colleagues went on trial accused of violating national security.

Migrant wage cases: In September, a group of striking Indian workers at a contracting company complained to the Indian Embassy of not receiving increments for the past four to six years. In April, workers at the Habib Ali Awachi construction company protested when they did not have enough to eat, as a result of salary arrears of two to four months. Those that had come to the end of their contract could not return to their home country. In December, some 1,000 workers and 100 construction company staff went on strike over alleged unpaid wages for the past seven months. The electricians, mechanics, plumbers, labourers, masons, carpenters, engineers, foremen, technicians and managers say they will not return to work unless their demands are met. The Al Hamad Construction Company workers claim they have been working on basic salaries between BD60 to BD300. The workers, who live in a labour accommodation near Alba roundabout, started a march which was stopped by police. Seven people were arrested.

A group of 54 undocumented migrants were arrested, most of them had previously run away from exploitative employers and were charged of absconding. They had previously run away from their employer but were unable to pay for the alleged losses incurred by their employer which are calculated on a daily basis. The men all have travel bans imposed against them by the courts due to cases filed by their employer.

The workers had been unaware of the travel ban until they tried to avail themselves of the Easy Exit scheme last year. The court had ruled in favour of the employers and ordered each worker to pay the company compensation ranging from BD300 to BD500. However the men have no way to pay. In a separate case, one worker who arrived on false promises five years ago has now been told he must pay fines amounting to around BD2,300 (Euro 4,635). This fine increases every month. The migrant had paid to travel to Bahrain but on arrival found no job and was instead forced to search for temporary jobs. He is now ill and cannot work.

Iran



POPULATION: 73,900,000
CAPITAL: Tehran
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 111 - 182

Scores of arrests and detentions took place throughout the year. Many workers were arrested for supporting the right to organise. Torture is routinely used to extract confessions, and political prisoners are systematically denied medical care. In June, the ILO Committee on Freedom of Association upheld an ITUC/ITF complaint over the illegal repression of the bus drivers trade union headed by Mansour Osanloo, who was finally released. Trade union rights are severely limited, and strikes are prohibited. Reports suggest over 70% of Iranian workers are employed on temporary contracts, with no job security.

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 2011

Background: Limited protests supporting the events in Egypt and Tunisia occurred in the spring of 2011 but were violently repressed. Discontent among ordinary Iranians grew over low economic growth and increasing unemployment – one estimate

placed unemployment at 24%. The situation of women in general and women workers in particular is reportedly deteriorating. In July, 500 women's movement activists and supporters issued a statement demanding an end to escalating violence and discrimination against women. Women workers have legally prescribed shorter working hours and a ban on overtime which has led to a further reduction in employment for women. In November, around 3,000 workers demonstrated against a draft of the new labour law.

Protest movement: On 27 January, the opposition Green Movement which emerged in the protests following contested elections in 2009 announced a series of protests for early February. Despite widespread surveillance of organisers a demonstration on 14 February – the 'day of rage' - went ahead in Tehran and was violently dispersed. At least two protestors died. Similar marches were held in other Iranian cities. Protests continued sporadically through March and April despite arrests, detentions and interrogations. On the eve of International Women's Day on 8 March some 33 women's rights activists were arrested. All were later released. In April, protests took place in several cities calling for more rights and benefits. They were dispersed by force with a reported 15 people killed and dozens wounded. Some estimated that over 150 had been arrested.

Within the first 10 days of 2011 alone, the regime executed nearly 60 people on various charges. Political activists received heavy prison sentences, and three political activists were executed.

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 for 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. Security and intelligence forces are often present 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 the harassment, detention and incarceration of 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.

Threats against and detention of journalists: In February, the Association of Iranian Journalists (AoIJ) stated that at least 34 journalists remain in prison, including two women Nazanin Khosravani and Hengameh Shahidi. In January reports emerged of the arrest of Dr. Fariborz Raisdana, a labour activist and a member of the Iranian writers' association and the Centre of Defenders of Workers' Rights. In February, security forces arrested two journalists, working for Shargh, the only remaining reformist newspaper. Also in February, the former head of the Iranian news agency was arrested while four more journalists were detained for questioning. In March, Kaveh Ghassemi Kermanshahi, Iranian journalist member of the Central Council of the Human Rights Organisation of Kurdistan, also signatory to the "One Million Signatures Campaign", was sentenced to four years in prison for allegedly "acting against national security" and "propaganda" while Abdolreza Tajik, journalist and human rights activist, was sentenced to six years in prison, for "membership in an illegal group"; and one year for "propaganda" and "publishing false reports". Partly in response to their coverage of the demonstrations, Jay Deshmukh, the AFP deputy bureau chief in Tehran, was expelled from Iran in April and stripped of his press card along with ten other correspondents. In December, the Committee to Protect Journalists published a worldwide prison census for journalists, declaring the Islamic Republic of Iran as the world's worst jailer, with 42 journalists behind bars. However other estimates give figures of around 100 journalists imprisoned since 2009.

Huge police presence overshadows International Labour Day meeting: On the eve of International Labour Day, seven major labour organisations in Iran issued a joint statement* demanding pay rises, an end to repression and cronyism, and the right to strike and form independent labour organisations. Over 200 workers in the city of Sanandaj attempted to organise a Labour Day meeting but they were faced with a huge police presence.

* The joint statement was signed by the following labour organisations: Tehran and Suburbs Vahed Bus Company Workers' Trade Union, Free Trade Union of Iranian Workers, Re-launching

Committee of the Trade Union of Painters and Decorators, Re-launching Committee of the Trade Union of Metal and Mechanical Workers, The Center for Defenders of Workers' Rights in Iran, Haft Tapeh Sugar Cane Company Workers' Trade Union, Pursuit Committee for the Formation of Labour Organisations and Co-ordination Committee for the Formation of Labour Organisations.

Unionists and labour activists imprisoned: In 2011, as in previous years the authorities detained, questioned, harassed, threatened and imprisoned scores of people for their labour rights activities. Activists were often released only upon payment of extremely high bail bonds. For example, on 8 January, Pedram Nasrollahi, a labour movement and women's movement activist, was released on payment of 40 million tomans (29,300 Euros) bail. In early January, according to reports published by the Free Union of Workers in Iran, jailed labour activist Behnam (Asad) Ebrahimzadeh was sentenced to 20 years in prison. Behnam is a member of the workers' group Pursuit Committee for the Formation of Labour Organisations. Behnam worked at a polyethylene pipe-manufacturing plant in the outskirts of Tehran. He had already spent nearly seven months in prison since his arrest in June 2010. He had been previously detained along with scores of other worker activists, at a rally on Labour Day 2009.

In August a Tabriz court sentenced labour activists Shahrokh Zamani to 11 years, Nima Pouryaghob to 6 years, Mohammad Jarahi to 5 years and Sasan Vahebeivash to 6 months in prison on charges of organising opposition groups, acting against national security and propaganda against the regime. Shahrokh Zamani is a member of the Representatives' Council in the Coordinating Committee to Create Labour Organisations and also a member of the Painters Union. All were later released on payment of bail.

Seyed Biouk Seyed Lar, a worker at Saba Train, and well-known labour activist, was also arrested in June 2011 and was detained in Tabriz prison. Mr. Ali Akhavan, an associate of The Centre in Defence of Workers' Rights, was also arrested at his house in May and sentenced to a year and a half in prison. In December, police arrested a textile worker who threw his shoes at President Mahmoud Ahmadinejad as he was giving a speech to workers during a visit to the provincial capital of Sari.

Tehran Bus Drivers Union leaders remain imprisoned: Mansoor Osanloo, the head of the Vahed Syndicate (Tehran Bus Drivers Union), was finally released in June on payment of a bond and dependant on 'good behaviour'. He had been in poor health and had previously been tortured while in prison on an earlier sentence. In 2007, Mansoor Osanloo was sentenced to

five years imprisonment on charges of 'acting against national security' and 'propaganda against the state' and in 2010 another year was added to his sentence. He had been trying to establish a democratic trade union for bus drivers. Other members of the Tehran's bus workers' union currently in detention include Ebrahim Madadi, Reza Shahabi and Gholamreza Gholamhosseini. Reza Shahabi was taken to hospital on 26 November during a hunger strike. He had begun the hunger strike after authorities turned down his request for bail a second time and increased the cash sum they demanded for his release. After a few days out of prison he was again sent to Evin Prison, where he began a second hunger strike in protest. On 22 December, Reza Shahabi ended his 30-day hunger strike. On 30 November, Ebrahim Madadi, Vice-President of the Tehran Bus Drivers Union, was released from prison on bail after being imprisoned since December 2008. However, he was re-detained on 7 December. He had been sentenced to three and a half-year imprisonment in December 2008 on charges of "endangering national security". At the end of the year he remained detained in Evin prison. In October authorities issued court summons to Seyed Davood Razavi, a former treasurer of the Tehran bus drivers' union, and to his fellow Vahed executive board member, Yaghoob Salimi.

However two activists from the bus workers' union were released from detention. Morteza Komsari and Aliakbar Nazariis of the Syndicate of Workers of Tehran and Suburbs Bus Company were released at the end of December.

Sugar union leaders remain in prison: On 1 December 2010, 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, 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 12 November 2011, Ali Nejati was transferred to Dezful's Fajr prison despite ill health. Previously in 2010 three other Haft Tapeh union members were convicted and sentenced to six months although it is not clear if they have begun serving their sentence. 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.

Teachers' union under attack: Rasoul Bodaghi, a member of Iran Teachers' Trade Associations (ITTAs), is currently serving a six year sentence in Raja'i Shahr Prison, in Karaj, near Tehran. He had been sentenced in August 2010 on charges of "propa-

ganda against the system" and "gathering and colluding with intent to disturb national security". Following a hunger strike by several political prisoners in protest at conditions inside the prison in May 2011, Rasoul Bodaghi was transferred to solitary confinement. In April 2011, three members of Hamadan's teacher's union in north-west Iran, Ali Najafi, Mohammad Khani and Saeed Jahanara, were summoned to court, possibly to face charges of "propaganda against the system".

Hashem Khastar former head of the Mashad Teachers' Union, and a former teacher at the Agriculture Technical High School, was due to be released on 26 July. Instead he was taken to court and tried on the new charge of "creating public anxiety". He had been arrested in September 2009 and sentenced to six years in prison on charges relating to his trade union activities. An appeals court later reduced his sentence to two years.

Persecution of members of the Coordinating Committee to Help form Workers' Organisations: Throughout the year, members of the Coordinating Committee to Help form Workers' Organisations (CCHWO) were targeted for arrest. On 30 April and 1 May, several labour activists and members of the CCHWO in Sanandaj and Saghez cities were arrested and held for several weeks. They were later released on high bail terms. Activists were pressurised to leave the committee. Mohammad Jarahi, previously a worker at a petrochemical complex in Asaloooye was arrested on 20 June. He had previously been arrested in 2007 and sentenced to four months imprisonment, but released early as a result of a protest campaign launched by labour activists in Tabriz. Ayat Niafar, another member of the CCHWO was arrested on 17 October and released on bail. Previously annulled prison sentences from 2007 were reactivated for Sheis Amani, and Sedigh Karimi, - both members of the Board of Directors of the Iranian Workers' Free Trade Union. In August, Kourosh Bakhshandeh, a member of CCHWO, was sentenced in absentia to a one year suspended sentence and released on bail.

