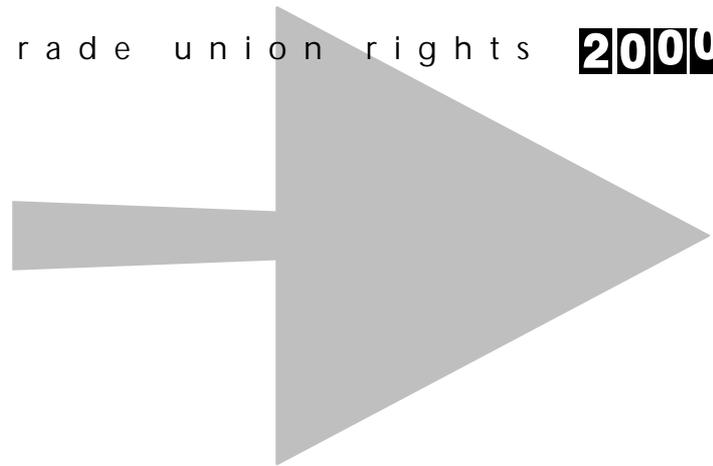


annual  
survey of violations of trade union rights **2000**



The violations of trade union rights reported in this survey took place in 1999.  
The survey was written by Kathryn Hodder of the ICFTU Trade Union Rights Department.

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# Foreword

Much has been said about the need to include a social dimension into the globalisation process. In meeting after meeting, governments, representatives from international institutions, even employers, talk about how important "social inclusion" is. Yet, there is often a gap between words and deeds. At this June's UN meeting on the follow-up to the 1995 Copenhagen Social Summit, to cite one example, references to workers' fundamental rights as an indispensable pillar of social policy were watered down and the fierce opposition of a few hard-line countries (which figure prominently in this report for their poor performance on trade union rights) was sufficient to suppress any hope of seeing the ILO Declaration on Fundamental Principles and Rights at Work included in the final document. In fact, until today, there has never been such global acknowledgement of the need to take civil society and the social aspects of the economic process into account. But when it comes to protecting those women and men whose role it is to promote and defend workers' basic rights, little has improved.

This year's annual survey cites workers' rights abuses in 113 countries. 140 trade unionists have been murdered in the twelve month period it covers, and hundreds have been beaten up, arrested, jailed and tortured for doing no more than carrying out trade union activities.

Demanding payment of wage arrears, calling for improved working conditions, asking for dialogue and for negotiations, campaigning for welfare, for education and for a fair share of income. These are the only "crimes" that have led to people being killed or thrown in jail.

This year's report gives us an opportunity to denounce the prevailing hypocrisy which sees government officials parading at international gatherings, ostensibly promoting basic rights, while those who actually defend them at home are being harassed, attacked, threatened, sidelined and silenced - sometimes for ever.

Trade union rights are human rights. They form the very basis on which social justice can be built. It is high time that those who claim to lead the world, and actually should, fully integrate this in their day to day practices. Some of the heroes of this report are no longer with us. Their unflinching commitment will continue to inspire us and generations of trade unionists. The fight will go on.



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:

- No. 29 Forced or Compulsory Labour (1930)
- No. 87 Freedom of Association and Protection of the Right to Organise (1948)
- No. 98 Right to Organise and Collective Bargaining (1949)
- No. 100 Equal Remuneration for Work of Equal Value (1951)
- No. 105 Abolition of Forced Labour (1957)
- No. 111 Discrimination in Employment and Occupation (1958)
- No. 138 Minimum Age for Employment (1973)
- No. 182 Worst Forms of Child Labour Convention (1999)

# Violations of trade union rights: statistical analysis

Violations of trade union rights remain at least as frequent as in the past few years. In 1999, 140 people lost their lives, 17 more than in the previous year. The anti-union climate has been on the increase over the years and workers' rights are being steadily whittled away. International conventions on trade union rights, to which a growing number of States have signed up, are paradoxically being respected less and less. Every year, new countries appear in the survey. The cases reported in it are a stark illustration of this negative trend and only represent the tip of the iceberg of daily violations of fundamental trade union rights.

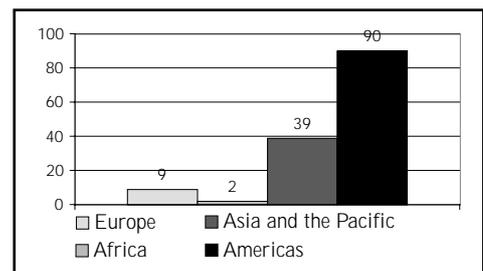
The ICFTU's information is based on reports from affiliates, international trade secretariats, regional organisations, human rights organisations and the media. The statistics given below are only based therefore on a partial view of the trade union situation in the world. Trade unions in the Middle East, for example, are in most cases banned outright, or are closely controlled by the authorities. The workers are subject to massive rights abuses but very little concrete information can be obtained from these countries. The figures should therefore be treated with caution.

The survey does however reflect a certain situation that the statistics below seem to confirm. For example, in over 10% of the countries analysed, trade unionists have died. In nearly one in three countries, trade unionists were wounded, while unfair dismissals following trade union activities took place in nearly 40% of countries. The government interfered in trade union affairs in at least one country in four. Obstacles to the functioning or formation of a trade union can be found in nearly 90% of the countries examined.

## A. DEATHS AND ASSASSINATIONS

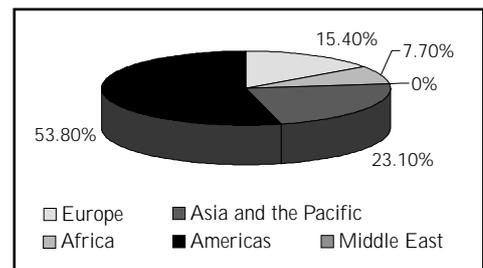
### 1. Total per region

Europe: .....	9
Africa: .....	2
Middle East: .....	0
Asia and the Pacific: .....	39
Americas: .....	90
<b>Total: .....</b>	<b>140</b>



### 2. Distribution by region of countries where trade unionists died

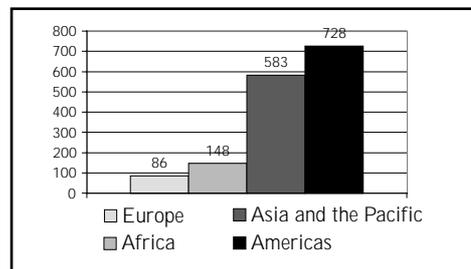
Europe: .....	15.40%
Africa: .....	7.70%
Middle East: .....	0%
Asia and the Pacific: .....	23.10%
Americas: .....	53.80%
<b>Total no. of countries: .....</b>	<b>13</b>



**B. BEATINGS AND TORTURE**

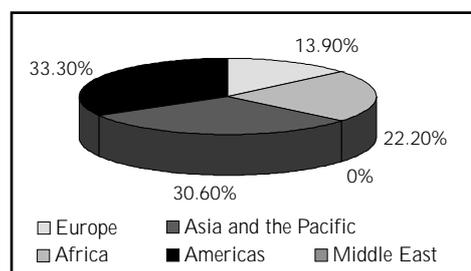
**1. Total per region**

Europe: .....	86
Africa: .....	148
Middle East: .....	0
Asia and the Pacific: .....	583
Americas: .....	728
<b>Total .....</b>	<b>1545</b>



**2. Distribution by region of countries where trade unionists were beaten or tortured**

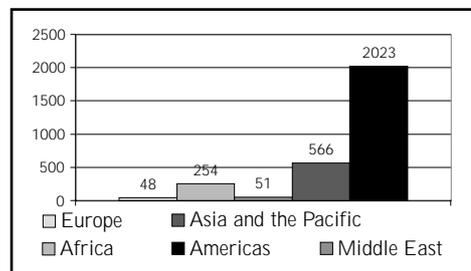
Europe: .....	13.90%
Africa: .....	22.20%
Middle East: .....	0%
Asia & Pacifique: .....	30.60%
Americas: .....	33.30%
<b>Total no. of countries: .....</b>	<b>34</b>



**C. ARRESTS AND DETENTIONS**

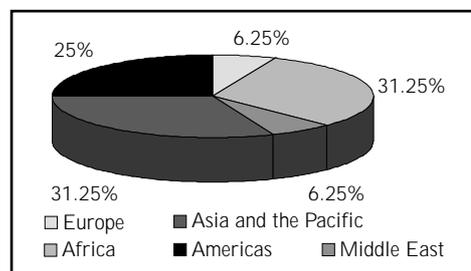
**1. Total per region**

Europe: .....	48
Africa: .....	254
Middle East: .....	51
Asia and the Pacific: .....	566
Americas: .....	2023
<b>Total .....</b>	<b>2942</b>



**2. Distribution by region of countries where trade unionists were arrested or detained**

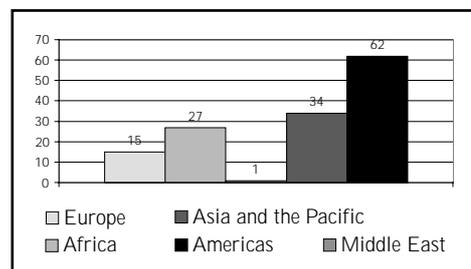
Europe: .....	6.25%
Africa: .....	31.25%
Middle East: .....	6.25%
Asia & Pacifique: .....	31.25%
Americas: .....	25%
<b>Total no. of countries: .....</b>	<b>32</b>



### D. STRIKES AND DEMONSTRATIONS REPRESSED

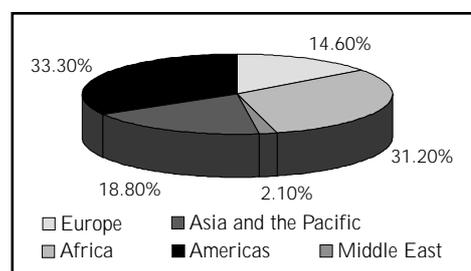
#### 1. Total per region

Europe:.....	15
Africa:.....	27
Middle East:.....	1
Asia and the Pacific:.....	34
Americas:.....	62
<b>Total:.....</b>	<b>139</b>



#### 2. Distribution by region of countries where strikes and demonstrations were repressed

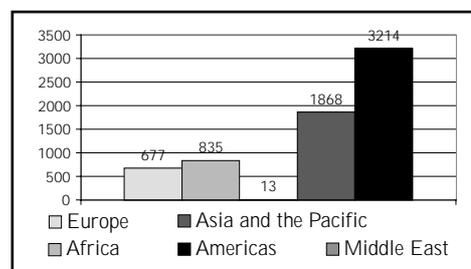
Europe:.....	14.60%
Africa:.....	31.20%
Middle East:.....	2.10%
Asie & Pocéanie:.....	18.80%
Americas:.....	33.30%
<b>Total no. of countries:.....</b>	<b>48</b>



### E. HARASSMENT AND THREATS, INCLUDING DEATH THREATS

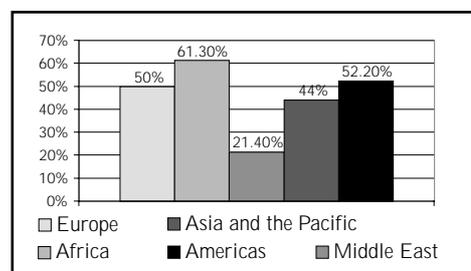
#### 1. Total per region

Europe:.....	677
Africa:.....	835
Middle East:.....	13
Asia and the Pacific:.....	1868
Americas:.....	3214
<b>Total:.....</b>	<b>6607</b>



#### 2. Level of harassment, including death threats, by region, within the countries mentioned in the survey

Europe:.....	50%
Africa:.....	61.30%
Middle East:.....	21.40%
Asia and the Pacific:.....	44%
Americas:.....	52.20%
<b>Total no. of countries:.....</b>	<b>54</b>

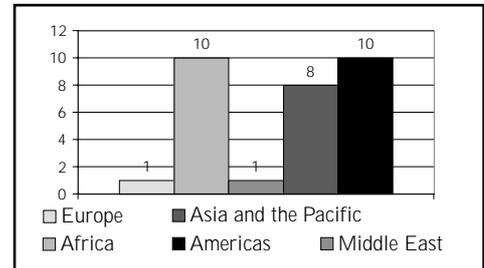


Please note: The total number of countries mentioned in the 2000 Survey represents about 60% of UN Member States, plus Switzerland, Kosovo, Hong Kong, The West Bank and Gaza.

**F. EXPORT PROCESSING ZONES**

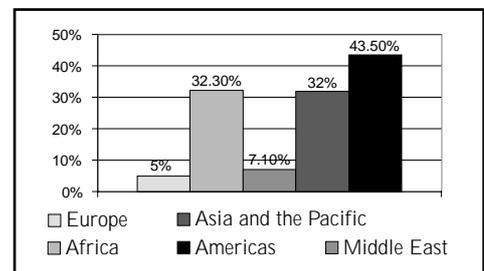
**1. Total per region**

Europe: .....	1
Africa: .....	10
Middle East: .....	1
Asia and the Pacific: .....	8
Americas: .....	10
<b>Total: .....</b>	<b>30</b>



**2. Rate per region of export processing zones where industrial disputes occurred, within the countries mentioned in the survey.**

Europe: .....	5%
Africa: .....	32.30%
Middle East: .....	7.10%
Asia and the Pacific: .....	32%
Americas: .....	43.50%
<b>Total no. of countries .....</b>	<b>30</b>

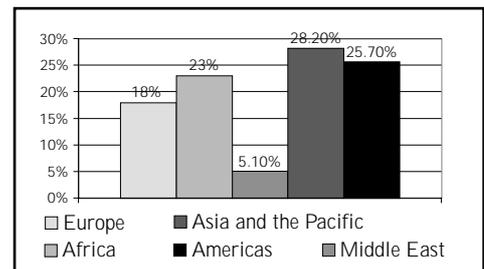


Please note: The total number of countries mentioned in the 2000 Survey represents about 60% of UN Member States, plus Switzerland, Kosovo, Hong Kong, The West Bank and Gaza.

**G. UNFAIR DISMISSALS**

**Distribution by region of countries where workers have been unfairly dismissed**

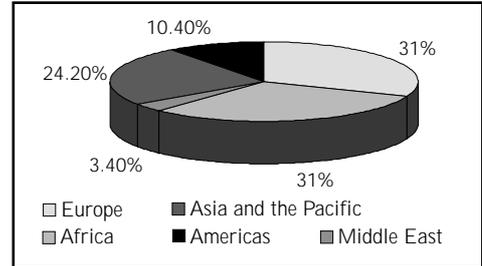
Europe: .....	18%
Africa: .....	23%
Middle East: .....	5.10%
Asia and the Pacific: .....	28.20%
Americas: .....	25.70%
<b>Total no. of countries: .....</b>	<b>39</b>



**H. GOVERNMENTAL INTERFERENCE**

**Distribution by region of countries where the government has interfered into trade union affairs**

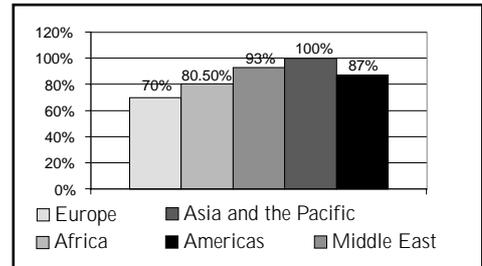
Europe: .....	31%
Africa: .....	31%
Middle East: .....	3.40%
Asia and the Pacific: .....	24.20%
Americas: .....	10.40%
<b>Total: .....</b>	<b>29</b>



**I . LEGAL OBSTACLES**

**Level of presence, per region, of legal obstacles to the formation and functioning of trade unions, within the countries mentioned in the report**

Europe: .....	70%
Africa: .....	80.50%
Middle East: .....	93%
Asia and the Pacific: .....	100%
Americas: .....	87%
<b>Total no. of countries: .....</b>	<b>97</b>



Please note: The total number of countries mentioned in the 2000 Survey represents about 60% of UN Member States, plus Switzerland, Kosovo, Hong Kong, The West Bank and Gaza.



Ordinary Africans were still waiting for the growing clamour for debt cancellation to lead to some tangible results. Structural adjustment imposed privatisation and public spending cuts led to rising unemployment, non-payment of wages, or poverty wages, and an ever growing informal sector. At the same time, the need for a link between globalisation and core labour standards was becoming more urgent than ever. To quote the President of the Zimbabwe Congress of Trade Unions (ZCTU), "it is a question of fundamental human rights" .

Zimbabwe was one of the countries whose respect for these rights deteriorated in 1999. Another ZCTU leader was beaten unconscious - this time it was the turn of the Deputy General Secretary, attacked by three men in January. The habit of sending in the riot police also continued, as a group of strikers from the hotel and catering industry found when tear gas was fired at them in September.

There was no improvement in Ethiopia where the government destroyed unions not under its control and carried out a campaign of persecution and harassment of the ETA teachers' union. ETA president, Taye Woldesmiate, was given a 15-year prison sentence on trumped-up charges of conspiracy to overthrow the state. The banking and insurance workers' federation was also the target of heavy harassment. The union president, Abiy Melesse, said he feared for his life.

In Swaziland, although amendments to the 1996 Industrial Relations Act which brought the law more into line with



ILO Conventions had been adopted by parliament, the King had not added his assent to the law. In Djibouti, there was no end to the severe repression of the trade unions. The authorities interfered into trade union affairs including by organising a sham union congress which "elected" new leaders.

Unpaid wages, one effect of the debt crisis, was again a very serious problem, leading to strikes in Kenya, Central African Republic, Democratic Republic of Congo and Togo.

In several countries, such as Libya, Egypt and Sudan, trade union monopolies still exist, and in Equatorial Guinea the government maintains a repressive environment that discourages the formation of trade unions. Elsewhere, the right to organise is restricted by blatant government interference, such as in Cameroon, or by bans on the right to organise of public sector workers, who are also faced with denial of the right to free collective bargaining. In Swaziland an industrial court ruled in 1999 that the Minister for Public Service had "subverted collective bargaining" through his blatant intervention.

As in other regions, trade union rights are not enforced in most export processing zones. Lesotho is a typical example, where workers are paid below the minimum wage, have to work unpaid overtime, are refused sick leave, fined for talking and restricted to one visit to the toilet per day.

On a more positive note, Nigeria continued the progress begun in 1998 following the death of General Abacha.

The anti-union decrees brought in by the former regime were repealed or amended in January 1999. In the same month the Nigeria Labour Congress held democratic leadership elections at its national delegates congress. It is hoped that the new civilian government led by Olusegun Obasango that came to power in May 1999 will continue the good work.



## Botswana

POPULATION : 1,570,000 / CAPITAL : Gaborone / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138-182



**The law contains restrictions on trade union rights, including a ban on full-time union officials.**

### Ban on full-time union officials

There are no full-time trade union officials in Botswana because elected officials must work full time in the industry or sector the union represents. Union work has to be carried out in the evenings or at weekends.

Public servants and teachers cannot belong to trade unions, although they can belong to associations with restricted bargaining rights. Agricultural and domestic workers are not covered by the Trade Unions Act and cannot belong to trade unions or bargain collectively.

Workers can go on strike, but there has never been a legal strike in Botswana because of the complex and lengthy pre-strike procedures unions have to follow. Sympathy strikes are banned.

### Powers of Minister and Registrar

The Minister of Labour and the Registrar of Trade Unions have broad and discretionary powers over trade union affairs. The Minister:

- must approve affiliation to international trade unions, although if permission is withheld, unions can appeal to the courts
- must give his consent for trade unions to amalgamate or form a federation
- can appoint an official to attend union meetings
- can dissolve unions on the suspicion that their affairs were not conducted properly
- can appoint the Commissioner of Labour to run the affairs of a trade union for any period that he deems necessary.

The Registrar:

- can refuse to register a union
- can cancel a union's registration if "the union fails to give significant effect to the protection and promotion of the interests of its members"
- can assess or investigate the treasurer of a trade union.

## Burkina Faso

POPULATION : 11,305,000 / CAPITAL : Ouagadougou / ILO CORE CONVENTIONS RATIFIED : 105-138



**The government responded with an anti-union campaign, rather than negotiate, when workers protested at reforms that would weaken their rights.**

### Warning strike

Burkina Faso's unions held a general strike on 29-30 June 1999. The two-day warning strike was held to call for higher wages and pensions and to protest against privatisation. Planned public sector reforms would result in some public servants being employed on contracts and would weaken their right to strike.

The unions also called for an end to killings and assassinations and the misappropriation of state funds. This partly referred to the murder of investigative opposition journalist, Norbert Zongo, whose charred body together with those of three companions was found at the end of 1998, and was still unpunished. No one was arrested for his murder in 1999.

A few days before the strike the unions said that instead of negotiating, the authorities launched a campaign against them. They set up strikebreaking committees in Ouagadougou and the provinces, and targeted a disinformation campaign at private sector workers so that they would not take part.

#### Sackings

On 18-19 August the unions held another two-day strike to try and win back the jobs of trade union members who had been sacked after the June strike. Eighteen workers were sacked at the SN-SOSUCO (Societe Sucriere de Banfora) sugar works, while at the CIMAT Cement Company, three were sacked and 47 others were suspended for 48 hours.

The unions also continued to call for talks with the government on a general wages and pensions increase, the repeal of the public sector reforms, and an end to both privatisation and arbitrary killings.

#### Legal restrictions on public servants' rights

The law allows the authorities to requisition striking civil servants and state officials.

The ILO has criticised a law that requires public servants to respect the revolutionary order or face disciplinary proceedings.

## Cameroon

POPULATION : 14,305,000 / CAPITAL : Yaounde / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**Restrictions on the right to organise remain in force, despite promises to the ILO to amend the legislation. The CCTU national centre reported continued government interference in trade union affairs in 1999.**

#### Right to organise

Under a 1968 law, unions or associations of public servants must receive authorisation from the Minister of Territorial Administration before they can be registered.

Under the 1992 labour code, founder members of unions in both public and private sectors can be prosecuted if they fail to register a union.

A 1969 decree requires unions or associations of public servants to get approval from the authorities before they can join international federations, although in practice this provision has often been ignored. The government has told the ILO that this was being modified and that revision of the laws began in 1990.

Since 1991, the government has refused to register SYNES, the National Union of Teachers in Higher Education. It has also refused to register other unions of public servants, particularly teachers. The government has been telling the ILO for several years that a bill on civil servants unions has been drafted and will be submitted to the National Assembly.

#### Export Processing Zones

Cameroon's 1991 EPZ laws exempted employers from some provisions of the labour code but stated that terms and conditions of employment must be consistent with internationally accepted workers' rights. The CCTU national union centre says that trade unions are denied access to EPZ enterprises.

#### Government interference

There continues to be some interference by the government into internal trade union affairs, despite the fact that the CCTU held leadership elections in April 1999. Interference by the authorities began in 1992-93 when the CCTU opposed economic austerity measures that had been agreed with the IMF. The government's aim was to undermine the elected leadership of the CCTU and the national centre's activities. It encouraged the formation of a rival national centre, the USLC, in 1995.

The interference finally fostered a split in the CCTU at its congress at the end of 1997 when two factions claimed to lead the organisation.

In 1999, the CCTU again complained about interference by the authorities, and in particular the Minister of Employment, Labour and Social Security. It said that the authorities had excluded it from May Day ceremonies, and had been involved in a meeting in August which had discussed de-registering the CCTU and encouraging a new national centre to be set up.

In October, the authorities refused to include the CCTU-nominated representative in its delegation to the ILO 9th African Regional Conference in Abidjan.

In November, the CCTU president, Benoit Essiga, the organisation secretary, Pierre Essindi Minkjoulou, and the head of the research department, Fulgence Elandi, were summoned to the headquarters of State Security criminal investigation. When Pierre Essindi Minkjoulou and Fulgence Elandi turned up they were detained for 24 hours.

## Cape Verde

POPULATION : 408,000 / CAPITAL : Praia / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**The government illegally requisitioned workers for the fifth time in recent years in order to break a strike.**

### Collective bargaining

Very little or no collective bargaining takes place in Cape Verde. The government is unable to provide the ILO with any examples of signed collective agreements.

### Government imposes end to strike

For the fifth time in recent years the government requisitioned workers to end a strike. It was the second time that maritime workers had been requisitioned.

Under the law, the government only has recourse to civil requisition if obligatory minimum services are not respected or if there is extreme danger for the population or essential public needs. The union said that this was not the case because there were other private shipping companies and an air company that could guarantee services.

The SIMETEC trade union went on strike on 27 July after the national shipping company CNN-ARCA VERDE-E.P. was privatised without respecting the decisions taken by the Organisation for Co-ordination of Privatisation. The workers and union were not informed about the privatisation that would result in many of them losing their jobs without appropriate compensation. The union assured a minimum service.

The union called another strike from 23 to 27 August. Eight hours after it started the government again imposed a civil requisition by means of a ministerial arrete of 23 August.

### Decision over union premises upheld

The seven year dispute over the ownership of the First May Social Centre was resolved at the beginning of November 1998, when the High Court ruled that the UNTC-CS national trade union centre was its rightful owner. Although an appeal against this decision was made in December 1999, the Supreme Court confirmed the decision.

# Central African Republic

POPULATION : 3,485,000 / CAPITAL : Bangui / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**At the beginning of 1999 the general secretary of the USTC national trade union centre, Sonny-Cole, was brutally beaten up. He was harassed throughout the year.**

## Union leader brutally attacked

In the evening of 9 January 1999, the USTC general secretary Theophile Sonny-Cole was brutally attacked. He had been driving in Bangui, the capital city, when presidential guards in three official cars stopped him and ordered him to get out. He refused. They fired a gun at his car, smashing a window. He was pulled out of the car and beaten-up. His attackers tied him up and pushed him into another car which after fresh orders took him to a police station.

He was detained until 15.00h the following day during which time he was taken to hospital for treatment and interrogated for two hours. It was believed that he had been attacked because the USTC was a member of a broad platform of civil and political organisations set up to promote peace and development.

In December 1998 the legislative elections were won by a coalition of independents and a front opposed to the incumbent President. During negotiations to form a new government, Sonny-Cole made a public statement saying that he hoped that the composition of the government would reflect the popular will.

Sonny-Cole subsequently led a general strike to protest at the fact that some of the newly elected deputies had crossed the floor, with the result that the new government reflected the outgoing one.

## Reprisals against strikers

By February 1999 public sector workers had not been paid for eleven months. Teachers had been striking intermittently since October 1997 over salary arrears. The government used supply teachers to replace them. It suspended, sacked, demoted or expelled 55 teachers from their government-owned homes for going on strike. Others were intimidated, and forced to go back to work.

In June, the government included two worker delegates that the UNTC had recently expelled, in its delegation to the Annual ILO Conference in Geneva.

## Further harassment

In September, immigration officials prevented Theophile Sonny-Cole from boarding a plane. He was on his way to attend the OATUU Congress in South Africa. They called the presidential guard who detained him and took him to the police station. He was later freed.

In October, he was prevented from going to an ICFTU/AFRO Executive Committee meeting in Nairobi.

## Legal restrictions

The 1995 constitution guarantees trade union pluralism and freedom of association. Despite this, the law establishing a single trade union system has still not yet been repealed although several national union centres exist.

The law restricts candidates to union office to members of the union in question. Dismissed or retired workers cannot belong to unions or stand for union office.

Lengthy mediation and arbitration procedures must precede a strike. The government can requisition workers during a strike by invoking the "general interest".

# Democratic Republic of the Congo

POPULATION : 49,139,000 / CAPITAL : Kinshasa / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111-138



**Trade union leaders and activists in the public sector were arrested during the year – usually in connection with strikes.**

## Labour code

The labour code does not sufficiently protect workers against anti-union discrimination and interference by employers into union affairs. Enforcement of the code remains virtually non-existent.

## Union members arrested

On 31 December 1998, the police arrested Toussaint Kilundu Manbongo, an employee at the Direction General des Contributions (DGC) branch of the Finance Ministry and a member of the Solidarite union.

In January 1999, three other Solidarite union members at the DGC were arrested. Albano Mopipi on 17 January, Yoba Mbeso Andre on 18 January, and Laise Banzwa on 29 January. They were interrogated and transferred to Makala prison.

The arrests appeared to be connected to the fact that the unionists had denounced corruption. They were released in August.

On 28 January, the police detained six members of the CDT-affiliated SYTRACOM union at the cellular telephone company, Telecel, in Kinshasa. They were held for two days. They had protested because the employer would not apply the collective agreement. Although they were not interrogated, when they were released they were threatened with being rearrested at any time.

On 12 February, the police arrested the Telecel manager and two employees who were CDT members in Mbuji-Mayi in Eastern Kasai Province. They were accused of "uncivic" behaviour and violating a law banning foreign currency transactions. Telecel called all three employees to Kinshasa. It handed them over to the police who detained the manager until 15 February and the two union members until 20 February.

## Unpaid wages

On August 2, public servants in Kinshasa staged a strike to protest at low salaries and months of unpaid wages. University administrators and health care workers joined the strike. When striking workers gathered in front of the Ministry of Finance, rapid intervention police arrested nine leaders of the Intersyndicale of public service unions.

On August 12 the police arrested three organisers of the health workers strike. They were released two days later.

The government claimed in October that it would meet public sector demands and would start to progressively implement a comprehensive, higher public service salary scale, but they were still paid sporadically.

# Djibouti

POPULATION : 623,000 / CAPITAL : Djibouti / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100



**The government continued its severe repression of Djibouti's trade unions, blatantly and regularly interfering into trade union affairs with the aim of destroying independent and democratic unions. In July, it arranged a sham union congress which "elected" new leaders.**

## No reinstatement for sacked union leaders

Nine top trade union leaders who were sacked after a strike in September 1995 have still not been reinstated. The strike, organised by the Inter-Trade Union Association of the UDT and UGTD national trade union centres, had been in protest at proposed austerity measures and their likely effects on workers, introduced within the framework of an IMF and World Bank structural adjustment programme. The government had refused to discuss the measures with the unions.

## A history of repression

The sacking of the trade union leaders marked the beginning of persistent anti-trade union action by the authorities.

- After a teachers' strike in January 1996 to protest over salary arrears, scores of teachers were arrested and dismissed from their jobs.
- The government was behind the setting-up of a new trade union federation in 1995, the Djibouti Labour Congress, CODJITRA, as well as a trade union youth organisation, CONJEUTRA, to undermine genuine unions.
- Security forces closed down the UGTD headquarters in May 1996.
- The trade union dues of the OPT post and telecommunications union and the SEED electricity workers union were frozen.
- Two officials of the SEP primary schoolteachers' union were sacked in 1996, including the general secretary.
- In early 1997, five officials of the secondary schoolteachers' union, SYNESED, were dismissed and disqualified from teaching after strikes in the second half of 1996 over salary arrears. The strikes were violently repressed. Many teachers belonging to SYNESED and SEP had been arrested and suspended. Suspended teachers were denied access to schools and prohibited from organising meetings.
- Solidarity strikes with the five sacked SYNESED officials were put down with force and hundreds of teachers were sent to the Nagad detention camp.

## Government fails to respect commitments to ILO

In 1999 for the fifth year running, the government did not send a delegation to the ILO Annual Conference, despite commitments made in January 1998 by the Minister of Labour to an ILO Direct Contacts Mission. The Minister also failed to honour assurances that the UGTD premises would be restored to them and that talks would begin with the UDT/UGTD.

In February 1999, the UDT/UGTD said that repression of trade unionists had resulted in dozens of them being forced into exile, including Moussa Djibril Samira, a member of the SYNESED executive committee.

## May Day gathering banned

On 1 May, the Minister of Labour organised May Day festivities. He banned the usual workers' gathering held in front of trade union headquarters. At six o'clock in the morning, the police put up barricades and chased workers away.

A police commando unit stormed union headquarters, forcing doors and windows open. It confiscated union flags and the public address system. Union leaders had to keep out of the way to avoid being arrested.

There were reports that the Ministers of Labour, Transport, and Public Works had said that they wanted to break up the UDT/UGTD and to bring in new union leaders.

**Continued repression of UDT and UGTD**

On 15 July, the Minister of Employment unilaterally convened a joint extraordinary general assembly of the UDT and UGTD (which remain two distinct trade union organisations) with a view to appointing a president and general secretary of each organisation. The authorities issued an approved list of participants to the assembly.

Anonymous leaflets calling for a joint general meeting had started appearing at the end of June. The UDT had announced several months earlier that its ordinary general meeting would be held at the end of August.

The UDT and UGTD had both been prevented from holding their respective ordinary general meetings for several months because of repression by the authorities.

Three or four unions, which had been created by the authorities, attended the meeting. None of the unions affiliated to the UDT or UGTD took part. New union leaders of the UDT/UGTD were elected.

The government cancelled the leases of the post boxes rented by the UDT and UGTD and gave orders that their mail should not be delivered to them, but forwarded to the sham UDT/UGTD. In October, Mohamed Doubad Wais, the general secretary of the PTT union sought refugee status in Belgium.

The UDT and UGTD said that the authorities now considered them as illegal organisations, they were not allowed to hold meetings, to meet workers, or to communicate to the public.

**Restrictive legislation**

There was no news of the long-awaited revision of the revision of the 1952 labour code. The government had cut the unions out of the process.

The Act on Associations requires associations to get prior authorisation before they can be set up, and has in the past been applied to trade unions.

The Labour Code only allows Djibouti nationals to hold union office.

A decree allows the President of the Republic to requisition public servants in essential services, which are broadly defined.

# Egypt

POPULATION : 65,978,000 / CAPITAL : Cairo / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138

**There is a single trade union system in Egypt.****Trade union monopoly**

The law provides for a trade union monopoly. It gives the national union centre control over trade union nomination and election procedures and over union finances. It specifies how much unions have to pay to federations in affiliation fees and how much the federations have to pay the national centre.

The national trade union centre must approve the organisation of any strike action.

**Restrictions in law**

Collective bargaining in Egypt is not encouraged or adequately protected by the law.

- Any clause in a collective agreement which could jeopardise the economic or security interests of the country is invalid.
- The government sets wages and other terms and conditions of employment in the public sector after consultation with the unions.
- Public enterprise directors do not have to negotiate with trade unions, and the government must approve any agreement in the sector.
- There is little collective bargaining in the private sector.

There is no legal right to strike, although strikes do take place. Strikers can face a prison sentence of up to two years. There have been prosecutions under the state of emergency in force since 1981.

Compulsory arbitration can be imposed at the request of one party in industries designated as essential services. These are broadly defined. The Public Prosecutor can ask the criminal courts to remove a trade union executive committee from office for provoking a strike in the public services.

A 1993 Act entitled "law on guarantees for democracy", relating to professional trade union associations, closely regulated elections in these organisations, detailing requirements for a quorum, length of office, and electoral procedures.

#### New law under discussion

At the beginning of 1999, parliament was beginning to debate a new unified labour bill that would apply to both the public and private sectors. It was reported that the bill gave employers greater powers to dismiss workers and removed some of the latter's acquired rights. It introduced mediation in labour disputes that could continue into arbitration at the request of both the parties, and created a new tripartite arbitration body.

#### More protest strikes

The increasing incidence of strikes seen in 1998 continued, mainly because of the privatisation of state enterprises. Workers at loss-making enterprises suffered cuts in wages and allowances, forced retirement, illegal dismissals, and victimisation.

## Equatorial Guinea

POPULATION : 431,000 / CAPITAL : Malabo / ILO CORE CONVENTIONS RATIFIED : 100-138



**Basic trade union rights are denied. The government continues to deny unions official registration and there are no functioning trade unions. The security forces repress independent union activity.**

#### Union registration denied

The regime has refused to register the Union Sindical de Trabajadores de Guinea Ecuatorial (UST) founded in 1990, and consequently it is forced to carry out its activities clandestinely.

Awareness raising activities carried out by the UST in the public sector led to the creation of the Sindicato Independiente de Servicios (SIS) which first applied for registration in early 1995. Although the application met all the requirements contained in the 1992 Trade Union Law, the authorities refused to register it, objecting to the word "independent" in the union's name. Subsequent applications in 1995 and in 1996 were also rejected.

In 1998 it was reported that a teachers' trade union had been formed. The union said that it would apply for registration.

#### Police intimidation

Trade unionists said that immediately after they submitted applications for union registration, security officials visited their homes and intimidated them.

#### Political discrimination in employment

There continue to be reports that workers must be members of the ruling party to get jobs.

In the oil industry, workers are hired to major companies such as Mobil, Nomeco, Suberger, Incat Dragadas, and Sogeco through government agencies. The agencies often deduct up to 70 per cent of the amount they are paid by the companies for the workers' wages. The workers are also screened to ensure that they are sympathetic to the regime.

The private sector is virtually non-existent in Equatorial Guinea.

#### Restrictive legislation

The law does not recognise the right to collective bargaining. There is no protection in the law against acts of anti-union discrimination. Strikes are prohibited.

# Eritrea

POPULATION : 3,577,000 / CAPITAL : Asmara / ILO CORE CONVENTIONS RATIFIED : - - -



**The 1991 labour law for the transition period, which is under review, contains restrictions on basic trade union rights.**

## Tripartite discussions

Tripartite discussions are taking place to review the 1991 law which excludes public servants and domestic staff who do not have the right to organise in trade unions.

Certain restrictions exist on the right to strike.

There is no system of labour courts, and thus there are long delays in processing labour disputes.

# Ethiopia

POPULATION : 59,649,000 / CAPITAL : Addis-Ababa / ILO CORE CONVENTIONS RATIFIED : 105-87-98-100-111-138



**The government continued to try and destroy any trade union not under its control. After a blatantly unfair trial, the president of the ETA teachers' association was sentenced to 15 years imprisonment. Two ETA leaders died owing to ill-treatment in prison.**

## National centre under government influence

The CETU national trade union centre was de-registered at the end of 1994 because it opposed the government's structural adjustment policy. In May 1997 it was re-registered after holding a restructuring congress at which a pro-government leadership was elected. The CETU's headquarters and bank accounts were re-opened.

At the beginning of 1999, only one of CETU's nine affiliates, the Industrial Federation of Banking and Insurance Trade Unions (IFBITU), remained outside the national centre and thus independent of government control.

Trade unionists allied to the IFBITU president, Abiy Melesse, were intimidated, harassed and detained. Many were forced into exile. In 1998, the Ethiopian Insurance Corporation had forced him to take early retirement. IFBITU reported constant interference in the affairs of its member unions.

In 1999, the authorities marginalised the IFBITU leadership in four of the five institutions where the union was organised. Security forces were deployed to stop union leaders from entering their offices. Illegal trade union elections were held. The new leadership subsequently took the union back into CETU.

By the end of the year Abiy Melesse said that he feared for his life.

## Teachers' leader remains in prison

At the beginning of 1999 Taye Woldesmiate, the president of the Ethiopian Teachers' Association (ETA), was still in prison, after being arrested in May 1996. In August that year he was accused of conspiracy against high-level government personnel, and other charges. He was denied bail.

The two main witnesses against him retracted their evidence saying that it was extracted under torture. These included one of his co-defendants, Kebite Desita, the president of the Retired Teachers' Association, affiliated to the ETA, who was also in prison after being arrested in March 1996.

In 1998, Taye appeared in court and said that prison guards were harassing him and threatening to shoot him. The judge ordered him to be chained until his next court appearance.

**Deaths resulting from imprisonment**

Taye Woldesmiate appeared in court several times in 1999 expecting to hear the verdict and to be sentenced, but the case was adjourned each time because of the illness of his co-defendant, Kebite Desita. On 29 March, after three years ill treatment in prison, Kebite Desita died.

In April, Shimales Zewdie, ETA acting general secretary, died because his health had suffered so drastically during his 1998 imprisonment.

**Heavy prison sentence**

On 3 June, Taye Woldesmiate was convicted on the false charge of conspiracy to overthrow the state. This carried a possible sentence of five to 25 years in prison, or the death sentence.

One week later, following an unfair trial, he was sentenced to 15 years' imprisonment. There was clear manipulation of the judiciary, including the dismissal of a judge, which has raised serious questions as to its independence.

**Harassment of ETA**

Harassment of the ETA started in 1993-94 when the government helped a breakaway group from the association to register. The government defied a court ruling in December 1994 saying that the executive committee led by Taye Woldesmiate was the legitimate ETA leadership. The judge who made the ruling was dismissed shortly afterwards.

The breakaway group appealed and the court closed the ETA's bank account. This was eventually handed over to the breakaway organisation. Over a period of time the security services and police closed all the association's offices. Union dues were handed over to the breakaway group. Thousands of teachers were transferred. Twenty ETA members were sacked, including all the leadership.

In 1997, the police killed an ETA executive council member, Maru Assefa.

The appeal by the breakaway group against the court decision in favour of the legitimate ETA was constantly adjourned in the Supreme Court of Appeal, latterly until February 2000. It was believed that judges were trying to avoid the case until the ETA was destroyed altogether.

A High Court case about ownership of ETA property has only focussed on procedural matters. It was set to be in session in March 2000.

**Restrictive legislation**

Ethiopia's 1993 labour law forbids workers in the public service from forming or joining trade unions, although the 1994 constitution allows them to organise and bargain collectively. Teachers and medical personnel, are also banned from joining trade unions.

The labour law only allows one trade union to be established in any enterprise with more than 20 workers. It prohibits trade unions from acting in an overtly political manner.

Broad restrictions on the right to strike include strike bans in the following non-essential services: air transport, railways, urban and inter-urban buses, petrol stations, banks and postal services. Disputes can be reported to the Ministry of Labour by either of the parties for conciliation and binding arbitration.

The right to strike is restricted by lengthy pre-strike requirements.

# Gabon

POPULATION: 1,167,000 / CAPITALE: Libreville / CONVENTIONS INTERNATIONALES RATIFIÉES: 29-105-87-98-100-111



**Visiting trade union leaders were held at Libreville airport for over six hours in April, while in January police charged at a peaceful trade union demonstration.**

**Union demonstrators injured**

In January 1999, several people were injured and one was in a critical state after the police charged at a trade union demonstration of the USAP public administration federation in the centre of Libreville. The trade unionists were holding a peaceful sit-in to put pressure on the

government to negotiate with them. The union had been on strike since the previous November to demand higher salaries, and had recently organised a series of demonstrations. Agreement was finally reached in February.

#### Visiting unionists held at airport

In April, the general secretaries of the Ugandan national trade union centre, NOTU, and the Rwandan centre, CESTRAR, Lyelmoi Ongaba and Francois Murangira respectively, were held at Libreville airport in Gabon for over six hours. They were attending an international labour conference organised by the ICFTU and the Gabonese trade unions.

They had been told that they would receive visas on arrival. Jugdish Lollbeeharry, the general secretary of the Mauritius MLC national trade union centre was also held. They were given no reason for their detention.

They were finally given 72 hour visas. Their passports were taken and only returned a day before they left. The visas had been extended to 15 days.

#### Union representative still in prison

Jean Remy Nguelany, shop steward of the CGSL national centre was still being held in prison at the beginning of 1999 following a complaint by a disgruntled labour inspector in Booue. The inspector had been asked to conciliate in a dispute with the Rouvier-Ivindo Company after it had sacked two trade unionists in October 1998, but he refused even to meet them. When the CGSL referred the case to the director of Provincial Labour Inspection in Makokou he reprimanded the Booue inspector. This led to his complaint in court against Jean Remy Nguelany, who was refused bail and sent to prison.

The CGSL reported anti-union discrimination in many enterprises as well as employer obstacles to collective bargaining.

## Ghana

POPULATION : 19,162,000 / CAPITAL : Accra / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



#### New labour law in preparation

#### The law contains restrictions on basic trade union rights.

Current law gives the Registrar of Trade Unions wide powers to refuse to recognise a union for bargaining purposes if a bargaining certificate has already been issued to a union representing workers in the same category, thus preventing workers from forming or joining a union of their choice.

The Registrar has been causing undue delays in the issue of bargaining certificates to unions, and especially to senior staff who want to form and join a union.

The Ghana TUC said that a new labour law was being drafted which was expected to be adopted by the end of 2000. The objectives of the new law were to consolidate and clarify current law, and to update it to create conditions for investment and growth. The Ghana TUC said that they had participated in the review of the law.

Under the new law, trade union registration would no longer be carried out by the Registrar but would be carried out by a new tripartite Labour Commission.

#### Right to strike

The Industrial Relations Act of 1965 makes it almost impossible to go on strike and there have been no legal strikes since independence.

The ILO has expressed concern about the 1994 Emergency Powers Act, which provides the government with very extensive powers, which could be used to impede freedom of assembly and demonstration.

**1999 court ruling**

In 1999, the High Court ruled that a group of workers who had opted out of their trade union and joined another one some four years ago, could not re-join the original union. The Ghana TUC said it would appeal against this decision.

# Kenya

POPULATION : 29,008,000 / CAPITAL : Nairobi / ILO CORE CONVENTIONS RATIFIED : 29-105-98-138



**Basic trade union rights continued to be denied to public employees in national government, university academic staff, doctors and dentists. 1999 saw strikes over unpaid wages.**

**Right to organise freely denied**

The Trade Union Registrar has the power to refuse registration to or to de-register a trade union. This provision of the law has been used to deny trade union rights to public employees in national government, university academic staff, and doctors and dentists who are not permitted to form or join trade unions. They can only belong to associations that cannot bargain collectively their terms and conditions of employment.

The Kenya Civil Servants' Union was de-registered by the government in 1980. The authorities have refused to register the University Academic Staff Union and the Kenya Medical Practitioners' and Dentists' Union, nor have they responded to the application for registration of the All Cadre Nurses Union of Kenya made in 1997.

The government told the ILO in 1995 that a parliamentary motion had urged it to register the Kenya Civil Servants' Union, and that it had directed the Registrar to do so. However, nothing appears to have been done.

**Legal remnants of one-party system**

The 1965 law, which established the national trade union centre, COTU, empowers the president of the country to remove the union's three senior leaders from office.

The Minister of Labour and a representative of the present ruling party, are non-voting members of the executive committee of COTU, although in practice this provision is disregarded.

In 1993, COTU amended its constitution to cut-off its institutional links with KANU, but the government refused to register the changes. Under the law, the public authorities must draw up trade union constitutions.

**Legal restrictions on the right to strike**

The law restricts the right to strike. All disputes must be submitted to the Minister of Labour. A union must wait 21 days before calling a strike, during which time conciliation procedures are mandatory. The Minister can determine that there is no dispute, after which a strike is illegal. He can also submit a dispute to the industrial court for binding arbitration. The Minister can determine the legality of a strike and often does so.

**Legislative reform announced**

The government has recently told the ILO that an in-depth reform of labour legislation is under way, and it has asked the ILO for technical assistance. COTU has submitted its proposed amendments to the government.

**Anti-union discrimination**

Although the law protects against anti-union discrimination, in practice, workers in small firms and restaurants are sacked for organising trade unions.

In Naivasha, the KPAWU agricultural union said that floriculture firms persistently refused requests to allow workers to be represented by the union. In 1998, out of some 100 firms, only 24 had allowed workers to join KPAWU.

**Exemptions for EPZs**

The labour law applies in Kenya's export processing zones, but exemptions have been granted. There are reports of violations of workers' rights in the zones.

**1999**

While there were no major strikes in 1999 as compared with the previous year, there were many strikes over unpaid wages.

In January, municipal workers in Nairobi were striking over two months' unpaid salaries. At the beginning of March, railway workers struck in Mombasa because they had not been paid for February.

At the end of May, official strike figures showed a 30 per cent rise in the number of strikes over the last two years.

Officials of the Mombasa branch of the Local Government Workers' Union said that they would go on strike at the beginning of June unless they were paid for May.

Workers at a sanitary firm in charge of cleaning Nairobi's Central Business District went on strike in June because they were owed three months salaries. Nairobi Council had not paid the cleaning company.

At the end of June, the secretary general of the KNUT teachers' union said that the government was behind moves to form a trade union for secondary schoolteachers. KNUT had gone on strike in 1998 when the government reneged on a pay agreement and the strike had been declared illegal. Strikers were beaten and arrested. It was later reported that the IMF had told the government that it would not approve a new loan facility to allow it to pay the second phase of the teachers' salary agreement.

On 15 July, a private parliamentary motion introduced by the COTU secretary general, Joseph Mugalla, in his capacity as an MP, was passed. It called on the government to urgently introduce a bill to amend the Trade Disputes Act to allow for faster methods of resolving disputes. It called for adequate compensation for wrongful dismissal and for the industrial court system to be restructured to include an Industrial Court of Appeal. In March the Federation of Kenya Employers had called for the Trade Disputes Act to be amended so that it could legally appeal against Industrial Court Rulings.