Workers take strike action over missing wages and contract work: Despite harsh repercussions strikes occurred throughout the year. In January 3,500 workers went on strike at Barez / Alborz Tire Company shutting down operations for four days. In February and early March, hundreds of Alborz workers and their families again protested over unpaid wages. In March workers were told the plant would close until enough money was found for it to reopen. On 24 January workers at the Pars Metal Company organised a sit-in over unpaid and late wages – they had staged a similar protest in 2010. In March some 1,800 workers from the Tabriz petrochemical plant protested against the management's decision not to renew their contracts and called for better conditions. Meanwhile, a number of workers

at the Esfahan Steel Company demonstrated in Tehran on 24 April to protest the non-payment of their back wages while some 100 workers and their families gathered outside the Fars Organisation of Industries and Mines in Shiraz seeking payment of missing wages. Contract labour was also a growing concern with 1,500 workers at the Imam Port Petrochemical Complex staging protests calling for direct employment contracts rather than sub-contracts in April. Around 1,500 workers from the Pars Paper Mill in south-western Iran went on strike on 9 April over the dismissal of 60 temporary contract workers. Despite these protests the deputy Labour Minister Mojtaba Zarei reportedly denied that any industrial workers have protested or gone on strike in the past year.

Teachers arrested and harassed: In March, around 1,000 teachers were arrested in Tehran during their third demonstration calling for increased wages and the resignation of the Education Minister. Many were later released but some 150 remained in custody for varying periods. The majority of teachers in Iran live way below the poverty line and many hold several jobs. On International teacher's Day, 2 May, a number of jailed Iranian teachers issued a statement calling for an end to the persecution of teachers for their union activities. Those signing included Advar Tahkim Vahdat spokesman Abdollah Momeni and Mohammad Davari, a member of the central council of the Teachers' Organisation of Iran who were arrested during the crackdown after the June 2009 presidential election and are currently serving five-year sentences on security charges. Persecution continued of the Bahá'í Institute for Higher Education (BIHE) with seven reported arrests and prison sentences.

Petrochemical workers threatened during strike: Despite management threats, 6,500 workers at the government-owned Mahshahr Bandar Imam Petrochemical complex, in the South-West of Iran, took strike action on 28 September, demanding an end to management's use of subcontracting firms at the plant. Workers are not directly employed and are thus barred from attempting to bargain collectively with management and are employed on temporary contracts. Earlier in March, workers had conducted an 11-day strike for similar demands. That strike was suspended after a government promise to respond to workers' demands within three months. The Free Union of Iranian Workers reported that on the seventh day of the strike, three oil workers were summoned to the security office and immediately arrested. These were Mansour Abbasi, a worker with the Khawrazmi subcontracting company and a workers' representative; Mohammad Bagher Bagheri, a worker at the Fars Industries contracting company and a workers' representative; and Jasem Bandarani, another worker at the Khawrazmi subcontracting company. The arrests followed several protest rallies near the main offices of the petrochemi-

cal complex which included marches and chants. The three arrested workers have since been released on bail.

Iraq



POPULATION: 31,600,000
 CAPITAL: Baghdad
 ILO CORE CONVENTIONS RATIFIED: 29 - 98 - 100 - 105 - 111 - 138 - 182

Iraqi workers in the public sector are forbidden from forming unions not formally sanctioned and controlled by the state, a regulation remaining from the Saddam Hussein era. A draft labour law remains unfinished. Despite the restrictions, public sector workers, which make up the majority of the workforce, including oil workers, teachers, dockworkers and others, have nonetheless formed unions.

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 2011

Background: In June 2009, US troops began to withdraw, handing over security to Iraqi forces. By the end of 2011, all US troops had left Iraq. In December, an arrest warrant was issued for the Sunni Vice-President Al-Hashemi who was accused of involvement in assassinations and fled to the Kurdish part of Iraq. Violence has continued to steadily reduce but attacks and suicide bombs continue killing civilians, government workers, service workers and journalists.

In February, in an attempt to defuse calls for reform the Iraqi Prime Minister Nouri al-Maliki announced that he will not run for a third term in 2014. Al-Maliki, a Shiite, narrowly held onto a second four-year term. The announcement made little difference to demonstrations and the authorities' response to the protests became increasingly violent.

Political protests: Protests erupted in several Iraqi cities such as Baghdad, Karbala, Kut, Ramadi and Amara throughout 2011. Major protests were held in Tahrir square in Baghdad on 25 February - a "Day of Rage" - in protest at corruption and the lack of basic public services. The Iraqi Teachers Union, the Gas and Oil unions and others participated in this and smaller demonstrations throughout Iraq. State security forces in several provinces used excessive force trying to disperse protesters and police allowed assailants to beat and stab peaceful protesters. Security forces killed at least 12 protesters and injured more than 100. On 8 March, lawyers filed criminal and civil actions against the Interior Ministry's anti-riot unit for allegedly attacking five reporters covering a demonstration in Basra on 4 March. Three young reporters were arrested on 7 March while covering a demonstration in Tahrir Square. In April, during several different protests, demonstrators and journalists were opened fire on and beaten. In April, as tents were erected and torn down in various cities in Iraq, the authorities issued new regulations barring street protests.

Labour Day on 1 May also saw major demonstrations against corruption, better labour laws, and equal laws for women workers and increased democracy.

On 10 June, following the end of a 100-day cooling-off period requested by Prime Minister Nouri al-Maliki, students and activists attempted to demonstrate in Tahrir Square but were met by several thousand pro-government supporters armed with wooden batons. Many protesters were injured and members of the Organisation of Women's Freedom in Iraq were also beaten and sexually assaulted. In Kurdistan, the authorities response was similarly violent and perhaps more so.

Throughout the year reports emerged of authorities targeting protest organisers, activists, and journalists, detaining, beating and interrogating organisers in attempts to halt the ongoing series of protests throughout the country.

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 (GFTIU). 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.

Strikes and calls for labour law reform: In the run up to the national protests on 25 February, trade unions in Iraq conducted strikes and protests to demand a new labour law that gives public-sector trade unions full and universal rights. On 4 January, public employees and civil servants held a protest to uphold labour rights for the hundreds of workers who have been sacked from ministries and agencies in industry, commerce, agriculture, irrigation, and other government departments because of political allegiances.

Oil workers, teachers and textile workers all went on strike during the year over wages, discrimination of Kurdish workers and contract labour. On 29 March, workers at the ministry of industry supported by the national trade union federation (GFIW) organised a day of protest. Protestors demanded the abolishment of longstanding repressive labour legislation and the adoption of new labour laws in addition to reinstating workers dismissed for their political views.

Interference in trade union affairs: Since the fall of Saddam Hussein, governments have failed to put in place a legal and regulatory framework for overseeing trade union activities and continues to use repressive Saddam era regulations which effectively ban independent trade unions.

In 2010, the Iraqi president, Jalal Talabani, had hinted that Article 150, a law dating back to the 1980s banning public sector workers from joining a union, would be repealed once

the country's electoral stalemate had been resolved. But the new government has instead placed further restrictions on union membership.

On 17 April, the Iraqi Cabinet issued two decrees withdrawing its recognition of the General Federation of Iraqi Workers (GFIW) and its member trade unions, and instead appointed an unelected "Ministerial Preparatory Committee (MPC)" to take over all union structures and assets and oversee the upcoming trade union elections. These elections exclude public sector workers. The authorities also issued a ruling stating they would select the workers candidate to the ILO Conference in June in contradiction with the ILO constitution which requires member states to select a worker delegate in consultation with unions. After international pressure the Minister of Labour backed down on this plan.

Lack of protection for migrant workers and third party nationals: Although the 2005 Iraqi constitution bans human trafficking, Iraq has no anti-trafficking law that prosecutes offenders. Since 2008, an inter-ministerial task force has been negotiating a draft law for parliamentary approval but no law has been approved. The International Organisation for Migration (IOM) issued a report stating alarm at the growing number of foreign migrant workers seeking humanitarian aid and protection after being abandoned by private companies in Baghdad. They estimate that many if not most of the tens of thousands of migrants are undocumented through no fault of their own and are forced to live in unsanitary conditions. As they lack funds to enable them to return to their countries of origin they are vulnerable to exploitation. The organisation is appealing to the government to pressure private companies to take care of their foreign labourers and to introduce a comprehensive labour migration policy. It is also calling for the draft anti-trafficking law IOM has helped to draft to be passed by parliament as soon as possible.

Contract Labour: Some 40% of the contracted labour in Iraq is service personnel, mainly from South Asia and Africa. In June, a media report was issued detailing the poor labour conditions of the over 70,000 "third-country nationals" working for the American military in war zones, employed by the Army and Air Force Exchange Service (AAFES). Many had arrived under false promises and the majority lacked work permits. Many reported being robbed of wages, injured without compensation, subjected to sexual assault, and held in conditions resembling indentured servitude by their subcontractor bosses. Contracts were sub contracted from the US military down to small un-supervised contractors who often procured workers from impoverished countries under conditions amounting to trafficking. Many workers had paid several thousand dollars despite

US regulations against the charging of fees and many had contracts stipulating 12 hour days for 7 days a week. Workers who complained were threatened with sacking and denial of return flights home. Several groups of these workers had also been taken hostage and murdered.

In June, it was reported that 30 Sri Lankan construction workers in southern Iraq went on a five-day hunger strike to obtain unpaid wages claiming they had not been paid for the past two years. The move came after threatened suicide. The workers said they were each promised 2,000 dollars per month to work for the Talat Osam al-Deen construction firm, on a government housing project. They said they had not received a single salary payment and the company owners had fled. The Iraqi government intervened, paying the workers 3,000 dollars each and flew them home.

Journalists union raided: In January, security forces stormed the head office of the Writers Union for the second time in less than two months. The first time the union was raided was in December 2010 under the pretext that the union's social club sold alcohol, which was perceived by the head of Baghdad's council as 'un-Islamic'. However, no reason was given for the second raid on 17 January.

On 17 February, the Writers Union social club was officially reopened by officials despite threats from Baghdad council to close it once more. The Prime Minister's Representatives said Baghdad Council's decision to close the social club are unconstitutional. According to reports, over 160 violations were committed against media workers in the two weeks after and around the major demonstration on 25 February while a local press freedom group Metro Centre stated that in the spring more than 150 Iraqi Kurdish journalists had been injured or attacked. In September, Al-Mahdi, a radio show host and critic of the government, was shot dead in his home in Baghdad.

Leather workers strike censored: On 1 February, workers at the General Company of Leather Products and Textiles in central Baghdad, one of the Ministry of Industry and Minerals few public owned sites, protested at the company headquarter demanding immediate payment of overdue wages. At the same time workers at the Hilla Textile Factory (south of Baghdad) which employs over 10,000 held a one day strike demanding payment of their overdue salaries. The media was reportedly refused access to cover the strike.

Mechanics and print union leaders arrested and murdered: On 14 February, the Mechanics' and Printers' Union of the General Federation of Iraqi Workers (GFIW), held a one day demonstration in Baghdad demanding improvements to their

social and working conditions including an end to the rent rises that had forced many into unemployment. On 27 May, Jihad Jalil, 27, a youth leader of the Mechanics' and Printers' Union and three others were detained on their way to demonstrate at Tahrir Square.

Oil workers sanctioned for strike action: Under existing legislation, workers in the public sector, including the state-owned oil companies, are not allowed to form trade unions. Workers that do organise protests are threatened with arrest and relocation. Despite the threats similar worker actions have taken place throughout the main oil producing regions of the south including many protests calling for equal treatment of Iraqi and Kurdish workers and expatriates. The authorities forcibly relocate trade union leaders in the oil industry from their regular jobs in order to remove them from their members and sources of protest.

In June, it was reported that Jamal Abdul-Jabbar Akram, president of the Oil and Gas Workers' Union of the General Federation of Iraqi Workers (GFIW), had been transferred to another part of the country. This happened after his union staged a February rally outside the headquarters of the state-owned North Oil Company and Jamal refused to cease union activities. In a separate incident, 16 workers were fined nearly USD60,000 by the Oil Ministry for a March 2010 work stoppage at the Basra refinery. The workers were also transferred from Basra to Baghdad. In Basra, local authorities urged the filing of lawsuits against striking workers.

In May, over 300 Iraqi oil workers staged a wildcat strike in Basra and demonstrated outside the headquarters of the state-owned Southern Oil Company. Their demands included an end to management corruption, and equal pay and treatment with foreigners. However, management used private security officers to confront the demonstrators. At least one worker activist, Sami Hassan, was detained briefly.

Protesting textile workers arrested: Hundreds of workers at al Kut National Textile Company protested on 25 July in front of the provincial council to demand better living conditions and the dismissal of the Director General who they believe is the reason behind the collapse of the al Kut Textile Company, which was one of the profitable national companies in Iraq. Some 75 workers with kidney disease from pollution caused by the factory are also waiting for compensation. Police and army forces were reportedly used against the workers to disperse the protests and some were arrested.

Fertilizer workers denied trade union: Workers at the Northern Fertilizer Company, north of Baghdad, sought to organise a trade

union after their company was privatised and working conditions deteriorated. In October however, the company refused to allow them the right to form a union and threatened them with reprisals if they continued to try to exercise their freedom of association. The workers were forced to hold the initial union committee elections at the local offices of the FWCU.

Israel



POPULATION: 7,400,000
CAPITAL: Jerusalem
ILO CORE CONVENTIONS RATIFIED: 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The enforcement of labour law is weak and breaches of labour law are common. The right to strike is coupled with restrictions. There were several major strikes during the year. The use of court orders forcing workers back to work during a strike continued in 2011. Palestinian workers in Israel, even with permits, are sometimes deprived of their rights. Israeli minorities are sometimes subject to employment-related discrimination.

TRADE UNION RIGHTS IN LAW

Israeli workers are free to join and establish trade unions and have the right to organise. A minimum of one third of the employees in a workplace or bargaining unit 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, as long as the conditions of the agreement are not being violated. 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 2011

Background: The minimum wage was raised in March after extensive pressure from the Histadrut – General Federation of Labour in Israel trade union and the signature of an agreement with the private employers and with the government. In April, a new public sector agreement was signed improving wages and auxiliary benefits.

In July, human rights groups protested against a new law prohibiting calls for a boycott of Israel which they see as part of a campaign seeking to de-legitimise the activities of Israel's civil society organisations. Protests calling for increased social justice began in July and continued until October with some 450,000 on the streets at the peak of the demonstrations.

Protest movement: In July, protests erupted over rising prices and related issues. Some 150,000 people held marches in 12 cities throughout Israel in the biggest demonstration for decades. Tent cities were erected throughout the country to protest at the price of housing. Protests continued on a weekly basis. On 4 August, Histadrut held a rally at its headquarters under the slogan "Workers for the Struggle". The rally was attended by tens of thousands of workers' committees and Histadrut members. On 6 August, some 250,000 marched in cities throughout Israel continuing the call for increased social justice. The Prime Minister then announced a cabinet-level team to examine and propose solutions to Israel's socio-economic problems. In August, the Shin Bet, the Israeli internal security organisation, ordered its workers not to take part in the growing social protests on grounds that they are members of a State organisation. The protests continued to grow throughout September and October with a peak of some 460,000 people gathered in demonstrations throughout Israel on 3 September. The police and security response was for the most part restrained.

Migrant workers main victims of labour law violations: The main victims of labour law violations are migrant workers. In 2008, the government approved a significant increase in the number of labour inspectors following pressure from Histadrut - General Federation of Labour in Israel. In February, within the framework of the contract workers agreement with the government, 120 labour inspectors were added to the Ministry of Industry, Trade and Labour.

Problems for Palestinian workers: The Palestinian Central Bureau of Statistics states that between 40,000 and 65,000 Palestinians work in Israel and 9,000 officially work in the Jewish settlements, despite a ban on Palestinians working in

the settlements by the Palestinian government. Palestinians working in Israel often face problems crossing borders from the West Bank and Gaza Strip into Israel due to security checks. In addition, some 20,000 Palestinians work in the West Bank settlements for very low wages. Their situation is exacerbated by the fact that they are afraid to make complaints against their Israeli employers, which limits the number of workplace inspections.

Data was released in January regarding the quota arrangements for Palestinian workers in Israel by the Ministry of Defence. A Palestinian who wants to work officially in Israel must first find an employer willing to file an application on his behalf and fulfil the criteria for employment in a particular sector. Each occupation has a different set of criteria. For example, the quota for Palestinians seeking construction work in Israel is set at 19,500 and in order to receive a work permit in construction, the Palestinian applicant must be at least 35 years old and married with children. There are 3,000 positions in agriculture (including citrus fruits or strawberries picking); and 8,000 for work in orchards and groves. In these sectors a Palestinian must be at least 28 and married with children to receive a work permit.

Women domestic workers bound to employers: 60% of migrant workers coming to Israel are male and 40% are female, comprising over 80% of workers in the care-giving sector. These workers are sometimes vulnerable to situations of debt bondage. In April 2011, the Israeli Supreme Court ruled that migrant mothers should be permitted to remain in Israel up to three months after the birth of their child and that previous legislation stating that migrant workers will lose their permits should they become pregnant or give birth and thus must leave the country, infringing on the foreign worker's constitutional right to parenthood. Several new amendments to the "Entrance to Israel" law were passed in 2011 concerning migrant workers that are caregivers to patients. The law allows the relevant minister to extend the worker's work permit (which is usually time-limited) for "humanitarian reasons". The minister must appoint a committee that will advise him on this matter and the chairman of the committee should be a retired judge.

Another amendment limits the number of times a migrant worker can switch employers. An additional amendment permits the relevant minister to restrict, after considering the worker's rights, the geographical area in Israel in which the worker will be allowed to work.

If a foreign worker is not employed in the care giving sector for 90 days, that worker can be deported. However, the worker is entitled to a hearing before the decision is accepted.

The Israeli Supreme Court ruled that an earlier arrangement that forbade switching employers should be repealed as it constitutes “a modern form of slavery.” This ruling was accepted and new amendments mentioned above that coincide with the spirit of the Supreme Court’s ruling were legislated.

Migrant workers abused and exploited: According to the Israeli Population and Immigration Authority, in 2011 there were approximately 184,000 were foreign workers, of whom about 109,400 were undocumented (including working tourists who do have a labour permit). Maltreatment is prevalent, especially in the agriculture sector. 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.

There are 24,000 mainly Thai migrant workers employed in the agricultural industry. They travel to Israel through private agencies to which each worker pays an average of USD 9,000. Exploitation is common with the regular withholding of salaries, long working hours with false or non-existent payslips and threats of deportation to workers who try to complain. On 12 January, after an undercover investigation, 12 employees of an Ashkelon-based recruitment agency were arrested on suspicion of defrauding Thai agricultural workers and forcing them to work many hours to meet their illegal debts to the agency. Authorities suspect that the agency forced Thai workers to pay tens of thousands of shekels to work in Israel, and ran what was in effect a slave labour market when the workers could not pay off their illegal debts. The law permits recruitment agencies to take a maximum of 3,400 shekels from each foreign worker, but police suspect the debts incurred by the agency reached sums of USD 10,000 per worker.

Attempts to organise rebuffed: Several attempts by workers in different sectors to organise and form a union were rejected by their employers leading to lawsuits by Histadrut - General Federation of Labour in Israel. In August, Histadrut HaOvdim HaLeumit (The National Histadrut) announced its plans to sue the Steimatzyk bookstore chain for improper and illegal interference in employees’ efforts to unionise. Earlier management had accused the union of forging union membership forms and using company email accounts during the organising process. However, the union claims that workers had complained of measures by management to derail organising.

On 20 November, about 20 technicians of “HOT Telecom” were summoned to hearings prior to being dismissed. This was following a demonstration they held that morning in front of the company’s head offices. The protest came about after manage-

ment had refused to recognise a workers’ committee that had been formed by about 700 technicians from the company. Management had also tried to work with small groups of workers in order to avoid negotiating with the committee. Previously, the workers had formed the committee and joined Histadrut in reaction to recent company outsourcing and unilateral changes in contracts and working hours. The union then tried to negotiate a collective agreement over employment conditions. However, management announced that it did not recognise the organising and at the same time began to summon workers and get them to sign a form cancelling their Histadrut membership. Histadrut submitted a lawsuit in December to the Labour Court against the management for violating labour law.

In 2011, Histadrut submitted several cases to the labour courts against the Machsani Hashmal chain. The first was in January concerning the humiliation of and threats against workers who had attempted to organise at the company. Despite this legal initiative, management continued to try to intimidate workers and threaten organisers. Histadrut then filed a second case against the management of the parent company, Yaki Vadmeni, CEO of Electra Consumer Products, the umbrella company of the Machsani Hashmal chain, who had sent a letter to workers stating that their membership of Histadrut was against the law. Earlier, the Deputy General Manager of Marketing had telephoned the chair of the Workers’ Action Committee and threatened him against continuing with an ongoing organising initiative.

Diplomatic staff and strikebreaking: Throughout most of 2010, diplomatic staff organised by the Foreign Ministry’s workers’ committee undertook strike action and go-slows. The government responded 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. In January a further strike was held and Israeli ambassadors abroad were instructed to cut off all contact with foreign ministries, prime minister’s offices and president’s offices in the countries in which they serve, until further notice. On 10 January, the Histadrut - General Federation of Labour in Israel, representing the Foreign Ministry workers’ committee, announced an end to the strike after reaching an agreement with the Finance Ministry and the Foreign Ministry administration regarding new salary conditions.

Good news for striking social workers: In March, a three week strike by social workers over pay scales and wages ended after the Social Workers’ Union accepted the deal agreed upon by representatives of Histadrut - General Federation of Labour in Israel and the Finance Ministry 12 weeks previously with only minor changes. It is noteworthy to mention that the Histadrut

did not include these workers with other public sector workers who are covered by the aforementioned public sector agreement in order to provide them with a substantial wage increase and auxiliary benefits.

Attempts to fire the Chair of the Bus Drivers Union: Attempts by the Ashdod Bus company, managed by Connex Transportation Israel and a franchise of Veolia Israel to sack the chair of the Workers' Action Committee were halted when Histadrut - General Federation of Labour in Israel obtained an injunction from the Labour Courts in March 2011. The union also found there had been extensive verbal and written threats against workers and direct harassment of union organisers.

Railway union members detained and strike declared 'illegal': Histadrut - General Federation of Labour in Israel obtained an injunction announcing a labour dispute involving Israel Railways following the Transportation Minister's threat to close down the company if it did not implement comprehensive safety reforms. A half-day rail strike ended after members of the rail workers' union were released from detention after half a day. The rail workers trade union announced the strike without prior notice after the arrest of 10 union members during a demonstration outside the home of the new chair of Israel Railways on 11 May.

On 16 May, the Tel Aviv Labor Court ruled that Israel Railways workers were forbidden to go on strike before 1 July. The court ordered the sides to hold negotiations over the next two weeks. Despite various negotiations, the dispute continued and in September the Tel Aviv District Labour Court ruled a further strike by Israel Railways (IR) workers was politically-motivated, and consequently illegal. The court ruled that workers must return to work and that the union must enter into renewed negotiations. Sanctions were imposed after talks between labour and management on planned structural reforms broke down. Nine workers were later suspended from employment after they stopped the laying of new track in late September.

Government seeks injunction against doctor's strike: Doctors held several protests and strike actions throughout the year. In June, the Tel Aviv District Labour Court rejected a petition by the government to issue an injunction banning labour sanctions by doctors. A compromise agreement was then reached on further talks but negotiations stalled during the next few months. In August, an agreement was finally signed between the Finance Ministry and the Doctors' Labour Federation, ending the negotiations that dragged on since September 2010. The deal, valid for nine years, includes a 49% average salary increase for hospital doctors, who will now clock in and out, and the addition of 1,000 doctors at public hospitals. However

young resident doctors tendered mass resignations in late August in a move rendered illegal by the national labour court. After this decision, a one day hunger strike was held on 4-5 September. On 7 December, the struggle of the young resident doctors ended with the signing of an agreement, which determined improved benefits and a promise to review the collective agreement in three years.