## Lesotho

POPULATION : 2,062,000 / CAPITAL : Maseru / ILO CORE CONVENTIONS RATIFIED : 29-87-98-100-111



### Union and workers' rights ignored in industrial zones

**Trade unionists continued to be intimidated in the industrial zones, where the country's labour laws apply in theory but are not enforced. Outside the zones, restrictive legislation prevents public servants from joining unions.**

Lesotho's labour law applies in the country's industrial zones where mostly textile firms manufacture for export – but police stations at the entrance to the zones stop union organisers getting in. Most investors are from South Africa, followed by Taiwan and Hong Kong. The Labour Ministry has proved either unwilling or unable to enforce the law in the zones.

Unions said that employers in the zones were constantly undermining union organising by harassing organisers and intimidating members. Union activists were frequently sacked and put on blacklists.

Many of the companies pay below the minimum wage, and enforce very long working hours - often locking-in the workers until an order is finished. Workers are forced to work during holidays and weekends without overtime pay. Employers refuse sick-pay leave and engage in almost constant unfair dismissal practices. In many of the factories, deductions are made from wages for workers found talking, or using the toilet more than once a day.

**Legal restrictions on union rights**

Public servants cannot form or join trade unions - only associations without bargaining rights. This violates Lesotho's 1993 constitution.

The Lesotho Union of Public Servants (LUPE) went to court over their right to form a union. In 1997 the High Court ruled against the union on the grounds that their petition was not consistent with the Labour Code. LUPE filed an appeal, which has not yet been heard.

Teachers were banned from striking under a 1995 law that designates teaching as an essential service.

Lengthy and cumbersome procedures have to be followed before a strike can take place, with the result that there have been no legal strikes since independence in 1966. Workers are often sacked for going on strike even though this is against the law.

# Libya

POPULATION : 5,339,000 / CAPITAL : Tripoli / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111-138



**Workers are not free to form and join trade unions of their choice. They can only join the government-controlled General Trade Union Federation.**

**No freedom of association**

The General Trade Union Federation is controlled by the government, and administered by the Libyan system of 'People's Committees'. Foreign workers are not allowed to join.

Independent trade unions are banned. The government views them as unnecessary "intermediaries between the revolution and the working forces".

The law prohibits public servants, agricultural workers and seafarers from bargaining collectively, although there is no collective bargaining in practice in any sector.

The government must approve all collective agreements to ensure that they are in line with the national economic interest.

**Lack of protection**

Workers are not protected against anti-union discrimination at the time of recruitment. Public servants, agricultural workers and seafarers are not adequately protected against acts of anti-union discrimination.

Public servants can be imprisoned, or sentenced to forced labour for striking. Libya's President claims workers can go on strike, but choose not to because they control their enterprises.

# Madagascar

POPULATION : 15,057,000 / CAPITAL : Antananarivo / ILO CORE CONVENTIONS RATIFIED : 29-87-98-100-111



**Twenty trade unionists have been out of work for over two years pending the outcome of an appeal against their reinstatement. In the export processing zones, employers still ignore union rights.**

**Union rights ignored in zones**

More than 27,000 workers in the 200 export processing zones cannot exercise their legal right to join a union or to go on strike. The authorities are either unable due to lack of resources or unwilling to enforce the labour law, despite pressure from unions.

**Legislation**

Seafarers do not have the right to organise. The ILO has criticised the conditions under which the law allows the government to requisition striking state employees, saying that they are too broad. A 1960 Ordinance on associations still governs trade union constitutions, organisation and operations as well as their right to organise.

The government has told the ILO that the 1995 Labour Code is being restructured.

**Union leaders still not reinstated**

Twenty union leaders remained out of work after being sacked in 1997 for going on strike. In September 1997, the trade union at the headquarters of the national social security institute in the capital city, Antananarivo, went on strike after the new Director cut benefits that had been acquired through collective bargaining. The Director refused to negotiate with the union.

The Labour Ministry mediated in the dispute, and it was agreed that benefits would be restored and no sanctions would be taken against the strikers. When the strikers went back to work, 20 union leaders and union members were fired.

They took the case to court. The judge ordered their reinstatement and payment of their salaries for the dismissal period. The Director refused and appealed against the sentence. The judgement had still not been delivered by the end of 1999.

The Director continued to discriminate against trade unionists. The general secretary of the FMM national trade union centre was transferred from Antananarivo to Ampanihy, a distance of 900 km. Modeste Raveloson, a union official who had defended the sacked workers was transferred to Nosy-be. The vice-president of the Womens Committee was transferred to Sambava.

## Mauritius

POPULATION : 1,141,000 / CAPITAL : Port Louis / ILO CORE CONVENTIONS RATIFIED : 29-105-98-138



**Some restrictions on trade union rights remained in the law. Organising continued to be difficult in the export processing zones.**

**Harassment over time off for trade union activities**

The Government Teachers' Union (GTU) continued to report harassment by the Ministry of Education over the issue of time-off for trade union activities. It said that the problem had been going on for eight years.

In 1999 the Minister of Education announced that he was going to make salary deductions as from 1 March for absences linked to trade union activities. The Ministry said that eight trade unionists were concerned, including the General Secretary of both the GTU and the MLC national trade union centre, Jugdish Lollbeeharry.

**Most representative trade union**

In March, the Minister of Labour informed trade unions that he was going to carry out an exercise to determine the most representative trade union based on 1997 figures.

**Restrictions on rights**

The law does not adequately protect trade unions against acts of interference by employers. Free collective bargaining is undermined in the state sector because the government sets wage levels.

Legal strikes are rendered difficult to organise because of lengthy pre-strike procedures. The Industrial Relations Act grants the Prime Minister the prerogative to declare any strike illegal if he considers that it "imperils the economy".

**EPZs – hostility to trade unions**

The labour law applies in the export processing zones which employ some 90,000 workers. Many employers, and particularly smaller investors from East Asia, are hostile to trade unions and victimise and intimidate workers wishing to form or join them. In many cases they established employer-controlled works councils. Union organisers find it hard to gain access to the premises of many of these companies.

There is hardly any collective bargaining in the zones. The Statutory Wage Commissions determine wages after representations by employers and workers' representatives. Special clauses of the labour law that applies in the EPZs include compulsory overtime and compulsory work on public holidays.

## Morocco

POPULATION : 27,377,000 / CAPITAL : Rabat / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111-138



**There is little protection in law or practice for trade unionists, who are liable to be charged under the penal code and imprisoned for going on strike.**

### No protection against anti-union discrimination

The labour code does not protect trade unionists against anti-union discrimination including arbitrary dismissal, and discrimination at the time of recruitment, nor does it protect unions from acts of interference by employers, in particular from the promotion of employer-dominated unions.

The authorities regularly level criminal charges against strikers under Article 288 of the penal code for "withdrawing labour". This can result in trade unionists being fined or sent to prison.

### Bargaining laws inadequate

Morocco's collective bargaining laws are inadequate: employers set wages for many workers. Many disputes arise over the failure of employers to implement collective agreements.

### Victimisation

In the private sector, there was no improvement in enforcing the provisions of the law. The authorities rarely act against employers who victimise trade unionists, refuse to pay the minimum wage and social security contributions, or close factories illegally.

Employers collude with the police, who often use violence against striking workers. Even the election of a trade union leadership in an enterprise can result in the police being called.

The UMT said that its members in the public sector also suffered victimisation, intimidation and arbitrary punishment. It reported that "sweetheart" unions had been set up in ministerial departments.

### Draft labour code more in line with ILO standards

The Council of Ministers adopted a draft labour code in April 1999. It brought the law more into line with ILO conventions in respect to anti-union discrimination and protection against acts of interference by employers' organisations. While the draft dealt with the promotion of collective bargaining, the provisions only applied to the private sector. A tripartite committee was established to examine it.

A supplementary bill on settlement of collective labour disputes, provided for compulsory arbitration in cases where agreement was not reached in conciliation.

### Union delegates sacked

At Citibank in Casablanca, four trade union delegates were illegally fired after holding a union meeting on 11 February. In spite of intervention by the authorities, the company refused to reinstate the trade unionists. The workers held two sit-ins in protest.

### Prison sentences for strikers

In September 1999, harsh jail sentences of between two and 12 months were imposed on 23 workers for going on strike.

In one case, the head of the UMT-affiliated coastal fisherman's union, (SMPC), Brahim Mounassir, and two other union activists were jailed for one year. They had been arrested in Agadir after clashes with the police who were trying to force hundreds of fishermen to end a strike. The strike began on 15 September to call for better working conditions. The UMT said that ship owners were hiring non-union workers.

In Rabat on 24 September, a court sentenced 21 UMT members to various prison terms. They included the general secretary of the union branch at the AVITEMA poultry plant, Slimane El Berri, in Temaru province, as well as a Rabat UMT regional official, Abdesslam Labiad. The sentences were between one and eight months - although seven of them got suspended sentences for four months. They went on strike on 1 September to protest against violation of the labour law and existing agreements. The company called in the police the next day who brutally intervened. They were taken to court and denied bail.

A Moroccan human rights group said that the rights of the defence were abused and that they did not receive a fair trial. The court rejected the defence's call for witnesses and medical experts to examine the workers for signs of torture. The police had tied them up and beat them while officials from the local authorities stood and watched.

They said they would appeal against the sentences. Some one hundred workers who had gone on strike were not given their jobs back. Despite attempts by authorities to mediate, the company refused to attend any meetings. The authorities took no further action.

On 30 November, the police intervened again in a sit-in at UMT offices in Rabat to demand that the sacked workers be given their jobs back. The employer had brought strike-breakers in illegally.

On 7 October, six agricultural workers belonging to the UMT in the Belksiri region were arrested after going on strike to demand respect of the labour law. They were brought before the public prosecutor in Sidi Kacem who refused bail. They were imprisoned and appeared in court on 19 October charged with "withdrawing labour".

#### Union busting

In August, a trade union was formed at the Mortex plant in the industrial zone of Sale, where mostly foreign-owned textile plants produce for export. The management tried to destroy the union and sacked its general secretary, Fatma Abdellaoui, as well as 60 other workers. The workers were physically attacked, they were not paid for August, and management closed the factory. In September, the workers held protest sit-ins outside company headquarters and public buildings.

## Namibia

POPULATION : 1,660,000 / CAPITAL : Windhoek / ILO CORE CONVENTIONS RATIFIED : 87-98



**Miners fearful for their safety were disciplined, while bank workers sacked following a strike were contemplating court action. The ban on strikes in the EPZs remains in force.**

#### EPZ strike ban

The law bans strikes in Namibia's export processing zones in Walvis Bay and Oshikango and other single factory EPZs. The penalties for breaking the law are severe. Disputes have to be channelled through dispute resolution mechanisms. If a dispute remains unresolved, it has to be referred to compulsory arbitration.

Both strikes and lockouts were banned for a five-year period in the 1996 EPZ Amendment Act. The ban on strikes and lockouts will be repealed in 2001 unless it is re-enacted before then.

The section of the 1996 Act that concerns the application of the labour law to the EPZs will also be repealed in 2001 unless it is re-enacted. If this section were repealed, workers in EPZs would be deprived of the right to organise altogether.

#### Tripartite agreement

At the end of 1998, there was a tripartite agreement that the 1992 labour law needed to be overhauled.

The NUNW national trade union centre said that the application of the act had highlighted several weaknesses and loopholes. Specific problems had arisen with dispute resolution procedures and the operation of the labour courts, which NUNW said were ineffective, unable to enforce rulings, biased in favour of employers, and had a backlog of complaints.

**Obstacles to organising**

While the labour law covers farm and domestic workers, NUNW said that in practice they continued to face massive obstacles in organising these workers.

In the mining sector, most of the foreign companies with mining concessions in Namibia violate the labour law, particularly by refusing to talk to the unions and victimising their members.

**Miners' safety agreement ignored**

On 13 April, workers at the Navachab gold mine near Karibib held a peaceful demonstration to protest about the shortage of oxygen in the mine's metallurgy plant where they had to perform strenuous work in intense heat for up to eight hours. This often led to physical collapse. A risk assessment report that was carried out on conditions at the mine at the end of 1998 had not been shown to the union.

Although an agreement had been reached by the mine and the MUN mineworkers union that workers had the right to leave a work place if they believed that their safety was threatened, workers who did so were disciplined. The company gave final warnings to some workers, and charged others who had not been involved with refusing to carry out orders.

**Striking bank workers sacked**

In July, First National Bank sacked 18 of its black staff in Oranjemund following a wildcat strike. More than half the bank's workers had gone on strike to demand the transfer of the administrative manager, whom they accused of racism and intimidation. They said that the bank's headquarters in Windhoek had ignored their attempts to raise the matter. The sacked workers said that they had been locked out.

The company asked the sacked employees to return but said that they would have to appear individually before disciplinary hearings. They were given five days to appeal. They said that they would go to court with the support of the Namibian Financial Workers' Union. The union had offered to step in to mediate but the bank management refused.

## Niger

POPULATION : 10,078,000 / CAPITAL : Niamey / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Chronic budget problems led to the continuation of public sector strikes over the non-payment of salaries. Trade union delegates were victimised.**

**Strikes over pay arrears**

Public sector strikes continued in 1999 because of salary arrears. The SNEN teachers' union boycotted classes when the new school term started in January 1999 because their members had not been paid for October and November. The union was also protesting at compulsory retirement plans after 30 years service for public servants.

Public service unions went on a 48-hour strike on 4 March in protest at conditions of service that had been imposed by a World Bank/IMF adjustment programme. There were strikes in September over salary arrears which dated back to April's military coup.

In October, teachers who had not been paid since April and May went on an indefinite strike at the start of the academic year. Nurses, midwives and laboratory technicians went on a three-day strike.

After democratic elections took place in November, several foreign governments stepped in to pay some of the public sector wages.

**Union activists sacked**

Fourteen trade unionists belonging to the SYNTRAMIN union at the Cominak uranium mining company in Arlit in the north of the country, were arbitrarily sacked at the beginning of 1998 and deported to Niamey because of their trade union activities. Security forces had surrounded Cominak's premises when workers held a five-day strike in support of their sacked colleagues.

They were forced to live in the headquarters of the USTN national trade union in Niamey for over 12 months, separated from their families. In 1999 the USTN and SYNTRAMIN managed to arrive at an agreement with the company in which the sackings were transformed into negotiated departures.

Illegal sackings of trade union delegates took place at the ONAHA state-owned irrigation office. On 17 February, the Director-General sacked several employees, including three union delegates. Regulations in force said that union delegates could not be dismissed during their mandate without the agreement of the Labour Inspector. No agreement was reached in negotiations, and the matter went to court. After the military coup, the Director-General asked the workers concerned to withdraw the court case and he reinstated them.

#### ILO criticism

The ILO has criticised a 1996 Legal Order which says that striking state employees can be requisitioned in exceptional cases arising as a result of the need to preserve the general interest.

## Nigeria

POPULATION : 106,409,000 / CAPITAL : Abuja / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100



#### Repression under former regime

### Major progress continued in restoring trade union rights.

Since the death of the military ruler, General Abacha, in June 1998, trade union rights have been restored. Abacha was replaced by General Abubaker who oversaw a transitional period leading to elections in 1999 for a civilian government.

The military government under General Abacha rendered independent trade union activity impossible from 1994 onwards through far-reaching government intervention into trade union affairs. It dissolved the executive bodies of the national trade union centre, Nigeria Labour Congress (NLC), and the oil workers' unions NUPENG and PENGASSAN. Union leaders were intimidated and arrested by the security services, two union leaders were detained without trial, and harsh anti-union decrees were brought in which sought to weaken and control the trade union movement.

#### NLC elections

The NLC held free and democratic leadership elections at its national delegates congress on 27-28 January 1999. Elections to the state councils of the Nigeria Labour Congress (NLC) took place on 23 February 1999.

In January 1999, the anti-union decrees brought in by the previous regime, which had amended the Trade Unions Act, were repealed or amended.

The government published Decree No. 1, which amended Decrees No. 4 and No. 26 of 1996. It also published Decree Number 2 which amended Decree 29 of 1996.

#### Decree No.4 amended

Trade Unions (Amendment) Decree No. 4 -

- Restructured the 41 industrial affiliates of the NLC into 29 unions
- Made it a criminal offence for any other union to belong to the NLC
- Imposed automatic affiliation of the 29 unions to the NLC
- Interfered into the right of unions to determine their affiliation fees to the NLC by imposing a contribution rate
- Contained a provision prohibiting a court challenge to its validity

Trade Unions (Amendment) Decree No. 1 of 1999 deleted all restrictive references to the 29 unions made by Decree No. 4 and added a reference to "any other workers' trade union registered under this act".

However, Nigeria's Trade Unions Act still provides for a system of trade union monopoly because it says that all registered trade unions must belong to the NLC. It also says that no union can be registered in a place where one already exists.

**Decree No. 26 amended**

Decree No. 26 -

- Required officers of a trade union to be "card-carrying" union members employed in the trade or industry represented by the union, under penalty of a 100,000 Naira fine, and/or five years in jail. It thereby disqualified full-time union officials, i.e. leaders of NLC affiliates, from standing for leadership elections to the 29 industrial unions, and the NLC at national and state levels.
- Allowed the Minister of Labour to cancel the registration of any of the 29 NLC affiliates if he considered their activities to be at "variance with the overriding public interest" - which was not defined. Unions could appeal against such a decision to the Minister within 30 days, but could not challenge the Decree in the courts.
- Banned a de-registered union from collecting union dues.
- Said that check-off payment of union dues was only permitted if there were "no strike" clauses in collective agreements concluded after the registration and recognition of the 29 NLC affiliates. Strike action taken in defiance of such clauses would lead to the suspension of check-off.

Decree No. 1 has introduced the possibility of a court challenge where union registration was cancelled or denied. It redefines the term "member of a trade union" more broadly to include a person normally engaged in a trade or industry represented by the union, and a person either elected or appointed by a trade union.

However, the power of the Minister of Labour to revoke the certification of any registered trade union due to overriding public interest, and the "no-strike" clauses in collective agreements required for the implementation of check-off, have been maintained. A "no lock-out clause" has been added.

**Decree No.29 amended**

The Trade Unions (International Affiliation) (Amendment) Decree No. 2 of 1999 amended Decree No. 29 of 1996.

Decree No. 29 made future international trade union affiliation conditional upon prior approval from the authorities, and cancelled existing international affiliations unless they were to two specified organisations.

Contravention of the Decree entailed a penalty of up to five years in prison and/or a 100,000 Naira fine and the possibility of de-registration of a trade union or association.

The 1999 changes mean that a trade union can affiliate to any international trade union organisation, but prior approval from the authorities is still required. The penalty has been deleted.

**Remaining restrictions**

The Trade Unions Act prevents certain categories of public employees from forming or joining trade unions including those in customs and excise, immigration, prison services, security printing and minting, central bank, and external communications.

The Act requires a minimum of 50 workers to form a trade union.

It grants the Registrar of Trade Unions broad powers to supervise trade union accounts at any time.

The right to strike can be restricted by the imposition of compulsory arbitration in a broad range of industries, which are defined as essential services, including teaching. A fine or six months' imprisonment can be imposed for failing to comply with a final award made by the National Industrial Court in this respect.

**EPZs**

The 1992 decree governing the functioning of the EPZs does not refer to trade unions - only to employees, nor does it allow any unauthorised persons to enter the zones. It bans strikes for the first ten years of a zone's functioning.

# Senegal

POPULATION : 9,003,000 / CAPITAL : Dakar / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**In December the ILO said that the Senegalese government should reinstate trade union leader Mademba Sock and other activists dismissed from the state power company for alleged sabotage.**

## Imprisonment following work-to-rule

On 8 December 1998, Mademba Sock, general secretary of the electricity workers' union, SUTELEC, and another trade union official, Samba Yero Dieye, were sentenced to six months imprisonment for conspiracy to disrupt law and order. The other 24 unionists accused were acquitted.

They had been arrested in July 1998 after SUTELEC had begun a work-to-rule. This was in protest against the privatisation of the national electricity company, SENELEC, and to support their claim for salary increases. The overtime ban and refusal to do maintenance work caused power cuts throughout the country, including in hospitals etc. SENELEC went to court and claimed that the union had sabotaged electricity installations. The company also fired those employees who had been arrested.

On 23 January 1999, they left jail after having served their sentences. Police used teargas against their supporters who had assembled to meet them outside the jail, and eleven of them were arrested.

## Union leaders ordered to pay damages

On 20 May 1999, Mademba Sock and two others were sentenced by the Dakar Appeal court to pay 280 million francs CFA (2.8 million French francs) in damages to SENELEC in connection with the strike. They said they would appeal against the sentence.

## ILO calls for reinstatement

On 13 December 1999, the ILO said that the Senegalese government should reinstate trade union leader Mademba Sock and other activists dismissed from the state power company for alleged sabotage.

## The Labour Code

The Labour Code requires the Minister of the Interior to give prior authorisation before a trade union can legally exist.

A 1968 law providing that the authorities can dissolve trade unions was superseded by the 1997 Labour Code, but was not repealed.

# South Africa

POPULATION : 39,357,000 / CAPITAL : Pretoria / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-111



**It was reported that the 1995 Industrial Relations Act would be amended to take account of pressures for labour market de-regulation.**

## Pressure for deregulation

In 1999 there were reports that South Africa's 1995 Labour Relations Act would be revisited after pressure from business groups and the international financial institutions who were pushing for the introduction of labour market deregulation and flexibility.

There were conflicting statements about whether there would be a review of the whole act or only the key aspects that were said to hinder job creation. The Minister of Labour announced that amendments would be ready by August 2000.

<b>Strikers injured</b>	On 19 July, police fired rubber bullets at striking NUMSA metalworkers who refused to leave a stainless steel plant. Two workers were hospitalised with injuries and at least 150 were arrested, allegedly because they had defied a court order barring them from entering the property of the Columbus Stainless plant in Middelburg, north of Johannesburg. The union denied that they had done anything illegal.
<b>III-treatment of farm-workers continues</b>	There was no improvement in treatment of farm-workers who continued to face abuse of their trade union and employment rights. They faced physical abuse, non-payment of wages, and poor housing.

## Sudan

POPULATION : 28,292,000 / CAPITAL : Khartoum / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111



**Democratic trade unions were abolished in 1989. Only the official trade union structure, which is under the regime's control, is permitted to exist.**

### Democratic unions abolished

Democratic trade unions were abolished in 1989 when the fundamentalist military regime took power in a coup d'etat. Only the government-controlled Sudan Workers' Trade Union Federation (SWTUF), named in the law, can function.

Most union leaders were sacked or detained when trade unions and professional associations were dissolved after the coup. Trade union affairs were managed by steering committees controlled by the regime until 1992 when the regime brought in a Trade Union Act.

### The 1992 Trade Union Act

The 1992 Trade Union Act imposed a single trade union system. The Act:

- authorises and established a trade union monopoly
- allowed the Minister of Justice to define the sectors, industries and enterprises in which unions can exist
- denied union rights to certain public servants
- interfered extensively in internal union affairs and elections
- gave the authorities the power to suspend or dissolve trade union organisations
- does not provide for the promotion of collective bargaining
- did not protect workers against acts of anti-union discrimination.

### Union in exile

Union leaders from the pre-coup SWTUF went into exile in 1992 and established the Legitimate Sudan Workers Trade Union Federation, the SW(L)TUF.

### Government-controlled national centre

After rigging union elections towards the end of 1992, and merging the existing 107 sectoral or company unions into 26 unions, the regime sponsored a trade union congress in 1993 to establish the SWTUF as the national trade union centre. The SWTUF's objectives are to "mobilise the masses for production and to defend the authenticity of the Islamic state". In 1996 a further merger took place reducing the number of unions to 13.

### Most wages set by state, strikes banned

A body controlled and appointed by the regime sets most wages. There is very little collective bargaining. The Minister of Labour has wide powers to refer a dispute to compulsory arbitration. Strikes are banned.

### III-treatment of seafarers

The treatment of Sudanese seafarers worsened significantly after 1989. The regime controls the Sudanese shipping industry through its ownership of the Sudan Shipping Line. Seafarers are forced to work on its ships, which sail in war zones and in areas of health epidemics where no other ship will go. Those who contact the International Transport Workers' Federation to

complain about wages and working conditions face arrest and torture upon return to Sudan. Former members of the pre-coup shipping union are victimised.

#### Oil sector

Collusion between the government and international oil companies keeps trade union organising out of oil extraction - concentrated on the border between the warring north and south of the country. There are reports that the barrellage charges paid by the companies to the government are used towards its war effort against the south.

#### Security laws

The regime uses its security laws against leaders and members of the former unions and political opponents. These allow for a three month detention period which can be renewed.

#### Strikes

Privatisation of the economy and mass dismissals of workers continued. Some strikes took place against deteriorating economic and living conditions.

#### Union leader arrested

On 11 January Yahya Ali Abdalla, the secretary general of the SW(L)TUF in Sudan was arrested. The SW(L)TUF said that 16 other trade unionists were also in detention at that time.

## Swaziland

POPULATION : 952,000 / CAPITAL : Mbabane / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**There was no change in Swaziland where the 1996 Industrial Relations Act remained in force and harassment and victimisation of the SFTU and its leaders continued.**

#### SFTU demands

The SFTU and its leaders have been harassed and victimised since 1993 when the national trade union centre first raised several demands with the government. These focused on labour and economic issues as well as demands for a more democratic society, and repeal of the security laws. Swaziland's constitution has been suspended since 1973 when a decree was enacted which also banned political parties and introduced a state of emergency. Although the King of Swaziland set-up a constitutional review commission in 1996, it was composed of handpicked representatives.

#### Bill adopted by parliament

In 1995 the government adopted the draconian 1996 Industrial Relations Act despite opposition from the SFTU and employers.

A new industrial relations bill to replace the 1996 Act, drafted on the basis of discussions between the SFTU, employers and the government, and with ILO technical assistance, was finalised in March 1998. The government approved it in July 1998.

On 12 May 1999, the government submitted the Industrial Relations Amendment Bill to parliament. Parliament made amendments to it and announced that it would not rush the bill through because the SFTU had boycotted the 1998 elections. A parliamentary motion to defer the bill to a select committee for review failed. Although the bill was adopted by parliament it was still awaiting the assent of the King.

#### Harassment continues

At the beginning of January 1999, the SFTU said that its president, Richard Nxumalo, and vice-president, Eliot Mkhathshwa, had been arrested and detained on several occasions in the previous few weeks. The family of the general secretary, Jan Sithole, had been receiving anonymous telephone calls and threats.

On 12 January 1999, Barbara Dlamini, deputy general secretary, and Zodwa Mkhonta, assistant general secretary, were arrested and detained for several hours.

**Collective bargaining undermined**

In March 1999, during collective bargaining negotiations between associations of civil servants, nurses and teachers, and the government, the Minister for the Public Service called a press conference. He announced that all workers who wanted a pay increase, should go to his office and sign a form. They would then receive a pay rise. In this way, he circumvented the associations' recognition agreements.

The action of the Minister was roundly condemned in the Industrial Court, which ruled in favour of the associations. The Court said that the government "had subverted collective bargaining and breached its duty to bargain in good faith".

When the three public sector associations announced that they would hold a protest march, the police announced that they would use everything in their power to make sure that the march did not take place. The authorities used the 1973 decree on meetings and demonstrations to try to stop the march from going ahead. Marching workers were brutally beaten by police in riot gear.

**Intimidation**

In April, the Swazi parliament called for Jan Sithole and Richard Nxumalo to be deported, on the false allegation that they are not Swazis. The same argument had first been used in 1995 to intimidate the SFTU leaders.

On 4 October, the entire national executive committee of the Swaziland National Association of Teachers (SNAT) were arrested at dawn and taken to Lobamba Police Station where they were detained. They were released several hours later.

The detentions took place five days after SNAT had organised a peaceful demonstration and march to the Ministry of Education to protest against a unilaterally imposed continuous assessment system of education. The authorities had refused to discuss it with the teachers' association.

The union leaders were detained for "un-Swazi" behaviour because they had carried a coffin during the march to symbolise the burial of the continuous assessment system of education, and had sung the South African anthem which is synonymous with the struggle against apartheid.

On 4 November, workers who marched to the Ministry of Enterprise and Employment to present a petition against political interference by the authorities were attacked by the security forces.

At the beginning of December 1999, the government-controlled broadcasting and information services (SBIS) banned the SFTU from broadcasting any announcements or other information unless the police had approved it in writing. The SFTU said that they generally announced union meetings and stay-aways on the radio.

**The legislation**

The 1996 Industrial Relations Act contains severe restrictions on trade union rights.

- An official of a trade union federation who calls a strike can face a fine of 5,000 emalengeni and/or five years in prison, and a subsequent five-year ban on holding union office.
- Equally severe penalties apply to organisations or officials calling, organising or giving financial support to "unlawful" strikes.
- An official calling a strike in the broadcasting sector can be imprisoned for one year and disqualified from holding union office for one year.
- The Minister of Labour can amend the definition of essential services.
- Sympathy strikes are banned and unions cannot picket outside establishments not directly involved in a dispute.
- The Commissioner of Labour must conduct a strike ballot and a majority of all employees must vote in favour of it.
- The Minister of Labour can apply for a court order to ban a strike on the basis of the national interest, which is not defined.
- Courts can cancel or suspend the registration of a union taking strike action, which is not in conformity with the act.
- The role of federations is limited to giving advice and services.
- Courts can penalise, and even dissolve, a union or federation if they find it has devoted more time and funds to public policy issues than occupational issues during the past year.
- The act does not protect trade unions against acts of interference by employers.

- Federations cannot take part in collective bargaining.
- Industrial level bargaining can only take place if the Commissioner of Labour considers the establishment of an Industrial Council to be “desirable or practical”.

The act perpetuated several restrictions on union rights contained in the 1980 Industrial Relations Act.

- The Labour Commissioner can refuse to register a trade union if he thinks an existing union already represents the interests of the workers in the sector.
- Workers can only organise unions within the industry in which they are employed.
- Prison staff cannot form or join trade unions.

#### Security laws

The 1973 Decree on Meetings and Demonstrations restricts the right of organisations to hold meetings and demonstrations. It has been used to prevent group submissions being made to the sham Constitutional Review Commission, which was set up in 1996. Only individual submissions can be made, and, owing to a recent decision of the government, all submissions must now be made ‘in camera’.

Under the 1963 Public Order Act, police permission is needed for certain meetings and public gatherings. Police can attend union meetings.

## Tanzania

POPULATION : 32,102,000 / CAPITAL : Dodoma / ILO CORE CONVENTIONS RATIFIED : 29-105-98-138



#### The legal framework

**Tanzania’s Trade Union Act, adopted in 1999, contains severe restrictions on trade union rights.**

Labour is dealt with on a territorial, not federal basis in the United Republic of Tanzania. Separate laws exist for the mainland Tanganyika, and the islands of Zanzibar and Pemba.

In 1998 the government had introduced a Trade Union Bill for the mainland in order to bring the law in line with the multiparty system introduced some years earlier.

The Bill excluded public sector workers from forming or joining trade unions. It gave the Registrar of Trade Unions extensive powers to interfere in and supervise trade union activities.

After protests from trade unions the government amended the Bill to allow public sector workers to join unions, but there was no real change in the powers of the Registrar.

The law was adopted in 1999, but did not enter into force during the year. It provides for massive fines, imprisonment, or both, for failing to register a trade union.

The far-reaching powers accorded to the Registrar of Trade Unions allow the Registrar to:

- de-register the smaller of two trade unions if more than one exists in any establishment, trade, occupation or industry, and order the smaller of two trade unions to delete members from its membership list;
- suspend a trade union branch for contravening the Act or its own rules;
- suspend a trade union for six months on grounds of public order or security;
- invalidate international trade union affiliation if certain internal union procedures have not been followed, or if the Registrar is satisfied that the organisation being affiliated to, pursues matters other than the resolution of relations between employer and employee.

Only one official in a trade union can work as a full-time trade union official. Otherwise, elected officials must work full-time in the industry or sector the union represents.

The Act provides for fines, imprisonment, or both, in several instances for contravening its provisions.

The new law will repeal the 1991 law naming the Organisation of Tanzania Trade Unions (OTTU) as the sole trade union in the country. OTTU had already changed its name to the Tanzania Federation of Free Trade Unions in 1995.

Unions in Tanzania had been operating without legal status, with the exception of the teachers' union, which was the only registered union.

The new law would allow the national centre, as well as industrial unions, to be legally registered. The government agreed that registration would be a formality for existing unions, and the position of the TFTU would be regularised by its own congress. However there were signals that there was a possibility that the TFTU or its industrial unions could be dissolved to make room for a new national centre, when the law came into force in 2000.

The law also repealed the Trade Union Ordinance which regulated some aspects of trade union activities.

#### Zanzibar and Pemba – separate legislation

In 1999, a Bill was introduced into parliament for Zanzibar and Pemba. It was reported that it only applied to private sector workers. It did not protect trade union members against anti-union discrimination in recruitment and employment, nor against interference by employers' organisations. It said that collective agreements have to be registered by the Industrial Court and registration can be refused.

#### Collective bargaining

Currently, collective bargaining only takes place in the private sector. The government sets public sector wage levels. Tanzania's Industrial Court can refuse to register a collective agreement, which is not in line with the government's economic policy. The government said that it was examining ways of amending the legislation.

The authorities can impose compulsory arbitration in connection with a dispute in the context of a collective agreement.

Although employers are required to reinstate employees sacked for anti-union activities, the 1997 Warioba Report on Corruption found that bribes may determine whether a worker was reinstated.

#### Complex strike procedures

Unions have to follow protracted and complex procedures before calling a strike, which involve mediation, conciliation and an industrial court decision, and can take several months. The end result is that most strikes are illegal wildcat strikes and walkouts.

## Togo

POPULATION : 4,397,000 / CAPITAL : Lomé / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



### Teachers protesting at unpaid salaries encountered repression, including arrests and torture.

#### Teachers' and students' protests repressed

The UNSIT national trade union centre, its affiliated teaching union, FETREN, and the university students' organisation, organised a peaceful demonstration for 8 November.

FETREN had been on strike since the beginning of the school year - 18 October - to demand payment of salary arrears and to support their other claims. Students had not received their allowances. The unions said that the government had still been able to find large amounts of money for other purposes.

On the day before the demonstration, the authorities used the state media to publicise false documents and accused the unions of fabricating an international plot against Togo. The country was being increasingly isolated internationally because of alleged rigging of presidential elections in June 1998. The authorities banned the march. The unions subsequently organised a march for 8 December, which was also banned.

On 7 December, the police and army used tear-gas on a gathering of students that was peacefully discussing the education crisis. Student leaders were arrested and subsequently sentenced to 18 months in prison. A teacher who was distributing pamphlets about the march was arrested by members of the presidential guard and taken to a military camp where he was tortured.

On 8 December, a large number of police were deployed to stop the march from taking place. The police arrested five teachers where they had gathered together with other participant. They included the assistant general secretary of the SNETSS teachers' trade union, and two other SNETSS officials. They were taken to Lome police headquarters where they were tortured before being released that evening.

The unions called for a peaceful march on 16 December that was also banned. Another one was scheduled for 8 January 2000.

#### No inquiry into union leader's murder

The authorities failed to open an inquiry during 1999 into the killing of Liman Doumongue, deputy general secretary of the UNSIT national trade union centre who was murdered in August 1998.

It was widely believed that his murder resulted from the fact that his union was opposing the way in which the state-owned pharmaceutical company TOGOPHARMA, was being privatised. The police said that he had been the victim of a robbery, while his union said that there appeared to be discrepancies in the circumstances of the murder.

#### Foreign nationals

The Labour Code does not permit foreign nationals to carry out administrative or managerial functions in trade unions.

#### EPZs

A 1996 agreement which covers industrial relations in the export processing zone does not refer to trade unions but only to election procedures for staff representatives.

The 1989 Act establishing the EPZ provides that access to it is restricted to duly authorised persons.

## Tunisia

POPULATION : 9,335,000 / CAPITAL : Tunis / ILO CORE CONVENTIONS RATIFIED : 29-87-98-100-111-138



**Trade unionists were arrested in May and held for 48 hours. In December the police surrounded UGTT Headquarters and charged at union members holding a peaceful commemorative march.**

#### Arrests

On 10 May, ten former members of the UGTT, including former trade union leaders, were arrested without warrants and without charge for 48 hours: Abdeljalil Bedoui, Habib Ben Achour, Abdenmour Maddahi, Hamed Ben Njima, Noueredinne Ounaissa, Hachemi Lakhal, Chakeur Benhassen, Ali Ben Romdhane and Abdelmajid Sahraoui. Two weeks later the same thing happened to Mhamed Tahar Chaieb.

It was believed that the purpose of the arrests was to intimidate them. Their homes were searched and their families were threatened.

The police were also looking for Halim Chaabanne, a trade unionist from Nabeul. He went to the police voluntarily on 17 April and was released on 18 April. His family have been threatened and harassed since 10 May.

Two other unionists, Mohamed Lajimi and Jilani Hammami were targeted, but not arrested.

**UGTT march dispersed by police**

On 4 December, the police surrounded the UGTT headquarters. They tried to stop an annual trade union march from taking place, commemorating the 1952 disappearance and assassination of Farhat Hached. Hached, a nationalist leader, had founded the UGTT. The police charged at the participants to disperse them.

The UGTT subsequently held a protest demonstration in the same place. After further UGTT protests, the Head of State ordered an enquiry into the matter which resulted in certain police officers being disciplined.

**Strike restrictions**

For many years the ILO has expressed its concern about a 1967 law which requires unions at all levels to obtain the approval of the UGTT before declaring a strike.

# Uganda

POPULATION : 20,554,000 / CAPITAL : Kampala / ILO CORE CONVENTIONS RATIFIED : 29-105-98



**Uganda's government places the interests of investors above the rights of its workers. Police were sent in to disperse strikers during the year.**

**Restrictive legal framework**

All unions must by law belong to the National Organisation of Trade Unions (NOTU) which was created by an act of parliament as the country's sole national union centre. However, public servants and teachers, who have been authorised to form and join trade unions in recent years, have not been obliged to belong to NOTU.

In October 1998, the Uganda Allied Teachers' Union said that the union had applied for registration in December 1997 but had received no response.

Workers in the prison service cannot belong to trade unions.

The 1976 Trade Unions Decree requires 1,000 members to form a union; and requires 51% of the workforce in order to be recognised for collective bargaining. The government has recognised that these provisions are inconsistent with the 1995 constitution and has told the ILO that it is addressing the problem within the framework of labour law reform.

The right to strike is restricted by complicated procedures. After conciliation, grievances and strike notices must be submitted to the Minister of Labour, who often hands the case to the Industrial Court for decision. Both the Minister of Labour and the Industrial Court often rule against strikes.

**Anti-union investors**

Investors in many sectors have refused to recognise unions as bargaining agents, particularly in the textiles, railway and hotel sectors. Unions report victimisation of workers who try to form or join unions.

**Industrial Court undermined**

The functioning of the Industrial Court has been increasingly undermined in recent years. The Federation of Uganda Employers has questioned the Court's impartiality, and has not accepted its rulings. Although there is no avenue for appeal against the Court's rulings, employers have gone to the High Court. Unions have often lost these cases because they cannot afford to pay the legal expenses.

President Museveni has spoken out strongly against Industrial Court awards in favour of unions, and called on union leaders to "leave my investors alone". A government publication suggested scrapping the Industrial Court and replacing it with a non-binding arbitration service.

**Police intervention in strikes**

On 18 August 1999, workers at the Owens Falls dam in Jinja went on strike over the non-payment of termination benefits and their employer's refusal to renew the wage structure. On 20 August, military police, national police, and Jinja district police broke up the strike.

In September, anti-riot police fired guns to disperse strikers at the Uganda Sugar Corporation, although there were no casualties.

# Zimbabwe

POPULATION : 11,377,000 / CAPITAL : Harare / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111

**Respect for trade union rights and civil liberties continued to deteriorate dramatically.****Tsvangirai attacked**

An attempt on the life of Morgan Tsvangirai, the secretary-general of the ZCTU national trade union centre, at the end of 1997, was believed to be politically motivated. He was taken to hospital unconscious after being attacked by seven armed men. The attack took place two days after the country's biggest ever protest strike.

**Suspect acquitted**

In March 1998 the police announced that they were closing the Tsvangirai case because their investigations were fruitless. The ZCTU wrote to the Attorney General in June 1998, requesting him to re-open the investigation into the attack and providing the names of three suspects. A suspect was acquitted of the assault in court in August 1999.

On 20 January 1999, three men beat the deputy secretary general of ZCTU, Isadore Zingoda, who is also the general secretary of the textile union. One of the attackers was believed to be a police officer. The incident took place after three men in a blue Datsun car followed him around Harare. When he got out to ask them what they were doing, they beat him unconscious with an iron pole.

**Six-month strike ban**

On 27 November 1998. President Mugabe had declared national strikes illegal for a six-month period. The ZCTU had held a series of strikes in 1998 and was in the process of holding weekly stay-aways in protest at the dire economic situation.

Workers' living standards had been greatly affected by the rapid economic decline. Inflation rose to 40-50 per cent. The prices of basic foodstuffs spiralled, and the plunging currency nearly collapsed. The government persistently failed to take the views of the social partners into account.

President Mugabe used special powers under the Presidential Powers (Temporary Measures) Decree to suspend the Labour Relations Act. A trade union could be de-registered for disobeying the ban, and any person inciting a strike could be jailed for a maximum of three years or fined Z\$100,000, or both. Employers were given the go-ahead to fire any worker taking part in an illegal strike.

Lawyers said that the ban was unconstitutional, and the ZCTU challenged the Decree in the High Court. In February, the parliamentary legal committee ruled that the Decree was unconstitutional.

On 26 May government said it would not renew the ban.

**Unpopular government measures**

In June, the government made proposals to amend the Labour Relations Act to entrench the provisions contained in the Presidential Powers Decree into law, despite the opposition of the ZCTU and the other social partners. On 5 August, it withdrew its proposals after concerted pressure.

At the end of the year the government proposed an AIDs levy on all workers. In December, the ZCTU met to call for a cost of living increase and to discuss an indefinite stay-away in January to protest against the levy.

<b>Constitutional reform</b>	<p>In February 1999, the ZCTU resolved to pull out of the Tripartite Negotiating Forum, set up in 1998, because of the strike ban. The ZCTU was also demanding that the government uphold the decision of the National Constitutional Assembly (NCA) on procedures to formulate a new constitution. The NCA was made up of various civic groups including the ZCTU, and had been set-up in 1997.</p> <p>Later in the month, the ZCTU and pro-democracy civic groups decided to facilitate the setting up of a political party. The party was expected to be formally launched within six months, and would seek constitutional reform. The Movement for Democratic Change was initially launched in May, although not formally launched until September.</p> <p>The government argued that it had a mandate for constitutional reform through an appointed Presidential Commission, but at end of June the NCA said that it would not co-operate with the Commission.</p> <p>In December the ZCTU and NCA said they rejected the government's draft constitution which was going to be submitted to referendum in 2000. The draft did not provide for the right to strike.</p>
<b>Strike action</b>	<p>In January 1999, the board of directors of the Post and Telecommunications Corporation of Zimbabwe (PTC) said that the strike which began on 18 January by PTC engineers and technicians for a pay increase was illegal. It threatened strikers who did not return to work with the sack. The dispute had been going on for ten months. Another strike took place at the PTC in April.</p> <p>On 17 March, workers at the state-owned railway went on strike over management's decision not to pay 18 months of outstanding allowances. The management said that the strike was illegal. Railways are an essential service in Zimbabwe.</p> <p>On 16 June, teachers, public servants and nurses associations went on strike for a 20 per cent cost of living adjustment. One week later, the government said that those who continued striking would be severely dealt with.</p> <p>Hotel and catering workers went on strike from 10 September. Four days later, heavily armed riot police fired tear gas at a small group of strikers from the hotel and catering industry, who were waiting outside a library to be addressed by the union leader.</p>
<b>Restrictions in labour legislation</b>	<p>The 1985 Labour Relations Act provided for workers' committees to be set up at each workplace, and to negotiate with management on a wide range of plant-level matters, excluding wages. The committees exist alongside trade unions, and are legally independent of them.</p> <p>The 1992 Amendment to the Labour Relations Act provided for collective bargaining but the role and status of trade unions were further diminished by the greater emphasis on workers' committees. Works Councils, composed of management and workers' committees, were given powers to negotiate collective agreements or employment codes. These can override industry-wide agreements reached by employment councils, made up of unions and employers. The government can veto agreements, which it believes are harmful to the economy.</p> <p>The 1992 Act also provided a broad definition of managerial employees, which included workers such as foremen and supervisors, and excluded them from union membership.</p> <p>Long and extremely cumbersome procedures must be followed before workers can go on strike, which makes legal strikes extremely difficult to organise. The law gives a wide definition of essential services in which strikes are banned. The Minister of Labour can at any time designate any service or occupation as essential. Almost all strikes are declared illegal.</p> <p>Labour law bans union dues from being used for political purposes. The Minister of Labour has wide powers of control over union finances and can even set the level of union dues.</p>
<b>Zones exempted from labour regulations</b>	<p>Export processing zones were exempted from labour law regulations under the 1995 Export Processing Zone Act. In 1996 the government introduced special regulations which govern the terms and conditions of employment in the EPZs.</p>

The employees are mainly young women. The working hours are long, overtime is paid at normal rates, strikes are banned, workers are denied legal representation in disputes with employers, and workers can be fired at will. Workers' Committees have limited powers.

In June 1999, the ZCTU reported that unfair labour practices had increased in the EPZs.

#### **New harmonised labour bill**

- At the beginning of 1999, the government produced the fifth draft, since 1993, of the harmonised labour bill, which was expected to apply to both private and public sector employees. There was no further progress on the bill in 1999.
- The bill allows public servants, teachers and nurses to belong to unions, bargain collectively and have limited strike rights, although it proposes that membership of the Bargaining Council would be at the discretion of the Minister of Labour. Currently, these workers cannot join trade unions, and the government determines their conditions of employment. They are allowed to join associations, which cannot bargain collectively or strike.
- The bill narrows the definition of managerial employees. It maintains the provision that the Minister of Labour could refuse to register collective agreements on unspecified grounds. It also reproduces strike provisions in the previous law making legal strikes virtually impossible. The ZCTU said that scope for conciliation, mediation and arbitration was limited in the new bill, and questioned the purpose of the proposed Labour Advisory Board.
- In 1996 the ZCTU reported that the principle of getting rid of the workers' committees and replacing them with trade union committees had been agreed in tripartite discussions and was expected to be incorporated into a new harmonised labour law. The ZCTU said that members of the committees must also be active trade union members.
- Restrictions on the right to strike are maintained in the draft.





The same themes dominated the labour rights scene in Latin America in 1999 – violence against trade unionists, exploitation of workers, especially in the banana industry and in the EPZs, and the impact of structural adjustment and globalisation. Trends to eliminate tripartism were also in evidence.

Worst of all, Latin America remains the region where the highest number of trade unionists are killed each year. In Guatemala, at least three trade unionists were killed in 1999, a teachers' leader was shot dead by police in the Dominican Republic on the eve of a general strike and in Brazil the killing of rural workers continued. When transport workers in Nicaragua went on strike, the police and army cracked down violently, killing two and leaving hundreds injured.

Colombia still tops the league, however. The number of those killed was 69, lower than 1998 but a blood-chilling figure nonetheless. Over a third of the murders took place in the Antioquia region. Public sector workers were particularly vulnerable, above all teachers. Among those killed were two members of a local teachers' union in the Cesar state, who had been kidnapped by an armed group and tortured.

Death threats were on the increase in several countries, including El Salvador where a number of trade union leaders received threats during the year, and Costa Rica, where public sector workers were targeted. In Colombia, the number of death threats went up again, to 676.



Hostility to the unions remained rife in Costa Rica, in particular in its banana region. In April 1999, Adrian Herrera Arias, the General Secretary of the SITRASUR banana workers' union was sacked, and warned to leave the union. In April he was attacked by armed men, leaving him badly injured.

Austerity measures were the cause of a two-day general strike in Ecuador on 10 March, to which the government responded by imposing a 60-day state of emergency. There were violent clashes between protesters and the police, who used tear gas.

Dismissals continued in Peru at the privatised "Telefonica" company, while workers at the newly privatised railway company went on strike over a policy to introduce one-year contracts. When the unions organised a national strike on 28 April, 20,000 police were drafted onto the streets and the armed forces put on the alert.

There was no improvement in the region's export processing zones. In Mexico's maquiladoras exploitation was worse than ever. In the Han Young dispute, union-busting dirty tricks were used, union leaders were arrested, while strikers were fired and black-listed.