Port worker strike suspended by labour court: In May, a strike over bonus coupons at the Ashdod Port was suspended after the national labour court ordered the workers not to take any industrial action until 1 June at least. Manufacturers, importers and exporters had complained to the court that the work slowdown by port workers at Ashdod, coupled with an overload at a nearby port was costing them NIS 2 billion.

Retaliation against Jerusalem Light Rail driver's union members: Some 80 drivers at the Jerusalem light railway operated by Connex, joined Histadrut - General Federation of Labour in Israel in order to improve on-going working conditions and elected a workers' committee. Management agreed to negotiate a collective agreement but it simultaneously began to take disciplinary action against the workers. A number of them received a pre-dismissal warning. At the same time, the company also reduced certain employee benefits such as transportation home after work. Likewise, management worsened the conditions of employment. In May, Histadrut announced a formal dispute with the company citing improper procedures for employee layoffs and worsening of terms of employment for union members. In July, Histadrut filed a claim against Connex and the senior management of the company (CEO, COO, Director of Training and the Human Resources Manager) for restrictions on the right to freedom of association and harassment of union members.

Jordan



POPULATION: 6,187,000
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. Despite this however work stoppages and protests took place. The provisional amended labour law that was endorsed by the former prime minister's government in 2010 was approved and adopted in 2011.

TRADE UNION RIGHTS IN LAW

The laws regulating trade union rights in Jordan are very restrictive, but the amendment of the Labour Code in July 2010 did bring some improvement. 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 of Jordanian nationality 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 are denied the right to organise. While according to the new law foreign workers are allowed to join a trade union, they are still not authorised to participate in the establishment of a trade union as founding members or even as leaders.

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 2011

Background: The Jordanian King, Abdullah II, dismissed the cabinet and Prime Minister twice during the year in an attempt to stem vocal protests and calls for political reform. Several major strikes were held including protests by doctors and by teachers demanding the right to form an independent association. There remains significant numbers of workers on daily wages with massive job insecurity. Child labour is reportedly rife in the huge Marka refugee camp. Both inflation and unemployment are rising with some estimates of unemployment as high as 30%.

Protest movement: Protests in Jordan began early in 2011 over corruption, economic reforms, the lack of government transparency and King Abdullah II's absolute hold on power, and persisted sporadically throughout the year. However they lacked the intensity of some neighbouring countries.

On the weekend of 14-16 January, some 3,000 Jordanians protested against corruption, rising prices and poverty. They were led by trade unions and opposition parties. In an effort to prevent more unrest, the government announced a new package of reforms aimed at cutting prices and increasing wages in some sectors. This move did not however stop more protests from taking place.

Shortly after a demonstration by 5,000 people in the capital Amman, the King announced the dismissal of the government and appointed Marouf al-Bakhit, a former army general, to form a new Cabinet. On 25 February, some 8,000 people demonstrated and on 24 March a protest camp was established. The following day pro-government supporters overran the camp injuring 100 and killing one.

Regular protests took place afterwards. Most were relatively peaceful, but in July riot police broke up a peaceful march in Amman beating protesters and journalists, despite an earlier agreement with police which produced orange vests for journalists to wear during the march. According to witnesses, police surrounded and charged the demonstrators. Several protesters were badly injured, including reporters from Al Jazeera, The New York Times, local dailies and others, who were badly beaten up. The police later apologised.

Throughout the year, media workers remained under fire. In February, eight journalists covering the protests in Amman were attacked and injured by unknown assailants. Several foreign journalists complained of attempts to threaten them by confiscating their cameras. In May, Ala'a Fazza', a journalist,

was arrested and held for 14 days pending investigation. The King ordered his release after protests from other journalists. Journalists and staff members of media outlets and electronic news websites staged a one-hour work stoppage on 24 May to condemn a recent spate of attacks on their colleagues and call for curbs to this violence.

In October, the King again dismissed the government.

Strike action despite restrictions: Data from October stated that Jordan had witnessed an unprecedented 607 labour-related protests and work stoppages over the first nine months of 2011. Strikes took place throughout the year despite restrictions on workers' right to strike. Electricity workers held several actions over wages, public sector workers including bus drivers threatened strike action, journalists protested over lay offs and wages as did workers from the United Nations Relief and Works Agency (UNRWA) and potash workers. HSBC staff also went on strike over unannounced layoffs while public sector doctors demanded higher salaries and held various strike actions during the year.

Discontent with the General Federation of Jordanian Trade Unions: In March, hundreds of unionists demanded the abolition of the General Federation of Jordanian Trade Unions (GFJTU), the sole legally approved federation in Jordan. They also called upon the GFJTU President Mazen Maaytah and the presidents of all unions under its umbrella to step down, the accounts to be frozen and for the salaries of union heads in the federation to be terminated.

In August, plans to form an independent federation of Jordanian trade unions were announced after accusations that the current General Federation of Jordanian Trade Unions (GFJTU) was failing to defend workers' rights. Jordanian labour law does not allow the formation of a trade union without prior permission from the government; however the committee to establish the new federation stated that in accordance with ILO conventions, founding members have only to notify local authorities of the formation of the union.

Teachers' union finally established: Teachers followed up their protests of March and April 2010 with a week-long strike in late March 2011 demanding that they be able to form a teachers' professional association with mandatory membership. They demanded financial and administrative autonomy and the right of teachers who are members of the association to demand improved wages. Jordan's Higher Council for the Interpretation of the Constitution ruled in favour of establishing the syndicate on 28 March, revoking a 1994 decision that considered such an organisation unconstitutional. The draft law to establish the

teachers' professional association was passed by the Lower House on 24 July and allows membership in the union for all teachers working for the education ministry, along with administrators, technicians and engineers.

In February, professors at Jordanian universities began to discuss establishing their own professional association - 'The Institutional Committee for a University Professors' Professional Association'.

Day workers denied permanent employment and threatened:

High numbers of workers in Jordan are employed on daily contracts and lack basic benefits and access to social security and health care. Throughout 2011, these workers held protests over their situation. According to Jordanian law, if a worker works for more than three months and is paid on a daily basis, he will be covered by the labour law and gain access to benefits and services under this law. In practice, however, this is usually not the case but the government has made extensive promises that such labourers would be made permanent employees. In May, some 200 labourers at the Aqaba Special Economic Zone Authority (ASEZA) and the Ministry of Agriculture protested that they had not been granted permanent employment as promised. The workers had previously staged major protests in February 2010 calling for improved conditions, permanent employment, and extending employment benefits such as health insurance to the 1,200 day labourers working for the authority.

In October and December, several hundred agricultural day labourers in Karak Governorate reported receiving threats and harassment from officials during ongoing disputes over salaries and employment status after promises of permanent contracts did not materialise. The workers accuse the government of stalling in meeting their demands. Under labour law agricultural workers are denied the right to freedom of association.

Migrant domestic workers abused: Official figures show that more than 322,000 registered 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. Bangladeshi workers have been banned from entering Jordan since 2007, after Bangladeshi workers went on strike over labour rights. However, in July 2010, at the urging of garment factories, the Jordanian government lifted the ban on Bangladeshi women.

In August 2008, amendments to the Labour Law were made giving migrant domestic workers 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 2011. The law still allows employers to restrict a domestic worker's movements and allows employers to retain passports and other papers. In addition, the law still does not allow domestic workers to change employers freely, even after the contract period has ended and imposes fines on those who are in Jordan without a valid residency permit, which only an employer can apply for, but often does not. Police actions can often put the domestic worker further at risk and police often detain domestic workers whose employers registered them as "escaped," even when the worker had a valid residency permit.

A Human Rights Watch report published in September 2011 called on Jordan to ratify the new ILO treaty on domestic workers' rights which the government recently voted in favour of at the ILO in June 2011.

Abuse of Egyptian workers in Jordan: According to 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. Agricultural workers are reported to be brought to Jordan under circumstances resembling human trafficking with agricultural workers working long hours and denied weekly holidays.

Political tensions impairing independent trade union activities: Political tensions in the country make it difficult to carry out trade union activity independently of political manipulation. While the right is restricted, many workers went on strike during 2011.

Jordanian ship bans workers from talking to authorities: In January, the International Transport Workers Federation (ITF) reported its dispute with the Jordanian owners of the flag of convenience live sheep carrier Bader 3 currently in dock in Fremantle, Australia. While the ship had a current agreement with the ITF for wages and conditions for the 80 mainly Pakistani crew, the ITF had received documentation that the agreement had been breached for an entire year and the crew had been forced to sign papers which surrender their right to shore leave. "Harsh punishment" was threatened for any crew who talked to Australian authorities. The crew had been paid less than half of their entitlements.

Threats to dismiss strikers at Al Rai daily newspaper:

Employees of Al Rai daily newspaper protested in front of the newspaper headquarters on 26 February demanding improvements to their financial conditions and employee rights. Several Al Rai journalists said that managers had threatened to fire employees if they continued with their protest.

Striking migrant textile workers deported: In April, more than 5,000 foreign workers from several Asian countries working in six garment factories in Al Tajamouat Industrial City went on strike over low pay and poor working conditions. Workers had reportedly paid huge sums of money to obtain the initial work contracts in Jordan. However, the employers refused pay rises saying that this would drive them out of business and render them incapable of competing in the international garment industry. Representatives from the labour ministry, the textiles workers union and the Jordan Garments, Accessories, and Textiles Exporters' Association (JGATE) negotiated with a committee representing the workers. However, the labour office stated that the worker's strike was illegal as they had not given their employer two weeks' notice. At the same time the employers stated that the workers demands were illegal because the workers had finished their work contracts and were refusing to return to their home countries.

After almost a month long strike some 3,000 workers including 800 Bangladeshis returned to work after their employers agreed a minimal pay hike. Around 2,000 others continued to strike. However 15 Sri Lankan migrant workers who initiated the strike action were detained and were to be deported back to Sri Lanka.

Abuse at Classic Fashion plant: Witnesses who worked at Classic Fashion, a factory employing around 4,900 mainly female South Asian workers, claimed that scores of young Sri Lankan women working there suffered routine sexual abuse and repeated rapes, in some cases even torture.

In October 2010, 2,400 workers had gone on strike demanding the removal of the alleged rapist, Anil. Classic's owner sent Anil away, but he returned after one month. A September report stated that a Jordanian human rights group found no evidence to support the rape allegations.

According to worker testimonies, the standard shift at Classic Fashion was 13 hours a day, six and seven days a week, with some 18 ½ hour shifts. Workers were routinely cursed at, hit and short-changed of their wages for failing to reach mandatory production goals; they were housed in primitive dormitories without heat or hot water; they had extremely limited freedom of movement and were allowed to leave the factory compound

just one day a week for six hours. Workers were threatened by management and forced to say that conditions were good.

In August, dozens of workers from Classic Fashion sought assistance claiming management was punishing them for taking part in a work stoppage in July. They reported that their contracts with Classic had ended and they had been transferred to a new employer who paid them less with longer working hours.

Garment workers beaten for striking: On 20 August, a strike of 350 workers began in the Chinese owned International Business Garments Manufacturing Company Ltd (IBGM) factory sparked by a case of physical abuse. IBGM is a subcontract supplier to the Classic Fashion Company as well as other factories. The factory reportedly asks workers to do 11 ½ hour shifts and forces additional unpaid overtime if a daily quota of garments is not reached. Workers are threatened if their quota is not reached and sick leave is fined. Reports also emerged of a Jordanian manager punishing male workers by burning their hands. An earlier strike, in May, over food deductions ended after management agreed not to continue illegally deducting money for meals. However, after the workers returned to work the practice continued.

Once the August strike began managers reportedly tried to drag the workers back into the factory. The IBGM management also posted the pictures of 12 male worker leaders who were to be fired and forcibly deported for their role in the dispute. At least seven striking workers, including four women, had been attacked and injured by IBGM managers. Prior to the strike, workers had filed complaints at the local labour office and with management.

Workers blamed and punished for strike action: A Taiwanese factory, Maintrend International, employing over 600 mainly Bangladeshi workers shut down in September alleging that worker strikes were to blame for the closure. Most workers had been recruited just months earlier.

According to officials of the Bangladesh embassy, the Jordanian authorities are not allowing the transfer of these workers to other factories as they had previously taken strike action which is illegal. The workers were forced to remain at the camp and later return home. The workers, also including some Jordanians and Chinese, had gone on a month-long strike in mid-September 2011 demanding an end to alleged beatings, forced deportation when workers cannot reach mandatory production goals, filthy dormitories, arbitrary wage cuts and limited access to toilet. On 22 September Jordanian police stormed the Maintrend factory, firing teargas and beating the striking

women. Dozens were reportedly injured. There were previous strikes in June 2011 and 2010.

Kuwait



POPULATION: 2,700,000
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. In May 2010, at the United Nations Human Rights Council in Geneva, Kuwait promised to establish an independent human rights institution but has reportedly made little concrete progress.

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 2011

Background: Kuwait is one of the richest Arab states, and some 68% of its population are expatriate workers. 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. Despite a relatively active parliament and the permission of open criticism, critics claim the government and ruling party are allowing extensive corruption and crushing political dissent.

Protests: A series of protests took place in Kuwait in the spring and November despite repeated threats of reprisals. Protests were limited in comparison to nearby states in North Africa. On 18 February at least 30 people were injured during clashes between security forces and stateless Arab Bidun (Bedoon) people. Fifty people were arrested while a similar protest in a nearby village drew 80 protesters. The stateless Arabs who are long-time residents of Kuwait were demanding citizenship, free education, free health care and jobs, benefits available to Kuwaiti nationals which they have long been denied. Police used tear gas and rubber bullets to disperse the protesters after their demonstrations turned violent. The authorities issued statements threatening deportation for any Bidun – or their family members – caught demonstrating. Dozens of activists were arrested for crimes of 'illegal assembly and intent to commit criminal acts'. By the end of the year a total of 52 Bidun were on trial and another 32 were under investigation.

In June 2011, hundreds of people marched in an anti-government protest, calling for the resignation of the Prime Minister. In the months that followed, parliament stepped up calls for reform over allegations of mismanagement of public funds, corruption and inefficiency. In September, many thousands marched again. In October, a wave of strikes began which culminated in a major protest on 20 October in Kuwait city. In response a security crackdown was threatened and a parliamentary committee for reform was formed. In November, the Prime Minister and his cabinet submitted their resignation before another mass protest. Also in November, protesters calling for political reforms briefly occupied the Parliament buildings after police violently dispersed a march. The demonstrators were calling for the resignation of the Prime Minister (and royal

family member) Nasser Mohammad al-Ahmad Al-Sabah amid attempts by opposition MPs to bring the Prime Minister in for questioning over claims that officials transferred state funds to accounts abroad. After the protests, the Interior Ministry and security forces were asked to take "all necessary measures to combat any actions that might beset the country's security". This could include legal action against the protesters who entered parliament and possible crackdowns on opposition media for instigation. In December the Emir dissolved parliament and set elections for February 2012.

Collective bargaining rarely practised: Collective bargaining is rarely practised 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 officially allowed in the private sector, which is not organised, is very small and is mostly composed of some 1.7 million foreigners. 2011 saw an unprecedented wave of strikes and industrial action in the public sector, which employs close to 80% of the 360,000-strong workforce of Kuwaiti nationals after state oil sector workers managed to negotiate pay rises of up to 66% from the state. Since then, employees of several ministries and public sector institutions have lobbied for better salaries and benefits - customs officials, port workers, and staff at the Ministries of the Interior, Health and Social Affairs and Labour all started mass walkouts in protest against poor salaries and benefits. The strike action also affected the Kuwait airlines where 5,000 employees are facing a proposed privatisation process. Although the Kuwaiti employees were planning strike action, foreign employees were being advised to continue working as they are more vulnerable to being sacked without notice during a strike.

In September, around 850 Kuwaiti port workers began daily two hour strikes over wages, disrupting operations at three commercial ports. On 25 October the government agreed to raise wages following a short strike organised by the 4,000-strong KAC Workers Union that grounded half of the airline's fleet. In early October, workers from the Kuwait Stock Exchange called off a planned 19 October strike after reaching an agreement with the government over money owed. The dispute centered on bonus payments and the impending transfer of employees

from the bourse to a newly formed Capital Markets Authority (CMA). The Kuwait University's academic society also planned a demonstration on 26 October over salary increases.

Government officials in Kuwait have repeatedly told striking workers they would not consider any demands while walkouts are taking place. In October, the government announced it was planning a new law which would punish striking civil servants and restrict strike action. In response to the strike wave on 17 October the Foreign Minister tendered his resignation, while at least one other Minister was believed to be considering resigning as well. On 19 December the Kuwait Trade Union Federation held a demonstration outside the Civil Service Ministry following a statement by Justice Minister Ahmed Al Mulaifi that strikes are prohibited and that international conventions which guarantee workers' rights are not applicable to him. The statement was in response to strike action being undertaken by employees in the Justice Ministry itself. The workers had also complained over pressure on non-qualified expatriates to work in the ministry instead of citizens as well as issues relating to retirement. Unionists from the Oil Workers' Union and Kuwait Oil Tankers Workers' Union also attended the protests to show solidarity.

Migrants domestic workers abused: There are around 650 - 700,000 migrant domestic workers in Kuwait, the majority of them females 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 2011, some 300 Sri Lankan Foreign domestic workers sought refuge in the Sri Lankan Embassy over disputes with employers and were expected to leave the country once their disputes with their sponsors are settled and obtained their passports and air tickets.

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. The new law excluded domestic workers as does the abolition of the sponsorship system.

In July, a report from the UN called for urgent improvements in the promotion and protection of the rights of foreign domestic workers in Kuwait. The report stated that many domestic workers complain of confinement to the house, long working hours without rest, months or years of unpaid wages and sometimes verbal, physical, and sexual abuse. Most employers retain passports and other documentation. Some efforts had been made by the Ministry of the Interior to deal with forced labour and trafficking, including an increase in efforts to prosecute, punish, and stringently sentence traffickers, particularly sponsors who force domestic workers into involuntary servitude and the shutting down of fraudulent labour recruiting agencies, as well as the termination of licences for recruiting companies that did not meet regulations set in the February 2010 Private Sector Labour Law. However, many serious issues remain.

On 10 March, three Kuwaiti sponsors and two policemen tortured to death an unidentified Asian man. The Kuwaiti sponsors captured and "mercilessly beat" the man and then handed him over to the police, accusing him of setting fire to and robbing their farms. During his "interrogation" by the police, the worker collapsed and died. The Kuwaiti men and the policemen are being questioned by police about the incident. On the same day an unidentified traffic officer locked an Asian migrant man for four hours inside his patrol car, badly beating him and 'throwing' him on the street. In another case an Indonesian domestic worker was found having jumped to her death from a building with cigarette burns on her body. According to the police, the woman jumped from the sixth floor after suffering sexual and physical at the hands of two Kuwaiti brothers. Reports of similar cases of abuse from both employers and police are common, especially concerning foreign domestic workers from south Asia and Ethiopia. In June, Cambodian recruitment agencies put a ban in place on the potential sending of domestic workers to Kuwait after numerous complaints of abuse.

Migrant workers given 'amnesty' as employers retain passports: In an attempt to regularise the migrant worker sector, an amnesty was called and workers were given from March to June 2011 to regularise their employment or leave Kuwait. Several thousand workers including Sri Lankan migrant workers are expected to lose their jobs. According to the Sri Lankan mission in Kuwait, more than 10,000 Sri Lankan migrant workers are alleged to be illegal, as they have changed their work places, leaving their original work sponsors. Under Kuwait law, migrant workers are tied to their original sponsors. If they leave

their original sponsors, then they are considered to be in Kuwait illegally. As the original sponsors always hold the workers travel documents, in effect this means that when workers start work somewhere else they are working and staying illegally in the country, without the possession of their travel documents and work visas. In a catch 22 situation this also means they cannot leave the country. Some 4000 Sri Lankan workers had obtained emergency passports in order to leave Kuwait before the end of the amnesty period.

Egyptian farm workers threatened with deportation over wage complaints: In January some 120 Egyptian farming workers held a demonstration protesting against wage levels that had not risen in four years and remained set at 60 Dinar per month. Many workers reported that they had repeatedly complained to the company owners and that each time they were threatened with termination of contract and deportation if they did not desist from their complaints or if they took their case to the Ministry of Social Affairs. One worker reported that the company had been transferring workers' visas to other sponsors without telling them.

Oil Strike - threats of strike busting: In September, workers from private oil companies and the Ministry of Oil staged a sit-in front of the ministry's headquarters to demand equal treatment with workers at the state run Kuwait Petroleum Corporation (KPC) and its subsidiaries. The government had increased wages for state oil workers after a short strike and this triggered strikes in other sectors over wages and other benefits. According to the Chairman of the Union of Private Oil Sector Workers Salem Al-Ajmi, the 5,000 workers in private oil companies often receive delayed wages, have no health insurance and work excessive hours in contrast to other oil workers despite a law stipulating equality. The union had previously asked for a meeting with the Minister twice but did not reportedly receive a response. In November the government warned striking oil workers that it would recruit outside replacements to confront the strike that disrupted shipping traffic. Although Kuwait is OPEC's fourth biggest oil exporter, officials say the country cannot afford to significantly boost the payroll of its huge public sector.

Fire-fighters face legal action for staging protest: On 3 October, some 200 fire-fighters demanded implementation of health insurance, increased salaries and more flexible leave systems. Firefighters attempted to enter the main fire department building. The director of Kuwait's fire department reported that legal measures have been started against those involved in what the authorities are describing as 'riots'.

Military committee to deal with customs officials on strike: In October, more than 3,000 customs officers joined the wave of strikes, sharply escalating pressure on the government. The open-ended walkout froze shipping traffic in and out of ports and oil terminals and disrupted airport and land border crossing operations. After a two day strike customs officials called off their action after receiving government assurances their demands will be met. The authorities threatened to use the army and National Guard to replace striking workers and set up a military committee staffed by the Ministries of Interior and Defence, the National Guard and other authorities. The committee was criticised for failing to negotiate with workers and instead focusing only on threatening workers back to work. Government authorities promised that they would study the demands of the striking workers within a maximum of three months. Opposition MPs clashed with pro-government MPs over the reactions to the strike with many in the government calling for decisive action to stop the strike due to Kuwait's dependence on imports and exports. The Kuwait Trade Union Federation (KTUF) repeated the Federation's call for a high-level committee that would include the Council of Ministers, Labour and Social Affairs Ministry, the union movement and other stakeholders to examine the matter, rather than the intervention of the military.

Strikers replaced with other workers: On 16 and 17 October inspectors at the Ministry of Social Affairs and Labour took strike action, which led to the postponement of various council meetings. The few who continued working did so for fear of losing their jobs or wages. The strikers had been calling for equality of treatment with workers from other Ministries. The strikers complained that the Labour Affairs ministry had assigned their tasks to other less qualified workers.

Lebanon



POPULATION: 4,228,000
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 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 2011

Background: General protests were held by unions and civil society groups over economic policies and sectarianism. In January, 1,000 people protested over high food and fuel prices and continued economic hardships. Several large demonstrations took place throughout the spring calling for political reform and in particular an end to sectarian government.