North America is by no means beyond reproach. In the United States of America some 40 per cent of all public sector workers are denied the right to bargain collectively and extreme exploitation took place in territories under the control of the US Government. It is estimated that 80 per cent of employers engage consultants and security firms to

assist in anti-union campaigning. In Canada too, public employees face many restrictions on their organising and bargaining rights, including on the right to strike. Private employers are no better. In November, unions at the Calgary Herald newspaper went on strike of the employer's refusal to negotiate a collective agreement, in what was to prove a lengthy and bitter dispute.



Americas

## Argentina

POPULATION : 36,123,000 / CAPITAL : Buenos Aires / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138

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**Although an agreement between the CGT national union centre and the government meant that 1998 reforms to the labour law had been mainly satisfactory to the unions, it looked as if the new government elected in October would finally introduce further labour flexibility measures.**

### 1998 legislative reforms

In September 1998, legislation was finally passed after three years of contention.

President Menem had originally tried to introduce a harsh flexibility package in line with the sweeping changes urged by the IMF as a condition for granting further loans.

The unions had opposed flexibility measures saying that they would mean the removal of many trade union and employment rights. In particular they were opposed to limiting the scope of collective bargaining to company or enterprise level, introducing flexible employment contracts making it possible to hire and fire workers on the cheap, and deregulating the "obras sociales" the union-run health schemes.

The law adopted in September 1998 confirmed the priority of industry-wide collective bargaining. It scrapped future temporary contracts under which workers had no social benefits known as "rubbish" contracts, and reduced the amount of severance benefit to be paid on future employment contracts. It extended company-level collective agreements for a further year if agreement could not be reached on their re-negotiation, reduced notice and trial periods, and regulated contracts for apprentices.

Labour flexibility and deregulation measures introduced as part of economic reforms since 1989 had included many legislative attacks on trade union rights. Successive decrees undermined collective bargaining, and the establishment of an extensive list of essential services undermined the right to strike.

### Employers' lobby

In 1999, employers continued to lobby the government to obtain cuts in the amount of social security they had to pay. They wanted the government to exempt companies from the provisions of collective agreements if they went bankrupt and wanted increased facilities to suspend workers. They also wanted to pay bonuses and holidays in instalments.

### New government

After the October 1999 elections, deputies from the new president's party submitted a draft bill to congress that would reform the law so as to grant trade union status to all unions.

In December, the new government signed an agreement with the IMF that required labour flexibility measures to be brought in. It was expected that a labour reform bill would be submitted to congress in January 2000 that would reduce employment costs and decentralise collective bargaining. It was also expected that the "obras sociales" would be taken away from the unions.

### Restrictions on union recognition

Labour legislation lays down excessive conditions for unions claiming legal trade union status, including a higher number of members. Unions representing workshops, occupations or categories of workers cannot in practice acquire trade union status. It provides that an enterprise union can only be granted legal status if another union does not operate within the geographical area or area of activity.

The law accords many privileges to unions with trade union status. Only associations which have union status enjoy trade union protection, are entitled to operate a check-off system for dues collection and can fully defend the individual and collective interests of workers, in particular through collective bargaining and tax exemptions.

### Collective bargaining

Under the law, the Ministry of Labour must approve collective agreements that extend beyond enterprise level. The Ministry has to take into account whether the agreement infringes public

order, as well as criteria for productivity, investment, the introduction of technology, vocational training, and other legal provisions.

The ILO has asked the government to amend the September 1998 law because it stipulates which level of a trade union has bargaining authority.

**Strikers injured**

On 6 July, three people were injured in the southern Neuquen province during a clash between police and striking government workers who were protesting against high unemployment.

**Truck strike declared illegal**

On 7 July 1999, the government said that it would ask congress to impose a state of emergency to deal with a three-day truck strike which it said was causing food and fuel shortages. The strike was in protest against a new tax that did not distinguish between vehicles for employment and vehicles for private use. On the second day of the strike, security forces were deployed to ensure the flow of goods. The government said that it would bring in the army to distribute food.

The government declared the strike illegal, and by presidential decree reactivated a dormant 1974 law allowing it to intervene in any sector which threatened the provision of public services. The strike was called off after the government postponed collection of the tax.

**Unpaid wages**

In August, there was social unrest in four provinces, Tucuman, Corrientes, Neuquen, and Tierra del Fuego over non-payment of public sector salaries and unemployment. The government made a commitment to the IMF to clean up provincial finances – meaning more cuts.

At the beginning of September, unpaid city workers in Tucuman demanding their wages for June, July and August clashed with police. Similar events took place in the province of Corrientes in June and July over unpaid wages.

In December, workers in Corrientes had not been paid since May. The police killed five people during strikes and protests.

# Bolivia

POPULATION : 7,957,000 / CAPITAL : La Paz / ILO CORE CONVENTIONS RATIFIED : 105-87-98-100-111-138



**Strikes continued in Bolivia over unpopular economic and social policies. The government claimed to be improving its labour legislation.**

**Decree to replace strikers**

At the beginning of February, the Minister of Education issued a decree saying that if teachers went on a indefinite strike to call for higher salaries and more state spending on education, as they had threatened to do, they would be replaced by retired, unemployed or student teachers. The Minister said that the measures would come into force after six consecutive days of strikes or 10 days of intermittent strikes.

**Strikes and protests**

On 1 May, the COB national union centre organised a Workers' Day of protest against government attempts to liberalise the labour laws. Clashes took place after the police tear-gassed participants as they tried to make their way to the government palace.

On 9 June, the COB announced a 24-hour national strike to protest against the government's economic austerity policy. The union said it would hold marches in all nine departmental capitals. This was the eighth strike against the government, which was elected in 1997. COB called for negotiations to be reopened over minimum family incomes and labour stability guarantees. The government said that the strike was illegal.

On 3 September, a general strike was organised against a rise in bread, fuel and transport costs, which virtually shut down the capital, La Paz. The city of Sucre, the capital of the Department of Chuquisaca, home to the Supreme Court, was also paralysed.

## Labour legislation

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Another 24-hour strike against the government's economic policy took place on 12 October. Bolivia's labour code prohibits many public servants from joining unions, although workers in the health, education and oil sectors can belong to unions. The government has told the ILO that the Public Service Statute is being elaborated and will grant the right to freedom of association.

Fifty per cent of the workers in an enterprise must give their agreement for a union to be formed, meaning that only one union is allowed per enterprise.

Members of trade union executive boards have to be of Bolivian nationality and trade union officials must work in the relevant enterprise. The government said it was preparing legislative amendments to change these provisions.

The authorities have wide powers to supervise union affairs and can dissolve trade unions by administrative order. The government said that a decree has been issued that provides for the participation of the Ministry of Labour's inspectors only on the express wish of a trade union. With respect to the latter, a Supreme Decree was adopted on 11 June 1999 providing that an administrative decision to dissolve a trade union must be automatically transmitted to the labour courts.

Three-quarters of all employees have to vote in favour of a strike. Strikes are banned in all public services, as well as banks; compulsory arbitration can be imposed by the government to end strikes; general and solidarity strikes are illegal and can be punished by imprisonment. In practice general strikes take place. The government said that these matters would be handled in its review of labour legislation.

The labour code excludes agricultural workers although unions exist in certain enterprises. The government has said that a new law provides for them to be included in the scope of the General Labour Act.

Only trade union leaders are protected against anti-union discrimination and there are no measures to protect unions from acts of interference by employers. The government said that a Supreme Court decree of 11 June 1999 made provision to prohibit anti-union discrimination and prevent acts of interference.

## Brazil

POPULATION : 165,851,000 / CAPITAL : Brasilia / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111-182



"Unicidade"

**Many rural workers campaigning for land reform have been killed by hired gunmen, said a report released in May 1999. Another was killed that same month.**

In Brazil there can only be one trade union per occupational or economic category in a given territorial area. This is called "Unicidade" and is strongly opposed by trade unions and ignored in practice.

The government states that it is in the process of amending the constitution with regard to this provision.

Compulsory "union tax" is payable by every worker to the Ministry of Labour, which redistributes the funds to national trade union federations according to their membership.

### Bargaining restrictions

The law allows the government to cancel collective agreements that are not consistent with its wage policy. However the government and the social partners have agreed to repeal this law which is not applied in practice.

Collective bargaining for public servants is restricted.

**Rural workers**

An unprecedented number of clashes between landowners and landless rural workers took place in 1999. The MST rural workers' organisation stepped up its occupations of unproductive land to put pressure on the government to speed up and broaden land reform.

Military police frequently use excessive force in evicting workers from land. Hired gunmen help state police to evict workers and are hardly ever brought to justice.

On 20 May, two gunmen on a motorbike shot and killed Euclides Francisco de Paula, president of the Farm Workers' Union in Parauapebas, northern Brazil. He had already received several death threats because he supported land reform.

A report released earlier in the month by the Pastoral Land Commission, a Roman Catholic human rights group, said that gunmen hired by landowners had killed 41 Brazilian farm workers in 1998, and 30 in 1997.

The Commission said that 1,158 rural workers had been killed between 1985 and 1998, but only 86 cases had reached court.

On 16 August, a massive trial began in the state of Para where 150 military policemen faced charges of massacring 19 rural workers while clearing a demonstration from a highway in April 1996. The three commanding officers who were the first to stand trial were acquitted.

**Protestor killed**

Riot police killed a public sector worker, Jose Ferreira da Silva, on 2 December, and injured 20 others. Some 500 workers demanding higher salaries had blocked the entrance to a government-run company, Novacap, in Brasilia, and refused to move. Riot police charged them and said that they had fired rubber bullets, stun grenades, and tear gas, although live ammunition was found in the body.

## Canada

POPULATION : 30,563,000 / CAPITAL : Ottawa / ILO CORE CONVENTIONS RATIFIED : 105-87-100-111



**The federal government of Canada and the various provincial governments do not fully accept the trade union rights of public employees and regularly use legislation to restrict them.**

**Alberta**

Alberta restricts strikes by public hospital employees, including kitchen staff, porters and gardeners. While arbitration is provided to settle labour disputes for public employees, the following are excluded from what can be arbitrated: work organisation, the assignment of duties, the determination of the number of employees, job evaluations, job selection, appointment, promotion, training, transfers and pensions. The law provides lengthy and strict limits and guidelines which arbitrators are bound to follow in deciding awards.

In the private sector, Alberta's Labour Relations Code allows excessive government intervention in collective bargaining and provides ways for the employer to bypass the union as collective bargaining agent. The scope for employer interference has made it virtually impossible for workers in the retail and banking sectors to organise against determined opposition from employers. A 1998 revision of the code removed the jurisdiction of the Labour Relations Board to automatically certify a bargaining unit where serious unfair labour practices had been found.

In November, after failing to reach a first collective agreement in over one year of negotiations, trade unions representing workers employed at the Calgary Herald newspaper went on strike.

Section 88 of the code presumes the use of strike-breakers by the employer and provides that strikers only be given "preference" over strike-breakers in getting their jobs back after a dispute. The strikers must apply in writing with restrictive time limits. The authorities also use injunctions against strikes and strikers, and make excessive use of the police during strikes. Alberta does not allow workers in agriculture and horticulture to organise nor to bargain collectively.

<b>New Brunswick</b>	New Brunswick is another province that does not allow agricultural and horticultural workers to organise nor to bargain collectively.
<b>Manitoba</b>	The Manitoba Public Schools Amendment Act of 1997 restricts the powers of interest arbiters in disputes.
<b>Newfoundland</b>	In Newfoundland, many public sector workers cannot join the union of their choice and the right to strike is restricted in the public service because the employer has broad powers to designate essential services. The provincial government has reported to the ILO that it was establishing an effective procedure for defining essential services.
<b>Ontario</b>	<p>In Ontario, agricultural workers, domestic workers, architects, dentists, land surveyors, lawyers and doctors are excluded from the legal framework protecting trade union rights. The Ontario Labour Relations and Employment Statute Law Amendments, 1995, excluded these categories of workers from the protection of the Ontario Labour Relations Act and from other statutes regulating collective bargaining for employees in specific sectors.</p> <p>The existing organising rights of these workers were terminated as a result of this law, and collective agreements that were in force were nullified. The same legislation also removed existing protection of trade union recognition and collective agreements for contract service workers, such as cleaning crews, food service workers and security guards, in the event of a sale of business or of a change in contractor.</p> <p>The Savings and Restructuring Act 1996, the Public Sector Transition Stability Act 1997, the Public Sector Dispute Resolution Act, 1997, and the Social Contract Act, 1993 deal with compulsory interest arbitration in specific areas of the public sector. They allow the authorities to interfere in the establishment of labour tribunals and arbitration boards.</p> <p>The Education Quality Improvement Act of 1997 interfered into the collective bargaining of teachers.</p> <p>The 1998 Back to School Act brought strikes and lockouts to an end in secondary schools in eight school board jurisdictions.</p> <p>In 1999, Ontario adopted the Act to Prevent Unionisation with respect to Community Participation under the Ontario Works Act, 1997. This amended the 1997 Ontario Works Act so as to prohibit people taking part in community participation (work-fare - compulsory work as a condition of receiving benefits) from joining unions, bargaining collectively or striking.</p>
<b>Saskatchewan</b>	The Maintenance of Saskatchewan Power Corporation's Operations Act, 1998, which extended an expired agreement, imposed new wage rates, and took away the right to strike for three years.
<b>Federal government</b>	<p>The federal government regularly passed back-to-work legislation to end strikes. In March legislation forced striking employees back to work at the federal treasury, and at the Canadian Grain Commission in Vancouver.</p> <p>Throughout the period under review the 1997 Postal Services Continuation Act interfered with collective bargaining in the postal sector.</p> <p>The federal government has recently amended the federal labour code to define activities to be maintained during strikes. Although the change does not expressly prohibit employers from using replacement workers during strikes, it only bans them where the aim is to undermine a union's representational capacity.</p>

# Chile

POPULATION : 14,824,000 / CAPITAL : Santiago / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**The Senate voted down a labour reform bill, which would have allowed millions of workers to bargain collectively.**

## Senate rejects reforms to dictatorship-era labour laws

The bulk of Chile's anti-union labour law still dates from the Pinochet era, although some reforms were made between 1990-94.

The Senate voted down a reform bill in December 1999, already passed by the Chamber of Deputies, which would have allowed millions of workers to bargain collectively. The bill was automatically postponed for one year. It made bargaining at industry level the norm, and extended collective bargaining rights to unions of temporary, part-time or provisional workers, who make up a large part of the workforce in the agricultural and construction sectors.

The bill would also have stopped employers from replacing striking workers if they did not accept an agreement within 15 days of the start of a strike.

The CUT national trade union centre supported the bill, which was first presented to congress in January 1995. The business sector strongly opposed it.

## Organising and bargaining rights restricted

The labour code makes it difficult to organise in many sectors, and the majority of workers are covered by individual employment contracts. Collective bargaining usually takes place at enterprise level. Industry-wide bargaining is rare and is at the discretion of the company.

Workers in agriculture, construction, mining, ports, fishing, entertainment and other sectors are defined in the labour code as temporary workers. While they can form unions, their rights to collective bargaining depend on their employers' discretion and are seriously restricted.

Employers can include clauses in individual contracts barring some groups of employees from collective bargaining, although this applies only to supervisory personnel. Workers can appeal to the Ministry of Labour against such clauses.

Ministerial approval is required before unions and their officials can be legally registered.

## Strike limitations

Workers at around 30 utility companies cannot go on strike and arbitration is compulsory.

Employers can replace striking workers if they did not accept an agreement within 15 days of the work stoppage.

# Colombia

POPULATION : 40,803,000 / CAPITAL : Bogota / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**There was an increase in death threats against trade unionists and 69 were murdered in 1999. The authorities took no steps to control the actions of paramilitaries who continued to act with impunity.**

## Violence with impunity

Victims of violence in Colombia continued to be mainly those fighting for economic, social, political and human rights, such as trade unionists demanding decent wages and the right to organise, or protesting against the closure of enterprises, mass dismissals, or firings for trade union activities.

In 1998 the ILO criticised the government, saying that since November 1996 it had not been able to provide information on a single case of detention, trial, and conviction of anyone responsible for the murder of trade unionists.

Links between paramilitary groups and current or former members of the security forces were mostly responsible for the murders. They accused trade unionists of being guerrilla sympathisers. To a lesser extent, guerrilla groups were also responsible for the killings.

#### Deaths and death threats

In 1999, at least 69 trade unionists were killed, of which 19 were union leaders and 50 were union members. This figure is lower than in 1998 when 91 trade unionists were killed. In the nine years 1991-1999, 1,336 trade unionists have been murdered.

The number of death threats against trade unionists – 676 – was higher than in the past. There were attempts on the lives, or attacks against 13 trade unionists. Four trade unionists “disappeared”. Twenty-two trade unionists were kidnapped. Twenty-eight trade unionists – a much lower figure than in 1998 – had to go into exile.

#### The targets: who and where

Just over half of the total violations took place in the departments of Santa Fe de Bogota – the capital region, and Antioquia. Over a third of murders took place in Antioquia.

Three quarters of the violations were committed against public sector workers with over half being in the education sector. Members of the teachers’ trade unions affiliated to FECODE were again targeted for murder.

The USO trade union at the state-owned oil refinery, Ecopetrol, reported that members in the oil-producing Magdalena Medio region continued to receive death threats from presumed paramilitary groups, who accused USO officials of working with ELN guerrillas to sabotage oil pipelines.

#### Sinramunicipio in Cartago

Persecution of the Sinramunicipio-Cartago union has been constant since April 1998 when three trade unionists had prepared to crucify themselves outside the Cartago mayor’s office in protest against the loss of 300 jobs and the mayor’s refusal to negotiate a collective agreement and wage increase. After 50 hours, they were taken down from the crosses after winning their demands, and had to go to hospital.

The union’s leaders had all been threatened and union members had received pamphlets from a group called Cooproseg. Since April 1998, five members of the union had been killed, two had been injured by guns and many others had to leave the area.

Gilberto Escudero Tovar a leader of Sinramunicipio in Cartago, Valle, was killed on 14 February. Soon afterwards a death threat was issued to the union vice-president, Pablo Emilio Calvo. The body of Albeiro Velasquez, another Sinramunicipio-Cartago leader, was found on 22 March in the River Cauca in La Virginia, Risaralda. He had disappeared on 19 March.

Jairo Cardona, a leader of the union and his family received death threats in May. He had testified against alleged paramilitaries involved in killing leaders of public protests in Cartago.

#### Brinks

At the Brinks company, a subsidiary of the Pittston Company, based in the US, which has subsidiaries in eight provinces of Colombia, the FENALGRAP trade union reported that union leaders were subjected to death threats and intimidation. They reported break-ins to their homes, anonymous death threats, and surveillance from vehicles in order to coerce employees into accepting a change in working hours from 40 hours to 48 hours a week.

#### Murders and attempted murders in 1999

On 2 January, Moises Estrada Canedo, a leader of the Sintra Ponce union was murdered in Medellin, Antioquia. In 1998, he and other union leaders had been forced to go and live elsewhere because of death threats. On 14 January, Jesus Orlando Arevalo, a Sintraempserpa official was murdered. On 22 January in Bogota, Tarcisco Mora president of FECODE was attacked. He and six other CUT leaders had received threats during a day of action in October 1998. On 23 January, Oswaldo Rojas Salazar, president of the Sintradepartamento Valle union, was attacked in Cali town and severely injured. He had received many threats.

In February, Ricardo Rengifo Solis, leader of the trade union at J.G.B. S.A. laboratories, headquartered in Cali, and his brother Eduardo Rengifo Solis, said that they had received persistent death threats and other forms of persecution for over a year because of their trade union activities. They had to leave their homes and the country. On 1 February, Oscar Blandon Gonzalez, an official of the Bello municipal union, Sintramunicipio, was killed, probably by the paramilitary group, Autodefensas Unidas des Colombia. On 12 February, two members of the local teachers' association, Aducesar, in San Diego, Cesar, Luis Peroza and Numael Vercel were found dead. An armed group had kidnapped them some days earlier. They had been tortured.

Teacher Antonio Ceron Olarte from Huila was killed, and Ricaurte Perez, a trade union leader and member of the ADIDA teachers' association in Antioquia, was kidnapped in Medellin on 17 February. He was later found dead. On 18 February, an unknown assailant shot and killed 72-year-old Julio Alfonso Poveda, a founder of CUT, and a leader of Fenacoa, while he waited in Bogota traffic. By the end of the year the authorities had made no progress in finding the assailant.

On 9 March, the dead body of Henry Romero, a CUT leader, was found in Bogota. He had been kidnapped on 4 March. On 13 March, an unnamed trade union official was killed in San Alberto.

In Barranquilla, during the night of 5 April, an attempt was made on the lives of Fernando Morales Rangel, member of the national executive committee of CUT and the social security institute union, Sintraiss, Alberto Perdomo Barrios, vice-president of Sintraiss and Esau Moreno Martinez, general secretary of Sintraiss. The latter suffered very serious injuries and died on 7 May. On 6 April in the municipality of Riosucio, Caldas, Pedro Alejandrino Melchor and Gildardo Tapasco, both members of the teachers association in Caldas, Educal, who taught in the indigenous community of Riosucio, were kidnapped by unknown persons and killed. On 23 April, Manuel Avila Ruiz, president of Sintrainagro in Puerto Wilches, Santander, a member of the national leadership of Fensuagro, and a CUT official in Barrancabermeja, was killed after being kidnapped the previous day by Magdalena Medio paramilitary groups.

Leaders of the municipal workers of Antioquia received constant death threats, in particular J. Rangel Ramos Zapata. The Governor of the province refused him the authorisation to leave the area. Justiniano Herrera Escobar, a member of the same union, and a former worker at Shellmar had been missing since 30 January when two Shellmar workers also disappeared. On 16 May, an unnamed trade union leader of the Small Business Union of Antioquia was killed in Medellin. On 31 May, a paramilitary group abducted several workers in Tibu, Santander, interrogated them and then made death threats against regional union leaders. Horacio Quintero Rueda and Oswaldo Ayala were interrogated about whether they belonged to the USO union. They were eventually freed after being threatened with death.

On 13 July, Humberto Gallego Herrera, a leader of Sintramunicipio in Pueblo Rico, Antioquia, was murdered by a paramilitary group. Victor Ospina Mieles, a leader of Sintracicolac in El Copey, Santana, Magdalena, and his wife were abducted by paramilitaries on 18 July and were found dead on 23 July.

On 1 August, Eulises Franco Mesa, a SER official was killed in Santa Rosa de Cabal. On the same day there was an armed attack on Jesus Antonio Gonzalez Luna, a CUT official in Cali, in which one of his bodyguards was killed. Special police carried out the attack and the authorities later said that they had been mistaken for armed criminals.

Orlando Crespo, vice-president of the Sindicato de Trabajadores in Buga, Valle De Cauca, was killed on 31 August by alleged paramilitaries while taking food to a group of peasant farmers displaced by violence.

On 21 September, Hernan Mora Mora, union president at the recently privatised Risaralda sugar refinery, was killed at his home in the coffee region by two gunmen in Pereira on 21 September. It was the third murder of trade union leaders in the coffee region. On 26 September, Jaime Garcia a leader of Asoimpec in Bogota was assassinated. On 27 September, union leader Eduardo Mosquera of Sinucom was murdered in Barrancabermeja. On 30 September, former trade union official Rogelio Morales Alarcon of Sintrapalma in Giron, Cesar, was murdered. He had been forced to leave his job and move to Bucaramanga because of persistent death threats.

On 6 December, Edgar Quiroga, a rural workers' leader, and a young rural worker, Gildardo Fuentes, were kidnapped by the paramilitary group, the Self-Defence Unit of Colombia (AUC). On 13 December, Cesar Herrera Torreglosa, secretary-general of Sintrainagro, was murdered in Cienaga, a town in the banana region of Santa Marta and capital of the northern Magdalena province. He represented the union in the Latin America Banana Growers Union Co-ordinating Committee. He had received death threats, which he reported to the police. On 14 December, thousands of Sintrainagro members from the agro-industrial region of Uraba, the principal banana-growing and exporting region, in north-eastern Colombia, began a two-day strike in protest at Herrera's murder.

**Arrests for murder of Jorge Ortega**

The authorities arrested former policemen Rafael Cespedes and Edgar Armando Daza Diaz for the October 1998 killing of Jorge Ortega, vice president of the CUT national trade union centre. One of the two later escaped detention.

**Police attack protestors**

The trade unions called a national day of protest against the economic and labour policy of the government on 25 February. In Medellin the local branch of CUT organised a march together with other sections of society. At the end of the march, the police violently attacked the participants, injuring and arresting several.

**Public sector strikes**

On 21 April, the fourth public sector strike since President Pastrana came to office eight months previously took place. The unions protested at austerity measures, including planned public sector job cuts and cuts in employment rights. They threatened to stage an indefinite strike if the government ignored their demands.

On 28 April health and education sectors went on an indefinite strike. USO members, bus and taxi drivers joined them.

Another public sector strike took place on 14 October, joined by USO, against the government's austerity measures. These included a wage freeze and deep social spending cuts. The police fired tear gas at union members in Medellin.

**General strike**

On 31 August an indefinite general strike began, against the background of Colombia's worst ever recession. The demands included an end to the privatisation programme, a moratorium on debt repayments, the breaking off of loan negotiations with the IMF, and a halt to the government's labour law reforms. The government's proposals for law reform presented in May had contained some measures that were totally rejected by the unions because they cut employment rights.

The strike was organised by the National Unitary Command, which included the three national trade union centres, CUT, CGTD, and CTC as well as other groups. The strike leaders received death threats from right-wing paramilitary groups.

Two days before the strike, on 29 August, a bomb destroyed the branch office of the Association of Rural Land Users, a farmworkers' union, in Sincelejo, Sucre. On the same day the police defused a bomb at USO's Medellin office. The government sent troops into several Ecopetrol oil installations. In the evening of 31 August, there was an attempt on the life of Domingo Tovar Arrieta, a CUT leader. He was unharmed but a bodyguard was injured.

The police used excessive force on the demonstrations. Violent clashes during the strike left one person dead, several injured and 292 had been arrested. On 2 September the strike was called off as talks with the authorities took place.

**Teachers' strike**

FECODE declared a national strike in October after the government refused to negotiate with them about a draft law. In Medellin, the mayor tried to ban the demonstrations and marches under a decree of May 1999. A teacher, Orlando Alberto Gutierrez Zapata was assassinated. On 20 October, six teachers were detained and beaten up for voicing the union's demands.

**Bank workers' strike**

In the banking sector, the UNEB trade union held a strike ballot in November after making no progress in negotiations with the Banco Popular and Bancafe. The Banco Popular tried to stop union leaders and members voting by denying them access to the ballot. Bancafe threatened to sack workers so that they would vote against a strike.

The Banco Popular tried to find out all the names of the 80 per cent of workers who voted in favour. The banks called the police to prevent the strike from taking place. The police intimidated and beat workers in their offices.

On 25 November, the first day of the strike, 43 workers were detained and beaten up. The police continued the detentions until 100 were detained. They threatened union leaders with guns. On 29-30 November the offices of the Banco Popular were militarised.

#### Legislative restrictions on trade union rights

The labour law contains numerous restrictions on trade union rights. As a result of revisions in 1990-91, it became easier to hire and fire workers, and to employ them on temporary contracts.

In respect to collective bargaining, the law:

- Forbids certain public employees from bargaining collectively. The government says that it is examining the concept of public employees.
- States that industrial or branch unions must have a membership of at least 50 per cent of the workers in order to be able to bargain collectively.
- States that federations and confederations cannot bargain collectively.

Provisions regarding the right to strike include:

- Prohibition on confederations and federations calling strikes.
- Restriction on strikes in a wide range of public services, which are not essential. The government can make unilateral decisions about what constitutes an essential service.
- The government can impose arbitration to end a strike which has lasted for 60 calendar days.
- Trade union officials involved in an unlawful strike can be dismissed.

#### Proposed amendments

On 18 March 1999, the government submitted a bill to Congress that repealed or amended many of the following violations which exist in the law. It passed its first reading in the Senate but subsequently nothing happened.

- Prohibition on more than one union in any workplace;
- Requirement that candidates for office in trade unions, federations or confederations must belong to the relevant trade or occupation;
- Stipulation that to form a union, two-thirds of the membership must be Colombian and a candidate for union office must be Colombian;
- Stipulation that only Colombian nationals can be members of delegations submitting bargaining claims to management;
- Allowance for the supervision of the internal management and meetings of trade unions by public servants;
- Allowance for the presence of government officials at trade union assemblies called to vote on strikes;
- Denial of trade union rights for three years to union officials responsible for the dissolution of their union;
- Gives power to the Ministry of Labour to ballot all workers on going to arbitration after a strike has been called.

#### Law used to penalise trade unionists

The authorities can use, and have used, the penal code to punish strikers. Strikes have been termed acts of "terrorism", "sabotage", "violations of the right to work", or "illegal restrictions", and carry prison sentences.

For several years Colombian trade unionists complained about the "penalisation of the social struggle" saying that laws intended to suppress terrorism and drug trafficking were used against trade unionists. These laws do not allow for a fair trial, allow secret evidence to be admitted, and allow for "faceless" judges and witnesses with hidden identities. The illegal practice of using "false witnesses" or "cloned witnesses" emerged whereby witnesses who were not genuine gave evidence or a witness with a hidden identity could give the same testimony more than once against an accused person.

The practice whereby the identity of judges and prosecutors, who feared reprisals from drug and guerrilla leaders, was kept secret, was intended to end on 30 June 1999. Instead it was made

permanent, with some changes, the most significant of which is that testimony from anonymous witnesses will no longer be admitted as a basis for legal charges, subpoenas or sentencing.

It had opened the door for the "persecution of sectors that are fighting for social and economic change in Colombia". The 1998 detention of three USO members who were accused of terrorism had exposed some irregularities in the system.

## Costa Rica

POPULATION : 3,841,000 / CAPITAL : San Jose / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Serious health risks persist on the banana plantations, where a hostile anti-union climate prevails, as is the case throughout the EPZs. The banana workers' leader was viciously attacked and his life threatened.**

### Union protection not enforced

Costa Rica amended its labour code in 1993 to protect trade unionists against anti-union discrimination, but trade unions continued to say that the changes were "a dead letter" because of the government's unwillingness to enforce the law.

It remained virtually impossible to form or join trade unions in the private sector because of hostility from employers, particularly on the banana plantations and in the nine export processing zones (EPZs) where trade unionists risk being fired and blacklisted. Collective bargaining is almost unknown.

For many years the CTRN national trade union centre said that the Labour Ministry ignored complaints from unions about the firing and harassment of their members. If complaints were heeded, it took an average of two to three years to settle them - during which time unionists were out of a job and their unions were destroyed. Decisions in favour of workers were often overruled. In the banana plantations and EPZs, the Ministry invariably found against the unions.

### Unfair dismissal legislation

At the end of 1998 the government submitted draft legislation to the legislative assembly which would speed up procedures in cases of unfair dismissal. The proposed amendment to the labour code provided for an express process (maximum 14 days including appeal against first court ruling) in the event of dismissal accompanied by the imposition of fines if an employer did not comply with a reinstatement order.

In 1999, the Constitutional Court ruled that the Labour Inspection Department must comply with a two-month time limit for its investigations.

### Solidarist associations

The law on Solidarist associations was also changed in 1993 to remove their legal advantages and to stop them from acting against trade unions in any way, or signing collective agreements. Despite this they are still set up and registered by the Ministry of Labour. There have been reports that officials from the Ministry have given information about newly formed unions to employers who then encourage Solidarist associations.

### Dangerous conditions in banana region

Working conditions are particularly bad and dangerous in Costa Rica's banana region - the birthplace of solidarismo - because of the lack of protection for workers using chemicals. Genetically deformed babies have been born, workers have become sterile and ill, and some have died.

Banana workers trying to form unions risk the sack. Employers ignore labour regulations, promote solidarismo, and put trade unionists and their families on blacklists. Much of the workforce is employed on three-month contracts at below the minimum wage.

**Union leader sacked and threatened**

In April 1999, Adrian Herrera Arias, the general secretary of the SITRASUR banana workers' union, was sacked, even though as a union official the law protected him. Since the formation of the union in 1997 the company, COBASUR, had refused to recognise it and to deduct union dues on check-off. The company set up a Solidarist association when the union presented its bargaining claims, and made a direct agreement with it.

The union informed the Ministry of Labour. Arias received anonymous documents saying that his life was in danger unless he quit the union.

A vehicle without identification tried to run him over but he managed to throw himself into the plantation and escape serious injury.

On 13 April, masked men carrying firearms attacked him in the street. They tied his ankles and hands, beat him up and fired shots - badly injuring his left side. They warned him to leave both the union and the area; otherwise he and his family would be in danger.

**Intimidation**

In September, the Co-ordinator of Banana Unions of Costa Rica said that companies were taking advantage of the economic situation to crack down on unions and intimidate workers into not putting forward any claims.

He said that employers harassed and blacklisted union members, threatened to pull out of an area and abandon plantations, and hired workers on a temporary basis to avoid paying benefits. He said that in practice unions were not able to function. Union leaders were not able to enter companies to meet with workers. Anyone even seen talking to a trade unionist was fired and put on a blacklist.

On 20 September, banana unions supported by other trade unions held a march in San Jose. The march protested at the mass dismissals of workers by transnational corporations, as well as the sub-contracting of workers on inferior conditions under the pretext of falling banana prices in Europe. The Ministry of Labour was in fact overseeing this process which destroyed trade unions.

**Fertica**

There was again no solution to the four-year-old dispute at ATFE, the fertiliser sector of the Central America Fertiliser Company, FERTICA, in Puntarenas, where the union had gone on strike in November 1995. Over 265 workers, including all of the union leaders were sacked, and a Solidarist association was set up. The authorities colluded with the company and sent in riot police to disperse a peaceful protest. The company refused to comply with the Labour Ministry order to reinstate the workers and no one else would employ them.

The ILO's recommendations, which included reinstatement of the workers, were ignored.

**Private sector**

Privatisation of the public sector continued. Over the past few years many thousands of workers have been laid-off, including union leaders.

**The legislation**

The labour code does not allow non-nationals to hold union office.

Strikes are banned in the public sector, in rail, maritime and air transport, and in stock raising and forestry. The Supreme Court ruled in February 1998 that public sector workers could go on strike.

Collective bargaining is prohibited in the public sector. The government has been telling the ILO for five years that a bill to rectify this is being examined by the Legislative Assembly. However a ruling made by the Second Chamber of the Supreme Court in September on the right of public sector and state institution workers to negotiate collective agreements, said that neither the law nor the constitution permitted public sector bargaining.

On 6 October public sector workers marched to the Supreme Court in protest.

**General strike**

On 28 August, public sector unions went on a general strike to support their claim for a pay increase in line with the cost of living. Five workers went on hunger strike. The general secretary of the SITRAARENA union, Felipe Espinoza, received anonymous death threats against him and his family.

# Cuba

POPULATION : 11,116,000 / CAPITAL : Havana / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**There was no change in Cuba where the CTC is still the only legal trade union centre.**

## State-controlled single trade union

The ruling party selects CTC leaders, and the national centre's statutes say it must follow party policy.

Its role, according to the law, is to "mobilise workers to fulfil their tasks of constructing a new society, improving efficiency and productivity, strengthening labour discipline, and organising socialist emulation and voluntary work".

All wages are set by the state. The CTC can negotiate very limited agreements that include some aspects of working conditions, but in the main the agreements relate to discipline and productivity. Strikes are banned.

## The private sector

In the private sector, workers are not able to discuss their rights with employers or form unions. The authorities hire contract workers to multinational corporations and other foreign-owned and joint-venture enterprises, through state-controlled employment agencies. Workers are politically vetted before being selected.

While the investors pay the agencies in dollars, the agencies pay the workers in a combination of pesos and US dollars, known as "Pesos Oro", which are equivalent to the US dollar. It is reported that the state retains up to 90 per cent of the wages. This system applies in Cuba's export processing zones.

## Harassment of independent unions

Although both the constitution and labour law permit freedom of association, the authorities have refused to grant legal status to the handful of small, independent trade unions that have emerged since 1991, and have harassed and threatened their members. Some have also been detained and others have lost their jobs.

In 1997, for the sixth consecutive year, the independent CTDC union applied for legal status. All previous applications had been ignored. In 1996 the government told the ILO that the CTDC did not exist.

On 22 February 1999, the Trade Union Federation of Electrical, Gas and Water Plants applied to the Ministry of Justice for legal status. The union said that it had existed before being suspended in the early 1960s.

On 23 February 1999, the CTDC general secretary, Benigno Torralba Sanchez, was detained by state security agents. He was later released.

# Dominican Republic

POPULATION : 8,232,000 / CAPITAL : Santo Domingo / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Three hundred nurses were sacked, and many suffered broken limbs when police were sent to break up a peaceful sit-in. The leader of a teachers union was shot dead on the eve of a national strike.**

## Striking nurses sacked

Nurses belonging to the UNASED and UNASE unions went on strike on 10 May because numerous claims that had been agreed with the Secretary of State for Public Health in 1997 had not been fulfilled. The claims included a pay rise but also a demand for hospital equipment.

The authorities would not talk to the nurses' union. They encouraged a minority union in order to divide the workers, threatened massive dismissals, did not pay nurses who went on strike, and sent the police in to occupy some hospitals.

Some 300 nurses were sacked in July. They included national and local trade union leaders. The union peacefully occupied the offices of the Secretary of State for Labour. On 18 July in the middle of the night, hundreds of police shock forces violently dislodged them, leaving several nurses with broken arms and legs.

## Union leader killed by police

On the eve of a indefinite general strike planned to start on 12 October, Jose Porfirio Toribio, a leader of the ADP teachers' trade union was shot dead by the police in Villa Gonzalez. The strike was mainly to protest against higher fuel prices.

On the second day of the strike, the police invaded houses in Santo Domingo and detained dozens of people, including many trade union members. Over 1,000 people were detained altogether. Unions accused the governments of paying strikebreakers.

## Refusal to negotiate with sugar cane unions

Union representatives cannot move about freely on the sugar plantations, or meet workers. Workers taking part in union activities are threatened. The three unions, Sinatraplasi, Sipicaiba and Sitraplasib, continued to complain about the State Sugar Board's refusal to negotiate with them over basic trade union rights.

Haitians employed as sugar cane cutters continued to work in conditions that have been described as near slavery.

# Ecuador

POPULATION : 12,175,000 / CAPITAL : Quito / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**Protest demonstrations against the deteriorating economic and social situation were met with repression, resulting in injuries and one death. CEOSL president José Chávez Chávez went on trial for alleged libel, in what is believed to be a strategy to intimidate the unions.**

## Court case against CEOSL president

In April 1999, legal proceedings began against José Chávez Chávez, the president of the CEOSL national union centre, for alleged libel. The police brought the case and asked for a two-year prison sentence plus a fine. It was believed that the authorities were going ahead with the trial as a means of intimidating the unions.

The incident had taken place on the eve of a general strike planned for 1 October 1998. The Interior Minister appeared on national television and threatened to prosecute José Chávez Chávez for "disparaging remarks about the country and for threatening national security".

During a television interview the previous day, Chavez Chavez had been asked about the recent bombing of the headquarters of the Ecuadorean Episcopal Conference. He suggested that it was not beyond the realms of possibility that the security forces had planted the bomb in order to undermine the popular protest that was taking place at the time.

**Protest against economic situation**

The FUT trade union front and other sectors of society again organised protests, strikes and demonstrations against the worsening economic and social crisis.

The government imposed a 60-day state of emergency after trade unions declared a two-day general strike on 10 March against austerity measures including severe public spending cuts.

The emergency allowed the authorities to ensure the maintenance of basic services during the strike, order striking workers back to work, and empowered the police to detain protesters and order strikers off the streets.

Violent clashes took place between the protesters and the police who used tear gas.

Transport workers went on strike one week later after fuel prices almost tripled. The national trade union centres called a general strike for 17 March vowing to get rid of the President. The government later revoked the fuel price rises. The police arrested scores of strikers for blocking roads and highways.

A general strike began on 5 July supported by FUT as well as other groups such as peasants, indigenous people, and students. The government declared another state of emergency after striking taxi drivers blocked traffic in major cities to protest against new fuel price increases. Forty-three drivers who had blockaded roads in the two largest cities, Quito and Guayaquil, were arrested.

**Brutal response by authorities**

The authorities responded brutally to demonstrations. The police opened fire in a number of major cities. Some 300 people were arrested, including two FUT leaders, Luis Villacis, the president, and Ivan Narvaez, of the Petroleum Workers Union. One person was killed, and 32 people wounded, some critically.

On 11 July, the police fired on protesters blocking a highway in Latacunga. Eight people were injured.

On 14 July, the President revoked the fuel price rise and froze the price until the end of year. The strike ended two days later. An amnesty was granted to the hundreds who had been arrested.

**Death threats**

Trade unionist, Edgar Ponce Iturriaga, executive secretary of the union network of electrical workers, ENLACE, reported receiving death threats. A written threat in July threatened to assassinate him.

At the end of 1998, Ecuador's unions had said they feared that death squad activity had begun, when the tortured body of Saúl Canar Pauta, a senior official of the CEDOCUT national union centre was found.

**Legislation**

Although an ILO technical assistance mission visited Ecuador in September 1997 and assisted in the drafting of two labour bills, nothing has come of them.

**Public servants denied union rights**

Under the labour law, public servants, and certain public sector workers, including teachers, cannot form trade unions, bargain collectively, or go on strike. Teachers have the right of association, and can bargain at national level but not at local and workplace levels, although in practice they do so.

Workers in the public sector and in the public or social sphere of the private sector who can join unions can only negotiate collective agreements if they set up a committee which represents more than half the workforce. In practice, many public sector workers do join unions and go on strike.

**More legal restrictions**

The minimum number of workers required to form unions and works councils was raised from 15 to 30 in 1991. A works council can be dissolved if membership falls to less than 25 per cent of the workforce. Only Ecuadorian nationals can be union officials.

The law does not provide adequate or independent appeal procedures for unions or works councils that are refused registration.

Unions are not allowed to participate in political or religious activities. Federations and confederations cannot call strikes.

Workers are not fully protected against acts of anti-union discrimination at the time of recruitment. The law allows strikers to be imprisoned. Workers taking part in solidarity strikes can lose their permanent status at work.

The 1998 constitution imposes a trade union monopoly in state institutions. It also imposes strike bans in a wide range of public services that are not essential, including education.

Unions that do not include more than 50 per cent of workers cannot negotiate.

#### Export processing zones

Ecuador's 1990 EPZ law allows a company to have EPZ status wherever it is located. The enterprises can hire temporary workers, who are not covered by the labour code and are more difficult to organise.

## El Salvador

POPULATION : 6,032,000 / CAPITAL : San Salvador / ILO CORE CONVENTIONS RATIFIED : 29-105-111-138



### Violations of trade union and workers' rights continued in the export-processing zones.

#### Some protection of workers' rights in EPZs...

Violations of trade union rights persist in the export processing zones although the situation has improved since 1995-96. At that time, exposure of violence against workers trying to form unions, resulted in an outcry in the US to where the majority of the goods are exported. Several retailers imposed voluntary codes of conducts on their suppliers or in some cases cancelled contracts.

The government adopted a law in 1996 obliging companies to pay severance benefits to workers if they closed down. This aimed at stopping them from closing and relocating to get rid of unions, without paying compensation to the workers.

The law also introduced fines for companies breaking labour laws, and the suspension and possible cancellation of their tax and duty-free privileges. A tripartite committee was set up to deal with labour disputes in the zones. The Labour Ministry was reorganised and increased its inspectors, but still lacks resources. It opened offices in two zones.

There are some 90,000 workers, mainly young women in over 225 enterprises in the six zones, and maquila plants outside the zones, many of which assemble garments.

#### ...but harassment persists

There are still very few unions. Employers often harass and sack workers to prevent unions from recruiting the 50 per cent of the workforce needed in order to gain recognition for collective bargaining.

The office of the independent Ombudsman for the Defence of Human Rights reported in 1998 that some factories abused their workers, and some employers in the EPZ and maquila sector refused to hire women if they were pregnant. Over a third of workers said that they had been mistreated, over a third had been threatened, three per cent had been hit, and three per cent had been sexually harassed.

Persistent problems in the export processing zones include women workers being forced to undergo pregnancy tests at recruitment and dismissals of pregnant workers or workers over 30. Others are employer failure to pay social security contributions; low pay; health and safety risks; working days of 12-14 hours; and two three-minute toilet breaks per day.

In August a group of workers at the Korean-owned Caribbean Apparel factory in Santa Ana formed a textile branch of the FEASIES union and applied to the Ministry of Labour for recognition. Six union board members were fired. After a complaint was filed with the Ministry the union was registered and the company was ordered to pay back wages to the fired union officials and to meet them to resolve the situation.

The factory produces clothing for the Kathie Lee label. The workers reported physical and psychological abuse, including 11 hour days, and six-day weeks in sweltering hot conditions for very low pay.

In November, some 27 workers were fired from two Doall-owned factories in the San Marcos zone, which produce clothing for Liz Claiborne, Perry Ellis, Leslie Fay, and Norton. The firings took place days after the union, SETDESA, had applied for registration. The sackings included ten out of 11 union executive members. The union president and another official were asked to resign on the day that the application was filed. They refused and were offered three years severance pay - which they also refused.

More workers were sacked. The company claimed that union organisers had resigned before the union was constituted, and that it was illegal. The Ministry began to investigate the case, which had not been resolved at the end of the year.

#### Labour Code

El Salvador's labour code bans unions in the public sector and bans strikes in nine autonomous government agencies. Disputes are settled by mandatory arbitration. Public sector workers are able to form associations which, in practice, bargain collectively and go on strike.

The code prevents party political activities by trade unions.

The labour code imposes excessive formalities for union recognition.

#### Death threats

There were reports that several union leaders received death threats during the year.

#### Strikers

In November, public healthcare workers went on their ninth strike of 1999 at the ISSS social security institute. They were protesting at the privatisation of healthcare provision, and the subsequent loss of thousands of jobs, calling for payment of a wage increase agreed by the previous government, as well as improved working conditions. Some 200 workers were sacked for continuing the strike after a court had ruled the strike illegal and ordered them back to work.

Judicial employees went on strike after the President vetoed a wage increase that had been approved by the legislative assembly. Six people were injured when the police burst into a law centre and forced some employees to open it and allow services to continue.

The health workers strike continued at the end of the year. The strikers were also demanding the reinstatement of sacked colleagues.

## Guatemala

POPULATION : 10,841,000 / CAPITAL : Guatemala City / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



### Violence against trade unionists continued in Guatemala, especially on the banana plantations.

#### UN mission's verdict

The UN Human Rights Verification Mission in Guatemala (MINUGUA), established in November 1994, said in its Fourth Report on the Peace Process, that "genuine trade union freedom does not exist" because of violence against trade unionists.

#### Murders

On 12 January, Robinson Morales Canales, executive secretary of the Zacapa municipal workers union, was killed. On the day of his murder he had taken part in a radio programme after the

union had accused the town's mayor, with whom it had been engaged in a long running conflict, of corruption. No one was arrested for his murder. Two other members of the same union, Hugo Duarte Cardon and Jose Chacon Ramirez were murdered in 1998.

On 8 March Angel Pineda of the CUSG national trade union centre was murdered in San Jorge, Zacapa municipality.

On 17 June, Baldomero De Jesus Ramirez, general secretary of the union in the municipality of Santa Lucia, Cotzumalguapa, Escuintla was abducted. His dead body was found on 22 June. He had received several death threats in respect to a labour court case brought against the mayor of the municipality.

The unions said that an anti-union campaign was being carried out in several municipalities with the at least tacit support of the authorities.

**Law not used to protect unions**

Unions can be destroyed through sustained threats and pressure, and plant closures. Although a 1992 amendment to the law made it illegal to sack workers for organising unions, the unions said that the law was often ignored or misapplied. The law also says that illegally sacked workers must be reinstated within 24 hours, but the Labour Ministry seems unable to enforce this provision.

There have been efforts to improve the labour inspection system although it often remains inefficient, inadequate and corrupt. Labour Ministry officials collude with employers, and there have been reports that the Labour Ministry warned companies in advance of "surprise inspections".

**Violations on banana plantations**

The UNSITRAGUA and CUSG national trade union centres again said that transnational corporations in the banana industry were intent on destroying trade unions.

**Cobigua dispute**

In 1999 the conflict on the Arizona and Alabama plantations remained unresolved. The company, Chiquita, said that it had offered to take over the plantations but the owner refused.

In February 1998, workers trying to form an UNSITRAGUA-affiliated union at the Arizona and Alabama plantations, which employ around 350 workers, applied for an injunction to stop workers being fired without a court order. The plantations produce for COBIGUA, which supplies to Chiquita. A few days later, 22 workers including its executive committee were fired without a court order and plantation operations were shut down.