In March, waterworks employees went on strike while protests were held by taxi drivers and public transport workers over oil

price increases. In May, trade unions held a nationwide strike while tens of thousands of teachers also staged a one-day strike against the ongoing political vacuum causing the closure of nearly all schools. In June, Prime Minister Najib Miqati announced a new cabinet, ending a five-month political stalemate that increasingly threatened Lebanon's stability. However further strikes occurred until the end of the year including a widely observed national strike in October.

On 15 December 5,000 protesters demonstrated in Beirut as part of a teacher's strike. A draft agreement on an increase in wages and social security benefits was reached in late December amid renewed calls for a general strike.

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.

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. Union elections in January saw disputes over alleged pro-Syrian bias.

Migrant Domestic workers abused and excluded: Lebanon has an estimated 200,000 domestic workers, primarily from Sri Lanka, Ethiopia and the Philippines. The Philippines, Ethiopia, Nepal and Madagascar all ban their citizens from working in Lebanon due to extensive abuse. 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 at 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. The Philippines have operated a ban on deploying domestic workers to Lebanon since 2006 but have recently held discussions with Lebanese authorities aimed at reversing the restrictions, provided the government takes steps to guarantee a greater degree of protection. Some 40,000 Filipinos are thought to work in Lebanon despite the ban. In January, however some 100 Filipino domestic workers who had been abused by their employers were repatriated.

Oman



POPULATION: 2,800,000
 CAPITAL: Muscat
 ILO CORE CONVENTIONS RATIFIED: 29 - 105 - 138 - 182

Strikes and demonstrations persuaded the Sultan to introduce a few timid reforms. Migrant workers are still being exploited.

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 2011

Background: Inspired by the protest movements in the Middle East and North Africa, demonstrators demanded political reform and protested against unemployment and corruption.

In February and March the Head of State, Sultan Qaboos Bin Said Al Said, in power for the last 40 years, gave in to some demands, including job creation, higher unemployment benefit and the dismissal of several ministers. The Sultan also announced that some legislative powers would be handed over to the Consultative Council, a body elected by universal suffrage which gives its opinion on the government’s economic and social policies. All important decisions remain in the Sultan’s hands, however.

From February to May, thousands of Omanis came out onto the streets to demand reform, job creation, an end to corruption and the resignation of some high-ranking officials perceived as corrupt. These demonstrations were accompanied by strikes, notably in the civil service, the oil industry, private security guards and in the industrial zones (mainly to demand higher salaries).

Although the demonstrations were tolerated at first, several were harshly repressed between February and May in the towns of Sohar, Mascate, Sur and Salala. Many demonstrators were injured, some fatally, and many others arrested, some of whom were imprisoned. In June, 15 demonstrators in Sohar were sentenced to between 6 months and 15 years in prison. Several other activists who campaigned for reform were threatened, intimidated, and in some cases abducted and beaten.

The authorities continue to restrict freedom of expression. In the last few years, several bloggers and journalists have been intimidated, and in some cases detained, for criticising the government. In October the law on the press and public relations was changed to ban any publication which, according to the government, could undermine the security of the State or domestic or external security. On 31 December, an appeal court in Mascate confirmed the sentences of Yusef al Haj and Ibrahim al Maamary, a journalist and the editor-in-chief respectively of the Azzamn newspaper, and Haroon al Muqaibli, an employee at the Ministry of Justice, to five months imprisonment for an article denouncing suspected corruption within the Justice ministry. They were found guilty of “insulting” the Minister of

Justice. The court also ordered Azzamn to be closed down for one month.

Labour inspection over centralised: Over one hundred labour inspectors went on strike in March, demanding notably more scope to take decisions at the grass roots level. The inspectors pointed out that the efficiency of their work was being impaired by administrative over-centralisation.

Exploitation of migrant workers: According to 2010 estimates, there are approximately 826,000 migrant workers in Oman, a third of whom work in the construction sector. They generally work and live in appalling conditions as their fundamental rights are ignored by employers, a situation facilitated by the lack of government inspections. Migrant domestic workers are the most vulnerable, and are often the victims of all sorts of exploitation and abuse including physical and psychological violence. Employers usually confiscate migrant workers' passports, even though the law bans them from doing so.

Owing to the "kafala" (sponsorship) system, migrant workers cannot change employers without their first employer's consent. The authorities are trying to find an alternative to this system, in cooperation with the Gulf Cooperation Council.

Palestine



POPULATION: 4,039,000
CAPITAL: (East Jerusalem)
ILO CORE CONVENTIONS RATIFIED: Not a member state

The exercise of freedom of association remains very difficult for most Palestinian workers, especially in Gaza. One trade union leader was sacked during 2011, while the executive of another replaced.

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 2011

Background: The Palestinian Authority continues to face a financial crisis with massive rebuilding costs dating from the Israeli offensive against Hamas in 2008 and 2009. Although the economic situation in Gaza is improving, unemployment remains extremely high and is around 50% for young Palestinians. Strikes occurred throughout 2011, most notably from university staff over pay, teachers, coastguards, doctors and bank staff protesting arbitrary lay-offs.

In October, the Civil Servants Union announced a general strike of public sector employees to support Palestinian detainees on hunger strike in Israeli jails. Prisoners have refused food for 20 days to protest against conditions in Israeli jails, sparking rallies and sit-ins in the West Bank and Gaza Strip. While Israel and Hamas agreed a deal to exchange over 1,000 prisoners for captured Israeli soldier Gilad Shalit, recent estimates from the Palestinian Authority numbered the total Palestinian population in Israeli jails at 6,000.

The tension between Hamas and Fatah continued to increase the problems faced by ordinary people. Difficulties in bridging the rival political factions in Gaza and the West Bank between Hamas and the PLO including ministerial staffing existed throughout the year and complicated the running of both the West Bank and Gaza. The ongoing blockade of Gaza by Israel has added to the economic desperation of most Palestinians. In 2011, Israel increased the number of legal work permits for Palestinians to work in Israel but illegal workers still far outstrip legal. New sanctions were threatened by the Israeli Finance Minister over the Palestinian Authority's request for state recognition at the UN in September. Several high ranking officials resigned or were investigated over corruption allegations in 2011.

Palestine escaped the major protests erupting in the region in the spring. However, in May in anticipation of the Nakba Day on 15 May, which commemorated the 63rd anniversary of the Palestinian exodus, mass marches were planned throughout neighboring countries to Palestine to commemorate the exodus

as well as to demand the right of return for all Palestinian refugees. On 15 May, Palestinians from Egypt, Jordan, Lebanon, Syria, the Gaza Strip and the West Bank attempted to reach and cross the Israeli border. All were stopped and in the clashes that ensued, around 12 were killed. Around 300 others were injured. On 5 June, scores of Syrian demonstrators were killed and over a hundred injured after attempting to enter the Israeli-held part of the Golan Heights. In the aftermath, thousands began a sit-in near the frontier resulting in Syrian security forces creating a security buffer zone to prevent more demonstrators from approaching the border. The Lebanese President accused Israel of genocide over the incident while the UN High Commissioner for Human Rights condemned the Israel Defence Forces' use of force against unarmed civilian protesters. Some accused the Syrian authorities of instigating the incident to deflect attention from criticism of the violent repression of internal protests.

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: A 2010 survey by the Palestinian Central Bureau of Statistics found that unemployment stood at 17% in the West Bank compared with 38% in the Gaza Strip. Around a fifth of salaried workers still lived below the poverty line. They study also found that 65,000 Palestinians were working in Israel. Palestinians employed in Israel and in Israeli settlements accounted for 15% of salaried Palestinians in the West Bank. Some 35,000-50,000 Palestinians are believed to work in the settlements, many informally.

Israeli law has in theory applied equally to both Israeli and Palestinian workers in Israel since 2007. However, the law is often not 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. Increasingly, children are also found working in settlements, often in construction with poor safety conditions and no insurance.

Israel began transferring overdue pension payments to Gaza Strip residents who had worked in Israel before the blockade was imposed on the strip. According to the arrangement, money would be forwarded to the bank accounts of 92 beneficiaries in Gaza. Most of the beneficiaries used to work in Israeli hospitals and money had been deducted from their wages for their pension funds, as required by law.

In 2010, 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. In addition to the poor conditions described above Palestinian workers in the settlements face harassment, racism and sometimes violence. 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. The ban was due to come into force in 2011 with announced penalties of up to five years in jail or a USD14,000 fine for anyone found working in Israeli settlements. It is not clear to what extent the PA will enforce the ban as Israel still has to lift restrictions on labour movement.

Palestinian workers under Israeli fire: In January 2011, Salama Isleem was wounded by Israeli fire while collecting gravel near the Israeli border. Several hundred Palestinians gather gravel from the rubble at the border but shootings at the workers have been taking place daily since Israel allocated a 300-metre-wide buffer zone along its borders with the Gaza Strip in February 2010. Despite the risks, workers collected gravel from the rubble of demolished buildings which were either destroyed by Israeli war jets in the past few years or used to be homes for Jewish settlers. Workers dig and sift the rubble to isolate the gravel which they then sell to local factories which need gravel because of a 2006 ban on the importation of raw construction materials into the Gaza Strip. The Israeli army had reportedly wounded about 130 gravel workers from the Gaza Strip since February, and killed six since March; most in their early twenties. Farmers who approach their farms close to the borders are also targeted.

Israeli-owned Quarry continues to ignore demands of Palestinian workers' union: In June, Palestinian workers at the Salit Quarry near an Israeli settlement went on strike as part of a longstanding dispute. The workers demanded that management sign a collective agreement with them, raise their salaries, arrange their pension payments and stop withholding their wages. The Israeli-owned Salit quarry is considered

a territory subject to Israeli law. It employs some 40 workers, all of them Palestinians from the territories. Most receive the Israeli minimum wage and say they have never been given a pay rise. About four years ago, the quarry workers established a committee, with the help of an advice centre in Israel, and began struggling to improve their working conditions. Upon starting the committee, the workers petitioned the Jerusalem Labor Court and asked to receive proper pay slips and have money transferred to the National Insurance Institute. The court then ordered the management to issue proper pay slips. However, management continued to withhold wages and is evading recognition of the worker's committee and a negotiated agreement that has taken two years to conclude.

The workers' actions are the first unionised workers' struggle of Palestinians confronting Israeli employers in the West Bank occupied territories, in the framework of an Israeli workers' organisation. The High Court of Justice has in the past recognised the right of Palestinians working in Israeli settlements to receive conditions according to Israeli law. However, the ruling has not yet been properly tested against a private company.

In September, after a three month strike the quarry owners claimed bankruptcy and the Jerusalem Regional Court appointed a trustee to manage the quarry. It is not known if the workers will receive compensation or be taken on by the new owners.

Journalists under attack and union offices targeted: Reports stated that Gaza government police had detained journalists and then ordered them to sign a pledge to "abide by law, order and conventions" following their arrest at a January protest in support of the Egyptian rallies. Member of the Palestinian Journalists Syndicate (PJS) General Secretariat Tahseen Al-Astal said the journalists and others who were detained refused to sign the paper, saying they had broken no laws, but added that the group was eventually compelled to sign a paper promising to abstain from taking part in unlicensed protests. Six journalists were also assaulted by Gaza government police.

In March, the authorities banned members of the PJS from traveling to and from Gaza. At least 20 journalists were attacked, beaten and had their documents confiscated as security forces targeted media for their coverage of a rally calling for unity between Hamas and the Fatah movement. Several media offices were also ransacked and the authorities imposed a ban on the PJS board members. The PJS organised a demonstration in the West Bank, to protest against the attacks on Gaza based journalists and the ban on its board members. The Hamas government in Gaza was also accused of systematic attacks on the media after dozens of journalists were subjected to assaults by Gaza security forces who also targeted media

offices, including those of Reuters and other international media groups.