The management intimidated the workers with armed thugs, and threatened to close the plantations down permanently. It refused to allow any of the workers to return to work unless they signed a blank piece of paper or an anti-union statement, required workers owed back pay to sign receipts that included anti-union statements, and accused the union of going on an illegal strike.

**Arbitrary detentions**

In March, UNSITRAGUA said that a series of arbitrary detentions had been carried out on the banana plantations. Two trade union leaders, Marvin Ceron Hernandez, a union leader at the Dole-owned COBSA, Dublin Farm, and Julian Quizar Garcia, another union official, were detained on 4 and 7 March in Morales, Izabal.

In the evening of 24 March, trade union leader, Jorge Franco Garcia was detained in Puerto Barrios, and on 25 March, Jorge Estrada y Estrada, an UNSITRAGUA official was detained in Amatitlan.

All the detentions were carried out by men in civilian dress who were identified as members of the private security guards of banana companies, or policemen.

**Severe intimidation**

On 27 September 1999, Bandegua, a subsidiary of the US based Del Monte Fresh Produce, sacked 900 workers in Bobos, Morales, Izabal, and said that three plantations would be rented out to independent producers. The CUSG affiliated union, SITRABI, said that the collective agreement had been violated. The company refused to negotiate, even when the Labour Minister tried to mediate.

The union also represented 3,000 Bandegua workers in Motagua. It decided to hold a demonstration on 14 October, and the Motagua workers would ask for ten days unpaid leave, as provided for in their collective agreement.

On 13 October, 200 heavily armed men raided the union hall and held union leaders and 35 union members at gunpoint.

They said that if the union demonstration went ahead Bandegua would pull out. The gunmen's leader threatened to kill all the union leaders and forced them to announce over local radio that the demonstration would not take place. The sacked workers should take their severance pay and leave.

When the union leaders returned from the radio station, a lawyer was drafting their letters of resignation, both from the union and the company. They were threatened for several more hours, and were also filmed stating that their resignations were genuine.

When they were released some of them fled with their families to Guatemala City. Bandegua provided trucks for the sacked workers to leave the plantations.

The police did not intervene although their headquarters was only 400m from the union hall. The UN called for a probe into the death threats. MINUGUA said that this was the second most serious breach of the Peace Accords since the murder of Archbishop Gerardi in 1998.

The authorities made no moves to arrest the 200 armed men. The union leaders were officially interviewed on 3 November. Bandegua took out newspaper advertisements to denounce the incident. Although SITRABI proposed that the company should reinstate the 900 sacked workers, it refused.

By December the authorities had taken some positive steps, it publicised the fact that the union leaders had been forced to resign, it provided somewhere for the unionists and their families to live, and began a court case against Bandegua for violating the labour code and collective agreement.

During the same month, sworn testimony provided to the police said that the chief of security and the engineer at Bandegua were amongst the 200 armed men. A judge issued warrants for their arrest. Unions also said that the thugs' leader was assisting in running another Del Monte plantation.

#### EPZs

Violations continued in the maquiladoras where some 80,000 mainly women workers are employed, mostly in clothing factories which produce for export to the US.

In 1996, commercial pressure and hostile public opinion led the government to introduce a procedure whereby sanctions, including the temporary cancellation of export licences, could be applied against owners of maquilas who violated the law. It has only been applied once. A tripartite commission that was set up to deal with disputes has not been effective.

While violence against union activists in the maquiladoras has decreased, there are still reports that factory owners and employers hire thugs and gunmen to intimidate workers. Working conditions are reported to be inhuman, and workers are forced to work long hours. Salaries are low, women are frequently sexually harassed, the factories are dark, noisy and airless.

#### PVH – closed factory to get rid of union

In December 1998, some 500 workers at the Phillips-Van Heusen (PVH) factory, Camisas Modernas, the only maquila factory in the zones with a collective agreement, arrived at work to find that the factory had closed allegedly because the company had lost an important client and had excess capacity. It said that it would continue to contract work in Guatemala. In March 1997, the union had won a six-year organising struggle when PVH agreed to negotiate with it.

Six weeks earlier PVH had signed the US Apparel Industry Partnership's "preliminary agreement". It had also signed the Apparel Industry Partnership "Workplace Code of Conduct", which recognises the right to organise.

The CUSG national trade union centre filed a legal action at the end of December, charging PVH with violating the collective bargaining agreement, and specifically the 30-day advance notice requirement stipulated in it for any change in work status including a plant closure. The collective agreement had the force of law.

The workers began a round the clock vigil outside the factory. Severance packages soon ran out. Those who tried to find jobs often found that they were blacklisted.

In May hired contractors from Georgia arrived to begin removing equipment from the factory. The workers locked one of them in the factory. Six truckloads of police arrived and released the man from inside the factory. The PVH legal representative arrived and wanted the police to use force to allow the machinery to be removed.

Union leaders asked to see documentation authorising removal of the equipment, but there was none. The PVH personnel left and said that they would be back the next day with the necessary warrant.

During the night the workers hammered the machinery into the floor. The PVH Chief Executive and the US Ambassador were telephoned because of the increasingly tense situation. The removal of the machinery was called off.

On 15 June, the general secretary of the Camisas Modernas union, Marisol Lopez, presented a report issued by three US human rights organisations to the Chief Executive of PVH. The report found that the company had illegally closed down to get rid of the union and to shift to cheaper production.

The next day, the husband of Marisol Lopez reported that he had received a death threat over the telephone. The caller said that he had been contracted to kill the family. He said that the workers camped outside the factory should stop their activities or they would all end up dead.

**Ace International sacks unionists**

The Korean-owned company, Ace International S.A., known as Kol Nidrei III, near La Reforma, San Lucas Sacatepequez, changed the company's name in order to siphon off the workers' social security payments. The workers also said that they were verbally and physically abused. After they organised a union management started to harass its members through suspensions, intimidation and persecution.

On 31 August, it sacked 35 workers, mainly union members, and then illegally took on another 150. On 2 September, more workers were sacked.

After a judge in San Lucas ordered the workers to be reinstated, the company closed down. A group of workers maintained protests outside the factory.

On 27 November, a gang of masked thugs carried out an alleged robbery of the factory, taking machinery, raw materials and manufactured articles.

**Restrictions in the law**

- The Labour Code allows strict government supervision of union activities.
- Workers must be Guatemalan to found a trade union or to stand for union office.
- Founding union officials must work in the enterprise they represent and make sworn statements that they have no criminal record.
- Three of the founders must be able to read or write.
- A minimum of two-thirds of the workplace, as well as of the union, must vote in favour of a strike.
- Agricultural workers cannot strike at harvest time.
- The government can ban strikes which it thinks would seriously affect the national economy.
- Workers can be arrested for calling an illegal strike and the police can be called in to ensure that work goes on.
- A prison sentence of between one and five years can be imposed on persons who intend to paralyse or disrupt the functioning of enterprises which contribute to the economic development of the country with a view to jeopardising national production.
- Under a 1996 law, compulsory arbitration can be imposed without recourse to strike action in public services which are not essential services, in particular public transport and fuel supply. Unions said this stopped them from going on strike against the privatisation of state companies.
- Solidarity strikes are banned.
- Two thirds of a union's membership must vote to authorise its officials to enter into and conclude negotiations for a collective agreement. A certificate of this must be submitted to the labour inspection service with an agreement.

**Solidarist associations**

There are some 450 Solidarist associations in Guatemala - set-up by employers to undermine trade unions.

# Guyana

POPULATION : 850,000 / CAPITAL : Georgetown / ILO CORE CONVENTIONS RATIFIED : 138



**The government brought in the army and police to deal violently with public sector strikers.**

## Unions ignored

In 1997 the Guyana Public Services Union (GPSU) proposed a set of principles to guide annual wage negotiations which the government ignored. The following year they made a wage claim. No meaningful progress was made in negotiations on the issue.

The unions demanded a salary increase of 40 per cent, but the government said that it could not pay because of conditions imposed by the IMF and World Bank.

## Harassment of strikers

On 26 April 1999, the union went on strike. The government made threats to sack strikers, used the army to try and break the strike in some workplaces, fired tear-gas on several occasions at peaceful demonstrations, accused the union of arson, and laid charges against union officials.

The police served summonses on the president of the union, Patrick Yarde, the first vice-president, Anwar Hussein, and the general secretary, Lawrence Mentis, for taking part in what was alleged to be an illegal procession.

On 17 May, the police shot at 17 workers belonging to the Amalgamated Transport and General Workers Union on a picket line outside John Fernandes Wharf. Seventeen people were injured; three of whom had to go to hospital with serious injuries.

In June, after the strike entered its eighth week, there were signs that the government intended to declare a limited state of emergency and would use the army to break the strike.

On 24 June, workers voted to end the strike after finally accepting a government offer to submit their demands to an independent arbitrator. Although an award of 31 per cent was made, the government had not paid it by the end of the year.

## Strike legislation

Compulsory arbitration can be imposed to end a strike in public utilities and the health service.

# Haiti

POPULATION : 7,952,000 / CAPITAL : Port-au-Prince / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**There were no improvements in the respect of union rights in Haiti, where the outdated labour code gives the government broad powers over union affairs.**

## Labour code dating from dictatorship

Haiti's labour code and other laws date from the Duvalier era.

Although the 1987 constitution guarantees the right to organise and to strike for public and private sector workers, the labour code does not recognise the right of public sector workers to organise. In practice public sector unions exist.

The penal code requires the government to give prior approval before an association of more than 20 people can be formed.

A 1983 decree gives the government wide powers to supervise unions and to intervene in the preparation of collective agreements.

The law does not protect workers against anti-union discrimination at the time of recruitment, nor does it provide for the reinstatement of workers dismissed for trade union activities.

The labour code imposes restrictions on strikes.

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**Abuse in the maquiladoras**

The government has said it will create two export-processing zones - one in Cabaret, near Port-au-Prince and the other in Cape Haitian on the northern coast.

In the sub-contracting factories or maquiladoras, which employ around 27,000 people, reports persisted of frequent physical and verbal abuse, below the legal minimum pay, and sexual harassment of the women workers. High production quotas are imposed and workers who complain are often fired.

**Striking teachers sanctioned**

Teachers belonging to the CNEH trade union went on strike in October because the authorities reneged on an agreement signed in February on wages, working conditions and collective bargaining. The Education Ministry took sanctions against the striking teachers.

**No solution for sacked union members**

There was again no solution to the situation at the formerly state-owned electricity company, EDH, where over 400 members of the FESTRED'H union, including 30 leaders, had been sacked at the end of 1996. The dispute began after the company victimised a union official, but had its roots in the union's opposition to privatisation some years earlier.

The sacked unionists remained jobless and have not been able to take any steps towards resolving the situation. This is because of the lack of appropriate institutional mechanisms, the lack of goodwill on the part of the authorities, and the political crisis that had left the country without a government for over 30 months at the end of 1999.

# Honduras

POPULATION : 6,147,000 / CAPITAL : Tegucigalpa / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Workers protesting at the violation of a collective agreement in an EPZ were tear-gassed and beaten.**

**Privatisation protests**

On 1 May unions held a day of protest against the government's economic policy, in particular the privatisation of public services which had been negotiated with the IMF but not the trade unions. They said that the government wanted to wipe out the unions through privatisation.

**Maquiladoras**

After the working conditions in the Honduran maquiladoras, many of which produce clothes for the US market, were exposed in the US in 1996, US manufacturers imposed tighter controls at their Honduran supplier factories. The government also made some efforts to modernise the Ministry of Labour and to improve the labour inspection service.

In the early nineties, investors had been enticed into the zones by promises that the labour law would not be strictly applied and trade unions would not be tolerated. Violations of trade union rights had increased and working conditions had deteriorated.

**Anti-union discrimination**

The Honduran unions say that the operation of the law does not protect workers and their trade unions sufficiently against acts of anti-union discrimination and acts of interference by employers. Workers who protest or claim their rights or who are suspected of organising unions are still liable to being harassed, intimidated or sacked. Employers maintain blacklists of sacked trade unionists. They set up Solidarist associations and other forms of company-controlled unions.

**Collective agreement signed...**

In March 1999, a collective agreement was signed at a South Korean-owned maquiladora, Kimi, in the Continental Park in Lima near San Pedro Sula. The factory produces for the US retail outlet, JC Penney.

In May, the park owner, a presidential candidate and businessman, announced that he would throw the company out of the park in August when its lease expired, because it had got a union. He eventually agreed that the factory could stay, but imposed unacceptable conditions. In the meantime, the factory owners found another location.

The union, SITRAKIMIH, said that most workers would not be able to move to the new location and the union would be destroyed. Eventually the move was cancelled.

**... but violated**

Discussions between union and management were going well until on 18 August management suddenly left the negotiations. The next day they imposed a wage change which broke an agreement that had already been reached. The union went on strike and occupied the factory. The management was kept inside the factory until the police escorted them out in the afternoon. The company tried to have the union leaders arrested and charged with kidnapping.

On 27-28 August the union blockaded Continental Park in protest at the management's refusal to respect the collective agreement. On 30 August, riot police were at the park gates to ensure that workers could go in to work. Workers at neighbouring factories refused to enter - in solidarity with the Kimi workers. They were tear-gassed and beaten. Many of them had to go to hospital.

The management demanded the removal of the union leadership, and the Labour Ministry stepped in to mediate.

In the same park there were reports that union organisers at the Yoo Yang factory were sacked after applying for union recognition on 16 August.

**Labour code violates rights**

The government no longer refers to a draft labour code, which it had been saying was drawn up in 1995 as a result of tripartite discussions, and would repeal many of the following provisions of the law which violate trade union rights.

- The labour code does not cover certain agricultural or stock-raising workers
- It allows only one union per enterprise or establishment
- Thirty workers are required to constitute a trade union
- Ninety per cent of trade union membership must be Honduran
- Trade union or federation officials must be Honduran, must be employed in the sector the union represents, and must be able to read and write
- Two-thirds of union members must vote in favour of a strike, and federations and confederations cannot call strikes
- The Ministry of Labour can end strikes in the oil industry, which is defined as an essential service
- Compulsory arbitration can be imposed on disputes in non-essential public services
- Six months notice or government permission must be given for strikes in public services that do not depend directly or indirectly on the state.

# Mexico

POPULATION : 95,831,000 / CAPITAL : Mexico City / ILO CORE CONVENTIONS RATIFIED : 29-105-87-100-111



**Local Conciliation and Arbitration Boards are able to withhold or delay union registration. In 1999 it was reported that conditions in the maquiladoras had become even more exploitative.**

**Power of the CABs to deny registration**

All trade unions have to be registered with the local Conciliation and Arbitration Boards (CABs). They have sole authority to regulate union elections and to handle all phases of dispute resolution.

They can also withhold or delay union registration.

Independent unions denied registration cannot engage in collective bargaining or call strikes, and are excluded from tripartite organisations.

The CABs also have the power to declare strikes "legally non-existent", in which case a strike cannot take place or workers already on strike must return to work in 24 hours. If they refuse they can be fired. Hence strikers are vulnerable to being fired, and work stoppages are often suppressed by force.

**Little protection in law**

Under the law, workers can be denied access to their own collective agreements and even to internal union rules, which means they can do little when procedures are violated in union elections. Registration requirements and election procedures have been used to stop workers forming new unions where employer-dominated unions exist.

Although the law protects workers against anti-union discrimination, the provisions are inadequately enforced and employers blacklist union activists. Workers fired for union activity are pressured to sign voluntary resignation papers giving up their reinstatement rights. Should they choose not to sign and to seek redress instead, they face a lengthy and expensive procedure with little confidence in the neutrality of the authorities. They also risk losing their statutory redundancy pay.

**Exploitation in the maquiladoras**

"Protection contracts" are common, particularly in the maquiladoras, and are encouraged by both the authorities and employers. They are used to avert strikes and independent union organising. Union meetings, union elections and collective negotiations hardly ever take place.

The maquiladora plants are primarily US-owned assembly plants along the US border, and employ around 1,100,000 workers.

In 1999 it was reported that conditions in the maquiladoras had become even more exploitative. Mexico has 107 export processing zones and 4,079 maquiladoras that employ over a quarter of the industrial workforce. Working conditions and health and safety standards are notoriously bad, and the government fails to enforce the labour law. Wages are often irregular; discrimination and sexual harassment are common. Unjustified dismissals are rife.

Attempts to set up independent trade unions have failed because of pressure from employers. It is systematic practice for maquiladora employers to require women to undergo pregnancy tests before they can get a job. Pregnant women are refused employment. Women who become pregnant are intimidated into resigning or illegally sacked.

These practices have been imposed by US-owned companies such as Lear, Johnson Controls, National Processing Company and Tyco International, and international corporations such as Samsung of South Korea, Matsushita Electric Corporation and Sanyo of Japan, and Siemens of Germany.

Over 2,700 new assembly-for-export (maquiladora) companies have been established in the Tijuana, Baja California area since the North American Free Trade Agreement (NAFTA) came into force in 1994.

**1999 – Han Young dispute continues**

The bitter dispute at the Han Young maquiladora in Tijuana continued. The factory assembles truck trailers and chassis for the Korean-owned Hyundai. The dispute began in June 1997 over wages, health and safety conditions, and union representation rights. Despite certification of an independent union, the company used numerous illegal tricks to try and destroy it, abetted by Tijuana government officials. The state governor of Baja California also intervened into the CAB process.

In May 1998, the union went on the first ever-legal strike in the maquiladoras. At the beginning of June, the police illegally escorted replacement labour into the factory. An arrest warrant was issued for the union's leader, Enrique Hernández, and its lawyer, Jose Ángel Peñaflo. They went into hiding, but were finally arrested in December 1998. They were charged with holding the owner of Han Young hostage for an hour during the strike, and released on bail. They denied the charges.

Strikers who found jobs in neighbouring factories were fired immediately when it became clear that they were Han Young strikers. Their names had been put on a computer blacklist.

On 6 April 1999, the highest court in the northern part of the state confirmed the legality of the May-June 1998 strike and said that the Tijuana authorities had violated the law by suppressing it.

On 3 May 1999, the union raised the strike flags again at the Han Young factory. This meant that the factory had to close until the dispute was resolved.

Two days later, two lawyers acting for the state employers' federation, COPARMEX, arrived with ten trucks of police. The lawyers told the police to take down the strike flags and to allow 20 replacement workers in. The police complied but changed their mind when television cameras together with officials from the federal CAB and the main opposition party arrived.

Days later, over 100 special police and state police pulled down the strike flags and escorted 70 replacement workers in. Enrique Hernandez and two others were charged with depriving the company of the use of its factory. The union obtained injunctions to prevent their arrests but Tijuana police still issued warrants. Members of the strike committee said that the state police came to their homes and intimidated their families.

On 13 May 1999, the union's lawyer filed cases against state officials for failing to obey court decisions and injunctions. He and Hernandez went to Mexico City where the federal senate set up a commission to investigate the situation. The employers' federation, COPARMEX, held a press conference to warn that independent unions could spread into other factories.

In June 1999, a federal court ruled that the strike was legal. On 9 June, some 50 men broke into the plant using blowtorches and burning two strikers. About 100 police and state government officials stood by and watched.

On 1 July, after two months of constant threats and harassment, the police forcibly displaced the strike.

#### Custom Trim ruling

On 6 January 1999, a ruling by the Valle Hermosa CAB that had been made the previous December was publicised. It said that 28 workers sacked for striking at the Mexican subsidiary of the Canadian-owned Custom Trim Ltd. should be reinstated. Custom Trim produces car parts for Ford, Chrysler and General Motors in the US and Canada. The May 1997 strike had taken place over terms and conditions of employment.

On 19 January 1999, the US company Breed Technologies, which had taken over Custom Trim, appealed against the decision on the basis that the strike had been declared illegal.

#### Congeladora del Rio

At the US-owned Congeladora del Rio, a fruit preserving and freezing plant in Irapuato, Guanajuato state, the workers formed a union and presented collective bargaining demands to management.

Workers at the plant were not given any protective gloves or other clothing and had to work 12-14 hour shifts for very low pay.

A company union and a fake collective agreement suddenly materialised. On 15 July, the workers went on strike.

In September the company bussed in workers from another town to cross the picket line. The factory sent armed guards to intimidate the strikers with their presence.

The local CAB rejected an appeal for legal protection for the strikers, around 200 of whom were sacked. The majority of the strikers filed court cases for reinstatement.

On 29 September, the state authorities mediated an agreement, but the parent company, Global Trading, refused to sign and brought in strikebreakers.

Finally, at the beginning of November an agreement was signed. The company publicly committed itself to reinstating the fired workers by a certain date, and the state authorities agreed to monitor this undertaking.

The company reneged on the agreement. The president of the company, Arthur Price, instructed the management not to rehire the strikers.

**Teachers' protest**

On 13 January, the SNTE national teachers' union called a one-day national strike for 13 January, and an open-ended strike for the third week of January in support of five of its leaders in the capital, Mexico City. They had been arrested at the beginning of the year, and faced charges of mutiny, kidnapping and robbery. The charges related to their occupation on 11 November 1998 of the federal senate, when they were alleged to have taken six senators hostage, including the speaker. They held a march on 6 January in protest at the charges, which can carry sentences of up to 50 years' imprisonment.

**Labour bill**

There were reports in May 1999 that the government's draft bill to reform the labour code had been drawn up by business lawyers and represented a step backwards for workers' rights.

**Trade union monopolies in public sector**

The ILO continues to criticise the fact that both federal law and the constitution provide for a single trade union system for public employees, including state and municipal employees.

The law states that only one trade union can exist per state body as well as in the banking sector. Public sector unions must belong to the FSTSE confederation, which cannot join with other trade union organisations.

Although the Supreme Court ruled in 1996 that laws covering public servants in the states of Jalisco and Oaxaca establishing trade union monopolies were unconstitutional, there have been no changes to law or practice.

In May 1999, the Supreme Court ruled that the federal law covering public servants was unconstitutional.

**Other restrictions on public servants**

Other restrictions on freedom of association in the public service are:

- a prohibition on re-election of trade union officers
- a ban on public servants joining unions of private sector or agricultural workers
- a ban on trade unionists leaving the union to which they belong
- two-thirds of workers must vote in favour of a strike.

The labour law does not allow non-Mexicans to become members of trade union executive bodies.

## Nicaragua

POPULATION : 4,807,000 / CAPITAL : Managua / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Progress has been made in industrial relations over the past two to three years in the EPZs, although many problems remain.**

**EPZs – some progress**

In 1997 the Ministry of Labour opened an inspection office in the government-run Las Mercedes export-processing zone outside Managua to ensure that the labour law was being enforced.

Many of the factories are Taiwanese-, US- and South Korean-owned, and export clothing to the US. Las Mercedes houses 19 factories and is ringed by barbed wire and guarded by armed personnel. There are four functioning privately owned EPZs.

Some trade unions have now been registered in the EPZ factories and are allowed to function. There have also been improvements in minimum wage payments.

However, reports still persist of abuse of trade union and workers' rights, including below minimum wages, long working hours, poor health and safety conditions, irregularities in social security payments, strict production quotas, reports of verbal and physical abuse by management, and sexual harassment of women workers. Workers trying to form unions are liable to being threatened, fired, and blacklisted.

**Trade unionists fired and black-listed**

In July 1999, some 800 workers at the Taiwanese-owned Chih Hsing factory went on strike to demand the reinstatement of 12 fired union members, including the union's executive committee.

The union, affiliated to the CST national trade union centre, had been formally organised on 16 July. It applied for registration on 20 July, which it obtained the same day. The company immediately fired some of the union members, so the workers held a peaceful work stoppage.

The Ministry of Labour ordered the company to reinstate four of the workers, but the company appealed. On the next day, 21 July, the workers continued their stoppage. The Ministry of Labour said that the strike was illegal because the union had not fulfilled all the procedural requirements.

The strikers went back to work within the 48-hour period, after which, in line with the law, they could be fired. But the company fired more workers anyway on 22 July, bringing the total to 12.

Chih Hsing gave the names of all the sacked employees to the other employers in the Las Mercedes zone, to prevent them from working there ever again. The union said that the sackings were illegal because according to the law, union members cannot be fired for 90 days after a union has been registered.

In the first week of August, the Ministry of Labour accepted the company's appeal against reinstating the strikers.

Eleven of the 12 sacked workers accepted double severance pay to leave, but one worker, Eunice Montoya, appealed against the Ministry's decision and demanded reinstatement. The Ministry turned down her appeal. She took the case to the Labour Court, which was bound to rule in 30 days.

When the union notified the authorities of their intention to begin negotiating a collective agreement with the company, the company threatened to close production lines down at both its Chih Hsing and Chentex factories.

By December, the union in the Chih Hsing factory had obtained legal recognition.

A sympathy strike with the Chih Hsing workers was held at the Chentex factory, owned by the same Taiwanese consortium, Nien Hsing.

**Safety scare**

On 16 November, Chentex workers became ill after being exposed to toxic fumes. One hundred and six employees had to be rushed to hospital, where they later recovered.

**Strikers fired**

In December, for the first time ever, the Ministry of Labour declared a maquiladora strike legal. Workers at the US-owned Jem III factory, owned by the US JEM sportswear company, which produces clothing for Wal-Mart, had gone on strike over illegal new work assignments and pay cuts. The factory management fought to have the strike declared illegal.

The ruling meant that the factory was obliged to negotiate with the union. The company retaliated by sacking some 65 workers, including all union executive officials and most members, spreading out the firings to minimise resistance.

**Violence and deaths during transport strike**

Fuel price rises imposed by Nicaragua's structural adjustment programme, and the threat of liberalising the public transport sector, led to a strike by bus operators and drivers, and taxi drivers, in April. The police and the army cracked down violently on street blockades by angry workers. Two demonstrators were killed and hundreds were wounded in clashes, including by tear gas and bullet wounds.

**The 1996 Labour Code**

A new labour code came into force in December 1996 and in 1997 a new Regulation on Trade Unions was issued. The new code repealed or amended many of the provisions that the ILO had been criticising for a number of years. Some problems remained:

- The new code continued to require that members of the executive board of a trade union must be Nicaraguan nationals.
- It limited the role of trade union federations and confederations during strikes to giving advice and moral and economic support.
- It said that a strike could be submitted to compulsory arbitration after 30 days.
- It stipulated grounds on which workers could lose their union membership, including non-payment of union dues for three months, non-attendance at six consecutive general assemblies, and non-exercise of trade activities required of them during a six-month period.

# Panama

POPULATION : 2,677,000 / CAPITAL : Panama / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**Panama's labour legislation still imposes restrictions on organising and the right to strike, particularly in the export processing zones.**

## Legal restrictions on organising

Panama's 1995 labour law stipulates that an enterprise level union cannot be formed unless it has at least 40 members. The law also brought in labour market flexibility measures, in line with structural adjustment requirements.

Only one public servants' association can exist per institution, and only one branch can exist per region.

## EPZs – strike restrictions

A 1997 law on labour relations in the export processing zones established a tripartite committee to conciliate in a lengthy dispute-solving procedure, at the end of which workers could go on strike. The law says that workers can be sacked or fined for instigating a strike without following the pre-strike procedures – including a 35-day conciliation procedure - making legal strikes virtually impossible.

## Mandatory arbitration

In 1998, the National Assembly reformed an article of the law and added a new article to the labour code to allow the labour authorities to impose mandatory arbitration in labour disputes in certain circumstances. This allowed them to determine whether a strike was legal or not, and to ban strikes

## Public sector

In the second half of the year, some 7,000 public sector employees were laid off. Unions in the sector had been opposing privatisation of the state sector.

# Paraguay

POPULATION : 5,222,000 / CAPITAL : Asunción / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**The government has indicated that changes are underway which may bring some improvements for union rights, particularly in the public sector. Pressure for greater flexibility has led to fears of job losses.**

## Flexibility fears

In September 1999 trade unions said that employers were lobbying hard for flexibility measures to be introduced into the labour code, and for the modification of the law on the status of public officials. They said that hundreds of jobs would be lost.

An indefinite strike due to commence on 1 December that had been called by the Union and Social Front to protest at government plans for public sector privatisation was averted when agreement was reached on the eve of the strike.

## Legislation

The 1993 labour code excludes public servants, but a transitional provision of a 1995 law gave them the right to form and join unions and to strike, pending the adoption of a new law on the subject. Accordingly a Bill was submitted to Congress in 1999 with a favourable opinion from the parliamentary committee.

A union must have at least 300 members before it can be set up. Candidates for union office must work in the enterprise and be active union members before they can stand.

The free election of union representatives is restricted by detailed regulations. The Supreme Court has ruled these regulations unconstitutional and the government states that the regulations are no longer in force because a new Electoral Code applies.

Strikes can be referred to compulsory arbitration, and employers can sack workers who strike before conciliation and compulsory arbitration procedures have been exhausted. The government has said that these provisions no longer apply because, according to the constitution, arbitration is optional. It also said that a new draft Code of Labour Procedure was being studied.

The labour code does not protect workers who are not trade union leaders from anti-union discrimination. While employers can be fined for sacking union leaders for union activities, the fines are too low to deter offenders. The labour code has been amended to provide for new sanctions such as the temporary suspension of employer activities for eight days during which employees are paid, as well as the cancellation of the employers' register, in certain situations. However, the Act amending the labour code remained pending because the issue of its constitutionality was before the Supreme Court.

## Peru

POPULATION : 24,797,000 / CAPITAL : Lima / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**Changes to labour and employment laws have drastically undermined trade union rights. Economic policies implemented since 1990 and fear of dismissal undermine organising.**

### Deregulation and flexibility

The 1993 constitution, as well as laws and decrees brought in from 1992 onwards, introduced labour market flexibility measures and deregulation. Precarious employment increased and many employment rights were eliminated.

New laws made it easier to lay workers off and hire new ones on temporary contracts - usually with no union rights. Employers no longer had to reinstate workers found to have been dismissed unfairly.

A 1996 law took away guaranteed rights such as annual paid holidays and bonuses, and industrial accident compensation, making them subject to bargaining.

State-owned companies were privatised and hundreds of thousands of workers lost their jobs in the public service, state-owned and private sectors. Trade union leaders were among the first to go.

### Labour Law

The 1992 Industrial Relations Act was adopted by decree at the time when President Fujimori had dissolved the national parliament, suspended the constitution, and assumed emergency powers. The law

- Requires a minimum of 100 workers to form a professionally or occupationally based union.
- Allows the Labour Ministry to cancel a union's registration, and obliges unions to wait for six months before re-applying after remedying the cause of de-registration.
- Unions have to compile reports when requested by the Ministry.
- Restricts the free election of union officials by requiring that in order to be eligible workers must be active members of the union and employed in the enterprise for at least one year.
- Restricts workers' eligibility for union membership by prohibiting staff on probation periods from joining unions.
- Prohibits unions from taking part in political activities.
- Bans public servants' federations or confederations from joining organisations representing other categories of workers.

- Requires a majority of all workers in the workplace to vote in favour of a strike, and a full list of workers' names that attended the meeting must be submitted to management.
- Bans strikes over general economic and social policy issues.
- Contains a broad definition of "essential" services, where arbitration is compulsory and strikes are virtually impossible.

**Inadequate protection against anti-union discrimination**

The law does not adequately protect workers against acts of anti-union discrimination, and there is no protection at the time of recruitment. Nor is there protection against employer interference in trade unions. Court procedures for reinstating workers sacked for union activities are very slow and employers often ignore rulings in favour of workers.

The law requires that a majority of both workers in an enterprise and enterprises in a sector are necessary to conclude a collective agreement for a branch of activity or occupation.

The 1995 Employment Promotion Act allows employers to "introduce changes or modify working shifts, days and hours, as well as the form and manner in which work is performed".

**Tear gas used against protesters**

On 28 April 1999, trade unions organised a national strike with broad support from across society. The government put the armed forces on alert and drafted 20,000 police onto the streets - allegedly to protect those who wanted to go to work. Tear gas was used against peaceful protesters.

The Minister of Labour declared the strike illegal. President Fujimori said that the strike leaders were "communists".

**Telefonica**

In 1999, dismissals continued at the privatised Telefónica company. Although the company set-up a permanent working group in February 1998 to discuss privatisation with the unions, it continued to take unilateral decisions.

Workers were offered jobs in newly created subsidiaries with different conditions of employment, lower pay and often no union representation. Workers had to wait three months before joining a union, and were required to have a year's seniority in the new company before becoming a union leader and being able to take part in collective bargaining.

The unions, FETRATEL and SUTTP, said that workers were also being put under pressure to work longer days under threat of dismissal. An evaluation process had been imposed which was only used to justify sackings and the company refused to reinstate workers illegally dismissed in 1995 despite a court ruling.

Although the company had guaranteed job stability to union members for a five-year period, some 7,000 had been sacked. Of these 102 had been reinstated by court order.

In September 1999, FETRATEL said that 500 workers had been laid off. The company claimed that it was implementing a programme of voluntary redundancy and contracting out. However, the workers and the equipment were the same. The only difference was the company's name. Workers who refused to resign were sacked.

**Railway strikers attacked**

On 20 August, workers at the newly privatised railway company, ENAFER S.A. went on an indefinite strike against government policy requiring them to be sub-contracted on one year contracts.

In several towns - Chosica, Cusco, La Oroya, Arequipa, the strikers and their families were brutally attacked by the police. In Cusco 62 workers were arrested.

# Trinidad and Tobago

POPULATION : 1,283,000 / CAPITAL : Port of Spain / ILO CORE CONVENTIONS RATIFIED : 100

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**Union leaders were arrested in the middle of the night after holding a peaceful picket outside the home of a government minister one month earlier.**

## Night arrests

On 1 November 1999, the president of the Communications Workers Union, Laurence Brown, and its general secretary, Lyle Townsend, were awakened in the middle of the night and arrested by the police.

They were charged with seven offences including creating a disturbance and holding a procession without police permission. The charges related to a peaceful picket outside the home of a Government Minister. They were released on bail and the trial was set for 17 December.

The union had been demanding a profit-sharing arrangement for workers at the Trinidad and Tobago Telecommunications Service, which is jointly owned by Cable and Wireless and the Government of Trinidad. Some 12 union members led by the president and general secretary had peacefully picketed the home of the Minister of Public Utilities one month before the arrests.

One year earlier another Minister's home was picketed in a similar way during a different dispute, but no arrests were made.

## Political manipulation suspected

It was widely believed that the police department had been politically manipulated. In particular, the Director of Public Prosecutions issued a statement saying that he was not consulted about the arrests, nor did he give any instructions for them to be made. He also noted that there was no reason for the arrests to be made in the middle of the night. It came to light that the Deputy Director of Public Prosecutions had issued the instructions for the arrest.

The trade unions were particularly dismayed about the arrests because the Prime Minister is a former trade unionist.

## The law

In the public service, registered associations are accorded privileged positions as exclusive bargaining agents although there are no objective criteria to determine the most representative organisation.

Only unions with at least 50 per cent of membership in a bargaining unit can bargain collectively. Strikes can be prohibited:

- unless they are called by trade unions with at least 50 per cent of membership
- at the request of one party
- in essential services, which are broadly defined and include teachers who are subject to possible penalties of forced labour in prison
- if the Minister of Labour considers that the national interest is threatened.

In 1993 the authorities said that a tripartite committee had been appointed to review the whole of the Industrial Relations Act. There has been no further news.

# United States of America

POPULATION : 274,028,000 / CAPITAL : Washington / ILO CORE CONVENTIONS RATIFIED : 105-182



**The rights to organise and strike are not adequately protected in United States labour legislation. The law is unable to protect workers when the employer is determined to destroy or prevent union representation.**

## Sacking of union supporters commonplace

At least one in 10 union supporters campaigning to form a union is illegally fired. For every 30 people who vote for a union in elections in any one year, one will be illegally fired. At least one worker will be illegally fired in over 30 per cent of all union-organising campaigns. A poll conducted in 1994 found that 79 per cent of Americans believe workers are likely to get fired if they try to organise a union at their workplace. The National Labor Relations Board (NLRB) is estimated to have a backlog of almost 25,000 cases involving unfair labour practices committed by employers opposing trade union activity.

## Aggressive anti-union campaigns

US labour legislation allows for double standards with respect to the rights of employers and of workers. In nine out of ten union representation elections employers use mandatory closed-door meetings conducted on their own property during work to campaign aggressively against collective bargaining and trade unions. Supervisors not eligible to be represented by the trade union may have to participate in a vicious and intimidating campaign against the union. Employees who support trade unions are identified and often isolated from other workers. When faced with employees who want to join a trade union 80 per cent of employers engage consultants, detectives and security firms to assist in anti-union campaigns. Often their activities include surveillance of union activists in order to discredit them. In some cases court, medical and credit records of union activists are obtained and the family lives of activists are studied for possible weaknesses.

Except in rare circumstances, trade union representatives are denied access to the employer's property to meet employees during non-working time. During organising campaigns, threats of arrest against union representatives and their expulsion from the employer's property deny workers any reasonable opportunity to consider freely the advantages of union membership. The government-conducted election used to determine if workers want union representation is usually held on the employer's premises – the place where most anti-union intimidation has occurred.

## Lack of effective redress for workers

The procedures of the NLRB, the body that governs industrial relations in most of the private sector, do not provide workers with effective redress in the face of abuses by employers. Lengthy and ineffective legal procedures discourage many workers from using them - it takes an average of 557 days for the NLRB to resolve a case. One study found that, where employees are ordered to be reinstated, only 40 per cent actually return to work and only 20 per cent remain employed for more than two years. The workers that quit give unfair treatment as their main reason for leaving.

Should the NLRB determine that an employer's unfair labour practices have made fair trade union elections impossible, it may order a new election. A new ballot was held at the Four Points Hotel in Waterbury, Connecticut on these grounds in 1995, but the company continues to prevent its workers from exercising their rights. It is estimated that the company has spent at least \$300,000 in legal fees in order to avoid paying back wages to workers dismissed for trade union activity in 1989 and 1990.

## Closures in response to organising

Although illegal, employers threaten to close or move their plants in over half of all organising campaigns, according to a study released in 1996. In industries such as manufacturing where this threat is most credible this violation occurs in over 60 per cent of all campaigns. Where collective agreements are negotiated for the first time 18 per cent of employers threaten to close their facilities and 12 per cent of the employers actually follow through with their threats.

The National Labor Relations Act requires the NLRB to seek injunctions in a federal court against trade unions committing certain kinds of unfair labour practices. There is no corresponding obligation when employers commit the unfair labour practices. Unlawful acts by employers who deny trade union rights to their employees often accomplish their intended goal before any proceedings are concluded.

**Basic union rights denied to many**

Because trade union organising in the United States often involves excessive and costly litigation, the right to join trade unions and participate in collective bargaining is in practice denied to large segments of the American workforce. Throughout the period under review, the management of the New Otani Hotel and Garden in Los Angeles continued its anti-union campaign in an effort to halt what is now an eight-year organising drive.

Employers regularly challenge the results when the union wins a representation vote, regardless of the margin of victory. The government will spend months, and sometimes years, examining what are often minor or frivolous charges before ordering a company to bargain with the union. In the meantime, union supporters quit or are fired, and new workers are hired, often after the employer has screened out what it deems to be potential union supporters, sometimes by using psychological and other tests.

**Obstacles to bargaining**

The options available to employers to discourage workers from exercising their trade union rights do not end if a union is certified. It is estimated that approximately one third of employers engaged in bad faith or "surface" bargaining with newly-certified unions. Forty per cent of negotiations for a first collective agreement fail. One study showed that in a quarter of the remaining cases where a first collective agreement was achieved, the union was unable to negotiate a subsequent agreement.

Workers at the Holiday Inn Sun Spree Hotel in Kauai, Hawaii, were locked out by the employer in 1996, as part of its efforts to cut wages, health care and other benefits. Although they returned to their jobs they still do not have a new collective agreement. Washington D.C.-based Black Entertainment Television continues to refuse to negotiate a first collective agreement for technicians who voted for union representation in 1993.

There has been blatant bad faith bargaining by the Overnite Transportation Co., where union members among the drivers and loading dockworkers employed now represent 45% of the workforce eligible for representation. Despite scores of collective bargaining sessions and the issuing of numerous complaints by the NLRB against the company for its refusal to bargain, no collective agreement has been reached at any union-represented terminal. Refusing to enter into serious negotiations is part of a larger company response to union activity which has also included illegal discharges and the illegal closing of several union-represented terminals. The NLRB has issued complaints alleging approximately 1000 separate and serious unfair labour practices committed by the company.

Although employees at the Detroit Michigan terminal voted for union representation in March 1995, the company challenged the election delaying certification of the election until September 1999. The company is appealing the decision in a process that will take approximately two more years. Workers in a Chicago terminal voted for union representation in 1982 and are still without a contract.

In October 1999 approximately 1,800 workers initiated an unfair labour practices strike against Overnite.

**Restrictions on workers' activity – freedom for employers**

The law, and various administrative and judicial decisions, place a variety of restrictions on the ability of workers to engage in "concerted activity" including restrictions on intermittent strikes, secondary boycotts and other forms of mutual aid as well as on various kinds of "on-the-job" activity.

However, the law gives employers the "free play of economic forces". If employers cannot get what they want through collective bargaining, they can unilaterally impose their terms, lock out their employees, and transfer work to another location, or even to another legal entity. Throughout 1999, 250 workers employed at Crown Central Petroleum's refinery in Pasadena Texas remained locked out of work.

Throughout 1999 employees at the Hi-Tech Cable plant in Starkville, Mississippi continued to work without a collective agreement. The Southwire company that bought the plant in 1992 declared an impasse in collective bargaining after the expiration of the previous agreement and unilaterally implemented changes in terms of employment - including 12-hour days without overtime and the elimination of mandatory arbitration - in a deliberate attempt to destroy the union.

In 1999 French multinational Imerys withdrew recognition of the trade union representing the workers employed by a new acquisition after merging the company with a non-unionised plant that employed more workers. The company launched an anti-union campaign based on mandatory meetings involving scare tactics and intimidation by supervisors at this plant and at three unionised plants.

In the construction industry, it is a common and legal practice for employers to create separate non-union companies and thereby avoid negotiated commitments.

**Replacing strikers – permanently**

Recent surveys of employers with impending negotiations have found that upwards of 80 per cent are committed to, or contemplating, replacing workers if they can't get a deal they like. Under the law, employers can hire replacement workers during an economic strike. Although the dismissal of strikers is banned, the use of permanent replacements is, in practice, virtually indistinguishable from dismissal.

**Employer-provoked strikes**

More and more employers have deliberately provoked strikes to get rid of trade unions. Unacceptable demands are made of workers and are often accompanied by arrangements for the recruiting and training of strike-breakers. Permanent replacement workers can vote in a decertification election to eliminate union recognition. Should the company and the union reach an agreement during a strike, striking workers do not automatically return to work. The law only gives strikers the right to return to work as jobs become available.

Throughout 1999, employees of the walnut producer co-operative Diamond Walnut, in Stockton, California, continued a strike that began in 1991. Also throughout the year employees of the Best Western Grosvenor Resort in Lake Buena Vista, Florida, continued a strike begun in September 1996.

Detroit News and Knight-Ridder are still refusing to comply with a 1998 NLRB order to reinstate strikers after being found guilty of unlawfully provoking strikes in 1995, pending an appeal against the decision.

The employees of CF&I Steel in Boulder Colorado (now known as Rocky Mountain Steel), a subsidiary of Oregon Steel Mills, Inc., were permanently replaced following a strike that began in October 1997. The company refused the union's unconditional offer to return to work in December 1997 and continued to operate with permanent replacements throughout 1999.

These strikes were provoked by employers – whose enterprises were successful – demanding big cuts in existing wages, working conditions and benefits in contracts established through collective bargaining. The duration of these strikes, and the corresponding hardship for the striking workers, was caused by the legal use of strike-breakers by the employers. In the case of the Diamond Walnut dispute, the employer even required workers to train their replacements. These strikes, although among the longest, were only a few of the cases in which employers used replacement workers in violation of the right to strike.

**Employers obstruct collective agreements**

Strike-breakers are not only used to destroy established collective bargaining relationships but also to prevent trade unions from achieving a first agreement. In January 1998 following months of negotiations for a first contract, employees of Jet Equipment Inc., a distributor located in Auburn Washington and owned by Swiss based Walter Meier Holding Company, organised a strike and were replaced.

**Extreme exploitation**

An under-funded labour inspectorate and inadequate penalties for employers who violate the law mean that legally established labour standards covering wages and hours, child labour and

workplace safety are inadequately enforced. This, together with the failure of US law to protect trade union rights, has led to an increasing number of instances of extreme exploitation.

Some of the most extreme exploitation takes place in territories under the control of the U.S. Government. Since the 1980's the U.S. Commonwealth of the Northern Mariana Islands has developed a garment industry based on the ability of these islands to ship products duty free and without quotas to the US. This status, together with local control of wage and immigration laws, has had the practical effect of introducing a system of indentured servitude into the territory. Local authorities permit foreign-owned companies to recruit thousands of foreign workers, mainly young women from Thailand, China, the Philippines and Bangladesh. The workers are recruited by private agencies who demand exorbitant fees from these workers. Fees are either paid in advance or are deducted from pay in an arrangement that requires the workers to remain in the employ of the same manufacturer who in turn has a relationship with the recruiting agency.

In addition to the abuse of fee-charging, these foreign workers are routinely required to sign employment contracts where they agree to refrain from asking for wage increases, seeking other work and from joining a union. The workers are informed that contract violations will result in dismissal as well as deportation and that the workers concerned must pay the travel expenses to return to their home country.

**Groups excluded from national labour legislation**

National labour legislation does not cover agricultural, domestic workers and certain kinds of supervisory workers. Moreover, the concept of "employee" as used in the law does not accord protection to "independent contractors" even where they have no separate economic identity independent of a particular employer.

Throughout 1999 over 2,000 migrant and seasonal farmworkers employed on farms that supply the Mount Olive Pickle Company continued to seek recognition for their trade union from this company. In the absence of any legal framework to protect their rights, the company is the only organisation capable of engaging in meaningful collective bargaining or in according effective trade union recognition. Although the State of California adopted an Agricultural Labor Relations Act in 1975 in order to protect the trade union rights of agricultural workers, thousands of farm workers have yet to receive any back pay from judgements against employers by the Agricultural Labor Relations Board.

**Public sector – also facing a lack of protection**

The inadequacy of laws is not limited to the private sector. Approximately 40 per cent of all public sector workers, nearly seven million people, are still denied basic collective bargaining rights. At the national level, only postal workers enjoy such rights and 94 per cent of the postal workers are represented by trade unions. Over two million employees of the federal government are governed by the 1978 Federal Labor Relations Act which outlaws strikes, proscribes collective bargaining over hours, wages and economic benefits, and imposes an excessive definition of management rights which further limits the scope of collective bargaining rights.

While the situation varies from state to state, the absence of proper legal protection of trade union rights in the public sector is reflected in bans on strikes, bans on collective agreements, provisions for their invalidation, limitations on the scope of collective bargaining and discrimination against national trade union organisations. Thirteen states only allow collective bargaining for certain public employees and 14 states do not allow it at all. Nearly seven million of the total of 14.9 million state and local government employees in the United States are denied the right to bargain collectively.

# Venezuela

POPULATION : 23,242,000 / CAPITAL : Caracas / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138

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**An international outcry prevented the implementation of decrees that would have dissolved the CTV and allowed the authorities to run trade union elections.**

## Opposition to repressive decrees

On 12 August the press reported that the National Constituent Assembly was considering a draft decree for adoption on 17 August which would dissolve the CTV trade union confederation, and national and regional federations.

The decree was part of a package of measures under the planned declaration of a state of emergency, and constituted part of President Chavez' radical reform programme. It would revoke the mandates of trade union executive committees, the assets of the unions would revert to the assembly, and union leaders would be prevented from travelling abroad pending a government "audit" of the unions. The authorities would run trade union elections.

After internal and international protests, the decree was provisionally withdrawn. The administration said that it would prepare new regulations on trade union election mechanisms.

In June, the SITRAMECA union in the Caracas metro reported that the Caracas metro was employing some 80 military personnel in trains and stations and another 40 on its bus operations.

## Restrictive legislation

The law provides an excessively detailed list of the duties and aims of trade unions.

It requires non-nationals to live in the country for more than ten years before they can hold trade union office.

Sanctions applicable in cases of anti-union discrimination and interference by employers' organisations are too low to be deterrents.

A union must represent a majority of workers in an enterprise before it can negotiate a collective agreement.

A hundred workers are required before a union for self-employed workers can be formed.