In October, the PJS reported that security forces escorted a group of Palestinian journalists to the union's offices, where they seized phones and ordered the staff out, claiming to be the new executive body of the syndicate. These journalists are said to have received support from the Journalists' Block, an organisation of media workers affiliated to the Hamas movement. However, the group has denied any involvement in the take-over but confirmed their support for the action against the PJS leadership.

In early December, five journalists were detained in Gaza. The government denied those detained were journalists and accused them instead of being "security agents" for the West Bank administration. Several were later released. Conflicts between journalists undermine principles agreed in a reconciliation deal between the Gaza and West Bank governments in May.

Union offices ransacked: In April, unknown assailants broke into the offices of the union of agricultural work committees in Ramallah at dawn, stealing servers and computers and ransacking files including the seizure of the union's private database.

Conflict and threats to workers at the United Nations Relief and Works Agency (UNWRA) in Gaza: Unrest continued throughout the year at the UNWRA in Gaza. Twenty-two warehouse workers began a hunger strike on 30 March, demanding better wages. An initial threat to strike saw wages raised USD55 per month, but the working week was extended from 37 hours to 42, and overtime wages were canceled, according to the spokesman. The 22 men were employed on five year contracts, without health insurance or safety protection. The vice-President of UNRWA Operations reportedly threatened to fire the strikers. The strike action was supported by the UNRWA Workers' Union. Two workers were reportedly fired.

In another dispute, the UNWRA union called for a series of agency wide strikes beginning on 13 April, in protest against unfair dismissals. Some 11,500 employees went on strike. In May a further strike was held over the dismissal of three workers. The Federation of Independent Trade Unions called for a campaign of solidarity with the UNRWA workers.

In September, workers staged a sit-in over the decision made to suspend the President of the UNWRA Staff Union, Suhail al-Hindi, for three months without pay on account of his trade union activities. In protest against the decision, the Union of

Arab Employees at UNWRA held several work stoppages at schools in September and October.

Doctors ordered back to work: In April, the Supreme Court ordered striking Palestinian health workers back to work following a government petition. The workers had been on strike for several weeks. The statement called on the health minister to resolve the dispute between the union and the government. In June, the dispute escalated as the doctor's union threatened to submit mass resignations in response to a decision by the Palestinian government in Ramallah to refer the ongoing strike in the medical sector to court in order to halt the strike. Doctors began a further strike in August after authorities refused to sign wage related clauses in a collective agreement concerning wages. Palestinian Authority doctors also called for the dismissal of the health minister who they allege is destroying the public health system.

Palestinian workers on strike over pay: At several points during the year, salaries were halved due to the ongoing financial crisis and lack of promised aid from donors. The Palestinian Authority (PA) civil servants union, angered at the cuts and lack of consultation, called on the government to limit the salary cuts made to universities, the electricity and water sectors and non-governmental schools. The teachers union, the union for public services employees, the union of health employees and the doctors union all signed a statement to this effect. The Palestinian Authority premier said that full salaries for the month of July would be paid, following strike threats from a union representing government employees. However doctors, hospital staff workers and charitable organisations from hospitals throughout the West Bank and Jerusalem went on strike in July after claiming they had not been paid in three months and called on the authorities to ensure payments were made to medical staff.

A later request that the Israeli authorities bring forward a regular payment of NIS 380 million in tax revenues so that the PA could pay salaries before the holiday of Id al-Fitr, at the end of Ramadam, was refused by the Israeli Finance Minister despite the agreement of other officials. After extra funding was received by donors, the PA announced salaries would be paid in full for August.

Public employees' union chief Bassem Zakarna accused PA officials of effective censorship by ordering the PA-run Palestine TV and Palestine Voice radio station to cancel planned interviews over a strike announced in June over wages.

Crackdown on trade unionists and activists: In November and December, many Palestinian trade unionists and youth

activists were reportedly arrested from several refugee camps throughout Bethlehem, Nablus and the West Bank by Israeli military forces who entered Palestinian towns and refugee camps and rounded up multiple prisoners, particularly focusing on grassroots community organisers such as trade unionists and youth organisers. These Palestinian activists have been taken for interrogation and arbitrary detention. There are currently nearly 5000 Palestinian political prisoners in occupation jails and the number is increasing rapidly despite a large scale prisoner exchange in October.

Qatar



POPULATION: 1,759,000

CAPITAL: Doha

ILO CORE CONVENTIONS RATIFIED: 29 - 105 - 111 - 182

Winning the bid to host the 2022 football world cup has done nothing to improve the lot of 94% of the population: migrant workers who have no union to protect them.

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 2011

Background: Qatar is one of the richest countries in the Gulf region thanks to its oil and gas reserves. The Emir, Sheikh Hamad bin Khalifa Al Thani, has been in power since 1995 when he deposed his father. He is also head of the armed forces and Minister of Defence. The 2005 Constitution provided for the creation of a parliament in which two thirds of the members must be elected. As no elections have taken place as yet, this has not been implemented, but the Emir announced in November that elections would finally take place in 2013. The new parliament will only have limited powers however.

Qatar won its bid to host the FIFA 2022 world cup.

The Constitution guarantees freedom of expression but in practice Qatar based media tend to be self-censoring when it comes to reporting on the country's internal situation. Al-Jazeera, based in Doha and financed by the Qatar government, covers little of what goes on in the country. A blogger and founder of a human rights organisation, Sultan al-Khalaifi, was arrested on 12 March by eight people in civilian dress, probably members of the security forces. His house was searched, his computer and his CDs were taken. He was released without charge on 1 April.

The "constituent labour committee" does not inspire confidence: In December the local media reported that the authorities intended to create a "constituent labour committee" that would be one step towards the creation of a trade union confederation, and whose task would be to protect workers' rights. The 50 members of the committee were to be representatives of workers in the public and private sectors. However there was nothing to suggest that the workers would have any say in the appointment of these "representatives". It appeared, rather, that the committee would be under government control.

No trade union rights for 94% of the working population: In its bid to host the World Cup, Qatar embarked on a project to build nine new stadiums and renovating three more, in just ten years. A task that would be impossible to achieve without the support of migrant workers, as only 6% of the working population is Qatari. It is estimated that about one million new migrant workers will have to be recruited. They will join ranks with the 1.2 million migrant workers already living in Qatar (most from

Pakistan, India, Nepal, the Philippines, Bangladesh and Sri Lanka), 506,000 of whom work in the construction industry.

Very many of these migrant workers suffer severe exploitation: very low wages (often less than they were promised before they left home), delayed or unpaid wages, extreme occupational health and safety risks, confiscated passports, appalling housing conditions, etc. The authorities have announced projects to improve their situation, including stricter laws to avoid the late payment of wages or the exploitative practices of the recruitment agencies. It is unlikely however that they will be prepared to abolish the laws banning migrant workers from enjoying the freedom of association, the right to collective bargaining and the right to strike. The law allows for the formation of "workers committees" in enterprises that employ at least 100 Qataris, but migrants do not have the right to join.

On 17 November the ITUC, the Building and Wood Workers International (BWI) and the Swiss trade union "Unia" handed over a letter to the President of FIFA, Sepp Blatter, informing him that unless Qatar upholds labour rights, the international trade union movement will campaign against the 2022 World Cup being held there.

Migrant workers still tied to their employers: Migrant workers are recruited through a sponsorship system called «kafala»: a local employer must stand as guarantor, and they must usually work for that employer throughout their stay, as they cannot change jobs without the authorisation of the employer. The ILO has stated this system could lead to forced labour and human trafficking. In 2009 the authorities confirmed they could give migrants temporary permits to work elsewhere in the event of a dispute with the guarantor, but few migrant workers are aware of this possibility.

Employers often confiscate migrant workers' passports to make sure they do not leave the country before the end of their contract, even if the terms of the contract are violated. Withholding passports has been illegal since 2009 if it exceeds the time needed to obtain a residence permit, but the local press reported, in March, the results of a survey among Asian migrants: 88% of them said they had had to hand their passport over to their employer.

Domestic workers excluded from labour legislation: About 132.000 migrant domestic workers are employed in Qatar. These women are even more vulnerable to exploitation than other categories of migrants, because domestic work is specifically excluded from labour legislation.

Legal proceedings slow and labour inspection weak: Legal proceedings are lengthy, making workers wait for months with no pay while they seek reparation for an injustice. Very few migrant workers who have had their rights violated have the necessary financial resources to survive while they wait and so they go back home without taking legal measures.

Moreover, Qatar has barely 150 labour inspectors and the inspections do not include interviews with the workers. It is hard to imagine therefore how the authorities really intend to ensure the respect of their labour legislation.

Saudi Arabia



POPULATION: 27,400,000
CAPITAL: Riyadh
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 111 - 182

Saudi Arabia is still the land of prohibitions: trade unions, collective bargaining, strikes and demonstrations are all banned. The exploitation of migrant workers, particularly domestic workers, is the norm.

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 2011

Background: Political parties are still banned in this country governed by the Al Saud royal family which does not tolerate any opposition. The Constitution gives King Abdallah absolute power over governmental institutions and the affairs of State, and severely restricts political dissent and freedom of expression.

Despite the ban on demonstrations, several took place between February and April, similar to the other demonstrations taking place in other Arab countries, calling for political and social reform and the respect of fundamental human rights. Demonstrators were brutally dispersed, and hundreds were injured or arrested. In at least one instance the security forces fired live ammunition at the demonstrators.

To limit the spread of the protest movement, the authorities announced a series of public spending measures. The King also promised that in 2015 women would have the right to vote and to stand in municipal elections (the only ballot open to citizens) and to be appointed to the Consultative Council, an advisory body to the monarchy, but a similar promise made in 2005 was not put into effect. Women still face heavy discrimination.

Severe abuse of women domestic workers: The country's 1.5 million women domestic workers are not covered by the labour law adopted in 2005. The embassies of these women's Asian countries of origin receive thousands of complaints from 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, face sexual and psychological abuse and are beaten by their employers.

In June for example, after being alerted by neighbours, the authorities found a Sri Lankan domestic worker who had been held against her will by her employers for 14 years, without pay.

The authorities discourage complaints and don't usually follow up on them, other than deporting the victims of the exploitation without any serious inquiry. In September a court overturned on appeal a three year prison sentence against a Saudi Arabian woman who had tortured her Indonesian domestic employee, Sumiati Mustapa.

Following the decapitation in June of a 54-year-old Indonesian domestic worker found guilty of stabbing her employer to death, after being subjected to prolonged abuse, Indonesia decreed a moratorium on sending domestic workers to Saudi Arabia. The Saudi authorities provisionally suspended granting

visas to domestic workers from Indonesia and the Philippines, further to increased tensions with the two countries.

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 various forms of exploitation in conditions akin to slavery. In many cases migrant workers are abused by the recruitment agencies who promise them far more than they can actually earn in Saudi Arabia.

The kafala (sponsorship) system links the worker's work permit to 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 lends itself to 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 dispute with his/her employer is at an impasse: he/she cannot continue to work nor can he/she return home. Some run away despite having their passport confiscated and seek refuge at their embassy. The Indonesian media reported that between 19 September and 24 October, the Indonesian consulate in Jeddah issued 4,550 travel documents to workers who had run away from their employer after not being paid or other abuses. The majority were domestic workers and drivers. Despite the ban on strikes, there were several illegal strikes by migrant workers, usually over unpaid wages.

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. All trade union rights have been abolished in the country. The labour law is vague and allows employers to sack workers at will.

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 2011

Background: Protests, erupting in the spring were violently put down throughout the year with an estimated 5,000 deaths and 10,000 arrests at end of year. Authorities attempted to stem protests through the increasing use of police and paramilitary force, arrests, trials and the imprisonment of political and human rights activists.

Sporadic protests first began on 26 January with mass demonstrations erupting in March. The situation quickly developed into a national uprising, with protesters demanding the government of President Bashar al-Assad and the ruling Ba'athist Party step down. The protests were inspired by the wave of similar movements in neighbouring countries calling for greater political freedom and an end to autocracy but quickly became one of the strongest civil uprisings in the region.