Asia needs strong social policies if it is to overcome the devastating effects of its economic crisis. Unemployment and poverty continue to rise, wages keep falling, the informal sector is still growing and child labour is still rife. As a continent, however, Asia remains the most fiercely opposed to the "social dimension" of globalisation.

The two countries that still hold the worst rights record in the region are Burma and China. 1999 saw continued arrests and detentions of democracy activists and trade unionists in China, particularly following the unrest caused by millions of layoffs because of the closure of state-owned factories.

In Burma too the regime still cracks down ruthlessly on any independent trade union activity. FTUB activists live in constant fear of arrest and torture. In February 1999 the regime launched mortar shells at a village that was to host a trade union event on human rights, injuring three.

In Laos and Vietnam, independent unions are not allowed. Two other countries, Bhutan and the Maldives, do not allow trade unions at all.

There is no improvement in the situation in Australia where the government still seems unrepentant after its failed attempts to break the MUA maritime union in 1997-98. It introduced reforms to federal legislation which sought to further reduce union influence further, but they were defeated in parliament. The law continued to promote individual employment contracts known as Australian Workplace Agreements.



In Indonesia, there was both good news and bad. Trade union leader Dita Sari was given an unconditional release from prison, and work continued on drawing up a new legislative framework for trade union rights. Promises that the army would no longer be used in disputes were not respected however. In February troops fired into the crowd during a protest for higher wages and better working conditions.

Things got worse in Pakistan where restrictions on trade union rights increased. In Nepal, trade unionists were imprisoned, attacked and murdered. Between July and September 1999 at least 30 members of the Nepal Teachers' Association (NTA) were killed.

Longstanding violations of trade union rights remain in countries such as Bangladesh, Hong Kong, Malaysia, Taiwan, and Thailand.

There were also positive developments, of varying degrees. In South Korea teachers' unions were legalised, as a result of which the CHUNKYOJO and KUTE teachers' unions were registered on 2 July. The recognition of the teachers' unions facilitated the legalisation of the Korean Confederation of Trade Unions, which was finally registered in November 1999. Conditions for workers overall did not improve, regrettably, with massive job losses owing to structural adjustment in the wake of the economic crisis.

In a very welcome development, the new government in New Zealand announced that it would repeal the anti-union 1991 Employment Contracts Act.

Cambodia improved the enforcement of its labour code after the US government imposed import quotas on the garment industry linked to improvements in labour conditions. At the same time, however, there were attempts to crush independent trade unions in the country.

In Fiji there were major improvements in the industrial relations climate during the year, thanks partly to the change of government in May. When the foreign-owned Pacific Green Furniture Company Ltd. locked out 90 workers after they joined a union, the government stepped in to defend the workers' rights, issuing a compulsory recognition order.

It is an example the unions of many other countries in the region would like their governments to follow.



## Australia

POPULATION : 18,520,000 / CAPITAL : Canberra / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



The Government rejected the ILO's findings that the 1996 Workplace Relations Act law breached freedom of association, and said that they were not relevant to the Australian workplace. Attempts at the federal level to further reduce union influence were defeated in parliament.

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### Act undermines unions' role

In 1996 the government introduced the Workplace Relations Act, which drastically undermines the ability of unions to represent workers, improve their pay and conditions, organise and take industrial action.

In addition to finding that the Act breached freedom of association, the ILO also criticised it for being too long and complex, and requested the government to make simple summaries of it available to unions and employers.

### Individual agreements promoted over collective ones

The Act emphasises direct employer-employee relations at the workplace. In particular, it promotes individual agreements, called Australian Workplace Agreements (AWAs), over collective agreements. The content of AWAs is confidential, so they cannot be checked for breaches of minimum wages and employment conditions.

AWAs have primacy over federal and state wage awards (on statutory minimum pay) or agreements, and over certified collective agreements, unless a certified agreement is already in force when an AWA comes into operation. Once an AWA is in force, it cannot be displaced by a certified agreement, and it is easier to make an AWA legally enforceable than a collective agreement. Rio Tinto is one of the companies which has used this legislation, which they helped to write, to try to destroy unions by promoting AWAs at a number of their facilities.

In November 1999, the massive Australian mining company BHP issued individual staff contracts to its 1,000 iron ore workers in the remote Pilbara region in Western Australia, and said that it was not prepared to negotiate a new collective agreement.

Findings in 1999 said that most workers covered by AWAs had no guarantee of any wage increase during the life of the agreement. Less than one quarter provided for an increase. The findings were that ultimately there would be a widening of wage differentials between workers doing similar work in the same industry.

### Preference to enterprise-level bargaining

The Act places union and non-union collective agreements on the same footing and gives preference to workplace- or enterprise-level bargaining over other levels. It directs the Industrial Relations Commission, whose role is reduced, to encourage enterprise-level agreements over multi-employer agreements, and says that multi-business agreements can only be certified if they are in the "public interest".

Strike pay cannot be raised as a subject for negotiation. A majority of the workforce must approve a collective agreement.

The Act appears to allow an employer opening a new enterprise to choose which union to negotiate with before staff are employed.

Although in general the Act protects workers against anti-union discrimination, certain groups of employees can be excluded from protection against unfair dismissal. Amendments proposed in 1997, for example, exclude new employees of small businesses from such protection.

### Scope for legal strikes narrowed

The Act narrows the scope for legal strikes and increases the penalties for breaking the law. The operation of the law effectively denies the right to strike in the negotiation of multi-employer, industry-wide or national level agreements, bans strikes to put pressure on employers to pay strike-pay, and strikes involving a demarcation dispute.

The law also effectively bans sympathy strikes and secondary boycotts, and strikes "threatening to cause significant damage to the Australian economy or an important part of it".

The registration of a union can be cancelled where it or its members undertake industrial action that interferes with trade or commerce or the provision of any public service.

**Other legislation**

Amendments to the 1974 Trade Practices Act, by the 1997 Workplace Relations and Other Legislation Amendment Act maintained bans on a wide range of secondary boycotts, punishable by very high financial penalties.

The 1914 Crimes Act can be used to ban strikes "prejudicing or threatening trade or commerce with other countries or among the States" and banning boycotts "resulting in the obstruction or hindrance of the performance of services by the Australian government or the transport of goods or persons in international trade".

**Queensland – new legislation**

Legislation introduced in Queensland in 1997 that was similar to the federal Workplace Relations Act, and promoted Queensland Workplace Agreements has been repealed. The 1999 Industrial Relations Act came into force on 1 July 1999 and was the result of tripartite negotiations in a task force.

**South Australia – proposals for further restrictions defeated**

In South Australia, amendments to the 1994 Industrial and Employee Relations Act provided for a system of enterprise agreements and did not specify whether collective bargaining can take place at any other level. The secondary boycott provisions in the 1996 federal law apply as state laws.

In February 1999, the South Australia state government proposed industrial relations reform legislation. The Bill provided for individual bargaining and contracts, the stripping back of industrial awards, and the reduction of workers' ability to access the Industrial Relations Commission. It brought in restrictions on unfair dismissal laws. The right of union officials to enter a workplace would be restricted to cases where there was a reasonable suspicion of a breach of an award.

The campaign efforts of the South Australia United Trades and Labour Council together with other groups, ensured that the Bill would be defeated in parliament. The authorities did not proceed with it but it remained on the notice paper.

**New South Wales – weak on protection**

In New South Wales, the 1996 Industrial Relations Act excludes some groups of employees from unfair dismissal provisions and is ambiguous about protecting workers against acts of anti-union discrimination. It provides for a system of enterprise agreements without specifying that collective bargaining can take place at any other level. An enterprise agreement must be approved by 65 per cent of the workers in an enterprise.

**Western Australia – harsh anti-union legislation**

In Western Australia, harsh anti-union provisions within the 1997 Labour Relations Legislation Amendment Act, which amended several pieces of law, stripped workers of protection against discrimination for trade union activities, although they cannot be sacked for belonging to a union. The act provides for a system of employment contracts between an employer and an employee or a group of employees, but allows individual agreements to override collective agreements and the awards system.

The new amendments also contain other violations of trade union rights. These include restrictions on the right of workers to form and join a union of their choice, and interference into internal trade union affairs. It places restrictions on union representatives' access to workplaces, significant restrictions on the right to strike, including ways of ending strikes, a ban on sympathy strikes, and long and complicated pre-strike ballot regulations.

**Northern Territory and Victoria**

The 1996 Act is the principal legislation in the Northern Territory and in Victoria. In making provision for its extension to Victoria, it specifies that when a collective agreement ceases to be in force it is replaced by an individual employment agreement with the same terms.

**Events in 1999**

In February 1999, it was feared that the authorities were preparing to target the construction industry after their failed assault on the MUA maritime union in 1997-98. Letters were leaked showing that the government would support contractors in disputes with the Construction, Forestry, Mining and Energy Union (CFMEU). Correspondence from the Defence Minister said that employers who took on the union would get more time to complete government projects.

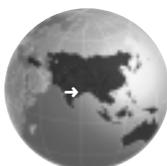
In March 1999, reforms to federal legislation, based on the Western Australia legislation, were announced which were aimed at further reducing union influence. They provided for longer notice periods for industrial action, removal of provisions like jury service and long service leave from awards, compulsory secret strike ballots, increased fees for lodging unfair dismissal claims, and limitation of the Industrial Relations Commissions compulsory conciliation role.

More details of the Workplace Relations Amendment Bill 1999 were leaked in June and the ACTU said that the laws would make it easier for employers to coerce workers into agreements that leave them worse off. It would allow employers to put individual contracts into effect before they have been approved, impose complicated postal ballot procedures for strikes, and stop unions from entering a workplace without a written invitation from a union member which would be valid for 28 days.

In August, the ACTU held rallies to protest against the legislation which was defeated in parliament at the end of November.

## Bangladesh

POPULATION : 124,774,000 / CAPITAL : Dhaka / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**There are many restrictions on trade union rights in Bangladesh and most public sector workers cannot join trade unions. The government is still dragging its feet over the introduction of a new labour code drafted by a tripartite commission set up to review labour legislation in 1992.**

### Sweeping limitations on union rights

Workers who cannot belong to trade unions include public servants (with the exception of railway, posts and telecommunications workers) teachers and nurses, and professional and managerial staff in the public and state sector, workers in export processing zones, and workers on government farms and co-operatives. While some of these workers have formed associations or unregistered unions, they cannot bargain collectively.

Government-appointed wage commissions usually set wages and working conditions in the public and state-owned sector. Their decisions are binding.

### EPZs – no unions

More than 90,000 workers, 90% of them women, are employed in the country's two export processing zones (EPZs) in Chittagong and Savar (Dhaka). In addition to local investment, investment comes mainly from South Korea, Hong Kong, Japan, Singapore, the US, Britain and Italy, primarily in the textile and apparel, electronics component, and leather industries.

The EPZs are exempt from the Employment of Labour (Standing Orders) Act of 1965, the Industrial Relations Ordinance of 1969, and the Factories Act of 1965. Among other things, these laws establish freedom of association and the right to bargain collectively and set occupational safety and health standards. Consequently, trade unions do not exist in the zones. While a small number of workers in the EPZs have set up informal organisations, no collective bargaining takes place.

### Harassment and abuse

An NGO study released in December 1999 reported the following practices, among others, in the Chittagong and Dhaka EPZs: sexual harassment and abuse, physical abuse, unpaid overtime work, child labour, non-compliance with minimum wage regulations, lack of information available to workers about their legal rights, and substandard safety conditions.

It has also been reported that these workers are generally not given appointment letters, are denied maternity leave, and are discouraged from marrying and having children.

**Government commitment unfulfilled**

The Government made a commitment in 1992 to end restrictions on freedom of association and formation of unions by 1997, and to apply all sections of labour law in the EPZs by 2000. This has not been implemented. As a result, in July 1999 the US national trade union centre, the AFL-CIO urged the office of the US Trade Representative to take steps to remove Bangladesh's trade privilege under the Generalised System of Preferences (GSP).

This possibility of economic pressure led to some promises of possible improvements in the EPZs. At the beginning of November 1999, there were press reports that the government had agreed to open up its two EPZs to trade unions. In response, representatives of both local and foreign business protested strongly. Investors said that the Bangladesh Export Processing Zones Authority Act, adopted in 1980, was being contravened. They said that investors would withdraw their capital and there would be no new investments.

The government was then reported to be seeking two years in which to amend the law.

Eight new EPZs are being created to add to the two in Chittagong and Dhaka. The number of people working in the zones is expected to rise.

**Limitations on union registration**

Thirty per cent of workers in any workplace must belong to a union before it can be registered, and a union can be dissolved if membership drops below this figure. Only unions registered in line with the provisions of the law can become bargaining agents.

Initial and continued registration of trade unions is obligatory, and workers can be punished for failing to register a union, or for carrying out union activities without registration. There is no provision in the law to enable a trade union to be registered on a nation-wide basis, and, by virtue of a court decision, unions composed of workers from different establishments owned by different employers are prohibited.

The government has rejected applications for registration from unions in the textile, metal, and garment sectors as unjustified.

Would-be unionists are forbidden to engage in many activities prior to registration, and legally are not protected from employer retaliation during this period. Employers usually discourage registration or any union activity, sometimes with violence or working in collaboration with local police. Requests for registration frequently result in the names of union members being given to the employers concerned, who immediately dismiss them. In consequence, trade unions are rare and there is little collective bargaining. The law acts to impede collective bargaining in the small business sector.

In the garment sector in particular, workers trying to organise unions over the last few years have been threatened, intimidated and frequently dismissed. The authorities have colluded with employers to stop unions being set up and registered. Through an unofficial order, the government has stopped almost all registration in the garment factories.

**Other violations**

The Registrar of Trade Unions has wide powers to interfere into internal union affairs. He can enter union premises and inspect documents.

Legal protection against anti-union discrimination is inadequate. Workers suspected of trade union activities are victimised and can be transferred arbitrarily. Neither are unions protected against acts of interference by employers.

The Labour Court's overall effectiveness is hampered by a serious case backlog, extending in some cases for over ten years. There are indications that many of its decisions have been the result of corrupt intervention by employers.

Candidates for union office have to be current or former employees of an establishment or group of establishments. A worker dismissed for mis-conduct is not entitled to become a trade union officer. This brings the risk that a trade unionist could be sacked to prevent them from becoming a union official.

<b>Strike restrictions</b>	<p>Three-quarters of union members must agree to a strike. The government can ban a strike that lasts more than 30 days, and refer it to the labour court for adjudication. A strike can be banned at any time if it is considered prejudicial to the national interest or involves a public utility service under the Essential Services Ordinance. This ban is renewed every six months with regard to national airline pilots, water supply workers, shipping employees, dock workers, telecommunications, banks and insurance, railways and electricity supply workers. Workers can be imprisoned for participating in an illegal strike.</p>
<b>Special Powers Act</b>	<p>The 1974 Special Powers Act can be, and is used by the authorities to detain trade unionists without charge.</p> <p>In 1999, ten trade unionists belonging to the ICFTU-affiliated BJSL, including its President Nashu Miah, were arrested for starting an industrial dispute at Afil Jute Mill. The issue was non-payment of wages for several months. The unionists were detained for four months until the High Court declared their detention illegal.</p>
<b>Law review delayed</b>	<p>A tripartite National Labour Law Commission was established in 1992 to review the labour law, and a new draft labour code was drawn up. In 1999 the government again told the ILO that a Review Committee was reviewing the draft.</p>
<b>Violations in the banking sector</b>	<p>In July 1997, the government appointed a five-member Task Force to draft an action plan to curb the "interference of trade unions in the management of the central bank and other banks both in the public and private sectors, and to suggest remedies".</p> <p>The Task Force reported in February 1998, making a series of recommendations including a ban on trade union activities in Bangladesh Central Bank and in commercial banks for at least three years. After this period unions would be allowed back under certain conditions and with a code of conduct. However, the government was not able to implement the recommendations without changing the law.</p> <p>In the first few months of 1999, there were reports that the government was considering bringing in new laws to ban unions in Bangladesh Central Bank</p>
<b>Jobs and wages under threat</b>	<p>In 1999, Bangladesh continued to face a bleak economic outlook. Industries closed down and many workers lost their jobs.</p> <p>In January, the National Garment Workers' Federation said that over 800,000 of the 1.5 million garment workers had not received their Eid bonus. Furthermore, around 15,000 of these workers had not been paid for two to three months. The employers' organisation for the sector blamed the government, as well as the 1998 floods. It said that the government had not paid them promised compensation for losses incurred during political strikes (organised by the ruling party while in opposition).</p> <p>Ordinary workers are sometimes victims of the frequent political strikes that take place in Bangladesh, organised by the two main political parties, particularly when the armed forces are brought in to clear backlogs, such as for example, loading and unloading in the ports.</p> <p>On 14 June, workers in jute, yarn and textile mills went on a 48-hour strike demanding the implementation of a 1991 wage commission recommendation to increase their monthly wage. The workers took to the streets when the police tried to remove the barricades they had put up. The police baton-charged the strikers and injured 20 of them.</p>

# Burma

POPULATION : 44,497,000 / CAPITAL : Rangoon / ILO CORE CONVENTIONS RATIFIED : 29-87



**There are no trade union rights in Burma. The repressive military regime cracks down ruthlessly on any independent trade union activity. In February, it launched mortar shells at a village that was to host a trade union event on human rights.**

**No union rights recognised in law**

There is no operating trade union law nor any legal structure to protect freedom of association, collective bargaining or to protect workers against acts of anti-union discrimination. The authorities do not promote collective bargaining and there is no evidence that it takes place.

**FTUB – the independent trade union in exile**

Former trade union leaders and members who were fired from their jobs and persecuted by the military regime for their trade union activities founded the Federation of Trade Unions of Burma (FTUB) in 1991.

A 1988 decree issued by the regime on the formation of associations and organisations was used in the same year to fire the FTUB leader, Maung Maung, and six other members of the All Burma Mining Union.

The decree requires permission to be obtained from the Ministry of Home and Religious Affairs before they can be established. It says that they will be dissolved if they attempt, incite, encourage or assist in undermining law and order, local peace and security and the smooth and secure operations of transport and communications.

The FTUB co-ordinates its activities with the banned National League for Democracy (NLD). The NLD won the 1990 elections but the regime prevented it from taking office. Aung San Suu Kyi, the NLD leader has expressed her support for the FTUB and for independent trade unionism in Burma.

The FTUB has to operate from outside the country. It works with ethnic groups in border areas, some of which have their own trade union structures, particularly in health and education. It also maintains some underground structures linked to workplaces inside the country. Its activists are under constant surveillance by the police and military intelligence, and live in permanent fear of arrest and torture.

The Seafarers' Union of Burma forms part of the FTUB and works in exile to help Burmese seafarers. The regime controls the employment of seafarers through the Seaman's Employment Control Division, and there have been many cases of it abusing and intimidating seafarers who complained about underpayment and poor working conditions on foreign ships.

**U Myo Aung Thant**

Two members of the FTUB executive committee, arrested in June 1997 by intelligence officers, remained in prison.

U Myo Aung Thant, a member of the All Burma Petro-Chemical Corporation Union, was arrested with his wife and children. After a secret trial, he was given life imprisonment in August 1997 for "high treason", plus ten years imprisonment on other charges.

He was accused on entirely baseless charges of trying to smuggle explosives into Burma. The regime used a confession that they had extracted from him under torture. At the end of 1998 he was moved from Insein prison to a remote prison in Myitkyina, Kachin state, in the far north of the country. The prison was too remote for his family to visit him.

His wife was sentenced to ten years in prison as an accomplice to her husband.

**U Kyin Kyaw**

U Kyin Kyaw, an official of the Seafarers' Union of Burma, was arrested with his wife. He had been detained for trade union activities in 1993 and had been tortured in detention. The authorities have never stated the charges under which he is held.

It is known that he is serving a 17-year prison sentence in Thayarwaddy prison in Pegu division. His health is poor. It is believed that in August 1999 he may have been moved to Mingladon Military Intelligence Headquarters Camp for interrogation.

**Than Naing**

Trade union leader Than Naing was still in prison after being sentenced to life imprisonment in 1989 for playing a leading role in forming strike committees during the 1988 democracy uprising which was crushed by the military.

**Village shelled**

On 19 February 1999, the FTUB and the Karen Health Workers' Union had planned to hold a trade union activity on human rights and organising in Tar Doh Thoo Hta village. Government troops launched mortar shells at the village where an FTUB office and the Karen Health Workers' Union hospital were situated, injuring three villagers.

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# Cambodia

POPULATION : 10,716,000 / CAPITAL : Phnom Penh / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**There were improvements in enforcement of the labour code in 1999 after the US imposed import quotas in the garment industry.**

**US quotas on garment industry**

In January 1999, during the visit of a US Trade Delegation, Cambodia agreed to enforce labour standards in its factories. The US imposed garment quotas, linking quota increases to improved labour conditions.

In December 1998, in an effort to head off US import quotas, the Trade Minister had said that the authorities would monitor working conditions, and violators of the labour law would have their licences cancelled and their visas withdrawn.

Most of the factories are in the capital Phnom Penh, and around 80 per cent of them produce for US markets. In 1998 the sector experienced a slowing down in growth because of the Asian economic crisis. The industry boomed again in 1999 and now employs around 100,000 workers, the majority of whom are mainly young women.

**Attempts to crush independent unions**

A wave of strikes at the end of 1996 and beginning of 1997 in the emerging, mainly Asian-owned garment industry were brutally suppressed and leaders of newly established unions were sacked. After a two-year struggle, the independent FTUWKC industrial union was registered at the end of 1998.

Government officials encouraged workers to set-up and register government-sponsored unions in factories where independent unions already existed. There were reports of forced union elections at several factories where factory managers made sure their candidates got in. There was also collusion between the authorities and employers in nominating shop stewards in factories.

The authorities ignored complaints made by workers of violations of trade union and employment rights. The mechanisms to enforce the law were inadequate, and the small number of labour inspectors were often not allowed into factories.

**The Labour Code**

The new labour code, which entered into force in March 1997, gave private sector workers the right to organise, to bargain collectively and to strike, although strike procedures are lengthy and tedious.

Public servants are covered by the civil service law and are not allowed to form trade unions.

The law makes no mention of international trade union affiliation.

**Onerous registration requirements**

To be legally registered a union has to submit a letter of application, a list of union officers and a copy of its charter to the authorities. Registration is automatic after 60 days.

Another section of the law, however, says that those responsible for the management and administration of unions must "not have been convicted of a crime in any court". In 1998 the Ministry of Labour invoked this clause to oblige the 10 executive board members founding a union to obtain police certificates of good conduct, approved and stamped by the Ministry of Justice, as a condition of registration.

The certificates are time-consuming and costly to obtain. A national ID card must be presented to obtain a certificate - even though there is no national ID card system. There are reports that the only way to get the ID card is to give a substantial bribe to the police.

The independent FTUWKC industrial union was registered at the end of 1998, after a two-year struggle.

**Legal protection for union representatives**

At the end of 1999 the Ministry of Labour committed itself to giving trade union representatives the same legal protection as workers' representatives.

The definition of a shop steward has so far been ambiguous. According to the law, shop stewards are to be elected in every company, whether there is a union or not, and independently of any union which exists in the factory. Thus it is possible for both workers' representatives and union representatives to exist. It was not clear whether the term shop steward applied to both.

Under the labour code, the dismissal of shop stewards has to be authorised by the Ministry of Labour.

**1999 – some improvement - but not in working conditions**

Unions did report some improvements in 1999, particularly in the areas of relations with the Labour Ministry, and national level discussions. The National Tripartite Labour Advisory Committee named in the Labour Code was finally set up, and the Labour Ministry began to draft a bill on the creation of a labour court.

However they said that there had been no improvements in respect to working conditions. Employers still regularly ignore the labour code. There are reports of forced overtime, lack of overtime pay, or sackings of workers who protest. The women get no maternity leave; pregnant workers are sacked without notice or compensation, as are workers who are ill, or who complain or organise other workers. The number of times they can go to the toilet is often restricted.

Workers at the Malaysian-owned PCCS Garment Ltd. in Phnom Penh went on strike on 11 January because their overtime wages had been cut, and the factory was very hot and poorly ventilated. Workers were forced to work eleven and a half hours a day, and pay was docked if workers were sick.

On 1 May, garment workers marched through Phnom Penh to call for higher wages although they had not received permission from the authorities.

In September, Winner Knitting in Kandal Province suspended and sacked three FTUWKC representatives who had attended ILO training courses on collective bargaining. After internal and international pressure they were offered new jobs at the company's headquarters, but refused.

On 28 September, some 500 garment workers belonging to the FTUWKC from the Hong Kong-owned Trinuggal Komara Garments, and the Taiwanese Tai Yang International Co. Ltd., protested outside the National Assembly over working conditions in their factories.

At Tai Yang, the FTUWKC representative, Hong Ko Sal, was demoted from mechanic to toilet cleaner. The workers said that he had been systematically persecuted since July. The union went on strike over his demotion, to demand the reinstatement of a shop steward, Ouk Khen, who had been fired, and because they had been forced to work overtime on many occasions.

Factory security guards went to Hong Ko Sal's home on 25 September but he had gone into hiding. The police also tried to arrest him. Various other events made the workers think that the police were acting on behalf of factory management. Ouk Khen was arrested but later released. The dispute was finally settled with the mediation of the labour authorities and the Director of company's head office in Taiwan.

On 1 December, Ying Kan Garments fired 46 workers without compensation. Three of them were branch union leaders who had filed a complaint with the Ministry demanding that all the workers should receive the compensation due to them under the law. The management reinstated them rather than pay compensation, except the three union leaders, claiming that they were not competent. The FTUWKC filed another complaint with the Ministry.

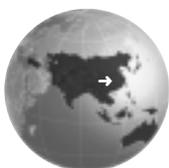
#### Lack of protection for union officials

Unions said that provisions against anti-union discrimination were inadequate. They said that in cases when union officials were sacked and the union filed a complaint with the Ministry of Labour requesting mediation - if the company refused to participate, the union had to file a complaint with the ordinary courts.



## China

POPULATION : 1,255,698,000 / CAPITAL : Beijing / ILO CORE CONVENTIONS RATIFIED : 100-138



**Independent trade unions are illegal in China. They are suppressed and their leaders are imprisoned. The official trade union, the All China Federation of Trade Unions (ACFTU) is part of the ruling party's apparatus and exists to carry out its policy and serve its interests.**

#### Single trade union

The 1992 Trade Union Law prevents the establishment of trade unions that are independent of the public authorities and ruling party. The Act provides for the existence of a trade union monopoly. This is the All China Federation of Trade Unions (ACFTU) which is part of the ruling party's apparatus and exists to carry out its policy.

The Act states that only one union is allowed at any level of organisation. The establishment of unions at any level must be submitted to the ACFTU for approval, and all unions must be under its leadership

It says the aim of trade unions is to regulate labour so as to improve labour productivity and economic efficiency, and to play an active role in socialist modernisation under the Chinese Communist Party. Unions are to act as intermediaries between workers and management if a dispute occurs.

The ACFTU 1993 constitution defines trade unions as "the link and bridge between the Chinese Communist Party (CCP) and the working masses, and the representative of the interests of union members and non-union members".

Key ACFTU officials are appointed by the party, especially at provincial and national levels. They are obliged, according to the ACFTU, to "resolutely uphold the unity leadership of the CCP. Unions at all levels should maintain a high degree of unanimity with the Party: politically, in ideas and in action".

#### Change in ACFTU approach

Beginning in 1998, as greater unemployment resulted from increased efforts to reform state-owned enterprises, it appeared that the ACFTU had more actively begun to reinforce government policies. In addition to prompting workers to work harder and increase productivity for the state, it added that of safeguarding workers' rights and interests. It criticised abusive layoffs and instructed its organisational structures to better protect the rights and interests of workers, while at the same time urging workers to support the reform process.

At the end of January 1999, Wei Jianxing, the ACFTU president and a member of the Standing Committee of the Political Bureau of the CCP Central Committee, called on the ACFTU to help laid off workers to find jobs. He said that they should offer them vocational training and ensure a basic level of subsistence for the poor.

He also stated that protecting the interests of the workers and maintaining social stability was the task of the party, and a top duty that trade unions should never shrug off. He told trade unions to mix with ordinary workers and to report to the party.

In April, the CCP vice-president said in a speech which appeared on the front of national newspapers, that as the reforms deepened and troubles increased, the union federation must conscientiously accept the party's leadership and uphold the correct political direction.

In November, the ACFTU president spoke about the central task of trade unions at all levels. He said it was to study conscientiously and implement the tasks set by the Fourth Plenum of the 15th Central Committee of the CCP and the Central Economic Working Conference. He also said that unions should mobilise workers to make new contributions toward attaining the goal of seeing the state-owned enterprises out of difficulty in three years, while performing the functions of trade unions and maintaining the lawful rights and interests of workers.

#### Private sector

In recent years, the authorities directed the ACFTU to set-up unions in the private sector – in foreign-owned enterprises or joint venture companies, and in rural enterprises.

These unions are largely symbolic, sometimes amounting to little more than the opening of an ACFTU office in an industrial district. They are either under the control of the Communist Party, or the factory directors, who often simultaneously hold union office. Both employees and management are members of trade unions. Many of them are turned into cultural or social clubs, and often workers are unaware of their existence.

In nearly all cases, local union committee members are Communist Party or higher-level union ACFTU appointees. Committee sessions can be regarded as formalities for reaffirming party or enterprise plans. Union members are entitled to various welfare benefits.

#### 1995 labour law

In 1995 China's first national labour code came into force. The government said that it had introduced it to prevent abuses of workers' rights in foreign-owned and joint-venture enterprises. However, enforcement continues to be minimal and enterprise managers are able to ignore it.

The code included four new principles:

- formal labour contracts for all workers in all types of enterprises;
- labour arbitration and inspection divisions to be established at all levels of provincial and local government to resolve labour disputes and ensure compliance with labour regulations;
- workers in all types of enterprises can engage in collective consultations in negotiating labour contracts;
- enterprises can fire workers for economic reasons without state approval.

In theory, collective consultative contracts can be concluded through negotiation between management and union officials in an enterprise. In the absence of a union, elected worker representatives can negotiate. The contracts provide minor improvements over the legal minimum in respect to working hours, holiday and sick leave, health and safety, and sanitation and welfare. In practice, employers often dictate employment contracts, especially when union officials are part of management. As a result, workers are not represented in workplace negotiation.

The labour code restricts free collective bargaining by requiring that the local labour authorities must approve a collective consultative contract within 15 days. The monopoly position of the ACFTU also undermines this right.

#### No right to strike

The right to strike was removed from the Chinese constitution in 1982 on the grounds that the political system had "eradicated problems between the proletariat and enterprise owners".

The 1995 law provides for dispute settlement, involving mediation, arbitration and a labour court appeal. The procedure does not allow for the possibility of strike action. Binding arbitration can be imposed unilaterally to end a dispute.

The Labour Disputes and Arbitration Committee gives preferential treatment to employers during mediation of labour disputes, as often there is an overlap between enterprise management, local party and government personnel.

Labour disputes have increased continuously since 1992, growing annually at around 50 per cent. In the first six months of 1999 the Labour Disputes and Arbitration Committees dealt with a 58 per cent increase in cases.

Strikes are usually spontaneous and frequently repressed. Employers and local authorities often call in the ACFTU to get strikers back to work. The ACFTU does not organise nor support strikes. Most strikes arise from non-implementation of the labour law; non-payment of wages and low wages; poor working conditions; low health and safety standards; long hours and forced overtime; unreasonable management discipline; insults and increasing physical abuse of workers by managers.

Strikers and organisers can be detained or sent to forced labour camps.

#### Public Security Bureau

In some large plants, work committees, comprising officials from local ACFTU branches, the local labour bureau authorities and the Public Security Bureau (PSB), have been set up to monitor and pre-empt worker action. Many medium and large enterprises have detention facilities and security officials can detain and sentence protesting workers to three years in a labour camp.

In early 1997, after the CCP central committee had noted an increase in organised demonstrations, riots and petitions against local authorities, the PSB issued guidelines on keeping social order for trade unions. This said that during labour disputes the union must assist enterprise directors and party and government leaders to promote public security. It said that unions must co-ordinate with the PSB.

#### Re-education through labour

The National Security Law and the Regulations on Re-education through Labour allow activists who attempt to organise independent labour action to be detained and imprisoned. Re-education through labour is used as a form of administrative detention because it avoids the need for a trial and allows local police to hand out sentences of up to three years in a forced labour camp. The sentences can be, and often are, extended for up to one year for bad discipline or other reasons.

#### Events in 1999

#### Crackdown on dissent

The authorities began a crackdown on dissent in December 1998. They were worried about organised and widespread labour unrest as unemployment rose because of massive lay-offs from state-owned factories. Many of the factories had gone bankrupt and owed the workers back wages, pensions and benefits.

Protests and small-scale demonstrations took place on a daily basis as the newly unemployed felt that they were losing out to market reforms. Isolated protests by laid-off workers were tolerated in the main, with the police often seeking to defuse demonstrations by arbitrating between workers and employers, although force was used periodically. Many of the demonstrations were held at local government offices or blocked main highways.

At the beginning of 1999, the authorities said that up to 150,000 additional armed police would be ordered onto the streets of Beijing to quell any signs of dissent. The authorities feared that dissidents would team-up with unemployed workers, particularly at a time when several politically sensitive anniversaries were approaching, including the tenth anniversary of the Tianenmen Square Massacre.

In addition to pro-democracy activists, the authorities had identified three other groups as being dangerous, particularly because of their potential to form national networks - underground religious groups, illegal trade unions, and social volunteers.

#### Imprisonment

On 20 January, two former railroad workers were sentenced to 18 months and 12 months Re-education through Labour for disrupting social order after organising a protest in October 1998. Liu Dingkui and Yan Jinhong led a protest of workers from the state-owned Peijiang iron and steel factory in Jiangyou, Sichuan, to demand three months' unpaid wages. They blocked a railway line until armed police stepped in and injured ten workers. Zhang Xucheng was arrested for participating in the same protest and was still awaiting sentencing.

On 26 January 1999, in Tianshui City, Gansu province, Yue Tianxiang and Guo Xinmin were charged with subversion, after setting up a group to defend workers' rights. They had been laid-off in 1995 without being paid three months wages they were owed. They took their case to the local Labour Disputes and Arbitration Committee, which said that the company should take them back, but it refused.

They set up the China Workers' Monitor on 4 January and they were arrested together with Wang Fengshan in the middle of the night on 11 January.

They published a magazine calling for workers' rights, the China Workers Monitor. The magazine exposed corruption and workers grievances, including unpaid wages of up to three years at the state-owned transport company where one of them had worked.

In May, they went on trial in Tianshui for subversion and contacting enemy organisations. The trial took place when the authorities were stepping up surveillance in the period leading up to the ten-year commemoration of the Tiananmen Square Massacre.

In July, Yue Tianxiang was sentenced to 10 years, and Guo Xinmin and Wang Fengshan were each sentenced to 2 years in prison. Guo Xinmin said that the police had hung him by his hands in order to extract information on fellow dissidents.

On 30 April, two dissidents announced plans to set up a trade union, the China Free Labourer Union. Gao Hongming and Xu Yonghai said that according to the Chinese constitution they could form unions, so they were doing nothing illegal. They said that they had applied to the ACFTU for permission to form a union but had received no response.

Liao Shihua, a labour activist and member of the China Democracy Party was arrested in Changsha, Hunan, on 12 June, for organising unemployed workers to petition the local government offices to crack down on corruption and protect the rights of unemployed workers. He was charged with subversion and held in a detention centre. He was due to be sentenced in early January 2000.

He Chaohui went on trial in Chenzhou City, Hunan at the end of June for telling people overseas about workers' protests he had organised. He had previously been in prison for two years after 1989, and had been detained in October 1998. More recently he had organised worker demonstrations in Hunan. In August, he was given a 10-year prison sentence for endangering state security by providing intelligence to foreigners. He had sent information about protests to human rights organisations. He was sentenced to a total of six years on 22 December.

At the end of November, Chen Xianggui, a construction worker, was convicted of "gathering people to disturb the social order". While working in Kuwait he had helped to organise a legal strike in 1997 over unpaid overtime. In early 1998, the Chinese authorities forced him to return to China by revoking his passport. He was arrested and put on trial in Jintang country, Sichuan. He said he would appeal.

#### Police use force or arrest demonstrators

On 4 January, the police beat up and arrested around one hundred retired factory workers who were protesting because they had not received their pensions from the Wuhan Chintai furniture plant.

On 12 March, some 700 workers demonstrated in the south-western Suining City, Sichuan province, over unpaid benefits. Public security police eventually moved in to forcibly disperse them.

On 18 March, the police detained five coal miners after trying to relocate a demonstration. They were demanding unemployment compensation, and said that corrupt officials had siphoned it off. A scuffle broke out and ten workers were injured.

Guo Qiqing of Jinmen City, Hubei, was sentenced to one year in prison for disrupting public order on 21 August. He had organised a sit-in on a public road to demand payment of money owed to workers.

On 4 November, hundreds of workers at a state-owned textile plant in Weinan, Shaanxi province, blocked a road for four days because they had received very little compensation when the factory closed. There were scuffles with police and anti-riot police detained ten protesters. Five women were injured and had to go to hospital. One had a broken arm.

On 2 December, some one thousand silk mill workers blocked a highway in south western China for two days to protest about not being paid for a year after reports that the company had gone bankrupt and would close down. Five of them were injured in a scuffle with some 200 police and three others were detained.

On 9 December, retired steel workers in Chongqing clashed with police, after their former employer announced that their pensions would be cut. There were a few arrests and some were injured.

On 14 December, car factory workers blocked traffic in Chengdu when their company claimed that it was too broke to pay wages and pensions. Hundreds of police, some armed, were ordered to disperse them. One worker was beaten and detained.

#### Labour activists sentenced before 1999

Independent trade union activists remained in prison during the year. They were frequently singled out for particularly harsh treatment in detention, including direct physical violence.

Zhao Changqing was arrested in January 1998. He was a worker from Hanzhong, Shaanxi province, who had attempted to stand as a factory representative to the National Peoples' Congress and had criticised the ACFTU in his election manifesto for failing to defend workers interests. In September 1998 he was sentenced to three years imprisonment for endangering state security.

On 6 February 1998, Tan Li was detained in Guangzhou for planning to hold a workers' rally and organising an independent union, the China Labour Alliance.

On 19 February 1998, Tu Guangwen was sentenced to three years re-education through labour for gathering a crowd to disrupt traffic. He had organised a street protest by laid-off workers in Jiangxi in 1997.

In March 1998, Yang Jinheng was sentenced to three years re-education through labour for inciting social unrest. He had given radio interviews to foreign broadcasters about unemployment. He had been arrested in Shanghai in February.

Veteran democracy campaigner, Li Bifeng, was arrested in March 1998. In August, the Mianyang People's Court in Sichuan province sentenced him to seven years imprisonment for fraud. There was no evidence of the charge and no witnesses. He had gone into hiding in July 1997 after reporting to foreign media about the suppression of a massive worker protest in Mianyang, Sichuan province. He had also carried out surveys on the effects of privatisation and resulting poverty. He is held in Jiangyou City Detention Centre.

Zhang Shanguang, a Hunan labour activist, was detained in July 1998 for passing on information on rural unrest to Radio Free Asia. He had also tried to set up an Association to Protect Laid-Off Workers' Rights.

On 6 August 1998, members of a police-appointed militia beat him up for allegedly failing to respond to questions. He was sentenced to ten years in prison in December 1998 for endangering state security. He had previously been imprisoned in 1989 for his involvement with the Hunan Workers Autonomous Federation, and had been denied employment when he was released.

His tuberculosis reoccurred in prison, possibly as a result of ill-treatment. He was denied medical care. He unsuccessfully appealed against his sentence saying that it was groundless. In June 1999, it was reported that he was in danger of dying from tuberculosis.

Several trade union and human rights activists known as the "Beijing 16" were still serving prison sentences for counter-revolutionary crimes after being arrested in 1992 and sentenced in 1994 for their involvement in the Free Labour Union of China (FLUC). They were all suffering from health problems, in particular Kang Yuchun.

Hu Shigen was in a forced labour institution after being sentenced to 20 years for taking part in founding the preparatory committee of the FLUC and drafting a pamphlet, "On Free Trade Unions".

Kang Yuchun, Liu Jingsheng and Wang Guoqi were sentenced to 17, 15 and 11 years respectively, for organising the FLUC. Liu Jingsheng was moved from Beijing No. 2 prison in May 1999 to an unknown location. His wife lost contact with him. Wang Guoqi was in Beijing No. 2 prison. His family visits were suspended in May 1997 because he had not memorised prison regulations.

Singled out for harsh treatment

4

The Beijing 16

**1989 WAF founders**

Many labour activists were still in prison or forced labour camps because they had been involved with the creation of the Workers' Autonomous Federations (WAFS) during the 1989 pro-democracy movement. Spearheaded by the Beijing WAF, it was the first open attempt since 1949 to organise independent unions, and was violently repressed.

Han Dongfang, a co-founder of the WAF, remained in Hong Kong on a temporary working visa after being deported from China in 1993. He was in theory stateless after the Chinese authorities announced that his passport had been invalidated. They accused him of "presenting anti-government and anti-Chinese speeches" at the 1993 conference of the International Labour Organisation.

Wang Miaogen from the Shanghai WAF was still imprisoned in a psychiatric hospital in Shanghai, run by the Public Security Bureau (PSB), after being forcibly committed in 1993. He had also been detained in 1989 and had served a three-year prison sentence.

Yao Guisheng of the Changsha WAF was serving a 15-year prison sentence in Hunan Longxi prison.

Worker activists Chen Gang, Peng Shi and Liu Zhihua from Hunan were serving sentences in Hunan Longxi prison. They were sentenced to life imprisonment after allegedly setting their factory's security office on fire to protest against beatings of students in 1989. Chen Gang and Liu Zhihua's sentences were commuted from the death penalty on appeal to eleven years in prison. Peng Shi's sentence was reduced to ten years in prison.

Members of the Hunan WAF were still imprisoned: Wang Changhuai and Zhang Jinsheng were serving 13-year prison sentences. Mao Yuejin was serving 15 years and Huan Lixin was serving between seven and 15 years in Hengyang Provincial Prison No. 2.

Wang Zhaobo, Pan Qiubao, Huang Fan, Hu Min, Wan Yuewang and Yuan Shuzhu of Yueyang WAF, were serving between seven and 15 years in Hengyang prison No. 2. Guo Yunqiao was sentenced to death in 1989 but obtained a two-year stay of execution. He was later given a minimum 15-year prison sentence and is imprisoned in Yuanjiang City Prison in Hunan.

Li Xiaodong and Li Wangyang of Shaoyang WAF were serving 13-year sentences. The government denies that Li Xiaodong was ever detained. Zhu Fangming of Hengyang WAF was serving life.

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# Fiji

POPULATION : 796,000 / CAPITAL : Suva / ILO CORE CONVENTIONS RATIFIED : 29-98-105

**Advances in labour legislation****There were major improvements in Fiji's industrial relations climate.**

Fiji's new constitution, which came into effect in July 1998, revoked several aspects of the anti-union labour decrees of 1991, which were introduced after the 1987 military coups. These divided workers on racial and cultural grounds, made union organising almost impossible, and regulated union activity in minute detail. The changes, however, required regulations to implement them.

During the year, progress was made on a consolidated Industrial Relations Bill. Work continued on a draft drawn up by the government that had been voted out of office in May 1999. The FTUC made comprehensive comments as a basis for negotiations.

The new government announced that it would revamp the Tripartite Forum.

**Changes to 1991 decree**

Thanks to the changes, trade unions can now conduct secret strike ballots without government supervision.

The Permanent Secretary for Labour can now accept disputes from a union that is not recognised. Strikes over union recognition had previously been banned, allowing employers to dismiss union members or intimidate them into leaving a union before it was recognised - a common tactic in the textile industry in the tax free zones.

Thirdly, where more than one union provides membership coverage to the same group or class of workers, only the most representative union has bargaining rights. Employers will be able to voluntarily recognise other unions in negotiations.

**Limitations which remain**

There was no amendment to the ban on industrial associations, to which many Fijian workers belong, going on strike, or to the ban on certain groups of workers, including supervisory personnel, joining unions.

Mandatory check-off, withdrawn by the 1991 decrees, was not re-introduced owing to employer opposition. Procedures for the collection of union dues, and the election of union officials remain detailed and excessive.

The law does not protect trade unions against acts of interference by employers.

**Government upholds workers' rights in dispute**

The foreign-owned Pacific Green Furniture (Fiji) Limited locked out 90 workers after they joined a union. The authorities warned the company not to suppress the rights of the workers and threatened to intervene. The employer threatened to close the factory and told the workers to join an in-house committee called the Green House Family. The Labour Minister issued a compulsory recognition order to the company - which had to comply. The company took the workers back although they were not paid for the period.

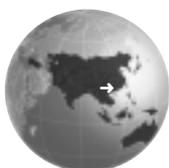
Workers staged a protest at the foreign-owned Fiji Forest Industries, in the timber milling and timber board manufacturing sector, after a mill executive assaulted a worker. The Ministry of Labour stepped in to say that if a worker was assaulted the perpetrator should be charged by the police.

**Organising difficulties in EPZs**

There was no improvement in the export processing sector where it is almost impossible to organise because of employer hostility. Conditions of employment are bad, and women workers are sexually harassed, strip searched and forced to clock in and out to visit the toilet. Workers in the EPZs get no maternity leave, and few get annual holidays.

# Hong Kong SAR China

POPULATION : 6,660,000 / CAPITAL : Hong Kong / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100



**Trade union rights are not adequately protected in Hong Kong SAR.**

**Organising not adequately protected**

Trade unionists risk victimisation and dismissal for organising unions and carrying out trade union activities. Unions often keep membership lists secret to prevent victimisation. While the law protects against anti-union discrimination, there is no provision for reinstatement, only for employers to be fined and workers compensated.

**No collective bargaining rights**

There are no rights to and hence no institutional framework for union recognition and collective bargaining. Bargaining is neither promoted nor encouraged by the authorities, and employers generally refuse to recognise unions. This means that trade unions, to some extent, can only serve as pressure groups and organisers or advisers of workers.

Collective agreements cover less than one per cent of workers and are not legally binding. There is no collective bargaining in the public sector, although the administration consults public servants over their pay and conditions.

<b>Proposals to protect strikers</b>	<p>In November 1999, the government announced that it would introduce a Bill to amend the Employment Ordinance to give legislative protection to employees to prevent them from being dismissed for striking. The government said that it had to bring the law into line with the Basic Law (the constitution of the Hong Kong Special Administrative Region), which protects the right to strike.</p> <p>The Employment Ordinance had said that all trade union activities must take place outside working hours unless employer approval was granted. It also said that an employee could be sacked for wilfully disobeying a lawful and reasonable order.</p> <p>Under common law practice, employers were able to dismiss striking employees for breaking their employment contracts, and did not have to pay any compensation. Employers could also claim damages from workers and use threats of disciplinary action, cuts in pay, and demotions to deter strikes.</p> <p>Trade unionists on picket lines can still be forced to disperse under the Public Order Ordinance and it is common for employers to apply to the courts for an injunction to remove strikers from their premises or from the entrance.</p> <p>The Chief Executive of Hong Kong has the authority to suspend or dismiss public servants "under sufficient cause". This authority was used to intimidate postal workers from going on strike in 1990.</p>
<b>Other legislative provisions</b>	<p>The law bans the use of union funds for political purposes. It requires the Chief Executive to approve donations to foreign trade union organisations, as well as candidates for election to union executive positions who come from outside the enterprise or sector.</p> <p>In November 1999, the government made proposals to lift the requirement that union executives must be employed in the industry or sector they represent.</p> <p>The HKCTU is excluded from the tripartite consultative body, the Labour Advisory Board, which the government set up, because of a biased voting system.</p>
<b>New law repeated after handover</b>	<p>In the run-up to the 1997 hand-over of Hong Kong to China, Lee Cheuk-yan, the general secretary of the HKCTU union centre and an elected member of the Legislative Council (LegCo), tabled measures in the LegCo which aimed at providing a satisfactory legal framework for unions, and would bring Hong Kong into compliance with ILO Conventions.</p> <p>Three ordinances were introduced in a private members bill, which was passed at the last sitting of the LegCo under British rule in June 1997. Among their most important provisions were rights to recognition for collective bargaining or consultation rights for registered unions, as well as the right to reinstatement for workers fired for union activities.</p> <p>After the hand-over, the new government suspended the three ordinances "for review" until the end of October, when the Provisional Legislative Council (PLC), repealed their most important provisions. In general, the labour law was returned to what it had been in the years before the hand-over.</p> <p>However, the PLC did not repeal the following provisions:</p> <ul style="list-style-type: none"> <li>■ the right of unions to federate and confederate across sectors of industry;</li> <li>■ international affiliation without prior government approval (although the Registrar of Trade Unions must be notified and a majority vote must be obtained in a secret ballot);</li> <li>■ lowering of the age limit of union officials from 21 to 18.</li> </ul>
<b>ILO</b>	<p>In November 1998, the ILO Committee on Freedom of Association found that the government had violated the conventions on freedom of association and urged it to amend the law. The government disagreed and ignored the recommendations.</p> <p>In November 1999, the Committee reiterated its earlier recommendations after reviewing the government's report.</p>
<b>Attempts to protect collective bargaining rights rejected</b>	<p>During 1999, the government rejected attempts by Lee Cheuk-yan, now an elected member of the Legislative Council (which replaced the appointed PLC in 1998), to table a private members' bill re-instating laws protecting collective bargaining rights. Under the Basic Law, a private members</p>

bill is much more difficult to introduce as the Chief Executive's approval is required if it "impacts of government policy".

#### Laws tightened in 1997

The Societies Ordinance and the Public Order Ordinance were amended after the 1997 hand-over to tighten freedom of association and assembly by introducing the concept of national security into both laws. The police were authorised to refuse permits for demonstrations if they believed national security would be threatened. The Societies Ordinance was amended to reintroduce the registration of political parties and to ban ties between political organisations and foreign political groups.

#### Unfair dismissals

The Asian economic downturn hit Hong Kong during 1998. The recession continued in 1999 with wage freezes, wage cuts and layoffs. Hong Kong experienced its highest unemployment ever. The number of illegal strikes went up, there were several high-profile disputes, and anti-union unfair dismissals increased in all sectors.

In early February, the secretary of the newly organised Orient Overseas Container Line (HK) Limited Container Truck Drivers' Union was sacked for committing a minor traffic offence. At the time he was organising the union's negotiations with the management over terms of employment. He filed a complaint for unfair dismissal at the Labour Tribunal with assistance from the HKCTU. A settlement was mediated and the secretary was awarded compensation. Hong Kong's Chief Executive owns the company.

During the same month, the far East Hydrofoil Company sacked 44 cabin attendants employed in the night service station. Nearly all of them were members of the Hong Kong and Macau Marine Passengers Transportation Service Employees' Union which had only been registered on 22 January with assistance from the HKCTU. Nine of the eleven executive committee members were included in the dismissals. They staged a ten-day round-the-clock demonstration at the ferry terminal, but the company refused to reinstate them.

In March, the Labour Tribunal made a landmark ruling, when four former employees of the UA Whampoa Cinemas were awarded compensation for unfair dismissal because of their union activities. This set a precedent for the payment of compensation for unfair dismissal.

#### Wage cuts, job losses and insecurity

On 23 May, the biggest-ever civil servants' protest rally took place when some 26,000 civil servants marched to government offices. The government had made proposals for two-thirds of civil service employees to be put on contracts, for salaries to be pegged to performance, and for privatisation, sub-contracting, and wage cuts. The civil servants said they could not rule out a strike.

In June, the Seven Sea Chemicals Holding Limited sacked 80 drivers and delivery workers. They were all members of the HKCTU affiliated union at the company. The union held demonstrations and a seven-day picket until the company applied for a court injunction to stop the picket.

At the end of 1998 the Swire Coca Cola company had announced that 58 employees would be laid off because of restructuring. Part of the plan meant that from April 1999 half of the sales representatives would be forced to become home-based workers, which would seriously hamper union activities at the company. The company also proposed a 20 per cent wage cut.

In August, the authorities made proposals for a law that would give employers the right to dismiss pregnant live-in domestic workers, if both sides agreed. Most of the domestic workers in Hong Kong are from the Philippines, Thailand and Indonesia. The Labour Advisory Board rejected the proposal in November.

In November, the union at the Hong Kong Aircraft Engineering Co. (HAECO) went on strike because the company refused to discuss restructuring plans with it. Two strike organisers were laid off. The HKCTU filed a court case for victimisation and demanded that criminal sanctions should be levied against the employer.

# India

POPULATION : 982,223,000 / CAPITAL : New Delhi / ILO CORE CONVENTIONS RATIFIED : 29-100-111



## Privatisation and the growth of the informal sector pose a threat to organised labour.

### Legislative review

In January 1999, the government said that it would set up a commission to recommend labour law reform. It would have 24 months to review the laws "so as to make them more relevant and appropriate in the changing context of globalisation and opening up of the Indian economy". The review would include new laws to provide a minimum level of protection to workers in the unorganised sector.

### Public servants

The law draws a broad distinction between public servants and other workers. Public servants face some restrictions on the rights to organise and bargain collectively.

A 1993 law contains overly detailed regulations on their rules and activities. Existing recognition given to the associations can be withdrawn if they do not abide by the detailed criteria in the law, but there are no reports that this has taken place.

The law limits the free election of representatives of associations, makes their constitutions subject to prior government approval, and bans the associations from publishing a magazine or periodical without government approval. The law does not mention the recognition of federations for the purpose of collective bargaining.

The Conduct Rules, pertaining to civil servants, state that no government servant can resort to any form of strike or coercion in connection with any matter pertaining to his/her service; and that making of joint representations is a subversion of discipline and not permitted. The provisions of these Conduct Rules have been cited by the government as one of the reasons for its failure to ratify ILO Conventions 87 and 98.

### Union jobs under threat

Unions continued to be opposed to the government's economic policies including the privatisation of state-run enterprises and the opening up of the insurance sector to foreign investors. Trade union members in long-established manufacturing and industrial plants continued to be faced with the prospect of massive layoffs. In many cases production was subcontracted to non-union plants and the informal sector.

### Abuse continues in the export processing zones

There are seven export-processing zones (EPZs). While in theory workers in the zones have trade union rights, employers and local government officials often collude in denying them. Union organisers have difficulty organising in them.

Multinationals contract out work to enterprises in the zones. It is common for workers to be employed on temporary contracts with fictitious contractors rather than directly by the enterprise concerned.

Many of the workers in the zones are women. The working conditions are bad and overtime is compulsory. Workers fear victimisation by management and those who protest are often sacked. In 1999, after a factory in the Santa Cruz Electronic Export Processing Zones (SEEPZ) forced workers to do night shifts, a Bombay court ruled that the workers had voluntarily agreed to work at night. The court made the ruling on the basis of a list presented by the employer containing false signatures. The court did not question whether the signatures were authentic.

The ruling indirectly allowed the employer to lay off workers because the women employees would find it difficult to work night shifts – and could thus be made redundant.

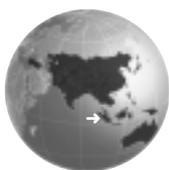
**Home workers**

There are millions of home-based workers in the informal sector who produce consumer products inside their homes on a piece rate basis. The government does not recognise them as workers but as self-employed people, meaning that they do not fall under the Minimum Wages Act and other protection provided by labour laws.

# Indonesia

POPULATION : 206,338,000 / CAPITAL : Jakarta / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138

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**While there have been far-reaching improvements in Indonesia's respect for trade union rights, major problems, specifically the involvement of the police and army in industrial disputes, remained. In July, union leader Dita Sari was released from prison.**

**Under Suharto**

Significant improvements in Indonesia's respect for trade union rights took place after the resignation of President Suharto on 21 May 1998.

The Suharto administration had viewed industrial relations as a security issue and justified its control of the only legal national trade union centre, the FSPSI, by the need to maintain law and order. The FSPSI was set up in 1973 in a government-ordered restructuring of trade unions.

The industrial relations system was subservient to Pancasila, the government-sponsored national ideology, which claimed to stress consensus, national unity and social justice. In reality it was used to limit dissent, enforce social and political cohesion and restrict the development of opposition.

**New government**

In May 1998 the new government announced that workers could set up their own trade unions provided their establishment was in line with the law and the doctrine of Pancasila. Ministerial Regulation No. 5 of 1998 on trade union registration was issued, cancelling the law that had enforced the FSPSI monopoly.

The Ministerial Regulation provided for union registration and recognition and the formation and development of independent trade unions. New plant- and industrial-level unions had to register with the authorities. Existing plant- and industrial-level unions had to re-register within 90 days. Plant unions were to hold leadership elections where they had not done so. Federations and confederations had to notify their establishment to the Ministry of Manpower. More than one union could be registered in anyone workplace or establishment.

Several new union confederations emerged in the wake of the new law.

**FSPSI**

The FSPSI's plant and industrial unions were obliged to re-register under the new law, and the national centre had to inform the Ministry of Manpower of its existence. Most FSPSI leadership positions at branch, provincial and national levels were still held by GOLKAR members, ex-military officials and ex-civil servants and in some cases by employers and businessmen. This had been justified by the official ideology of "dual functioning" which gives the armed forces (ABRI) a role in the social and economic development of the country, in addition to defence.

**SBSI**

The government said that it would now recognise the SBSI national trade union centre, which began to register its member unions. Since the SBSI was set up in 1992 the Interior Ministry and the Ministry of Manpower had refused to register it.

It had been subject to constant intimidation and harassment by the security forces. Over 7,500 workers had been dismissed and blacklisted and in some cases imprisoned, for being SBSI members. There was a permanent threat of military interference in SBSI meetings, and police or military officials frequently visited its offices.

<b>Representation for bargaining</b>	<p>Regulations issued in 1998 said that if there is more than one union represented in a company, a union or coalition of unions must have the support of a majority of workers in order to bargain or negotiate on their behalf.</p>
<b>Draft legislation under tripartite discussion</b>	<p>In September 1998, the Minister of Manpower announced that the 1997 Manpower Act which was due to enter into force in October 1998, would be postponed until October 2000. Most unions had strongly opposed the law. The government said that it would be amended after consultations because it was out of line with ILO Conventions, and a timetable would be drawn up accordingly.</p> <p>The Minister also said that two new bills would be drawn up, a Trade Union Bill and a Labour Dispute Settlement Bill. In 1999 the Bills were submitted to the Cabinet Secretariat.</p> <p>The SBSI drew up its own draft bills. At the end of 1999 plans were made for tripartite discussions with the presence of the ILO to take place, to examine the drafts.</p>
<b>Army involvement in labour disputes</b>	<p>The new government had also promised that it would never again use the army to interfere into labour disputes. However, despite several statements and announcements by the Ministry of Manpower to this effect, reports of army involvement in disputes continued and the laws that allowed the army to intervene were not repealed.</p> <ul style="list-style-type: none"> <li>■ Under a 1986 decree, the army can intervene "particularly in cases pertaining to strikes, work contracts, dismissals, and changes in status or ownership of a company".</li> <li>■ A 1990 decree says that the internal security agency, Bakorstanas, can intervene in strikes in the interests of political and social stability.</li> </ul> <p>There has been a longstanding pattern of collusion between police and military personnel and employers. Many employers still have close ties with local police or army units. Security personnel in civilian dress intimidate workers. There have also been reports that the military employs baiting tactics: infiltrating workers' ranks and encouraging protest or worker actions, sometimes attempting to provoke a violent worker action, to which the military then responds with force.</p>
<b>Strike procedures</b>	<p>Complicated mediation and compulsory arbitration procedures made legal strikes virtually impossible. Nearly all strikes are short wildcat strikes, which were immediately ended by police or military intervention after a request from the company.</p>
<b>Public sector</b>	<p><b>1999</b></p> <p>In March 1999, the Manpower Ministry announced that a Regulation would be enacted that permitted freedom of association in state-owned companies. Previously these workers had been required to join the public servants association, KORPRI.</p> <p>Public servants were still obliged to join KORPRI, which held a congress in February 1999.</p> <p>In June 1999, the Minister of Manpower said that public servants' membership of KORPRI was now optional.</p>
<b>Teachers</b>	<p>Teachers still had to belong to the Teachers' Association (PGRI). While technically classified as a union, it continues to function more as a welfare organisation and does not appear to have engaged in trade union activities such as collective bargaining. Mandatory PGRI contributions are deducted automatically from teachers' salaries.</p>
<b>Marsinah</b>	<p>On 9 March 1999, the Minister of Manpower said that President Habibie had agreed to re-open the case of Marsinah, the vice-chair of a SPSI plant union at PT CPS in Sidoarjo who was murdered in 1993. Although the national police had made a similar statement in 1998, no action had been taken.</p> <p>Reports from the East Java police in June 1998, had said that an army captain had admitted that Marsinah had been tortured and killed by Sidoarjo military.</p>
<b>Dita Sari released in July</b>	<p>On 16 May 1999, while still in prison, Dita Sari was elected as leader of the FNPBI, a new national trade union federation. An attempt on 20 June to launch the federation outside Tangerang prison was broken up when thugs attacked union members.</p>

On 5 July 1999, she was released unconditionally. It was believed that the military had been blocking her release.

Dita Sari had been the leader of the PPBI, a trade union that co-operated with students in organising strikes and demonstrations, and defending workers' interests.

She was arrested after a massive demonstration organised by the PPBI in Surabaya, East Java, on 8 July 1996, calling for an increase in the minimum wage, lower prices, and external monitoring of the 1997-98 elections.

She had been sentenced to six years imprisonment for subversion in April 1997. The sentence was reduced to five years on appeal.

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#### Decree on Worker Organisations

On 30 September 1999, the Ministry of Manpower introduced a new Decree on Worker Organisations, which replaced Ministerial regulation No. 5 of 1998 on trade union registration.

It removed the need to have Pancasila as a trade union's only guiding principle, prohibited interference in trade union affairs by management, government and political parties, and prevented personnel managers from becoming officials of trade unions.

It was also used to block the registration of Kobar, an FNPBI union on 26 October because Kobar had several plant level unions in different industries, whereas the decree said that they should be in the same industry.

Officials also told Kobar that they should not include in their rules provisions about promoting democracy, world peace and international trade union solidarity because they were political objectives. The decree said that the objectives of worker organisations should include the promotion of Pancasila, the work ethic, discipline and productivity.

Kobar said that in fact when it had applied for registration the previous Ministerial Regulations were still in force.

The FNPBI remained unregistered throughout 1999 because of difficulties in registering its affiliates.

#### Discrimination against the SBSI

In 1999, the SBSI continued to say that it was having problems in registering unions at plant level in certain regions. The authorities, in rejecting its applications, required information in addition to that required by law.

The SBSI also said that it was facing discriminatory treatment. In some cases the authorities had passed on information about its members to companies so that they knew who they were. In several cases SBSI members had been fired.

In January, the PT Psut company dismissed 107 SBSI members in Jambi province. On 22 February, workers demonstrated outside the offices of the Ministry of Manpower in Jakarta demanding that the Chinese tyre-manufacturer, PT Gajah Tunggal in Tangerang, withdraw a threat that workers would be fired if they joined the SBSI. The company carried out its threat and refused to recognise the SBSI, which had been legally registered.

The SBSI continued to be harassed at PT Gajah Tunggal. The company tried to get rid of all the SBSI members through intimidation and offers of severance pay. On 10 May, an SBSI member was threatened by the police and ordered to report to the police station. The Bank of Indonesia International sacked workers who had formed SBSI branch unions.

On 4 March, Tangerang police arrested 16 SBSI members at Gajah Tunggal, and two organisers from the SBSI metal workers' union. They were interrogated before being released on the following day. On 13 March, four SBSI activists received summonses for inciting people to strike. The police also confiscated union property. The two organisers from the SBSI metalworkers union were charged with planning a strike, which involved maximum jail sentences of six years. On 24 November, Hadis Julianto and Budiyo went on trial in Tangerang District Court. They were sacked from their jobs.

The Bumi Waras group in Lampung which operates plantation holdings, discriminated against the SBSI. It said only non-SBSI members were entitled to loans and medical benefits, it re-assigned SBSI members to other duties and sacked eleven of them.

On 14 October, the Novotel hotel in Manado, Sulawesi, sacked the chair, vice-chair, secretary and treasurer of the SBSI union branch because they had gone on strike in September. The hotel ignored orders from the authorities to reinstate them.

On 9 December, the police, interrogated and beat up an SBSI metalworkers' official, Mutjahid after a strike broke out at PT Mulia Keramik Cikarang. The union leadership later reported the violence to the National Commission of Human Rights.

**Discrimination against the FNPBI**

In November, Kobar members were seriously intimidated when 29 of its members at the Jakarta garment plant PT Naga Mulia Putra Perkasa were sacked because they had attended a rally to call for the dismissal of the new Minister of Manpower. The company refused to reinstate them after the authorities advised them to. The dispute resolution body of the Ministry of Manpower finally ruled that the dismissals had been illegal.

The coordinator of the APSM member union of the FNPBI in Malang, East Java, Lutfi Chatib, was arrested on charges of falsifying a collective bargaining agreement during negotiations at the PT Tresno cigarette factory. He was released after ten days although proceedings against him remained pending. The trial judge freed him.

**Continuing military involvement in disputes**

Reports continued of military involvement in industrial disputes, as well as arrests of workers involved in them. There were also reports that some elements in government and military structures hired thugs to break up union organising and industrial disputes, sometimes violently, so that it appeared that there was no government or military involvement.

**Strikes put down by force**

Worker unrest and strikes continued at the beginning of the year over a wide range of issues. These included job losses and pay increases to keep up with rising food prices and inflation, lay-offs, severance pay, union rights, unfair dismissals, the presence of the army in factories, various allowances, and renewal of collective agreements. Several million workers had lost their jobs.

Massive strikes took place at PT Maspion plants in February. Police and troops clashed with workers who were demanding higher wages and better conditions. On 11 February, troops fired into the crowd. The protests continued and clashes became more violent. Security forces used water cannons and beat protestors. Although a settlement was eventually reached, the company fired over a thousand workers.

On 12 February in Surabaya around 3,000 workers at PT Sinar Indo Megantara held a protest to demand that the personnel manager resign. The police opened fire, wounding five people.

On 5 March, security forces shot at workers at the PT Kayu Lapis Indonesia plywood factory in Kendal near Semarang. Some 3,000 workers were holding a peaceful sit-in to demand a wage rise and other demands. Security guards let in unknown provocateurs who threw rocks at the company premises which prompted the police in riot gear to open fire at the workers. Eight had to go to hospital with rubber bullet injuries. It was believed that the company had paid the police to intervene.

For the first time in many years May Day rallies were held and demanded an end to military involvement in industrial disputes.

In May, strikes increased. At the PT Mayora biscuit manufacturer workers went on strike for a wage increase and other demands. After holding a demonstration outside the Tangerang office of the Ministry of Manpower, many of them were laid off with only one month's severance pay.

Elections took place at the beginning of June.

In June, plantation workers went on strike after previously agreed bonuses were not paid to them. The bonuses were apparently an incentive to vote for Golkar in the elections. On 29 June, 400 workers at the British-owned PT London Sumatra rubber and palm oil plantations in Tanjung Morawa went on strike after management began to discriminate against workers who had formed an independent union. Six organisers had been transferred.

In June some 8,000 contract employees, many belonging to the SBSI, at a Caltex oil well complex in Duri, employed by a sub-contractor PT Tripatra, in Sumatra, went on strike over having been kept on permanent contract status without accruing seniority benefits. They were fired at the beginning of July. Police broke up their strike by shooting rubber bullets. Strikers stoned company offices and damaged structures. The strike was finally settled in August and workers were reinstated. A similar strike at an oil facility in East Kalimantan in October was resolved peacefully.

On 7 October, the SBSI said that PT Gunung Gahapi Sakti used the police and thugs to break up a strike. Four workers received serious injuries - three of them had been stabbed.

The SBSI stepped in to negotiate in a strike at the PT Vico liquified natural gas project in Muara Badak, East Kalimantan, by 3,000 workers who were opposed to the contract system of employment. The management used the police to intimidate employees into returning to work, and a clash broke out with the security forces.

In November, the SPSI-R textile union, SP TSK, continued to be intimidated at the PT Honey Lady Utama plant in Bogor. The management set up a rival union and fired 94 TSK activists. The union was eventually recognised.

Security officials forcefully broke up a strike by SBSI members at the PT Riau Andalan pulp and paper plant on 9 December, injuring 11 workers. Kasper Sibuea, chairman of the SBSI forestry workers in Riau was arrested and charged with masterminding the unrest.

# Japan

POPULATION : 126,281,000 / CAPITAL : Tokyo / ILO CORE CONVENTIONS RATIFIED : 29-87-98-100



## Japan's legislation imposes restrictions on the union rights of public servants and workers in state enterprises.

### Basic rights restricted in public sector

The collective bargaining rights of public employees in national and local government, including teachers, are substantially limited. The government sets pay levels in the sector.

Strikes by public employees are prohibited. The Japanese Supreme Court has ruled that the strike ban is constitutional. Public employees who instigate strikes could face dismissal and prison sentences.

In this respect, Rengo, the national trade union centre, has said that several government employees, including teachers, have filed court cases alleging unfair dismissal.

### State enterprises

Workers in state enterprises cannot go on strike and cannot bargain on issues concerning the management and operation of enterprises. These include promotion, demotion, transfer, discharge, seniority and disciplinary action, as well as matters such as education, training, health, creation, safety and welfare.

### Fire fighters still denied basic union rights

Fire-fighters are not allowed to organise freely and bargain collectively over their terms and conditions of employment, although in 1995 the law was changed to allow them to set-up staff committees in fire stations to participate in the determination of their working conditions.

## Korea (North)

POPULATION : 23,348,000 / CAPITAL : Pyongyang / ILO CORE CONVENTIONS RATIFIED : - - - -



**There are no trade union rights in North Korea. The General Federation of Trade Unions is controlled by the state and does not fulfil a trade union role.**

### State control

The state-controlled General Federation of Trade Unions exists to mobilise workers to meet official production targets, and to provide health, educational, cultural and welfare facilities.

Collective bargaining and strikes are banned. The State sets wages and assigns all jobs. Joint venture and foreign-owned companies have to hire their employees from lists drawn up by the ruling party of workers vetted for their ideological purity.

### Export processing zone

A free trade zone has been established in the north of the country.

## Korea (South)

POPULATION : 46,109,000 / CAPITAL : Seoul / ILO CORE CONVENTIONS RATIFIED : 100-111-138



**The KCTU was finally legalised in November 1999 on its fifth application and four years after it first applied. CHUNKYOJO, the teachers' and education workers' union, was also legalised after 10 years of illicit existence, so was the KUTE teachers' union. Trade unionists continued to be arrested for trade union activities.**

### Registration of KCTU

The KCTU was legalised on 22 November 1999. Past applications had been rejected by the Ministry of Labour on the grounds that elected KCTU officers, including President Kwon Young-kil, were ineligible in law because they had been dismissed from their jobs.

Secondly, the Ministry had said that trade unions, which were constituent parts of the KCTU, including for example the teachers' union, CHUNKYOJO, were not legally registered as trade union organisations.

### Trade Union Labour Relations Adjustment Act

The 1997 Trade Union and Labour Relations Adjustment Act, (TULRAA):

- Allowed for immediate trade union pluralism at industrial and national levels, but left the ban on pluralism at enterprise level in force until the year 2002. Before this only the FKNU national trade union centre had legal rights to organise. In November 1995, the government had refused to register the KCTU national centre. TULRAA had meant that the KCTU could, at least in theory, become a legal national trade union centre.
- Prohibited dismissed workers from belonging to trade unions, and said that union officials had to be elected from amongst union members.
- Introduced new provisions in respect to the ban on third-party intervention, under which over 2,000 trade unionists had been jailed. This had banned trade unionists not directly involved in collective bargaining or an industrial dispute from advising or offering any form of assistance or solidarity to unions, and ruled out mediation efforts by outsiders. New provisions laid down requirements for registration with the Ministry of Labour of persons assisting trade unions or employers in the course of bargaining or a dispute. The penalty for non-registration was a maximum sentence of three years imprisonment or a massive fine.
- Extended the already broadly defined list of essential public services in which unions cannot go on strike to cover petroleum supply and the Mint. The law already said that disputes could be

referred to arbitration and strikes could be banned in several non-essential services - railways, city bus services, banking and finance. However TULRAA also says that from 2001, banking (except the Central Bank) and bus services would no longer be considered as essential services.

- Banned workers from occupying production lines during a strike, and from obstructing the free entry of workers and preventing them from working. The government said in 1999 that the ban only applied if employees who wanted to work were prevented from doing so, and that there had been no prosecutions under this provision since 1 January 1998.
- Banned full-time union officials from being paid in part or in full by their employer from the year 2002.

#### Economic crisis

In 1999, structural adjustment meant that corporate restructuring through mass lay-offs continued. Unemployment doubled and strikes were repressed. In 1998 South Korea had faced a growing and severe economic and financial crisis. A massive IMF loan was signed at the end of 1997, and among the conditions attached was the introduction of labour market "flexibility" measures. Workers were hit heavily. Thousands lost their jobs without receiving redundancy payments and with little or no social security to fall back on.

#### 1998 Tripartite Commission

In January 1998 a first Tripartite Commission had been established to deal with economic and labour reforms. Agreement was reached to facilitate lay-offs and to redress long-standing violations of trade union rights.

- The National Assembly immediately adopted a law allowing mass dismissals of workers in cases of corporate restructuring.
- Although the Commission had agreed that unemployed and sacked workers could become or remain members of industrial or regional trade union structures, but not enterprise-level unions, this was left pending.
- The National Assembly adopted a law allowing public servants to form workplace councils from 1 January 1999, with the exclusion of public prosecutors, teachers, fire fighters and the police. The councils would have consultation rights over some aspects of working conditions but no rights to bargain collectively or strike. It had been agreed in the Tripartite Commission that public servants would have the right to form unions at a later stage after public consultation and revision of the law.
- A Bill was eventually submitted to the Assembly on the legalisation of teachers' unions as from July 1999.

The KCTU subsequently rejected the tripartite agreement on mass lay-offs and campaigned for its repeal, as well as for the prosecution of employers perpetrating illegal mass dismissals. They also demanded measures to ensure employment security, provisions for unemployment relief, a blueprint for reform of the large state-owned corporations or chaebols, and a comprehensive review of IMF conditions.

In February, the KCTU resolved to pull out of the second Tripartite Commission. The FK TU followed in April.

On 24 May the government adopted a law on the establishment and management of the Tripartite Commission.

A third Tripartite Commission was launched in September. The KCTU did not take part.

#### Teachers' union legalised

On 6 January 1999, a bill was passed in parliament legalising teachers' unions as from 1 July 1999. This allowed CHUNKYOJO and the KUTE teachers' union to be legalised – they were registered on 2 July - and facilitated the legalisation of the KCTU. However, organisation of unions at school level was not permitted, nor were political activities. Matters regulated by laws, ordinances and budgets were excluded from collective bargaining, and strikes were banned on the grounds of protecting students' right to learn.

**Repression of strike action**

On 12 January, the president of the Korea Metal Workers Federation (KMWF), Dan Byung-ho, was sentenced to two years in prison for "inciting strike action" and "conspiring to obstruct business through a general strike" in connection with general strikes in May and June 1998. On 13 May the Appeals Court sentenced him to one year in prison. On 15 August, he was pardoned and released.

On 15 January, the KCTU general secretary, Ko Young-joo, was released from prison after being sentenced to 18 months in October 1998. He had been arrested in July that year.

Large-scale arrests of KCTU leaders took place in April and May. The KCTU said it would go on strike on 19-23 April unless the government changed its policies on corporate restructuring through massive layoffs. It called for alternative measures to save jobs.

The KCTU said that the strike would be followed by a rally for the unemployed on 24 April, followed by nation-wide rallies on 25-29 April. More strikes and rallies would take place in May.

The authorities said that the strike was illegal. It was eventually called off in the face of detentions and threat of arrests, prosecutions of union leaders and members, and demands for financial compensation from employers. Employers intimidated strikers' families over the telephone.

The state-owned Seoul Subway fired 43 union leaders and threatened to fire another 39 for going on the eight-day strike. Seoul City Council and Seoul Subway also launched massive damage suits against 259 trade unionists, and the government issued arrest warrants for 66 union leaders of the Seoul Subway Workers.

The KMWF and hospital workers launched the strikes on 12 May as the government refused to enter direct talks with them on layoffs.

Arrests continued after a mass rally on 14-15 May when thousands of workers demonstrated in the streets. Riot police charged them. The workers lay down in the street, and 48 were detained. The president of the KCTU-affiliated KHMWU health workers' union, Lee Sang-choon, was arrested. Arrest warrants were also issued for Na Soon-ja, chair of the union's Seoul Regional Office, and nine officers of the union branch at the National Cancer Centre Hospital. They were charged with "obstruction of business". Hospitals are an essential service under the law.

On 13 May, Kim Kwang-sik, chairman of the Hyundai Motors Trade Union, was sentenced to one and half years in prison for obstructing the work of public officials, and inflicting injuries on them, obstruction of traffic and business, violation of the assembly law, and performing violent acts. The Hyundai chief shop steward, Bae Mahn-soo, was also sentenced on similar charges to two years in prison. They were both pardoned, and released on 31 December 1999.

On 15 May, the KCTU declared a temporary suspension of its campaign to talk to the government.

In June, the KMFV said it had started an escalating strike to protest at layoffs as well as reports that the state prosecutor had triggered a strike at the National Mint in 1998 in order to show the resolve of the government in dealing with strikes. The KCTU held a general strike on 17 June.

The FKTU announced a warning strike for 16 June against unilateral restructuring, and to call for a pay rise and other demands. It also planned a general strike on 26 June, which was eventually called off.

By 9 July, 23 members of the KCTU-affiliated KMWF had been arrested, and warrants had been issued for another six union leaders for organising strikes. This included the president, Moon Sung-hyun. He was charged with violating the Law on Assembly and Demonstration.

Arrest warrants were issued for five unionists at Hyundai Precision, and the president of the Daewoo Shipbuilding Workers' Union.

Trade unionists for whom arrest warrants had been issued continued to seek sanctuary in Myongdong Cathedral, a traditional refuge for activists.

The Seoul Subway Union announced that it would go on an indefinite strike from 17 July to protest at the recent firings of 86 union members for their role in the April strike. It also demanded that the subway drop legal action against 191 union members for taking part in what the corporation regarded as an "illegal" strike. The union disputed this. The company said that another strike would also be illegal and that they would deal with it more forcefully.

In October, the government said that although the KCTU said that 70 people were detained, on trial or wanted for arrest, only three, Kim Kwang-sik, chairman of the Hyundai Motors Trade Union, Kim Myung-ho, and Lee Hee, were in fact detained. They said that the latter two were not detained in relation to strikes but in terms of national security laws.

**Protest against restructuring**

In October, the Korean Federation of Bank and Financial Labour Unions announced that it would sue the IMF for damages on behalf of workers who lost their jobs in an IMF-led restructuring of the industry.

In November, the FKTU held a rally and marched through the streets of Seoul to protest at corporate restructuring. It also withdrew from the third Tripartite Commission over the ban in the 1997 TULRAA on full-time union officials being paid in part or in full by their employer.

**Unions demand changes in law**

On 6-7 December, the FKTU and KCTU began action to demand a shorter working week and changes to the labour law. This concerned in particular the ban on the payment of full-time union officials that was due to enter into force in 2002. The unions demanded that the law be revised before the session of the National Assembly ended on 18 December. The government submitted draft legislation to the National Assembly on 29 December.

On 6 December, the FKTU president, Park In-sang, began a sit-in at the offices of the ruling party.

On 7 December 20 KCTU members holding a sit-in in a shipping container were arrested after the police used cranes and trucks to remove it from outside the National Assembly building.

On 10 December, thousands of KCTU members rallied at the main railway station. Violent clashes took place after the police had blocked them from marching in the streets.

# Laos

POPULATION: 5,163,000 / CAPITAL: VIENTIANE / ILO CORE CONVENTIONS RATIFIED: 29



**There is a single, government-controlled trade union in Laos. Some minimum employment standards are recognised.**

**Single national centre**

In Laos only one national trade union centre, the Lao Federation of Trade Unions (LFTU), exists. It is linked to and supported by the government. The LFTU is obliged to submit an annual activity report to the Office of the Prime Minister and the Ministry of Foreign Affairs.

There are signs of change as the country itself is in the process of transition from a centrally planned economy to a market economy. Many institutions and practices are being transformed, including industrial relations and the LFLU.

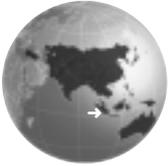
**Minimum employment standards**

The labour law, which came into force in 1994, recognised the right to organise and prescribes a number of minimum employment standards.

It does not specifically provide for collective bargaining and collective agreements, although it provides rights and obligations with respect to employment contracts. There are very few collective agreements because of the absence of trade unions in many enterprises, as well as the refusal of employers to negotiate. The labour inspection service is inadequate.

# Malaysia

POPULATION : 21,410,000 / CAPITAL : Kuala Lumpur / ILO CORE CONVENTIONS RATIFIED : 29-98-100-138



**Workers in Malaysia continue to be denied their rights to join a trade union of their choice, and to freely organise and bargain collectively because of government policy, restrictive legislation, and bureaucratic practices.**

## Anti-union environment

There continue to be many obstacles to establishing trade unions. These include legislative obstacles to organising workers in a company, dismissals of union organisers, the slow and cumbersome recognition process, and legal obstacles to using industrial action to obtain recognition.

Many employers, including some multinational corporations, go to extreme lengths to deny union recognition and evade collective bargaining. Some even challenge government directives to accord union recognition, and refuse to comply with Industrial Court awards to reinstate wrongfully dismissed workers.

Over the last ten years the union at the US multinational Harris Corporation has had to change its name three times. Union officials have been intimidated, harassed, thrown out, and persecuted. High-powered union busting lawyers were brought from the US to plan strategies to kill the union. Religion has been used as a strategy to instill fear into workers so as to deny support to the union. The union has incurred massive debts in litigation in the Industrial Court, High Court, and the Court of Appeal. Despite crossing all these hurdles, the company has evaded collective negotiations with the union.

## Organising and bargaining rights restricted in law

The Trade Unions Act of 1959 and Industrial Relations Act of 1967, and subsequent amendments place extensive restrictions on basic trade union rights. The Trade Union Act strictly regulates almost all aspects of trade union activity.

Under the Trade Unions Act, a union can only represent workers "within any particular trade, occupation, or industry, or within any similar trades, occupations, or industries or within a single enterprise or establishment". Thus, general unions are prohibited, and union mergers are almost impossible.

The Director General of Trade Unions has invoked these provisions to direct industrial unions to remove several thousand members from their membership, denying them recognition and the right to collective bargaining.

In 1974 the EIWU Electrical Industry Workers' Union tried to organise in electronics factories. The Director General of Trade Unions banned the union from organising in the industry on the basis that it represented a different category of workers. When the MTUC tried to form a national union of electronics workers it was refused registration.

As a result, some 160,000 mainly women workers employed by multinational electronics companies have been denied the right to form and join a national union in the electronics industry. They can only form in-house unions.

The government relaxed this policy in 1988, but vigorous protests from employers soon reversed the decision.

The US multinational General Electric, the Japanese Hitachi and Mitsumi Electronics have successfully convinced the Director General of Trade Unions to disqualify their employees from remaining as members of the EIWU.

Employees of a Malaysian furniture manufacturer, Artright, were not allowed to join the Metal Industry Employees Union (MIEU) because the company uses metal and wood to make their products.

The MEIU was denied the right to organise employees at Mitsui Copper Coil. The Director General of Trade Unions said that although copper was a metal, Mitsui produces copper foil which as such was not a metal. As a result these workers remain without a trade union.

Workers removed from union membership under these circumstances are not allowed to join any other unions. They have to establish in-house unions, which is often very risky and time consuming. This aspect of the law remains a serious obstacle to trade union organising activities.

**In-house unions**

In general, the government and employers encourage the formation of in-house unions. Amendments to the Trade Unions Act in 1989 allowed for the formation of unions in the enterprise regardless of whether a registered union already existed.

**Government official can "direct and control" trade unions**

The law gives the Director General of Trade Unions and the Minister of Human Resources, both government officials, far-reaching powers to regulate trade union affairs.

The Director General of Trade Unions has the right "to supervise, direct and control the trade unions". Every union is obliged to register within a period of one month (or other extended period specified by the Director General) from the date on which it was established. Any trade union, which does not apply for registration within this period, is illegal.

The Director General can refuse to register a union if he is satisfied that a similar one already exists. In September 1999, the MTUC complained about delays in processing union's recognition claims - often amounting to several years. It called for the Industrial Relations Act to be amended to allow automatic union recognition, where unions represent a majority of the workers.

**Public sector and statutory bodies**

In the public service, unions can organise by ministry, department, occupation or trades. These unions can join federations.

Employees of statutory bodies can only join in-house unions, although these can simultaneously affiliate to the public service federation as well as to the national trade union centre.

- The law prohibits industrial unions from organising employees in managerial and executive positions, confidential or security capacities. Employers often abuse this provision of the law to prevent as many people as possible from joining a union.
- The law places restrictions on who can stand as candidates to union office.
- Public statements made by the government and restrictions imposed on work permits have effectively prohibited foreign workers from joining unions. The Minister of Human Resources has said that foreign workers are not allowed to join trade unions, although the law merely says that only Malaysian nationals can hold union office. One of the conditions stipulated in work permits issued to foreign workers by the authorities is that they are not allowed to join "associations". In many companies foreign workers constitute as much as 30 to 40 per cent of the workforce. Foreign workers are often paid less.
- The Minister of Human Resources can order the suspension, for a period not exceeding six months, of any trade union which, in his opinion, "is, or is being used for purposes, prejudicial to or incompatible with, the interests of, the security of, or public order in, Malaysia, or any part thereof".
- Unions cannot use their funds for political purposes. The law includes a comprehensive list of matters that can be termed as "political objects". The Minister of Human Resources can add to this list.
- The Director General must give his approval before a trade union can affiliate internationally.

**Strike restrictions**

Legal restrictions make it virtually impossible to organise a legal strike.

- Two-thirds of the membership must vote in favour of a strike in a secret ballot.
- The ballot must contain a resolution, which states "the nature of the acts which are to be done or omitted to be done in the course of such a strike".

- It has been reported that even where a union has conducted a secret ballot and received a mandate for a strike, the Director General of Trade Unions has disallowed the result on the basis of his dissatisfaction with the resolution.
- Unions cannot strike over disputes relating to union recognition and wrongful dismissal.
- The Minister of Human Resources can compel the parties involved in a dispute to submit to arbitration.
- Strike procedures are lengthy.
- Essential services are very broadly defined and trade unions face additional restrictions on going on strike in these industries including by giving at least 21 days strike notice.

The MTUC also said that conciliation machinery needed urgent and serious attention because it was ineffective. There was also a heavy backlog of cases in the industrial court.

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**Restrictions on collective bargaining**

The Industrial Relations Act excludes hiring and firing, transfer and promotion, dismissal and reinstatement from the scope of collective bargaining. In the public sector, a council system limits public sector unions to "giving views" on principles governing wages and other terms and conditions of service. It is almost impossible to go on strike in the sector.

The Act also restricts collective bargaining in the "pioneer" enterprises. In 1994 the government said that it had formally approved the deletion of the provisions relating to "pioneer" status from the Industrial Relations Act and was taking measures to repeal the provisions. So far this has not been done.

In the public sector unions are not permitted to have a dispute referred to the Industrial Court without the specific permission of the King of Malaysia.

**Other laws used to curb union rights**

Legislation such as the 1961 Internal Security Act, which allows detention without trial, the Official Secrets Act, the Printing Press and Publications Act, and the Sedition Act can be, and have been, invoked to restrict the exercise of trade union rights. The Malaysian Penal Code requires police permission for public meetings of more than five people.

In 1999, the Minister of Human Resources refused to accept the nomination of the MTUC Secretary General to two tripartite bodies, the Social Security Board (SOCSO) and the National Labour Advisory Council (NLAC).

# Nepal

POPULATION : 22,847,000 / CAPITAL : Kathmandu / ILO CORE CONVENTIONS RATIFIED : 98-100-138



**Trade unionists were imprisoned, attacked and murdered in 1999.**

**Trade unionists murdered**

Between July-September 1999, at least 30 members of the Nepal Teachers' Association (NTA) and the Nepal National Teachers' Association (NNTA) were murdered.

In some districts, teachers were attacked and injured by unknown persons and the police. Others were imprisoned. Some 40 teachers were falsely accused of being members of the Maoist insurgency. On 2 September, a former adviser and ex-general secretary of the NNTA, Bishnu Pukar Shrestha, was kidnapped by unknown persons and disappeared.

**Bank sector**

In July, Nepal Bank Ltd. said that officer level employees could not join trade unions. The union said that this violated the Trade Union Act. The Bank Employee's Union took a case to the Supreme Court but the court dismissed their petition.

**Arrests**

On 9 December, the Nepal Transport Workers' Union held a peaceful demonstration outside the Ministry of Transport to demand that the authorities respond to the claims which they had presented one month earlier. The demonstrators were arrested including the union's general secretary, vice-president, and 15 other members of the union.

# New Zealand

POPULATION : 3,796,000 / CAPITAL : Wellington / ILO CORE CONVENTIONS RATIFIED : 29-105-100-111

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**The Labour Government elected in November committed itself to repealing the anti-union 1991 Employment Contracts Act.**

**Anti-union legislation to be replaced**

One of the election pledges made by the New Zealand Labour Party in the run-up to the November 1999 elections was to repeal the 1991 Act as a priority. After the elections, steps were taken towards repealing the Act and replacing it with an Employment Relations Bill that would comply with ILO conventions on freedom of association. The adoption of the Bill was expected to take place around mid 2000.

The previous government had completely ignored ILO recommendations to amend the law. The 1991 Employment Contracts Act was one of the main instruments of its labour market deregulation policies.

The Act dismantled the existing system of collective agreements and wage awards, and replaced it with individual employment contracts. It states that employment relationships should be established through legally enforceable contracts between individual workers and their employers, unless otherwise decided.

If workers wish to be covered by a collectively-bargained contract, they must say so explicitly and can choose to be represented by a bargaining agent, which may or may not be a trade union, in negotiations. The employer must recognise the bargaining agent, but does not have to bargain.

The right to strike was also limited by the Act, most importantly by the ban on strikes aimed at concluding multi-company collective agreements. This gave legal backing to employer-imposed bargaining at enterprise level only.

**ILO recommended changes**

The ILO ruled in 1994 that the Act was incompatible with freedom of association and the promotion and encouragement of collective bargaining. It recommended that it be rewritten after tripartite discussions, and recommended that strikes over multi-employer collective agreements, banned by the Act, should be legalised. The ILO repeated its recommendations to the New Zealand government in 1996.

**Individual contracts**

The New Zealand Council of Trade Unions (NZCTU) said that workers had been pressurised into signing individual contracts introduced unilaterally by employers – including where the workers concerned had authorised a union to negotiate on their behalf.

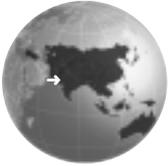
The Act halved the number of workers covered by collective contracts, and real wages fell. The impact was worst in small enterprises.

**Death on picket line**

In December, the Lyttelton Port Company Ltd. at Lyttelton Port, negotiated and signed a collective contract with the maritime unions. It subsequently said that it would contract out the work covered by the agreement to non-union labour. The union realised that the company had been bargaining in bad faith. It went on strike. On 27 December, the partner of a port worker, Christine Clark, was killed on the picket line. A man in a four-wheel drive vehicle, assumed to be a boat owner, deliberately drove over her. The dispute ended that day when the company withdrew its proposal and negotiations began. The boat owner was charged with dangerous driving.

# Pakistan

POPULATION : 148,166,000 / CAPITAL : Islamabad / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-111



**There was no improvement in Pakistan where the government added to the already severe restrictions on basic trade union rights in 1999.**

## Right to join unions restricted

A wide range of workers cannot belong to unions including hospital workers, railway workers, certain public servants, teachers, workers in numerous defence-related establishments, supervisory and managerial staff, workers in agriculture and forestry, and workers in export processing zones.

Under some circumstances, workers banned from joining trade unions can form associations. But they have either limited collective bargaining rights or none at all, and they cannot strike or join federations.

Employers have artificially promoted workers in sectors such as the steel industry, the railways, and the banking and financial sector so that they qualify as managerial staff and cannot join unions.

## Export Processing Zones

In addition to not being able to form or join unions, workers in Pakistan's export processing zones (EPZs) cannot bargain collectively or go on strike. They are not protected against acts of interference from employers or anti-union discrimination.

## Electricity workers denied union rights

During 1999 a Presidential Ordinance excluded workers of the Karachi Electric Supply Corporation from the 1969 Industrial Relations Ordinance (IRO). This meant that they could not belong to trade unions.

## Bank workers

Amendments to the Banking Companies Ordinance in 1997 said that a worker couldn't become a union member or an official in a banking company unless they are employed by the bank in question. Anyone breaking the law faces a fine or up to three years' imprisonment or both. The bank workers' union affiliated to the APFTU national centre challenged the ban in the High Court on the basis that it was unconstitutional.

The IRO bans workers in banks and financial institutions from bargaining collectively.

## WAPDA union de-registered

In 1999 a Presidential Ordinance of December 1998 that removed the trade union rights of the 130,000 workers at the Pakistan Water and Power Development Authority (WAPDA), supposedly for two years, was re-promulgated. It de-registered the Pakistan WAPDA Hydroelectric Central Workers Union affiliated to the APFTU national centre, in order to bring discipline to the "unruly staff". This was in response to a strike by the WAPDA union on 3 November 1998 as part of its campaign against the partial privatisation of WAPDA.

The ordinance provided for the running of WAPDA to be handed over to the army. Around 35,000 junior army officers and 250 officers were drafted in. A senior army officer was appointed WAPDA chairman. It also provided for employees to be retired without giving any reason.

## Lack of protection

There is a lack of sufficient protection in the law for workers dismissed for union activities or membership. A 1994 Supreme Court judgement restricted the right to judicial recourse in cases of dismissal not connected with industrial disputes. This meant that there was no possibility of workers being reinstated.

Unions say the labour courts are inefficient and often corrupt. Labour laws are not effectively implemented and certain politicians, local authorities and the business community collaborate to repress workers' rights. Intimidation and violence prevent workers from organising.

Employers can evade labour laws by registering a number of small businesses rather than a larger one, even where workers are employed on the same premises. Hiring workers on successive temporary contracts is widespread.

The law is not implemented in the industrial estates. The Gadoon Amazi estate is notorious for anti-union policies and bad working conditions. Factory security guards are equipped with assault rifles. Most union organising efforts have been crushed with the active support of the local authorities, the police and the Labour Department. Sacked unionists are blacklisted.

**Strike bans**

On 27 April 1999, an amendment to the 1997 Anti-Terrorism Act added a provision on civil commotion, punishable by up to seven years in prison. The definition of civil commotion included illegal strikes, go-slows and lockouts.

A Supreme Court decision in 1997 said that employees at the Pakistan Television Corporation and the Civil Aviation Authority cannot go on strike.

The Industrial Relations Ordinance (IRO) allows the government to ban strikes in any public service utility. The 1952 Essential Services (Maintenance) Act, (ESMA), provides for penalties of up to one year's imprisonment for anyone who contravenes the ban. The ESMA also allows workers to be forbidden to quit their jobs.

Under the IRO the government can bring an end to any strike that has gone on for 30 days.

**Cumbersome strike procedures**

Long and cumbersome procedures which must be fulfilled before a strike can take place mean that most strikes are spontaneous and illegal. They are often broken up by the police and used by employers as justification for dismissals.

**Union registration obstructed**

The process of union registration and appeal can take many years if an employer is against the formation of a union. During that time, union organisers are harassed and victimised, and employers can involve unions in costly and prolonged litigation.

The issue of the APFOL-affiliated Daewoo Awami Labour Union's registration remained in the courts because of legal manoeuvres by the authorities and the company. The union had struggled for six years for the right to organise workers at the Daewoo Motorway Project from Lahore to Islamabad, which was completed in 1997.

**Ghazi Barotha Hydro Power Project**

In March 1999 two trade union officials from a construction project to build an hydro-electric power facility on the Indus river, the Ghazi Barotha Hydro Power Project, were still in jail. After the Ghazi Barotha Awami Labour Union, affiliated to the APFOL union centre, was registered at the project, the management employed constant union-busting tactics. This culminated in October 1998 when the union leaders were arrested and the government declared that the project was an essential service under the ESMA. This applied for six months and was renewable.

The Italian multinational Impreglio is the major partner in the consortium of companies running the project, which began in 1996.

**Football factory workers**

In March, the Sialkot branch of the APFOL national trade union centre said that Sufi Mohammad Arshad and other colleagues were at initial stages of forming a union at M/S Fircos Industries (Pvt) Ltd. which makes footballs and jackets. The company had signed the Atlanta Agreement on the elimination of child labour in the football industry. When the employer found out he sent Sufi Mohammad Arshad, who had worked at the company for 12 years, on forced leave for 15 days. He was also stabbed with scissors.