The repressive tactics employed by government forces has been particularly fierce with thousands reported dead as a

result of fighting. In addition, essential services, including basic food deliveries, have been cut off from cities seen as resisting the government. Military tanks have besieged scores of cities. Reports of military personnel refusing to fire at unarmed protestors being executed continue to emerge.

Several mass graves were found throughout the year. According to the UN, since the beginning of the uprising, more than 5,000 people, primarily protesters, have been killed in total, many more injured, and thousands imprisoned. Over 300 children have been killed by security forces as well and 600 detainees have died under torture. Between the start of the protests in March and mid-November, some 10,000 people were believed to have been detained by the regime, many of them subjected to torture.

2011 saw a major crackdown on media as the government attempted to stifle reporting on the widespread protest movement. At least 10 known foreign and local reporters were arrested, while access was severely restricted for journalists trying to report from the country.

Syrian security forces clamped down on doctors, hospitals and private clinics suspected of treating people wounded in protest rallies. Medics are required to immediately notify security services of the arrival of a wounded person, regardless of the severity of his injuries, invariably leading to the patient's arrest. Reports have emerged of injured protestors being beaten and arrested while in hospital. Some 250 doctors and pharmacists are believed to have been arrested in the first six months of the protest movement.

The state of emergency that has been in place since 1963, with heavy restrictions on civil and political rights and trade unions under the full control of the regime was finally lifted in April 2011 in response to protestor's demands. However, at the end of 2011, the situation in Syria was seen as increasingly one of civil war. In November, the Arab League placed unprecedented sanctions on Syria.

It is estimated that since the protests began, the country's gross domestic product has shrunk by around 20% while oil and tourism revenues have almost disappeared. Workers are facing rising prices and lower salaries.

One in eight children in Syria are reportedly in the labour market while child labour is the main source of sustenance among refugees in Syria, who are not legally entitled to work. Some 45% of workers are in the informal sector while a large proportion of Syria's population lives below the poverty line.

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.

Growing numbers of strikes met with violence: Until 2011, workers generally did not dare exercise the right to strike, given the potential heavy penalties and repression of any activity deemed to be critical of the government. Fear of reprisals meant response to the calls for general strikes during the year was mixed, with a greater turnout in cities considered to be pro-democracy strongholds than in the capital Damascus.

However 2011 was marked by a series of general strikes, which started in March, and which formed a major part of the protests against the repression of fundamental rights and the lack of decent jobs and prospects for the future. Opposition protestors called nationwide general strikes for 18 May, 23 June and 11 December. In addition, there were general strikes in the city of Hama between 3 and 5 June and in the cities of Homs and Hama on 7 July. The majority of these strikes, calling for an end to repression were met with violence, injury and often killings.

Official Trade union rejects protests: The official government-controlled trade union centre (GFTU) has not been involved in the recent strikes but has followed the official government line in describing the reform movement as a conspiracy. The GFTU rejects the suggestion that the political leadership imposes control over the organisation and 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.

Migrant domestic workers at risk: Migrant worker agencies are closely regulated. There are some 17,000 foreign domestic workers in Syria. The law sets 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. In addition it puts the responsibility for providing a safe working environment onto the agency. However illegal recruiters still hire migrants, primarily Filipinos, as domestic staff. At the end of the year, many migrants were awaiting repatriation from the conflict in Syria, a process reportedly made more problematic by the refusal of the

government to accept that the situation in Syria is anything but 'normal'.

United Arab Emirates



POPULATION: 4,600,000
CAPITAL: Abu Dhabi
ILO CORE CONVENTIONS RATIFIED: 29 - 100 - 105 - 111
- 138 - 182

The law does not allow trade unions to exist or negotiate freely. The boards of civil society associations were dissolved and five activists were convicted for criticising the government. Seventy Bangladeshi workers were deported for going on strike.

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 2011

Background: The United Arab Emirates did not experience the same wave of protests as other countries in the Middle East, but the government was determined to show it would

not tolerate dissent. Five civil society activists were arrested for criticising government policy and political leaders and were sentenced, after an unfair trial, to between two and three years in prison. They were released the following day after a presidential pardon.

National elections were held in September to choose half the members of the Federal National Council, a consultative body with no legislative power (the other half of its members are appointed by the leaders of the seven emirates).

Slow justice: In March the daily paper « The National » reported that 400 workers from India, Pakistan and Bangladesh living in workers' accommodation in Al Faya in the desert to the east of Abu Dhabi, worked for up to ten months without being paid. Some just gave up and went home without receiving their money, complaining that it took months for the courts to deal with their case. Others were too frightened to complain, because their work visa had expired and they risked fines of up to 10,000 Dirhams (2,700 US dollars).

Exploitation of migrant workers: Non-nationals account for over 88.5% of the population, and many of them are migrant workers. They are often prey to extreme exploitation: unpaid wages, excessively long working hours, passports confiscated by the employer, changes upon arrival to the contract they signed before leaving, etc. As domestic work is not covered by the labour legislation, domestic workers are even more vulnerable than migrants in other sectors. Many say they have suffered physical and sexual abuse, in addition to the exploitation migrants are usually exposed to. As migrant workers do not have the right to join a union or go on strike, they don't have the means to denounce the exploitation they suffer. Those who protest risk prison and deportation.

The pay protection system that has progressively been set in place since 2009 obliges companies to pay their workers' wages via electronic bank transfer, that the authorities are able to verify. This measure has not been enough to prevent delays in the payment of wages however, notably because the Labour Ministry's resources are far too meagre in face of the number of migrants.

A sponsorship system ("kafala") continues to link migrant workers' visas to an employer or "guarantor", even though the terms were relaxed in 2011: at the end of a two year contract, the authorities allow unskilled workers to change job without a certificate of non-objection from their employer. The under-secretary at the Ministry of Labour has stated that if the clauses of the contract are breached, or if the worker is not paid, the Minister can end the contract.

70 Bangladeshis deported after a strike: In January some 3,000 employees of the building giant Arabtec went on strike to demand an increase in their monthly salary, which was as low as 650 dirhams (175 US dollars) in some cases. Seventy Bangladeshi workers, accused of instigating the strike, were arrested and, according to their country's authorities, deported to Dubai.

Tough sanctions for teachers and lawyers associations: On 6 April, four civil society organisations signed an appeal for greater democracy in the country. For two of them, sanctions were soon to follow. On 17 April, a decree by the Minister of Social Affairs, Mariam Mohammed Khalfan Al Roumi, dissolved the board of directors of the Jurists Association of the United Arab Emirates, a civic rights organisation. They were due to hold a general assembly to elect a new board, but in October the Minister prolonged the suspension for six months. On 2 May the board of the Teachers' Association, which co-signed the appeal, was also dissolved by the Minister. This association, which has more than 280 members, represents and defends teachers' rights in the Emirates.

Yemen



POPULATION: 24,050,000
 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 2011 as were anti government protests.

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 2011

Background: Yemen is the poorest country in the Middle East. Yemenis reportedly work for daily wages with little or no job security – one in ten of the workforce is a child. At the start of 2011, 40 per cent of Yemenis were living on less than USD2 a day. Unemployment was estimated to be more than 35 per cent.

Anti-government protests: The lack of jobs, poverty and corruption initially drove many Yemenis to join in the wave of protests sweeping the Arab world in 2011. Several thousands of Yemenis held numerous protests in the capital Sanaa and elsewhere throughout 2011, calling for the president and his allies to step down.

Hundreds of protestors have reportedly been killed during the uprisings and many others were beaten and detained. Between 16-25 February, security forces allegedly killed at least nine people and injured more than 150 in the port city of Aden. Dozens of peaceful protesters and activists were detained. Some were released, but in at least eight cases detained activists "disappeared". At least 30 people were killed and hundreds wounded on 18 March after security forces opened fire on protesters in Sanaa.

Protests were complicated by inter tribal conflict and fighting between security officials and militia from tribal leaders, including that of Sheikh Sadiq Al Ahmaraimed at ending the governments regime. Several bomb attacks and street fighting ended with civilian casualties.

In November 2011, after a series of protests and violent reprisals killing several hundred people, President Saleh finally agreed to cede power to his deputy in February 2012 in a deal rejected by most of the protestors due to his continued immunity from prosecution. Saleh had ruled since 1978, when

he became president of the Yemen Arab Republic following a military coup.

The uprising and political conflict that followed have pushed Yemen to the edge of a severe humanitarian crisis in Yemen with mass shortages of food, water, electricity, fuel and other essential goods. Construction work dried up, leaving many of the estimated one million day labourers in dire poverty due to the lack of work and no social security. These workers had been employed on a daily basis without a written contract or legal protection. Many companies and factories closed down during the year, leaving tens of thousands more workers on the street and increasingly unable to meet their most basic needs. Many of the unemployed have joined demonstrations calling for change.

Political developments but strikes continue: A general strike shut most shops and offices on 7 April despite threats of reprisals against strikers and protestors. In November, President Ali Abdullah Saleh finally signed an agreement to transfer power. However, protestors called strikes to demonstrate against his proposed immunity from prosecution, for the removal of his relatives and associates suspected of corruption from their government or military posts.

This wave of strikes began in the third week of December with a walk out at the national airline, followed by strikes at the state television and Sanaa police headquarters, and a strike by hundreds of government soldiers. Industrial action spread throughout the country on 28 December.

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.

Migrant workers without contracts: Almost all domestic workers work without legal contracts. The political and social unrest has led to affluent families leaving the capital and laying off their foreign domestic workers. Many of those laid off have not received any compensation since they are unable to produce an employment contract as required for them to be entitled to severance pay under Yemeni law. Thousands of migrant workers from Ethiopia have been stranded in Yemen since the protests began.

Attack on aviation union president: In May, the house and car of the President of the Yemeni Aviation Engineers' Syndicate were destroyed in an arson attack days after he had appeared on television talking about corruption within the state airline.

Striking teachers sacked: Teachers throughout Yemen went on strike during April, demanding salary increases previously agreed with the government be honoured. It was reported that striking teachers were replaced with volunteers and absent teachers were dismissed. The government told private schools that they would lose their licence if their teachers continued to strike. One source reported beatings and threats to striking teachers. The teachers have little legal protection as the civil service law states that if a teacher is absent for 20 consecutive days he or she will be dismissed.

The Yemeni Teachers Syndicate (YTS) and its members have been particularly exposed by the repression as they have been active since the beginning of the uprising in February. At least 40 YTS members were killed during the protests in 2011.

Journalists under attack: Widespread violence is directed against journalists. Reports of abductions, kidnappings, arbitrary arrests, beatings and torture are commonplace. During February, security forces beat or harassed at least 31 international and Yemeni journalists in an effort to quash reporting on the nationwide protests. On 25 October, gunmen shot two television journalists, killing one and injuring the other. This came weeks after the deputy director of a local radio station died of gunshot wounds from an attack on 25 September believed to have been carried out by Yemeni security forces.

On 12 March, the offices of the Yemeni Journalists' Syndicate were attacked and arson threatened. The International Federation of Journalists (IFJ) reported a concerted campaign to intimidate and silence journalists which included detention and the burning down of a senior editor's house following deaths threats against him and his family.

The Yemen state television authority warned in June that media workers who defied state orders to censor reporting on the anti-government protests would be sacked.

Strikers dispersed - three injured: Thousands of sanitation workers began a strike on 7 March demanding improvements in their pay. At least 3 were injured during the dispersal of their sit-in by police in Sanaa.

Oil workers agreement ignored: More than 1,000 workers at the Yemeni oilfield operated by Canadian company Nexen went on strike on 4 May. An agreement was reached later that day to suspend the strike during negotiations. However, four months later union leaders said demands from the strike had yet to be met.

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 Organisation (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.¹⁴¹⁵ 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 regard, 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.

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