When he came back to work he was not allowed in the factory and was told that his services had been terminated. Other employers refused to give him a job because they had been informed about his trade union activity.

**New anti-worker draft labour policy**

In early January 1999 the government announced a new draft labour policy which the unions said was anti-worker.

In May, the eight national trade union centres in the Pakistan Workers' Confederation boycotted a tripartite meeting convened to discuss the government's proposals – because of the government's

policies. The unions also said that the draft labour policy made it easy to fire workers for no reason, reduced overtime rates, and added to the restrictions on elections of collective bargaining agents.

The government reported to the ILO in 1999 that a Commission for consolidation, simplification and rationalisation of the labour law had been set up.

#### Privatisation and deregulation

Privatisation and deregulation policies in line with IMF and World Bank requirements continued. This affected national public utilities such as WAPDA, the railways, Karachi Port Trust, and gas and telecommunications.

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## Papua New Guinea

POPULATION : 4,600,000 / CAPITAL : Port-Moresby / ILO CORE CONVENTIONS RATIFIED : 29-105-98



### The country's labour legislation is not enforced.

#### Restrictions on bargaining

The government can cancel arbitration awards and nullify wage agreements if they are against government policy or the national interest. The government has told the ILO that it is carrying out industrial relations reform and a new Industrial Relations Bill would repeal these provisions.

#### Internal Security Act

Under the 1993 Internal Security Act, the cabinet can jail people and ban organisations deemed to be against the public interest. The police have unlimited powers to arrest people without charge and hold them without trial, and to search property without a warrant. The act also reversed the burden of proof so that an accused person has to prove their innocence. The PNG trade union centre has described the act as a direct threat to democracy and to trade union rights.

#### Rights not enforced

The government does not implement the trade union rights that exist in the law. Problems with the Department of Industrial Relations meant that it did not function for the second half of the year. Consequently it was nearly impossible to get a secret ballot for a strike or elections organised. The Department also interfered into trade union affairs by questioning whether a strike was necessary and then deciding whether to allow a secret ballot to go ahead.

Complaints against employers are either ignored or briefly investigated before the matter is dropped. Employers increasingly use civil courts rather than industrial courts in order to avoid arbitration. The cost prevents unions from responding.

Workers are increasingly being employed on individual contracts which quite often have anti-union clauses.

#### Union faced threats and abuse

On 18 January, at New Britain Palm Oil Ltd., a subsidiary of a Malaysian company Kulim (Malaysia) Bhd., members of the AGWU union raised pay rates and safety issues with management, particularly as a worker had died in a tractor accident in 1998. One of the plantation managers hurled racist abuse at the union. The abuse continued, together with threatening behaviour against the union delegate by a supervisor, and two incidents of assaults against workers by security staff.

The union asked the police to investigate, including the death of the worker. When this was reported in the media the company sued the union and the general secretary at national level for defamation. The union also submitted a list of bargaining claims to the company, which included withdrawal of the court case. It voted to go on strike in July 1999, but postponed the strike to give the company chance to negotiate. The strike was going on at the end of the year.

# Philippines

POPULATION : 72,944,000 / CAPITAL : Manila / ILO CORE CONVENTIONS RATIFIED : 105-87-98-100-111-138



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**The few successful cases of organising in the EPZs were the exception to the norm of anti-union intimidation. A Presidential Task Force set up to review the Labour Code looked set to undermine union rights.**

## Labour Code Review

In February 1999, President Estrada set up a Task Force to review the Labour Code and to make it more responsive to the ongoing regional economic crisis.

In October, the TUCP national trade union centre reported that there was no trade union representation in the Presidential Task Force on Labour Law, nor in the preparatory commission for changes to the Charter. A Congressional Commission had also been set up to look into labour code amendments.

Employers and representatives of the business community were included in these bodies. Their targets were abolition of the minimum wage, making it easier to sack workers, further liberalisation of contracting out laws, the lowering of labour standards, and constitutional amendments to abolish security of tenure and sectoral participation.

## Export Processing Zones

Organising in the EPZs became even more difficult in 1999. The economic crisis made workers more fearful of losing their jobs. Employers routinely sack union officials and activists, who are blacklisted, and threaten to close down companies if unions win elections.

The employers use the law to frustrate unions – complicit officials in the Labour Department created bureaucratic delays if any small detail of a union registration request was not fulfilled. More and more workers were employed on contracts, on a part-time basis or through an agency. They have no union rights.

There are very few unions in the zones and the growing number of special zones and regional industrial centres, which employ around 175,000 people. The labour law applies in them, but in practice “no union, no strike” policies exist, and are enforced by foreign investors, local government officials, and zone administrators.

There is little inspection by the authorities. The Department of Labour has proved unwilling or unable to enforce the law.

## Unions organised in zones – against strong resistance

In May 1999, the TUCP said that it had organised a TUCP-ALU union at the multinational corporation Monasteria Knitting, in the Bataan EPZ. The company had resisted the union by threatening workers that the company would lose orders. The union organisers and union members were transferred from department to department, and forced to take annual leave. The union held a one-week picket protest before it was recognised and all the workers were reinstated.

All other organising campaigns in the Bataan zone had met with widespread violations of trade union and workers’ rights. Ten other registered unions remained in limbo because their petitions for certification elections met bureaucratic delays and employers blocked organising efforts through intimidation and coercion. Department of Labour inspectors were kept out by security guards.

Four Taiwanese-owned companies in the textile, electronics and golf course sectors appealed against orders for union elections to be held. The appeal remained pending with the Labour Secretary. In the meantime, every single union official – 187 – had been fired. By sacking workers and destroying unions, requests for certification elections to establish the collective bargaining agent, were sabotaged.

In six other companies – US- and UK-owned, harassment was less overt, but workers were given higher benefits, and labour/management committees were imposed instead of unions.

During 1999, the Department of Labour brokered a social accord for industrial peace and established an industrial peace council together with investors, zone management, and workers. No genuine trade unions were included.

**Other zones  
campaigns blocked**

In October 1999, the TUCP organised a union in the Coastal Subic Bay Terminal Inc. a fuel storage company, after two years of campaigns and lengthy appeals processes in which the union president, six union officers and two activists were suspended, one month before the certification election.

The Subic Bay special EPZ had been declared "union-free". A Labor Centre was set-up purportedly to handle labour disputes and assist workers with their entitlements. Workers said that it existed to promote company unions.

In the Cavite free trade zone, near Manila, despite its "no union no strike" policy, there were nine registered unions in 1997, and at least two collective agreements. The zone employs some 35,000 workers of which 75 per cent are young women, in mainly Korean, Japanese, Taiwanese and German factories. They have to sign a document saying that the employer can dismiss them if they get married. Firings of workers joining unions, forced overtime and poor working conditions are common.

There are no unions in the Baguio City zone, nor in the Mactan EPZ, where around 21,000 people work. Workers are monitored and cannot meet in groups. Organisers cannot get into the zone.

**Limitations in law**

A union can only be registered if it represents at least 20 per cent of workers in a bargaining unit. The law requires an excessively high number of unions before a federation or national centre can be formed. Union officials have to be employed in the enterprise whose workers they represent.

Non-nationals cannot form or join unions unless a reciprocal agreement exists with their country of origin.

The Secretary of Labour has wide powers to impose compulsory arbitration and order strikers back to work if she/he thinks strikes are against the national interest.

Union officials can be dismissed and imprisoned for a maximum of three years for taking part in illegal strikes.

Public sector workers have restricted collective bargaining rights and cannot strike.

A draft Civil Service Code was refiled as Senate Bill No. 15111 on 10 March 1999 and submitted to the Senate Civil Service and Finance Committee.

**Trans-Asia dispute**

In 1999 the ALU-TUCP was engaged in a bitter struggle with Trans-Asia Shipping Lines which banded together with a coalition of ship owners.

ALU-TUCP and the national Union of Port Workers organised workers in three stevedoring companies and Trans-Asia in Cebu port. The companies began to employ union-busting tactics including dismissal and transfer of union officials and wage delays for union supporters. The Coalition of Ship Owners formed itself in April and began an anti-union campaign. They demanded a strike moratorium and nullification of union recognition.

At Trans-Asia the two unions went on strike on 23 July because the two union presidents had just been transferred. On the same day the company sacked 21 union officials. Although the strike was called off on 29 July after the intervention of the National Labour Relations Commission the company refused to reinstate them even though the labour secretary had ordered them to do so. The company also recognised a newly-set up yellow union. The unions went on strike again.

On 26 September three truckloads of armed men on the orders of management attacked union members who were picketing ships, resulting in serious injuries. Two had bullet wounds. They took possession of the ships being picketed. They were later arrested but released on bail. The company did not deny their involvement.

The NLRC ordered the strike to be lifted the next day and the workers to be reinstated. The President of the country intervened in the case on the side of the ship owners and ordered the

resignation of the two commissioners representing labour on the Cebu Port Authority. He also ordered the replacement of the two NLRC members who had ordered that the sacked workers should be reinstated. On 20 October the new NLRC met and ruled that the strikers had acted illegally and suspended the 21 union officials for one year.

#### Sharp Philippines

On 15 September, management thugs and police attacked picketing union members of the Sharp Philippines Electronics Workers Unions (SPEWU) in Muntinlupa City. A day earlier a similar attack by thugs using water cannons and steel pipes had injured scores of union members. Women unionists were sexually molested. The police stood by and watched.

The strike began in August after 57 union members were sacked. They had been holding a protest action inside the company because the management refused to fulfil earlier agreements.

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## Singapore

POPULATION : 3,476,000 / CAPITAL : Singapore / ILO CORE CONVENTIONS RATIFIED : 29-98



**Although the law is subject to tripartite review, there remain various legal restrictions that violate trade union rights.**

#### Union registration

The Registrar of Trade Unions has wide-ranging powers to refuse or cancel registration of trade unions, particularly where one already exists for workers in a particular occupation or industry. These could be used to obstruct their establishment and to impose a single trade union structure.

However, a trade union cannot be refused registration or have its registration cancelled without being given the opportunity to be heard, although any appeal is decided by the Minister of Labour, whose ruling may not be challenged in any court. This law has not been used at all over the past 15 years. The Registrar is also given far-reaching powers under the law to investigate union finances.

#### Public sector

In the public sector, there is no legal right to form and join trade unions.

The Trades Unions Act contains a general prohibition on government employees joining trade unions. However, the President of Singapore has the power to make exemptions from this provision of the law. The Trade Unions Act (Government Officers Exemption Notification) grants such an exemption and the AUPE public sector union is the second largest trade union in Singapore.

The scope of representation has been periodically widened over the years and since 1999 all public sector employees except the most senior civil servants have been able to join a union.

Employees of statutory boards can join general public sector unions, with the exception of the Public Utilities Board, the Urban Redevelopment Board, and the Housing and Development Board, where employees can only join "in-house unions".

#### Further restrictions in law

The law also interferes in the right of trade unions to elect their officers freely, as well as whom they employ. It limits the objectives on which unions can spend their funds, prohibits payments to political parties or the use of funds for political purposes which are matters that should be dealt with in unions own rules.

Collective agreements have to be certified by Industrial Arbitration Courts before coming into effect. The Industrial Arbitration Courts can refuse certification at their discretion on grounds of public interest - although this has never happened.

The Industrial Arbitration Courts can also refuse certification for collective agreements in newly established enterprises if they provide for conditions more favourable than the legal minimum laid down in the Employment Act. This applies for a period of five years and can be extended.

Exemptions from this can be granted upon application from employers and all such applications have been granted. The NTUC has called this law "outdated" and asked the government to amend it; the government has told the ILO that it is reviewing this provision in consultation with the social partners.

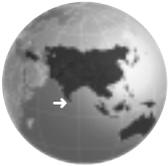
In limited situations, the law provides for recourse to compulsory arbitration that can put an end to collective bargaining at the request of only one of the parties, and make a legal strike impossible. This has not happened since 1981.

An excessive number of union members are required to vote in favour of a strike.

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## Sri Lanka

POPULATION : 18,455,000 / CAPITAL : Colombo / ILO CORE CONVENTIONS RATIFIED : 29-87-98-100-111



### New legislation protects rights

**Changes to the law granted compulsory recognition for unions with 40 per cent representation in the workplace and it became an offence for an employer to victimise a worker for joining a union. It was expected that unions would start trying to secure recognition in the EPZs.**

The Employment Relations Act was passed during the year. This incorporated the National Workers' Charter, which was adopted in 1995, and guaranteed the protection of the rights to organise and bargain collectively.

In June the Minister of Labour had announced that steps would soon be taken making it mandatory for employers in the free trade zones to recognise trade unions.

The hostility of certain EPZ employers, particularly to compulsory union recognition, had blocked the passage of the Employment Relations Bill. The zones employ around 100,000 mainly women workers.

It became compulsory for employers to recognise a union with 40 per cent representation in the workplace, and an offence for an employer to victimise a worker for forming or joining a union.

### EPZ employers hostile to unions

It was expected that the passing of the new Act would prompt unions to try and secure recognition in the three EPZs. Although the labour law is applicable in them, it has been ignored since the zones were set up in 1978. The zones are under the authority of the government's Board of Investments (BOI).

Employers have not permitted unions in the zones, and have fired workers for joining or forming unions. Workers cannot hold gatherings in and around the tightly guarded zones. Union organisers cannot get in. Security guards monitor workers. Employers call in the police if there is a strike.

Since 1994 the BOI has allowed workers' councils, with limited representation rights, to exist in EPZ enterprises, and has issued guidelines for their establishment and functioning.

The BOI sets wages and working conditions. Dispute resolution procedures make no provision for strikes. BOI officials and the Labour Commissioner can intervene in a dispute.

In early 1999, the BOI unilaterally changed the guidelines on workers' councils to the advantage of investors, who subsequently began to try and bust the councils.

### Multinational sacked all union officials

In May, workers at the Australian-owned Melbourne Metal (Pvt.) in the Ekala Industrial Estate near Colombo, which produces iron rods for reinforced concrete, formed a union and elected a provisional union committee.

Their wages were late, workers were discriminated against in pay and conditions, free movement was restricted, even in their free time. Tamil workers were not allowed out at all, and were not registered with the local police as the law requires. Only recently had the employer begun to pay unemployment insurance under pressure. There was no safety equipment, nor drinking water.

The company started to sack union officials. The union informed the Commissioner and Deputy Commissioner of Labour about the developments. The Deputy Commissioner fixed a date for an inquiry but the company refused to participate in a meeting with the union. The Assistant Commissioner accepted the company's position and no inquiry was held.

The company suspended or sacked all the union officials.

#### Striking doctors arrested

In mid-June public sector doctors went on strike. A court ruled that it was illegal. On 25 June, a judge ordered the immediate arrest of 12 senior officials of the Government Medical Officers Association (GMOA). Lawyers had argued that because the health service was an essential service and the strike had been banned, the public had a right to medical services.

Emergency laws allow the President to declare any service essential and ban or end a strike. Public servants are not allowed to strike, although some do.

## Taiwan

POPULATION : 21,908,000 / CAPITAL : Taipei / ILO CORE CONVENTIONS RATIFIED : - - -



**The labour law is still restrictive – it only allows one national trade union centre to exist. The CFL has demanded a revision of the Labour Union Act to include better protection against anti-union discrimination and a relaxation of trade union organisational structures.**

#### Restrictions in law

The law does not permit more than one trade union in any given geographical area, and only one national trade union federation is allowed to exist. The authorities refused to register a second federation in 1994, and disallowed an appeal.

Public servants, teachers, and workers in the defence industry are not allowed to form and join trade unions, despite the fact that a 1995 court ruling said that the right to organise was protected by the constitution.

The labour law requires union rules and constitutions to be submitted to the authorities for review. The authorities can dissolve unions if they do not meet certification requirements or if their activities "disturb public order".

There are many restrictions on the right to strike which make it difficult to hold a legal strike, and which weaken collective bargaining. The authorities can impose mediation or arbitration during which workers cannot strike.

Taiwan's assembly law forbids demonstrations that have not been approved by the authorities. Workers can be sued and jailed if they stage protests arising from labour disputes without permission.

#### Inadequate protection

Protection against anti-union discrimination is inadequate, as there is no provision in the law to punish violators.

#### Workers demand revision of the Labour Union Act

In April 1999, scores of workers demonstrated for the Labour Union Act to be amended to allow them to establish a new confederation. In July, unions at 18 state-owned enterprises set up an alliance to protect their rights during privatisation. The government's Council of Labour Affairs refused to recognise it – because it contravened the Labour Union Act.

The CFL national trade union centre held a rally in Taipei on 29 July to call for eight main demands. These included revision of the Labour Union Act to include better protection against anti-union discrimination and a relaxation of trade union organisational structures, privatisation, healthcare and pension reform etc.

# Thailand

POPULATION : 60,300,000 / CAPITAL : Bangkok / ILO CORE CONVENTIONS RATIFIED : 29-105-100



**The 1991 State Enterprise Labour Relations Act (SELRA) which abolished unions for state employees remained in force. The law does not protect union organisers from being fired. Many trade unionists were fired in 1999 for demanding collective bargaining or trying to set up a union.**

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## SELRA

The State Enterprise Labour Relations Act (SELRA) of 15 April 1991 was adopted by a legislative assembly appointed by the illegitimate military National Peacekeeping Council. SELRA abolished unions for state employees. This denied union membership to over 200,000 (now 330,000) workers and cut total union membership in half.

Under the Act, State Enterprise Employees' Associations replaced unions in the state sector. They cannot bargain collectively or strike, and have a limited advisory role. Trade union assets were transferred to the associations.

The associations cannot form national federations or join existing trade union centres of private sector unions. However, they set up a liaison body, the State Enterprise Workers' Relations Confederation, although it cannot perform trade union functions. A high minimum number of workers are required to form an association. Only one association can exist in each sector.

Workers trying to perform trade union activities are sacked. This took place at the Government Dairy Promotion Organisation in February-March 1999 and at Thai International Airways Co. Ltd.

Civil servants are banned from joining trade unions by the 1975 Labour Relations Act. The government sets wages for both state enterprise workers and civil servants.

## Failure to repeal or amend SELRA

Successive Thai governments have clearly lacked the political will to reform SELRA.

In 1998 it had appeared to many onlookers and especially the State Enterprise Workers Relations Confederation (SERC), that the government members of parliament deliberately sabotaged the passage of a reform bill. It engineered a legal technicality which result in the bill being declared unconstitutional.

The government reintroduced the bill into parliament and it passed its final reading in the House of Representatives on 20 January 1999. It was sent to the Senate, which amended the bill heavily. In April, the SERC held a press conference and said that the amendments were against workers' interests and international labour standards.

This version was defeated by a vote in the House on 5 August 1999 after passing through the joint House-Senate Committee. Another 180-day wait followed before the original version of the bill could be submitted to the House of Representatives on 31 January 2000. At that point the House would be in a position to pass the bill immediately without heed to the Senate.

## Other aspects of labour law

In practice, trade unionists in private enterprises can be discriminated against and fired. While the 1975 Labour Relations Act (LRA) protects workers against acts of anti-union discrimination, it does not protect workers organising new unions, even after the union has been registered. Ten workers are required to "found" a union, and they must apply to register the union. Within 120 days of being registered they have to hold a general meeting and elect officers. The minutes and the list of officers are sent to the Ministry of Labour which issues a certificate to each union committee member.

In order to fire a union committee member, permission has to be obtained from the labour court. But union "founders" are not protected unless they are registered committee members. At the end of 1999, the labour courts had cases submitted by nine trade union leaders facing such victimisation under consideration.

Many company-controlled “in-house” unions exist and employers regularly use sub-contracting as a means of avoiding legal obligations of collective bargaining.

Decree No. 54, which was also brought in by the military government in 1991, obliges private sector unions to register their advisers (anyone who is not a member of that union branch) with the state. It says a union can have two advisers who must be licensed by the government every two years. The government can refuse a licence, and anyone who performs advisory duties without a licence could face a year's imprisonment. In practice there are unregistered advisers.

The Decree also required a majority vote by secret ballot of all union members in a bargaining unit in order to call a legal strike.

“Essential services” are broadly defined. Striking illegally is a penal offence punishable by a fine or imprisonment.

Onerous and unduly bureaucratic conditions hinder the establishment of a federation or confederation. Under the 1975 Labour Relations Act, every executive board member of a trade union must be a full-time employee at the factory where he or she has been elected, which means unions cannot employ full-time leaders.

Only Thai nationals enjoy freedom of association.

#### 1999

Thailand was still suffering from the effects of the regional economic crisis. Several hundred thousand jobs had been lost. Privatisation of state enterprises went ahead after the government adopted a plan to privatise some 60 state enterprises in September 1998.

#### Draft amendment to Labour Relations Act

Early in the year, the government published a draft amendment to the 1975 Labour Relations Act that further restricted basic trade union rights. It was criticised by the ILO. It did not sufficiently protect against anti-union discrimination, excluded public employees and state workers from union membership, banned strikes in much of the private sector, required a majority vote of employees in favour of a strike, and required candidates for union office to be Thai nationals. It was approved by the Cabinet and sent to the Council of State for revisions where it remained for most of the year.

The Labour Congress of Thailand and other unions, experts and NGOs drafted an alternative labour bill and submitted it to the Labour Minister on 19 January 1999.

By November five drafts existed, including two employer drafts and an opposition draft. The Parliamentary Social and Welfare Committee held a hearing to try and seek consensus on them.

#### Workers lose jobs over bargaining demands and organising

The Siam Steel Service Center Public Co. was set-up in 1998. It is owned by Anantchai Kunanantakul, president of the Employers' Confederation, Associate Judge in the Central Labour Court, member of the National Labour Advisory Board, and Chief Adviser to the Minister of Commerce. On 5 January 1999, 163 workers made a collective bargaining demand. On 6 February, management responded by saying that all the workers who had signed the demand should have their wages reduced. The management refused to bargain and on 13 March closed down the company without notice and contrary to the procedures laid down in the 1998 Labour Protection Act.

At the Thai Pak Co, which produces plastic for domestic use and for export, a union was founded in January 1999. Thirteen organisers were fired as soon as the employer heard about the union, on false charges of breaking rules by smoking, gambling and stealing from the factory. The workers petitioned the Labour Relations Committee (LRC) and the Minister of Labour. After further investigation the Minister reversed his decision in respect to five of the workers who were non-smokers but remained adamant about firing the other eight. The LRC continued to investigate. If the employer lost and appealed to the Labour Court, reinstatement would take more than a year.

In March and April, workers at state-owned enterprises protested against a bill to privatise their companies. Workers from the state-owned electricity generating authority led the protests, and a rally was held on 27 April.

A trade union organiser was fired at the Central Hotel in Bangkok, after management claimed that other employees could perform the job better. The management denied knowledge of the newly-formed union. However some employees had told them about it immediately after the initial general meeting. The employer refused to pay compensation.

In March, Alcan Nikkei Thai Company Ltd., a Japanese, Canadian, and Thai joint venture, targeted union officials and members, including the general secretary of the Aluminium and Metalworkers' Union (and of the LCT), Samam Thomya, in its retrenchment exercise. It firstly tried to get rid of 62 union members en masse. When this failed it ordered each worker not to come to work. The union's legal objections were not accepted by the Central Labour Court. The case was pending appeal.

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#### International trade union conference banned

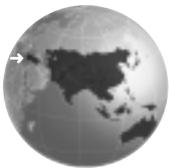
In May, the Thai authorities banned an international trade union conference organised by the ICFTU on "Democracy for Burma" which was to take place in Bangkok from 24-26 May 1999.

#### Intimidation

At the beginning of August, the Triumph company which manufactures underwear and sportswear, filed a suit in the Labour Court for a massive amount of damages from employees who, the company alleged, had caused damage by lowering production. The employees had held a demonstration because the company refused to give them a pay increase of more than four percent. Thugs were sent to intimidate them and dogs were unleashed on their demonstration.

## Turkey

POPULATION : 64,479,000 / CAPITAL : Ankara / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



### Public servants continued to be denied bargaining and strike rights. Trade unionists were subjected to intimidation and violence.

#### Public servants

Since 1997, workers designated as public servants have been permitted to form and join trade unions. This includes many manual workers, municipal workers, teachers, nurses, police, and military and contract personnel.

They do not have the right to bargain collectively or strike, even though amendments to Turkey's constitution in 1995 gave them rights to organise and to bargain collectively in accordance with subsequent laws to be enacted.

The government submitted a draft bill on public employees' unions to parliament in 1998. It did not grant bargaining and strike rights and contained many prohibitions and restrictions. Any agreement reached had to be approved by the Council of Ministers. It did not allow civilian public servants employed in the armed forces and prison wardens to organise.

It was eventually withdrawn because of widespread opposition, both in Turkey and internationally.

#### Restrictions on union rights

Turkish law contains many restrictions on basic trade union rights.

There is insufficient protection against anti-union discrimination. While employers can be fined for anti-union discrimination, the fines are too low to act as deterrents and the burden of proof lies with the worker to prove discrimination. Union officials are not adequately protected against transfers or dismissals.

The law does not require dismissed trade unionists to be reinstated, except for shop stewards, and the lack of job security also undermines legal protection.

#### Restrictions on collective bargaining

In order to become a bargaining agent, a union must represent 50 per cent plus one employees in a workplace, and 10 per cent of all employees in the sector. There have been reports that the

authorities have manipulated membership figures to prevent unions acquiring bargaining rights, or to remove their rights by pretending there were irregularities in the figures. As a result of this, workers in many sectors are not covered by a collective agreement because of disputes over trade union representation.

Other restrictions on collective bargaining include a ban on industry-wide bargaining, a ban on bargaining by confederations, a limit of only one agreement at any level, and a 60-day time limit on bargaining.

In practice some of the legal constraints on bargaining are ignored. The ILO has therefore asked the government to change the law.

**Limitations on the right to strike**

There is a ban on general strikes, solidarity strikes, and go-slows.

Strikes are banned in a wide range of sectors including banking, public notaries, transport, and the exploration, production, refining and distribution of water, gas, electricity, coal, lignite, natural gas and petroleum.

Turkey's constitution allows the government to halt strikes for up to 60 days for reasons of national security or public health and safety. Unions can petition the Council of State to lift such a suspension. If the petition is turned down, binding arbitration can be imposed at the end of the period. The ILO has criticised the government for applying the law too broadly.

Lengthy and cumbersome procedures must be followed before a strike can take place.

**EPZs**

The Free Trade Zone Act bans strikes in Turkey's EPZs for ten years following the setting up of a zone, and imposes binding arbitration.

**Further restrictions**

The Trade Union Act remains overly prescriptive and regulates internal union rules and constitutions too closely. A major obstacle to union organising is the requirement for workers to notify a public notary (entailing payment of a fee) for registering a union, and also for resigning from a union which makes it very difficult to change union membership.

Candidates for union office must have worked for ten years in the industry represented by the union.

Unions must obtain official permission to hold meetings or rallies and must allow police to attend their conventions and record the proceedings. The state took the Turk-Is national trade union centre to court in recent years alleging that two demonstrations it held in the capital, Ankara, were illegal, and demanded prison sentences for union officials.

**Precarious employment**

Precarious employment, including sub-contracting, and job insecurity have been widespread for several years. Employment again rose in the informal sector after massive job losses in 1998. Companies sub-divide their operations or temporarily suspend their activities to get rid of unions. Many employers do not pay social security contributions for their employees.

**1999 – Social Security Reform Bill**

In 1999, opposition to the Social Security Reform Bill which dramatically raised the retirement age, galvanised the three trade union confederations, Turk-Is, DISK and Hak-Is, public sector confederations, vocational, and pensioners' associations, to work together in the Labour Platform. The IMF had sought the implementation of this measure as a condition of its financial support.

The government refused to talk to the Platform. The unions said that the root of problem was the large unregistered workforce in the informal economy, not the retirement age.

Many marches and demonstrations took place against the Bill in July and August. Union branches in the south-east of the country were not allowed to put up posters about it. Several union leaders were arrested during the protests, under the state of emergency in force in five provinces in the region.

The bill was passed and subsequently challenged in the constitutional court.

**Union leader dies in custody**

On 5 March 1999, Suleyman Yeter, education expert at the DISK-affiliated dockworkers' union, Limter-Is, was detained while visiting a worker newspaper, Dayanisma. The police arrested five people at the newspaper's offices and put them in cells at the Anti-Terror Branch of Istanbul Police Headquarters.

Suleyman Yeter was interrogated until the following morning. He had been stripped, severely beaten and forced to lie on ice. He was taken away for interrogation again the same day. On 7 March, his union was told that he had died in custody.

He had been arrested and tortured in 1997. His arms had been semi-paralysed. He subsequently took the police to court. The trial had dragged on for two years without results. On 2 March, at the last court hearing of the case, it had been arranged that the policeman who had tortured Yeter in 1997 would be identified.

**Intimidation**

DISK reported that its affiliate, Basin-Is, a trade union of printing workers, had organised in Swiss Card and Abaci Kart which makes magnetic cards for banks and companies. The company sacked 41 workers so that it would not have to bargain with the union. The workers protested outside the factory for over three months. On 5 April the police arrested them.

The union informed the Labour Inspection service about the situation. On 8 April, Dervis Boyoglu, the union president was kidnapped by three armed men and taken to a forest near Istanbul. He was threatened that if he did not stop his trade union activities his life and those of his family would be in danger.

**Turk-Is leader assassinated**

On 6 August, the Turk-Is secretary general, Semsi Denizer, was assassinated in Zonguldak. He was also the president of the miners' union, Maden-Is, which was holding its congress when he was killed.

**Harassment**

In August, the SES public employees' union affiliated to the public service confederation, KESK, said that its general secretary, Sevil Erol, had been detained on 21 July. Her phone number had been found in the possession of a former union executive member, Ali Kandemir, who had been arrested for allegedly having relations with the PKK. He was interrogated, threatened and tortured. She was accused of being related to an illegal political organisation, the PKK. The union noted that the arrests had taken place while the protests against the social security Bill were taking place. Hearings of their cases were set for 26 September.

The teachers' trade union, Egitim-Sen, said that its members had been subjected to continuous harassment and arbitrary measures in the east and south east of Turkey. It said that between October 1998 and October 1999, seven union members were dismissed, 117 were transferred and 150 were punished. Another 200 were still being questioned after taking part in the Democratic Education Congress in 1998, even though Ankara State Security Court had dismissed all charges against them.

# Vietnam

POPULATION : 77,562,000 / CAPITAL : Hanoi / ILO CORE CONVENTIONS RATIFIED : 100-111



**The national trade union centre, the Vietnam General Confederation of Labour (VGCL), is under the leadership of the ruling party.**

**Party controlled national centres**

The relationship between the VGCL and the ruling party is reflected in the law and in the VGCL constitution.

The VGCL is the only legal trade union centre and all unions must be part of its structure. There are no independent trade unions.

<b>The labour code</b>	<p>The law requires prior authorisation from the authorities before a trade union can be set-up. The local branch of the VGCL must also approve any union formed by workers themselves.</p> <p>Vietnam's 1994 labour code directed the regional branches of the VGCL to establish unions in all new enterprises, and enterprises without unions within six months.</p> <p>The code provides for union recognition and collective bargaining, and bans anti-union discrimination. Some collective agreements have been signed.</p>
<b>Restricted strike rights</b>	<p>The code gives workers restricted strike rights. Strikes had previously been forbidden, although the growth of the private sector in recent years led to the tolerance of peaceful strikes at foreign-owned factories. Lengthy procedures must be completed before a strike can take place.</p> <p>Strikes are banned in enterprises that the government defines as public utilities, and in enterprises essential to the national economy or to security and defence. In 1996, strikes were banned in 54 "key" occupational sectors and businesses, including the postal service, public transport, banking, public works, and the oil and gas industry.</p> <p>The Prime Minister can suspend or end a strike considered to be a threat to the economy or public safety.</p> <p>Most, if not all strikes are illegal. Non-enforcement of the labour code has been responsible for many wildcat strikes in recent years, notably in the textile and footwear sectors. Disputes have also arisen over late and unpaid wages, wage claims, breaking of contracts, poor working conditions, illegal dismissals, long hours or abuse and humiliation of workers by foreign supervisors. Increasing layoffs because of the regional economic crisis led to strikes over compensation payments.</p> <p>In 1998, the government blamed foreign firms for labour unrest, and said that research by the Labour Ministry had shown that most labour conflicts took place at small-scale enterprises owned or partly owned by companies from South Korea, Singapore and Taiwan. Official strike statistics announced in 1998 for the previous three years showed that half of all strikes took place at Korean-owned companies. Over 90 per cent of these were blamed on the employers.</p>
<b>Violations of labour code</b>	<p>In February 1999, the official media said that a survey of foreign-invested companies showed that many of them did not abide by labour regulations. It also said that trade unions had not yet fulfilled their role of protecting the interests of workers in these companies.</p> <p>Around the same time the VGCL said that measures to deal with violations of the labour code were inadequate, and had partly limited the positive aspects of the labour code.</p>
<b>Export processing zones</b>	<p>The code applies in the six export processing zones that employ over 160,000 workers. The investors are mainly Asian, but there are also some from the US and France.</p>





The economies of Eastern Europe and the CIS remained precarious, reflected in the continuing problem of unpaid wages. Fraud and corruption were still rife in some countries, frightening away much needed foreign investment. And, while official trade unions are virtually a thing of the past, some governments still tended to favour them or their successors. Precarious employment continued to grow as did the trend towards individual employment contracts.

Although there has been progress in some countries in respect to tripartism, and setting up institutions and mechanism, this still suffers from the fact that there are very few or no genuine employers organisations in the region.

Belarus, where President Lukashenko rules by decree, continued to stand out as the worst violator in the region. Decrees were brought in which allowed for individual temporary contracts for all new workers and imposed onerous requirements on union registration.

Many countries were affected by unpaid wages including Croatia, Czech Republic, Romania, Russia, and Ukraine. In crisis-ridden Bulgaria teachers went on strike in August over several months of wage arrears, while workers at a chemical fertilizer plant protested after they hadn't been paid for nine months.

The situation remained serious in Russia, where teachers faced wage arrears of between four and 18 months. One



died when they went on hunger strike in protest. Metro workers also went on hunger strike, and one killed himself after not being paid for 11 months. Three union activists were murdered in Russia, including two who had been involved in protests at unpaid wages. One of the two, an airline worker, had also been monitoring cases of corruption. A third incident had all the signs of a contract killing.

Kosovo is now establishing a new legal framework and institutions after a traumatic year in which the president of the independent BSPK, Agim Hajrizi, was killed.

There was some good news. In Estonia the EAKL national trade union centre was registered after agreement was reached on registration procedures, and the government undertook to submit a bill to parliament on trade union legislation. In the Czech Republic revision of the labour code progressed, with the CMKOS national trade union centre fully involved in the process.

In the United Kingdom, the 1999 Employment Relations Act restored some of the trade union rights that had been taken away in the eighties and early nineties. It also restored legal rights to recognition for collective bargaining to representative trade unions, although some old problems still remain, allowing for interference into trade unions internal affairs, and giving limited immunity from prosecution for trade union action.

Elsewhere in Western Europe there was little change.

Norway maintained its ban on strikes in the oil industry, and Germany still prohibits large categories of civil servants from

going on strike. In Belgium the right to strike continued to be undermined, with courts siding with employers who exploit the law to question action such as pickets taking place during strikes.

In Malta, the authorities repressed a strike at the airport in August. The entire leadership of the General Workers Union was charged with criminal offences. Following international pressure, the Maltese government eventually withdrew its case from the court.



# Europe

## Belarus

POPULATION : 10,315,000 / CAPITAL : Minsk / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**President Lukashenko continued to rule by decree - issuing Decree No. 639 at the beginning of 1999 containing onerous requirements for trade unions to re-register by 1 July. Another Decree issued later in the year introduced the possibility of individual temporary contracts for all workers.**

### Severe new registration rules for unions

On 26 January 1999, President Lukashenko issued Decree No. 2 of 1999 "On certain measures regulating the activity of political parties, trade unions, other public organisations" which obliged unions and other organisations to re-register between 1 February and 1 July.

President Lukashenko's term of office was due to expire on 20 July, when presidential and parliamentary elections were scheduled to take place.

The Decree introduced limitations on the number of trade union founders, new minimum membership quotas, complicated and expensive registration procedures, and allowed wide discretion to the authorities to refuse registration. It allowed the authorities to revise the statutes of organisations, and prohibited the activities of those organisations that failed to obtain registration within the specified period.

The Belarus Congress of Democratic Trade Unions (BKDP) said that all organisational structures, including branch unions, regional organisations, and executive and administrative bodies had to be registered. Obtaining confirmation of their legal address – often workplaces and companies – was very difficult.

In some cases, company managers wouldn't provide confirmation of the address of independent unions. They subsequently claimed that a union was illegal, and tried to expel it from its offices. Because of this, the local unions of the BKDP were not registered at the Mogilev Automobile Plant, and Mogilev "Zenith" Plant within the month required by the law.

### BKDP

In 1997 the authorities had refused to register the BKDP trade union centre because one of its founding members, the Free Trade Union of Belarus (SPB), had been dissolved by Presidential Decree No. 336 of 1995 after a strike in the Minsk metro.

In June 1999, the Ministry of Justice said that it was going to postpone the registration of the BKPD for a month. The BKDP said it was concerned that its registration would be denied in the long run - amounting to a ban on their activities. They also said that the authorities were using Decree No. 2 to amend the union's rules of association.

On 30 July the BKPD was registered. However, this did not mean that all its organisational structures were registered - the authorities created obstacles for the registration of every individual trade union.

### Union PA system seized

On 28 March, the Minsk City Centre police seized the public address system equipment belonging to the SPB without any explanation. The SPB had lent the equipment to opposition organisations for a meeting that had been authorised by the city authorities. They had lent out the equipment many times before. The equipment had not been returned to the SPB by June.

### Individual temporary contracts

In July President Lukashenko signed Decree No. 29 dated 26 July 1999. This was entitled "On Additional Measures to Promote Labour Relations and Strengthen Working Discipline" which changed the labour code. It made employees almost totally dependent on their employer.

It allowed new workers to be employed on individual temporary employment contracts for periods of not less than one year. They would no longer be protected by collective agreements. Workers currently employed could be transferred onto contracts and if they refused they could be sacked. Employees were not permitted to leave their job during the period of a contract.

At the same time President Lukashenko signed a new labour code which was due to come into force on 1 January 2000. Many of its provisions contradicted those contained in Decree No. 29.

#### Anti-union campaign

In September the former official union, the FPB, said that the authorities were carrying out a campaign to discredit trade unions and their leaders in the eyes of the public, through pressure, intimidation and fraud against union leaders in factories and elsewhere. They said that the provisions of general and industrial agreements as well as numerous collective agreements had not been implemented.

#### Protest action

On 30 September, the FPB organised a day of action in Minsk and other cities against rising prices, declining wages and living standards, and violations of trade union rights. In particular they campaigned for the repeal of Decree No. 29. They called for the implementation of collective agreements, and the adoption of legislation giving wage payments a priority status.

Participants reported that the police had tried to stop them from taking part in the Day of Action. Four buses bringing miners from Soligorsk in the South said that they were stopped by the police and forced to turn back. Another miner said that the police had stopped cars carrying participants from entering Minsk although they had found a way in. Electric trains were cancelled to stop workers from Molodechno and Borisov from joining in.

State authorities forwarded instructions to factories, farms, organisations, and institutions telling them to stop workers from participating. Unprecedented pressure was put on workers by the authorities and factory directors who threatened dismissal and intimidation. Many workers were forced to sign documents pledging not to participate. Large enterprises such as Minsk Tractor and Automobile Plants granted three days holiday to try and keep workers away.

The state television and mass media launched a campaign to discredit trade union leaders. The police filmed much of the demonstration.

#### Discrimination against independent unions

Independent trade unionists continued to be discriminated against, including by dismissal. Court cases for reinstatement could take up to three years.

Workers were discouraged from joining independent unions and in many cases enterprise directors paid independent union dues to the former official union, which still controlled social security functions. Company directors and managers were still, in many cases, members of the former official unions.

A 1993 collective bargaining law restricted the bargaining rights of independent unions. It allowed enterprise management to negotiate local agreements with the workers' collective, unless a union represented at least half of the workforce. In general, terms and conditions contained in collective bargaining agreements were often ignored in enterprises.

At the Svetlogorsk Production Amalgamation "Khimvolocno" members of the BKPD received two thirds of their pay for idle time whereas FPB members got 100 per cent.

The BKPD said that its branch unions were discriminated against at Mogilev Automobile Plant, Mogilev "Zenith" Plant, Tractor Parts and Units Plant in Bobruisk, Autogidrousilitel Plant in Borisov, Production Amalgamation "Khimvolokno" in Grodno, Orsha Flax Plant, Open and Joint Stock Company "Orsh-Agroprommash" Gomel, and "Electroapparatura" Plant.

# Belgium

POPULATION : 10,141,000 / CAPITAL : Brussels / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



## The right to strike continued to be undermined

### Courts side with employers

For several years, employers, influenced by certain specialised lawyers, have made applications to civil courts in order to end strikes, by calling into question acts committed in the course of strikes, such as pickets.

Civil court judges have often ruled in the employers' favour without giving a hearing to the unions. The purpose of this action was to end strikes under threat of massive fines, and to prohibit picketing, on the basis of the employers' property rights or freedom of access.

There were no improvements in 1999. Several cases were brought before the courts by third parties claiming financial losses because of strikes. These included clients of companies where strikes were taking place as well as public services. The SNCB Belgian Railways went to court in every district with a railway station in order to avoid a strike during the Royal Wedding in December 1999.

Although a draft law was re-submitted to parliament to clarify the situation, it had not been discussed.

### Union delegates

The 1991 law protecting trade union delegates provides for reinstatement if a protected worker is sacked without respecting the procedure stipulated in the law. If an employer refuses reinstatement he must pay an indemnity made up of a fixed sum as well as an amount proportionate to the protection period left to run. The FGTB reported that payment of the indemnity had become the rule.

The Minister of Employment and Labour has asked the industrial and sectoral joint committees to put protection of trade union delegates on the agenda of their meetings at the earliest opportunity.

# Bulgaria

POPULATION : 8,336,000 / CAPITAL : Sofia / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



## There were again reports of increasing violations of trade union rights in small enterprises in the private sector.

### Unpaid wages

Unpaid wages remained a problem. Teachers went on strike in August over several months of wage arrears, and said they would not start the new school year unless they were paid up to date. In September, hundreds of workers from the indebted Agrobiochim chemical fertiliser plant in Stara Zagora, blocked a major highway because they hadn't been paid for nine months. The plant had been idle since May because of outstanding debts.

### Temporary contracts

Temporary employment contracts, which are exempt from the Labour Code, became increasingly widespread. Workers in the private, as well as the state sector, were put under pressure to move onto them. Employers were likely to refuse to renew them if workers demanded their rights. In many places workers were hired only on monthly or three-monthly contracts.

<b>Union representation on tripartite bodies</b>	<p>On 18 January 1999 the government announced the result of the census or inventory of trade union membership it had carried out to confirm "national representation".</p> <p>It showed that only the KNSB and Podkrepa CL national trade union centres satisfied the criteria for national representation that had been adopted by the Council of Ministers. This meant that only they qualified to participate in national level tripartite bodies.</p> <p>For the past few years, there had been problems with the co-option of several unrepresentative unions, often close to political parties, onto the Tripartite Council by successive governments.</p>
<b>Strike legislation</b>	<p>A 1990 law requires that a majority of all workers in an enterprise must vote in favour of a strike. In sectors where strikes are banned, such as energy, communications and health, there are no compensatory conciliation, mediation and arbitration procedures.</p> <p>A 1998 amendment to a 1990 law made a district court ruling on the legality of a strike final, taking away a union's right to appeal. Unions tried to challenge these amendments in the Constitutional Court, without success.</p>
<b>Public servants risk losing rights</b>	<p>A draft Public Servants law that was under discussion in 1999 removed these workers from the protection of the Labour Code. It introduced the concept of "professional relations" instead of "labour relations". It would mean that public servants could not bargain collectively on wages and salaries or working conditions, or represent their members in cases of individual grievances. Neither could they go on strike.</p>
<b>Healthcare professionals</b>	<p>A law on professional organisations of doctors and dentists was adopted in 1999. It made membership in them obligatory - doctors and dentists who were not members could not practice their profession. The law was aimed at restricting the influence of trade unions in the healthcare system because only the two professional associations could take part in discussions to conclude a national agreement for the sector. Other healthcare workers would be dispersed among numerous employers and would be very difficult to unionise.</p>
<b>Labour Code ignored</b>	<p>Unions again reported that many private employers both Bulgarian and foreign, especially in smaller-sized companies, ignored the Labour Code, and the authorities failed to enforce it.</p> <p>The Konis-Kyustendil Company and the "Miss Ina Life Style Fashion" Company in Sofia, refused to allow labour inspectors into the enterprise. At the latter company, the husband of the firm's owner assaulted the KNSB president, Jeliasko Hristov, in front of 20 journalists from the national media. National TV and radio broadcast reports about the incident.</p> <p>Employers in many private enterprises banned their workers from joining trade unions and sacked members and leaders of unions. At the Storko-Pleven Company a trade unionist and a sick worker were fired in violation of the Labour Code.</p> <p>Health and safety regulations were ignored. Workers operated unsafe machines in unhealthy conditions. Employers usually said that lack of financial resources meant that they were unable to provide the necessary protective clothes and equipment. This happened at the Konis-Kyustendil Company. Many companies operated without licences and production permits.</p> <p>Unpaid overtime work, especially during weekends was widespread, as were illegal dismissals. The law, which requires that regional employment offices should be notified when more than 50 workers are put out of work at any one time, was ignored. At the tailor, Snejana Stanoykova - Janet, in Dupnitsa, the employees were forced to work a 24-hour day.</p>
<b>Collective agreements ignored</b>	<p>At the 92 per cent state-owned Phintex Company in Gabrovo, which is one of Bulgaria's biggest textile producers, attempts were made to get rid of 300 of a total of 508 workers. The provision in the collective agreement that said that an agreement should first be reached with the trade unions was ignored. The collective agreement was also breached at the 100 per cent state-owned Kartal - Gabrovo, where the workers had not been paid since the autumn of 1998, except for about 20 DM a month as an advance payment.</p>

# Croatia

POPULATION : 4,481,000 / CAPITAL : Zagreb / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**In 1999 the UATUC national trade union centre said that the major issues it was facing were corruption, bankruptcy of enterprises, massive job losses, many months' unpaid wages, and drastic declines in living standards. Shortly after a railway union informed management it had information on corruption, its vice-president was brutally beaten.**

## Non-payment of wages

Non-payment of wages remained a problem. It also meant that social security contributions were not paid. In 1996 the Supreme Court made two separate rulings that strikes over non-payment of wages were illegal. Even though in some cases employers could be taken to court, the cases could take years.

Workers' protests against non-payment of wages included the construction company Tehnogradnja in Bjelovar in February where workers had not been paid since June 1996. In March, workers from the Krapina Textile industry marched to Banksi dvori because they had not been paid for a year and the company was bankrupt.

## Law on representativeness

On 5 February 1999, the parliament adopted a law to determine the representativeness of trade unions in national tripartite bodies. Croatia's tripartite Social and Economic Council had not met since the end of 1998 because of the absence of agreed criteria on trade union representation.

## Trade union assets

In February 1999 a committee established by the government convened the unions to a meeting about trade union assets, which pledged to accelerate the identification of the assets for the purpose of distributing them to the unions.

In April, the unions agreed on the distribution of the assets, but in May, UATUC discovered that the government had registered itself as the owner of several trade union buildings that had belonged to the unions.

In July, the unions announced that they had agreed on criteria for distribution. This had still to be approved by parliament.

In 1997 the Law on Associations had been adopted, despite the fact that the UATUC, which holds 50 per cent of union property, had asked for unions to be excluded from the bill, and had made proposals for the distribution of assets. UATUC took the case to the constitutional court in July 1997, but it had still not ruled by June 1999.

Although the law said that it did not apply to trade unions, one article stipulated their temporary nationalisation and gave them six months to distribute the assets, failing which they would become government property. Parliament could then distribute them one year after it had established proper criteria. There was no time limit for the establishment of the criteria.

In January 1998, the government had announced its plan to nationalise the assets. It was widely believed that the government was trying to exacerbate divisions between trade unions. The ILO ruled in March 1998 that the government should extend the six-month negotiation period in the act, and negotiate criteria for distribution with the unions.

## Public sector bargaining undermined

A 1995 Supreme Court decision acknowledged that legislation could modify a collective agreement covering the whole public sector.

## The right to strike

Strikes have frequently been banned by the Supreme Court, which narrowly interpreted the scope of issues over which strikes could be held. The court has ruled that a strike was illegal if it was over the exercise of rights already defined in law, or a collective agreement. Unions could face damages and workers the sack for taking part in an illegal strike.

A 1998 Supreme Court ruling invalidated restrictions on the right to strike in the railways and posts and telecommunications, which allowed the government to unilaterally establish the level of minimum services during a strike. The government amended the law on railways in December but UATUC claimed it was still unsatisfactory.

#### No labour courts

There are no labour courts and civil courts continue to be overburdened with thousands of cases, mostly against employers who refused to bargain, ignored provisions of collective agreements, or sacked workers illegally. Cases can take up to five years, and cases against employers for violating the law have been rejected on the basis that employers are not legally liable for petty offences.

#### Intimidation

In January, the president of the employees' council at the Dom Zdravlja health clinic of the Ministry of Internal Affairs, and two colleagues wrote to the Prime Minister about the illegal dismissal of six employees in 1998. In February 1999, individuals claiming to be police inspectors interrogated the employers of the union president's close family about their personal life, in order to intimidate and coerce him.

On 10 March 1999, the wine and beverages company, Moslavacko vinogorje in Voloder sacked union members after they had held a protest over four months unpaid wages and called for an official investigation into illegal practices.

On 26 April 1999, two thugs brutally beat Ivan Tolic, the vice-president of one of Croatia's railway unions, with iron bars. He sustained severe injuries to his head. Croatian Railways denied any involvement, but Tolic believed that the attack stemmed from the fact that the union had told management that it had information on corruption and embezzlement in the railways. In 1992 the president of the Railwaymen's Trade Union, Milan Krivokuca, was murdered.

The city authorities continued to ban workers' gatherings on city squares with the exception of three permitted locations. In April, Mario Ivekovic, the UATUC Zabreb shop steward was summoned to appear in court for organising a protest of some 200 workers from the Zagrepcanka company outside the government building in St. Marks' Square in 1998. He was charged under an article of the Public Gathering Act that was subsequently pronounced unconstitutional at UATUC's initiative. The gathering had breached the police cordons.

On 9 November, the Chemical and Construction Industry Karlovac dismissed Milka Jandrljic, shop steward of the EKN power, chemicals and non-metal sector union. The company had been threatening her and trying to destroy the union ever since she began making enquiries among the employees about the non-payment of wages since March. She intended to press charges against the company.

## Czech Republic

POPULATION : 10,282,000 / CAPITAL : Prague / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**Fears of unemployment were exploited to discourage union activity. As elsewhere in Eastern Europe, the non-payment of wages proved an increasing problem.**

#### Labour Code review

Revision of the Labour Code continued. CMKOS was fully involved in the process.

#### Private sector

The CMKOS national trade union centre reported that some private sector employers obstructed trade union activities and discriminated against trade unionists in recruitment. This corresponded with the rapid increase in unemployment, making employees afraid of losing their jobs and fearful of asserting their employment rights. It was more pronounced in certain regions, and on the increase in small and medium sized enterprises

Although the labour law applies in the eleven newly established export processing zones, there were fears about its application in practice.

**Collective bargaining**

Collective bargaining remained a problem. Some employers refused to bargain or used obstructive tactics to prevent collective agreements from being concluded as well as trying to violate the provisions of agreements. On the other hand, there was progress in respect to industry-wide bargaining, which increased its coverage in some sectors, for example the building industry.

**Non-payment of wages**

Non-payment of wages became more and more commonplace. Some 100,000 employees were affected, mainly in the engineering sector, and their wages were two to five months in arrears, or sometimes even more. In December CMKOS organised protests in Prague and other cities to demand payment.

## Estonia

POPULATION : 1,429,000 / CAPITAL : Tallinn / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-138

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**The EAKL national trade union centre was registered after agreement was reached on the application of restrictive registration procedures, which the new government is prepared to change.**

**Strict union registration requirements**

In May 1999, the new government, elected in March, said it was ready to review the registration requirements for trade unions in line with the principles of freedom of association. The EAKL national trade union centre had been facing liquidation unless it met these requirements, set out in the 1996 Non-Profit Associations Act, by 1 March 1999.

The overly detailed and prescriptive law laid down stringent requirements for the registration of trade unions. It limited their right to decide upon the functioning of their decision-making bodies, stipulated procedures in respect to the establishment, merger and separation of trade unions, federation and confederations, and gave the authorities the power to liquidate trade unions.

**The solution**

The government asked the ILO for technical assistance. An ILO mission went to Estonia in August to examine the situation. This helped to find a compromise on how to apply the registration procedures in practice, and EAKL was registered at the end of 1999, after earlier being refused.

The government undertook to submit a Bill on Trade Union Rights to Parliament to regulate trade union registration.

## Georgia

POPULATION : 5,059,000 / CAPITAL : Tbilissi / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**After an unprecedented court ruling ordered it to be stripped of its property, the GTUA national trade union centre was forced to engage in a lengthy legal battle.**

**Court orders GTUA to give up property**

On 15 July 1998 the Constitutional Court confirmed the Amalgamated Trade Unions of Georgia (GTUA) national centre's legal ownership of its property.

On 10 March 1999, the Tbilisi Mtatsminda District Court ruled that the property should be handed over to the fictitious Centre of Free Trade Unions of Georgia. The GTUA was not present in court.

The ruling meant that a former trade union leader, Joseph Katsitadze, who had been acting president of the Soviet-era Confederation of Independent Trade Unions of Georgia for four months in 1991, would get the property. The court upheld his claim that the GTUA was an illegitimate successor of the Confederation and the Centre was its sole legal successor. It ordered all the buildings and property of the Confederation to be returned to the Centre.

The GTUA appealed against the decision in Tbilisi City Court, which, after some time had elapsed, handed the case back to the District Court. The District Court ordered that its decision of 10 March should be implemented.

The GTUA bank accounts were frozen and it was ordered to hand over all its property to Mr. Katsitadze. It went to the Supreme Court, which made an extraordinary and urgent decision to issue a stay of execution on the District Court's decision. It also said that it would hear the case itself.

In May 1999, the parliament had passed a new law on the Supreme Court. It said that a new body would examine cases and decide whether they would be heard by the Supreme Court or not. In the meantime, the GTUA had control of its property but its bank accounts remained frozen.

The GTUA and its industrial unions had their offices in the property, one of which generated over half of their income. Loss of the property would mean that they would not be able to function.

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Ministry of Labour abolished

Towards the end of December 1999, parliament changed the constitution and abolished the Ministry of Labour. The GTUA protested and said that it had not been consulted.

## Germany

POPULATION : 82,133,000 / CAPITAL : Berlin / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**For over 40 years the ILO has been criticising the fact that large categories of public servants cannot go on strike.**

Civil service strike ban

Public servants who have civil service status cannot go on strike.

ILO criticism

The ILO has been criticising this restriction since 1959. It has asked the government to ensure the full implementation of the rights recognised by ILO Convention No. 87, including the right to strike.

The ILO also continues to ask the government to ensure that teachers with civil service status have the right to bargain collectively. In 1999 the government said that it had launched a pilot project with trade union participation which aimed at extending participation rights.

## Hungary

POPULATION : 10,116,000 / CAPITAL : Budapest / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Proposed changes to legislation undermined union rights.**

Bill undermines union rights

The government submitted a Bill to parliament in early 1999 which made significant reforms to the 1992 Labour Code. The government had not sought genuine dialogue with the unions, and subsequently ignored their proposals. The reforms undermined trade union and workers' rights.

The Bill gave works' councils the right to conclude collective bargaining agreements - in enterprises where no trade unions operated. Such agreements would undermine agreements negotiated at industry or national level. The unions feared that this could be extended in future to all workplaces.

Other amendments shifted liability onto employees for damage or loss of employers' goods and property, and made it easier to sack employees after sick leave.

In 1998 the government had dissolved the Ministry of Labour and divided its work between the Economics Ministry and the newly created Ministry of Social and Family Affairs.

#### Changes in social security system

The government also planned changes to the system of social dialogue. It abolished the principle of self-government of the health and pension social security scheme without prior discussion at tripartite level, and in violation of its election campaign commitments.

## Kosovo

POPULATION : - - - / CAPITAL : Pristina / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**A new legal framework is to be established under the authority of the UN's Interim Administrative Mission. Trade unionists were victims of the ethnic cleansing which led to the NATO bombing campaign against Serbian targets in March 1999.**

#### Serb repression

Since abolishing the political autonomy of Kosovo in 1989, Serbia carried out institutionalised repression and persecution of the Albanian population in the province.

Discrimination against Albanians who made up 90 per cent of the population, was systematic. The Serbian parliament passed over 36 discriminatory laws and 470 emergency legal orders.

#### Mass dismissals of Albanians

A 1990 law authorised mass dismissals of Albanians from civil service, teaching and other jobs. Out of some two million people, over 150,000 people lost their jobs, leaving just 40,000 Albanians in work. Sacked workers often lost their homes as well. Serbs and Montenegrins, and more recently, Serbs from Krajina, took over their jobs and homes.

#### Independent unions persecuted

The authorities prevented the independent BSPK trade union, registered in 1990, from functioning. It could not hold meetings openly or initiate or sign collective agreements. Its leaders were persecuted.

#### Serbian aggression

In February 1998, Serb forces launched a military assault in the province against the Kosovo Liberation Army and the civilian population. Sporadic fighting continued during 1998.

The BSPK reported on the Serbian destruction of the province and said that union leaders and members were among those displaced, taken hostage by the army, disappeared, arrested and detained, wounded, tortured, and killed on a daily basis.

The situation deteriorated in 1999. The Serbian forces carried out ethnic cleansing. The Serbian regime's refusal to accept a negotiated political solution to the crisis resulted in NATO starting a bombing campaign against Serbian targets on 24 March.

#### BSPK leader murdered

Around this time, the president of the BSPK Assembly, Agim Hajrizi, was murdered, together with his mother and twelve-year old son. All union records were destroyed.

#### New authority

By June 1999, Kosovo came under the authority of the United Nations Interim Administrative Mission in Kosovo (UNMIK). A new legal framework and mechanisms will be established.

# Malta

POPULATION: 384,000 / CAPITALE: Valetta / CONVENTIONS INTERNATIONALES RATIFIÉES: 29-87-98-100-105-111-138



**Police and armed forces brutally repressed a strike in August. The entire top leadership of the General Workers Union as well as striking workers were charged with criminal offences.**

## GWU claims recognition

In 1998, the General Workers Union, a national trade union centre, claimed sole recognition at the government-owned Malta International Airport (MIA). Another trade union had already obtained sole recognition in a 1995 ballot.

The GWU had majority membership after airport workers employed by the Department for Civil Aviation (public service/armed forces) were transferred to the MIA on 1 May 1998. These workers had one year to decide whether to renounce their employment with the public service/armed forces and to fully join the MIA.

In June 1998, the Director of the Labour Department stated that he had received proof that the GWU represented the majority of employees at the airport. While the law says nothing about recognition, in practice a union is entitled to sole recognition if it has 50 per cent plus one member, or joint recognition if neither union has more than 50 per cent.

Despite the GWU's repeated requests for a ballot, MIA management in effect refused to agree that a ballot should be held. Although Malta's labour legislation does not provide for polls to be conducted to determine a majority union, they take place thanks to established international practice

In July 1998, the MIA granted sole recognition to the GWU. The other union opposed recognition of the GWU however, and in August 1998 the MIA decided to take the case to the Industrial Tribunal for a ruling on which union should be recognised.

## Industrial Tribunal Ruling

In July 1999, the Industrial Tribunal handed out an ambiguous ruling saying that until the employees transferred from the public service/armed forces, renounced their right to return to the public service/armed forces and became employees of the MIA, they could not be considered as MIA employees.

The GWU said this decision was diametrically opposed to that taken by the Tribunal in the case of the Qawra Palace Hotel in January 1997. In that case, although the GWU, which was the only union claiming recognition, gave evidence to the Director of the Labour Department and the Industrial Tribunal that a majority of employees had become GWU members, the Tribunal ruled that a ballot should be held.

The MIA referred the case back to the Industrial Tribunal on 19 August for a clear interpretation of its decision on recognition of 21 July 1999. The GWU said that a new Industrial Tribunal should be set-up because the situation had changed, as more than 90 workers in the fire section had now renounced their right to revert to the armed forces and were fully-fledged MIA employees. The GWU continued to demand a ballot and negotiations for a new collective agreement.

The GWU also challenged the composition of the three-person Industrial Tribunal saying that it would not get a fair hearing because two of its members clearly had conflicts of interest. These were the president of the CMTU national trade union centre, to which the union competing for recognition with the GWU was affiliated, and a high-ranking member of the Malta Employers' Association, which had issued statements criticising the GWU strike at the airport. The Tribunal dismissed the GWU arguments.

The Prime Minister intervened saying publicly that according to the Industrial Tribunal award, the other union had a majority union membership at the airport.

**Police and army  
break up strike**

The GWU organised a partial strike at the airport on 16 August after conciliation failed, followed by strikes on 17 and 20 August 1999. On 20 August, before the strike began, union leaders were prevented from addressing staff in the airport fire section. The GWU offered to provide an emergency fire service during the strike, but MIA management refused.

Air Malta sacked a contract worker from New Zealand after he refused to cross the picket line.

Fifteen minutes before the strike was due to end, at 13.45 (it had been scheduled to take place between 10.00h-14.00h), it was broken up by army personnel and the police who took over the workplace. They violently ejected around 80 strikers in the fire-section, arrested 38 of them "en masse", as well as three GWU officials who were peacefully picketing, without verification or investigation.

The strikers were brutally roughed-up and dragged into police vehicles, one of which waited in excessively hot conditions for two hours, before being taken to police headquarters. At no time were they informed why they had been arrested

When the last police vehicle containing arrested workers finally set off for police headquarters two hours later, GWU officials intercepted it with their cars. The police refused to give any explanation for the arrests. They asked to speak to the detainees, to give them some water and medical assistance, and to know the reason for their arrest. Two of them were injured: one needed medical treatment; and another one had to be taken to hospital.

The union leaders sat down on the ground in front of the police coach. Some 80 police arrived and brutally dispersed the GWU officials, including the union's general secretary, Tony Zarb and president, James Pearsall. Union cars were forcibly removed by the police and damaged in the process.

The arrested workers were released at 20.30h after being questioned at police headquarters. When the workers arrived at work the next day, they were refused entry and received letters saying that they had been put on stand-by at home with full pay pending further investigations and a magistrate's inquiry. One month later they were told they could report for work without prejudice to any further measure that might be taken against them in the future. The three union officials who had been picketing during the strike and who had been also been arrested were subject to the magistrate's inquiry as well.

The strike was extended indefinitely. It continued into the late evening of 20 August, when the GWU called it off after learning that the courts had granted the MIA an urgent injunction prohibiting the GWU continuing its industrial action. The court ruled that a dispute over recognition was not an industrial dispute under the 1976 Industrial Relations Act, thereby divesting the GWU and its members of its immunity from prosecution. The GWU went to court to challenge the legality of the warrant.

A few days after the strike, the government claimed that there was an agreement between the Armed Forces of Malta and the MIA that workers in the fire section couldn't go on strike. It said that when they were transferred to the MIA in May 1998, their employment contracts said "personnel in the air traffic services and the fire fighting section are to be identified as essential services under the relevant acts by government legislation". However, no such legislation was ever enacted, nor had a minimum service been defined.

**Union leaders  
and strikers charged**

In November and December, 27 of the arrested strikers were arraigned in court in three different groups, on criminal charges of obstructing the police in their duties, and damaging a fire engine and an ambulance in the fire section of the airport during the strike.

On 6 December 1999, the entire leadership of the GWU, including the general secretary Tony Zarb, president James Pearsall, international secretary Michael Parnis, vice-president Saviour Sammut, lawyer Dr. George Abela, and eight secretaries of the GWU's industrial sections, were arraigned in court on criminal charges.

They were charged with unlawfully detaining and threatening police officials, assaulting or resisting police officials by violence, disturbing public order, obstructing the police in their duties,

inciting others to commit crimes, inciting and taking part in an assembly with the purpose of detaining and threatening police officials, assaulting or resisting police officials by violence,

The most serious charges carry sentences of up to two years imprisonment. Others carry heavy fines. The GWU filed a constitutional court case against the Police Commissioner and the Attorney General, for breaches of fundamental human rights.

In early December 1999, the government published a bill which said that air traffic control and fire fighting were essential services which must be staffed at all times, and the personnel in these services did not enjoy immunity from legal proceedings if they went on strike.

The recognition dispute remained unresolved at the end of the year, with no union being recognised.

#### Government intervenes in a second strike

The authorities and the security forces intervened in a second strike on 20 August 1999 in Valletta harbour organised in solidarity with another dispute. This began after the government reneged on an agreement it had made with the GWU port and transport sector in June 1999 to pay each worker at the government-owned construction company, Kalaxlokk, a certain amount per year of service for those taking voluntary redundancy, and to set up a guaranteed fund to pay the same amount to any worker made redundant in the future. Industrial action in the sector began in mid-August 1999.

The solidarity strike by port pilots, moorings-men, and tug boat crews, led to the boycott on 20 August of a ship carrying oil from entering the harbour, for the first time during the dispute. The government immediately issued an ad-hoc authorisation to an unlicensed pilot, making him an "authorised pilot" to bring the ship into port. Army patrol boats escorted the ship. The government also issued a special licence to a private contractor, which it engaged to provide tug services. The dispute was settled on 25 August 1999.

#### Law

For many years the ILO has been criticising the discretionary powers of the Minister of Labour to impose compulsory arbitration to end a strike. The Government has been telling the ILO for ten years that a subcommittee of the Malta Council for Economic Development is examining the Industrial Relations Act with a view to amending it.

## Norway

POPULATION : 4,419,000 / CAPITAL : Oslo / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



#### Court goes against ILO jurisprudence

#### A government decree bans strikes in the oil industry and imposes compulsory arbitration.

In 1997 Norway's Supreme Court ruled that the decree banning strikes in the oil industry and imposing compulsory arbitration was valid. It also said that the decree did not breach constitutional principles or international law - thereby ignoring ILO jurisprudence on the right to strike.

# Poland

POPULATION: 38,718,000 / CAPITALE: Varsovia / CONVENTIONS INTERNATIONALES RATIFIÉES: 29-105-87-98-100-111-138



**The government introduced changes in its labour legislation in line with ILO Conventions. In practice however, trade union rights violations increased.**

## New legislation

On 1 July 1999, a new Civil Service Act, adopted in 1998, came into force. The ILO had requested the government to change the law. The law permitted all civil servants to organise in trade unions, but senior officials could not be elected to trade union office.

In September 1999, a bill on collective bargaining introduced criteria for trade union representativeness at enterprise level. It was expected to come into force in the first half of 2000. The ILO had also requested the government to amend this law.

The sanctions provided for in the law against acts of anti-union discrimination and acts of interference by employers in trade union activities are not sufficiently dissuasive.

## Increase in violations

NSZZ Solidarnosc said that violations of trade rights had increased. The most frequent violations were harassment of shop stewards, interference in trade unions' constitutional procedures, and threats and discrimination against union members. Pay rises were given to workers who resigned from unions. Contracts of union members and activists were changed. Union activists had inferior working conditions, and risked being illegally fired.

In March 1999, the first union was created in the MiniMal supermarket chain in Walbrzych. The management tried to destroy the union through threats, blackmail and bribery. It proved impossible to organise in other branches of the supermarket.

In the Jaroslaw meat-processing factory in Przemysl, the company illegally sacked the shop steward. The union took the case to court.

# Romania

POPULATION : 22,474,000 / CAPITAL : Bucharest / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**There were some improvements in strike legislation, but trade union rights violations continued in practice. There were many strikes in protest at the deteriorating economic situation and unpaid wages.**

## Unions protest against economic reforms.

At the end of 1998 unions rejected the Prime Minister's proposal for a six month period free of strikes and street protests to allow the government to proceed with tough economic reforms, including the closure of 49 loss-making state factories employing 70,000 people. The unions demanded that the government discuss all the issues related to privatisation and restructuring with them, including the establishment of priorities for Romania's economic development.

In March 1999, the four largest trade unions organised protests in Bucharest and several large cities to present their eight-point demand. They also protested against the state budget that had been adopted without consultation. The budget froze wages, thereby undermining collective bargaining for all those paid from the state budget, raised taxes and increased utility prices.

The unions subsequently said they would hold a two-hour nation-wide warning strike on 19 April followed by a general strike starting on 26 April. After the warning action and general strike an agreement was reached with the government which led the unions to call off the strike. The

agreement included wage indexation and a new framework for labour relations. The government agreed to draw up a law to establish the labour courts, to modify the labour dispute law and to adopt a law on layoffs. It also pledged to answer outstanding demands in October.

On 18 November thousands of workers marched through major cities to protest at the government's failure to address economic problems and the shrinking economy. Privatisation and restructuring of loss making industries had been delayed. This meant that the government could not borrow funds from international lenders.

The tripartite Social and Economic Council, and a tripartite body for education and training were finally set-up after a nine-year wait.

In 1999 the unions said that although they had asked for a new Labour Code, the Ministry of Labour and Social Protection drew up a new one without consulting the unions. They said many of its provisions limited trade union rights, and the draft was withdrawn.

<b>Collective Agreements Law</b>	The adoption of the 1997 law on collective agreements brought improvements to a situation where over 20 trade union confederations existed without any procedure to measure their representation. The law established procedures to determine representation at enterprise, branch and national level. It said that a union had to prove its legal status, its organisational and financial independence, and its membership, in court. A confederation must have structures in at least half of the regions, and representative branch federations in at least 25 per cent of the sectors of the national economy to obtain representative status at national level.
<b>Trade Unions Law</b>	Unions continue to complain about the 1991 Law on Trade Unions under which 15 employees are required to form a union, saying that it prevents unions being created in much of the still very small private sector, as most private companies and traders have fewer than 15 workers. Many companies ban unions from organising, and have included no-union clauses in their internal regulations.
<b>Labour disputes law amended</b>	<p>Amendments to Romania's 1991 law on labour disputes in November 1999 brought some improvements and eliminated many restrictions. It widened the scope of the right to strike, although it continues to be difficult to hold a legal strike because of lengthy and cumbersome procedures:</p> <ul style="list-style-type: none"> <li>■ The notion of a solidarity strike was introduced for the first time. These were limited to one day.</li> <li>■ Where previously the Minister of Labour could impose compulsory arbitration if a strike had lasted over 20 days and its continuation was "likely to affect the interests of the general economy", this was replaced by a conciliation, mediation and arbitration procedure to be initiated at the request of the parties concerned.</li> <li>■ The ability of employers to apply to the Supreme Court for a maximum 90-day strike suspension on grounds of major economic interests was moderated - they can now apply for a 30-day suspension to the Appeal Court if a strike endangers life or health.</li> <li>■ The law no longer imposed a financial liability on strikers and union organisers who did not meet the legal conditions for starting a strike. However union organisers can still be banned from being elected as union delegates and union officials who break the law can face six month's imprisonment, if they do not meet the conditions for starting or pursuing a strike.</li> <li>■ Strikes are authorised in the following sectors if a third of the service is maintained: supply of gas, electricity, heating and water, rail transport, services responsible for public transport and hygiene in public places, telecommunications and broadcasting. Supply of bread, milk and meat, teaching, pharmaceuticals, and rolling stock repair were removed from the list.</li> <li>■ A ban on hiring replacement workers during a strike.</li> </ul>
<b>Violations</b>	Violations of trade union rights continued in practice. The unions said that the authorities interfered in trade union activities, collective bargaining and strikes. The requirements to register a trade union were excessive – courts often asked unions for supplementary information not required in the law. In over 70 per cent of private enterprises, the employment contracts contained non-union clauses, particularly in multinational companies. Employers established "yellow unions", and did not transfer union dues collected by check-off.

**Events in 1999**

As Romania still has no labour courts, workers who are unfairly dismissed, or who are victims of other violations of trade union rights, have little chance of redress, because court cases usually take one or two years, and the decisions are not usually implemented by employers.

At the beginning of January, the government announced the closure of loss-making mines. Union members in the Jiu Valley, the country's largest coalfield, went on strike on 4 January over job losses and called on the government to negotiate with them. They protested against the closures, and demanded pay rises, the continuation of state subsidies to the mines, and a lump sum and land for miners who agreed to retire.

In mid-January a court ruled that the strike was illegal because one third of activity had not been maintained. The miners were ordered to return to work. They refused.

The union threatened to march to Bucharest. The army and riot police blocked main roads from the Jiu Valley isolating the region. The miners climbed over barriers. Tear gas and smoke bombs were used against them. The Romanian President threatened to impose a State of Emergency if the miners marching to the capital did not turn back.

After five days of clashes between security forces and miners, agreement was reached. Miners' had marched to Bucharest in 1990 and 1991, and had brought down the government in 1991.

At the end of May, Bucharest metro workers belonging to the BNS affiliated USLM went on strike and the city authorities went to court to ban it. The strike was suspended for 30 days. There were strikes in many other sectors around this time protesting against the ever-deteriorating economic situation, unpaid wages, and the failure of the government to restructure the economy.

In November a national newspaper, Ziua, announced that it would take a trade union leader to court after union members blocked railway traffic into Bucharest's main station for several hours one evening, and thus prevented the distribution of the newspaper in the country, entailing financial losses.

In December, the FSLIL trade union said that the Sigstrat company in the wood and construction sector, was not observing minimum labour conditions, including wages which were stipulated in the collective agreement.

Railway workers went on strike on 6 December over a pay increase after the failure of negotiations. The authorities used aircraft and buses to transport passengers. On 7 December, railway management applied to the courts to declare the strike illegal in line with a law on strategic sectors. The Minister of Transport threatened to sack the strikers and lay criminal charges against them. By 8 December some of the strikers in several cities were refusing to assure the one third service required during a strike but assured it the next day. The Minister said he would take on new employees.

On 10 December, the Supreme Court suspended the strike for 45 days to prevent further losses to the economy, and the workers returned. Negotiations were taken up again.

## Russian Federation

POPULATION : 147,434,000 / CAPITAL : Moscow / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Unpaid wages continued to be a problem at the beginning of the year, leading to industrial action and hunger strikes. One worker died on hunger strike and another killed himself after 11 months without pay. There was considerable hostility to union activity during the year, and three union activists were murdered.**

### Union activists murdered

On 27 January 1999, Gennady Borisov, the leader of Vnukovo Airlines Technical and Ground Personnel Union was murdered at the entrance to his apartment. On 15 January, along with others he had begun picketing airline headquarters to protest against four months' unpaid wages. He had also been monitoring suspected illegal practices involving the company's shares. In 1994, the

deputy leader of the Flight Personnel Labour Association at Vnukovo airlines, Aleksey Yeliseyev, had been assassinated when he was serving as the trade union representative on a special board responsible for selling off some of the company's shares to private investors.

On 13 March, Oleg Maksakov, a trade union activist in Astrakhan was killed. According to the preliminary report from the Kirov region prosecutor's office, his murder may have been connected with his work in the trade union, Zashchita, because conflict had been developing between it and numerous enterprises. The workers were owed wage arrears and had undertaken many strikes. Maksakov was seen as one of the most popular trade union leaders in Astrakhan.

Aleksei Alekseev, an activist in the Torgovoje Edinstvo union for employees in small and medium sized enterprises in Astrakhan, was killed at the entrance to his apartment block on 3 September. The type of weapon used and many other factors pointed to a contract killing.

**Unpaid wages and protests** Payment of public sector wage arrears continued to affect millions of workers, although the situation began to improve in March and April. Some workers had been without wages for over a year.

Russia's unions have criticised the government for only accepting responsibility for arrears in the state sector and for promising to settle them in the near future.

In recent years the method of financing the state sector has changed. The federal budget used to finance the public sector 100 per cent, but now only finances 20 per cent of its budget. The remaining 80 per cent comes from local budgets, which often do not have the necessary resources. The unions say that the government is avoiding its responsibility and transferring it to the regions.

#### **Hunger strikes**

Teachers' in the regions were particularly affected at the end of 1998 and the beginning of the year, and a three day national strike was called for 27 January 1999, by the Education and Science Employees Union (ESEUR). Teachers' wages were on average four months late, although in rural areas some were as much as 18 months late.

Teachers' strikes broke out across the country, blocking major roads and railway lines, paralysing economic activity in certain regions. Thirty people went on hunger strike, and one person died in Ulyanovsk, Volga, at the beginning of December.

Other public sector workers, in particular doctors and other workers at medical institutions, were owed arrears of eight months in some cases.

In March, a metro worker at Yekaterinburg killed himself after not being paid for eleven months. Other metro workers were on hunger strike.

#### **Hostile reaction to strike**

Trolley-bus drivers in Miass in the Chelyabinsk region went on strike over payment of wage arrears. The town administration took a hostile attitude saying that it refused to be 'brought to its knees' by the drivers. An official announced that 'cattle' would work for a bowl of soup. Forty drivers were sacked or notified that they would be sacked. Some of the drivers went on hunger strike.

On 6 April, the administration provoked hungry drivers by carrying money past them. However the others refused to accept their back wages until their fellow workers were reinstated. Eventually all the sacked drivers were reinstated, one month's wages were paid, and the Miass Independent Union of Electric-Transport Workers was created.

#### **Forceful redistribution of ownership**

A new trend surfaced in 1999 – the violent redistribution of property of previously privatised enterprises. Enterprise workers, who had previously held shares, were forced to sell them as a result of the financial pressure caused by many months of wage arrears. This meant that many labour collectives lost the controlling share in their enterprises. The new owners, who as a rule had not obtained their resources honestly, tried to squeeze the maximum out of the enterprises, without any regard for the workers, their rights, or the law.

Many enterprises were privatised in violation of the law or using loopholes in it. New owners illegally and ignoring the conditions according to which enterprises are privatised, began their activities with mass redundancies. There was an increasing trend towards using the police, special forces, or riot police to put pressure on workers and take control of enterprises.

During the night of 13-14 October 1999, bailiffs accompanied by troops from the 'Typhoon' special state security unit entered the Vyborg paper plant to implement a court decision to transfer the plant to its legal owner, Alcem UK Ltd. The workers wanted the privatisation decision to be revised and the factory to remain a state enterprise. They were prepared to use force because a court had ruled against their claim. The 'Typhoon' agents "fired into the air", as a result of which two workers were slightly injured.

The chairperson of the St Petersburg and Leningrad Regional union federation said that a Typhoon agent had fired the first shot, which injured a worker in the shoulder. The injured worker, who had been taken hostage along with six others, was also badly beaten. Water was poured over one woman who was held in the freezer room. The matter was taken to court.

**Right to organise denied**

The right to organise is denied to workers in the Interior Ministry, to customs officers, judges and public prosecutors, tax inspectors, the military and security services, and rail transport. Strikes by public health workers are banned.

The complete lack of a reliable system of law enforcement limits the positive provisions in labour and employment laws.

**New code would weaken unions**

Discussion of a new labour code continued, after the government introduced a draft in 1998. Unions had rejected the draft that effectively took away the right of unions to defend their members. It would reduce their role to one of holding consultations with employers on individual issues, and reduce protection against anti-union discrimination for members of elected trade union bodies.

The draft also attempted to transfer the functions of representing workers' interests from trade unions to so-called 'other bodies'.

**Individual fixed-term contracts**

The tendency towards individual fixed-term contracts continued. The contracts reduce job security and minimise the chances of unions defending workers. Employers can impose fundamental changes in working conditions - reduced working weeks, compulsory vacations while workers are not receiving wages or only being partially paid, in violation of the law.

**Women workers intimidated**

In some cases, employers forced women job applicants to sign statements promising not to become pregnant during the term of an employment contract, as well as an undated letter of resignation. This procedure deprives women of all social security payments in case of dismissal, including payments for statutory maternity leave.

**Hostility to union activity**

Many enterprises obstructed the creation of trade unions, hindered their activities, and refused to conclude collective agreements. In the Moscow metro, union members were given disciplinary warnings that were only withdrawn if they left the union.

On 3 July, a one-hour warning strike was held at the Bel'kovskaya mine in the Tula region. A number of workers tried to block the Voronezh highway. They were protesting about the behaviour of the mine's director and the victimisation of trade union members - around 70 had been coerced into leaving the union under threat of dismissal.

When the union at a Moscow branch of closed joint stock company processing-plant, McDonalds, formed in November 1998, asked management to enter into negotiations for a collective agreement, the company refused and began to intimidate union members and other workers so that they would not join.

At the Coca-Cola bottling company in Yekaterinburg, the newly formed union joined the Sverdlovsk regional trade union organisation, Torgovoje Edinstvo. The company banned the union, refused to allow it to function, and threatened union members with the sack.

In May, at the Samara Bearing Plant closed joint stock company, the union, a member of the Samara regional organisation of the VTK, was discriminated against when the ownership of the plant changed. Members of the trade union began to receive threats of dismissal and discovered that, on the instructions of the director, monthly and annual bonuses had been cut. They only got them back after confirming in writing that they had left the union.

**State enterprises**

Violations also took place at state enterprises, often with the support of the authorities.

In early 1999 the management of the state radio and television company the VGTRK, announced that they were cutting 1,700 jobs. After union leaders reminded management that according to the law, redundancies had to be discussed and agreed with the union committee, management began to destroy the union.

On 4 February, 12 workers decided to create an independent union called 'Efir' and proposed that a collective agreement be concluded. The management became extremely hostile. In July, 28 union members and activists got notification of redundancies as a result of cuts. The ones most affected were the members of the 'Efir' organisation. They took the case to court. It ruled that the cuts had been implemented unlawfully, and overturned nine cases of illegal redundancy.

In spite of the court ruling, none of those made redundant were reinstated. Repression against trade union members continued.

# Serbia

POPULATION : 10,300,000 / CAPITAL : Belgrade / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Serbia's labour laws still favour the official trade union and heavily restrict the right to strike. The independent union Nezavisnost continued to face victimisation.**

**Official union privileged**

The official SSS trade union continues to enjoy legal privileges. It monopolises collective bargaining because only unions with a majority of membership in the workplace are permitted to bargain.

**Legal restrictions on union rights**

The 1996 Labour Relations Law gave managers unlimited powers over contracts of employment, hiring and appointment to certain jobs, and termination of employment. It deprived workers of the right to appeal against a management decision within the enterprise. The only recourse would be to go to court or arbitration.

The Federal Law on Strikes introduced restrictive strike provisions in "enterprises of general social interest". Over 60 per cent of enterprises fall into this category.

The law allows employers to define the minimum service to be maintained during a strike. This means that strikes are virtually banned in half of the economy. In the transport sector, the law provides for a minimum service of 70 per cent.

Strikers cannot gather outside workplaces, and although the law says that employers cannot hire new workers to replace those on strike, there are certain circumstances in which new workers can be engaged. These include maintaining a minimum service or fulfilling international obligations.

Under the criminal code "abuse of the right to strike" carries penalties of up to one year in prison or a fine for holding an illegal strike.

**Independent union**

The independent union, Nezavisnost, continues to be victimised by the authorities and employers. Its leaders and activists faced suspension from their jobs and bans from factory premises.

# Slovakia

POPULATION : 5,377,000 / CAPITAL : Bratislava / ILO CORE CONVENTIONS RATIFIED : 105-138-182



**A trade union leader trying to find a solution to the problem of unpaid wages was brutally attacked.**

## Union leader attacked

On 25 October in the early morning in the capital, Bratislava, two or three unknown persons attacked the Deputy Chairman of the Trade Union of Textile, Clothing and Leather Industry Workers, Otto Kremmer. They stabbed him repeatedly, leaving him with severe injuries to his head and ears.

He was involved in trying to find a solution to the problem of unpaid wages being faced by the workers at the Pratex Cadca factory in North Slovakia. The factory was in the process of privatisation and no wages had been paid since March 1999. Otto Kremmer had exposed this situation to the highest levels of the government.

## Rally

The KOZ national trade union centre had long been campaigning for the authorities to root out corruption and economic crimes as well as for lower taxes and higher wages and led a rally of tens of thousands of trade unionists to call for its 20 demands on 25 September.

## Violations

KOZ reported an increase in violations of trade union rights, including non-payment to unions of checked-off union dues, non-payment of wages and severance pay, difficulties in organising unions and carrying out union activities in workplaces, wage discrimination against union officials, and obstruction of bargaining.

## Legislation

A high majority vote is required before workers can go on strike. Half the workers in an enterprise to whom a collective agreement at enterprise level applies, or half the workers to whom a higher level collective agreement applies, must vote in favour of a strike.

In 1999 tripartite discussions took place to prepare new industrial relations legislation and to amend the collective bargaining law.

# Switzerland

POPULATION : 7,299,000 / CAPITAL : Bern / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**New legislation promises some improvement, but will still restrict the right to strike for certain categories of workers.**

## Private sector strike ban

A 1927 law bans public servants, as well as workers in state-owned bodies such as the railways and the post, from striking.

## New legislation

A new state constitution was due to enter into force in January 2000 containing an article on trade union freedoms. It provided for the right to strike and to lockout, but also said that the law could deny the right to strike to certain categories of workers.

In line with this, a draft bill would allow the authorities to restrict or ban the right to strike of some categories of employees (state security, supply of essential goods and services, foreign policy etc.) in certain cases.

The prohibition on strikes by public servants at canton and commune level no longer exists.

# Ukraine

POPULATION : 50,861,000 / CAPITAL : Kiev / ILO CORE CONVENTIONS RATIFIED : 29-87-98-100-111-138



## A new trade union law favoured the former official unions to the detriment of the independent ones.

### New trade union law

In 1998 the Ukraine began to update its Soviet-era law. On 15 September 1999, the Law on Trade Unions, their Rights and Safeguards of Activities, was adopted by the Verkhovna Rada (Ukrainian Parliament). It entered into force on 5 October 1999. The new law introduced restrictive criteria for recognition for collective bargaining as well as legal recognition through compulsory registration.

### Restrictive criteria

To obtain regional status trade unions were required to have either -

- affiliates in more than half of the settlements of a region or in the cities of Kiev and Sevastopol
- a majority of union members in the sector or occupation in the region or in Kiev and Sevastopol.

To obtain "All-Ukrainian" national status unions had to either -

- have affiliates in more than half of the regions of Ukraine
- have affiliates in more than half of the regions of Ukraine where the enterprises of a certain industry are located, and have at least one third of union members in the industry
- have a majority of union members in the sector or occupation.

National status confers the right to participate in the national collective bargaining agreement with the government, membership on the Social Insurance Fund Board, the right to acquire space, property, to maintain bank accounts, and to enter legally binding agreements.

The law meant that the Confederation of Free Trade Unions of Ukraine was no longer recognised as a partner at national level. It could not negotiate with the government and lost its seat on the tripartite commission. It said that the application of the law would prejudice independent unions and favour the former official unions.

### Compulsory registration

Another article of the new law provided for legal recognition through compulsory registration to be carried out by the Ministry of Justice. Unions would be registered in accordance with the status they had been granted. They were given six months after the law entered into force to register, failing which their activities would be illegal.

Independent unions were concerned that the Justice Ministry could deny registration to certain unions.

### Right to strike

The penal code restricts the right to strike in the public sector and the transport sector, allowing for penalties of up to three years in prison.

### Unpaid wages

Miners went on strike in February 1999 over unpaid wages, while nuclear plant workers held protests and camped in tents outside the country's five nuclear power plants to protest at unpaid wages and demand that the government allocate more money to the industry. Miners went on strike again several times over unpaid wages.

# United Kingdom

POPULATION : 58,649,000 / CAPITAL : London / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100



**The Employment Relations Act was passed in July 1999, granting the right to recognition for collective bargaining and going some way to restoring other basic trade union rights that had been taken away in the 1980s and early 1990s.**

## Employment Relations Act

The Employment Relations Bill was passed into law in July 1999. It restored legal rights to recognition for collective bargaining to representative trade unions. It also went some way to restoring other basic rights relating to anti-union discrimination and industrial action which had been removed by the eight pieces of employment law adopted in the 1980s and early 1990s.

The automatic route to recognition contained in the Act is 50-per-cent-plus-one membership in the bargaining unit. Otherwise, a union has to show at least 10 per cent membership in the bargaining unit to trigger a ballot. It has to win a majority in the ballot, and 40 per cent of those eligible to vote must also vote in favour.

The Act makes it unfair to dismiss employees taking part in industrial action for the first eight weeks of a dispute. Previously it had been legal for an employer to sack everyone on strike and - after a limited period - selectively rehire people who had been dismissed. After eight weeks a dismissal will only be fair if the employer has taken all reasonable steps to settle the dispute and has not refused offers of conciliation or mediation.

## Protection against anti-union discrimination

The new law protects union members against discrimination on the grounds of trade union membership or activities when applying for jobs. It also protects them against discrimination by employers withholding pay increases or other benefits from union members who refuse to opt out of collectively bargained terms and conditions. The ILO has asked the government to make amendments to the original pieces of law.

It will still be possible for an employer to agree individual contracts with employees, even in a workplace where a union is recognised for collective bargaining.

Ballots for industrial action have changed so that a union will no longer have to provide an employer with a list of names and addresses of employees being balloted. Ballot procedures have been simplified.

The two-year qualifying period for protection against unfair dismissal has been halved, and employers can no longer force employees to sign away their rights to protection against unfair dismissal in employment contracts. Employees have gained the right to be accompanied by a trade union representative in disciplinary or grievance procedures.

## Old restrictions...

Eight pieces of employment law adopted between 1980 and 1993 had been restrictive, complex and often unclear. The legislation had encouraged many employers to end long-standing collective bargaining arrangements. Unions were unilaterally de-recognised and some employers imposed individual contracts on their employees in place of collective agreements. Workers who refused to accept such contracts were discriminated against in promotion and pay. New entrants were taken on under inferior terms and in some cases, only after giving no-strike undertakings. The right to strike was seriously restricted.

## ...some remain

The following aspects of the 1980-1993 laws remain on the statute books:

- Extensive interference into trade unions' internal affairs. In particular by preventing them, under threat of severe fines, from disciplining union members who refuse to take part in legal strikes or who try to persuade other union members not to go on strike, even though a majority has voted for a strike in a ballot. The government has said that it does not intend to repeal this provision.
- A narrowed system of legal immunities from prosecution for unions engaged in lawful industrial action. The limitation of strikes to disputes that involve union members and their immediate

employer. Legal protection for taking part in other forms of industrial action was removed, making unions liable to crippling fines. It is virtually impossible to engage in lawful secondary or sympathy action, protest strikes or other forms of boycott action.

- The narrow definition of a trade dispute so that unions cannot strike in situations where their employer, with whom they are in dispute, hides behind a layer of subsidiary companies. The TUC has said that employers have restructured their businesses in order to make primary action secondary. The government has said that it has no plans to legalise secondary action.
- The law obliges unions, with few exceptions, to admit individuals or groups of workers into membership whether they wish to or not. This undermines the ability of the TUC and its affiliates to make their own decisions about areas of organisation, and disrupts established patterns in industrial relations.

#### **UNISON goes to European Court of Human Rights**

In June, the public sector trade union, UNISON, made an application to the European Court of Human Rights in Strasbourg. It sought to overturn the clause in the law preventing workers from going on strike to protect their pay and conditions when they were transferred from one employer to another.

In 1998 the Court of Appeal ruled that it was unlawful for London hospital cleaners to strike over concerns that a private consortium, taking over a new hospital from a National Health Service Trust, would cut their terms and conditions by reducing their holiday and pension rights.

The hospital trust had obtained a High Court injunction to stop the strike action. The union then went to the Court of Appeal to appeal the injunction, and lost. In October 1998, the highest court, the House of Lords, refused to hear the union's appeal against the Court of Appeal ruling.

#### **Lufthansa Sky Chefs fires 300 strikers**

An example of employers taking advantage of the absence of protection for strikers before the 1999 Act came into force, was the pay dispute at Lufthansa Sky Chefs (LSG-Sky Chefs) at Heathrow Airport in November 1998. Lufthansa Sky Chefs is the world's largest airline catering company.

The company turned down the union's suggestion that the dispute should go to independent arbitration and the union called a legal one-day strike. The following day the company sacked the 300 employees concerned. It also telephoned workers who had been on sick leave and asked whether they would have joined the strike had they been at work. Those who said yes were also sacked.

The company set a deadline by which they could get their jobs back if they signed a new contract with inferior conditions and dropped outstanding claims. They refused and set up a 24-hour picket line. The company tried to recruit strikebreakers. The dispute had not been resolved by the end of 1999.



Very little has changed in the Middle East as far as workers' rights are concerned.

There are no trade unions in Oman, Qatar, Saudi Arabia and the United Arab Emirates. Collective bargaining does not take place. There is no right to organise in Bahrain. The government-controlled General Committee of Bahraini Workers was harassed when it asked the government to change the law to allow trade unions. Some of its officials have been arrested and detained for several months without charge or trial.

Syria still has a single trade union system and many restrictions on trade union rights exist. Kuwait has a single trade union in theory, but in practice two unions do exist outside this system. Iraq maintains its single trade union structure under strict government control. In September 1999 it was reported that hundreds of members of the Iraqi Union of Journalists were fired because they had not praised Saddam Hussein and his regime as much or as frequently as they should have done.

There was some good news. In Jordan, the government brought the law down on the side of trade unionists unfairly sacked in a free trade zone. All 22 were eventually reinstated by the employer to avoid being prosecuted. The government also brought in a minimum wage, effective as from 1 October 1999. By the end of the year however it

# Middle East



was reported that many workers were still paid below the legal minimum, particularly women who were too scared to speak out.

In Israel, Palestinian workers from the West Bank and Gaza Strip who work in Israel cannot join Israeli trade unions, or organise their own unions there. Border crossings into Israel still remain problematic for Palestinian workers, who have to face lengthy journeys and are often humiliated by border guards. Over the last few years the Israeli national trade union centre, Histadrut, has aided in obtaining permits for PGFTU officials and activists.

In the West Bank and Gaza Strip, different labour laws still apply and the PGFTU's proposals regarding the draft new labour code were ignored by the Palestinian Authority.

The workers who suffer most in the Middle East however are still the migrant workers, many of whom are women. Bahrain, Qatar and Oman all have a large migrant workforce, who are usually dependent on their employers for residency rights and permits, leaving them open to abuse. Half of Saudi Arabia's workforce is made up of migrants, although under its Saudiisation policy the government is trying to reverse this trend. Abuse is widespread, particularly of women domestic workers. Their movements are restricted, sometimes they are locked up, not fed, and subjected to physical and sexual assault. Employers often refuse to pay wages. The situation

is very similar in the United Arab Emirates and in Kuwait, where migrants make up nearly 80 per cent of the workforce. In 1999 the Sri Lankan government repatriated 300 domestic workers from there because of widespread abuse, and the Indian government banned Indian domestic workers from being employed in Kuwait for the same reason.



# Middle East

# Middle East

## Bahrain

POPULATION : 595,000 / CAPITAL : Manama / ILO CORE CONVENTIONS RATIFIED : 29-105



**There is no right to organise trade unions in Bahrain.**

### Unions banned

Trade unions are banned in Bahrain. The partially suspended 1973 constitution recognises the right to organise, but 1981 Ministerial Orders do not mention this right and only prescribe the establishment of joint committees.

The 1957 Trade Union Act has been suspended. The 1976 Labour Code stipulates that joint committees of workers and employers representatives can be formed to "co-operate in the settlement of disputes, secure improvements in workers social standards, organise social services, fix wages, increase productivity and any other matters of mutual interest". The committees are composed of four worker and four employer representatives.

### Joint Consultative Councils

Joint Labour-Management Consultative Councils (JCCs) can be established with government permission. There are JCCs in 19 large joint venture and private sector companies.

Although the workers' representatives on the JCCs are elected, management organises the elections. The Ministry of Labour has discretion to exclude worker candidates from standing for election to the JCCs.

The JCCs represent workers' interests in discussions with management, but can only act as advisors and have no real power to negotiate or bargain.

### General Committee of Bahraini Workers

The elected worker members of the JCCs vote by secret ballot for the 11 executive members of the General Committee of Bahraini Workers (GCBW), which was set up in 1983 to co-ordinate and oversee the JCCs. It is controlled by the government and cannot recruit members or collect membership fees.

The Ministry of Labour must approve the internal rules of the GCBW. It cannot invest funds or acquire assets without permission from the Ministry. Nor can it engage in political activities. The government requires that a Ministerial representative attends and supervises the GCBW's general meetings.

During the past few years the GCBW has asked the government to change the law to allow trade unions but has not received a positive response. The authorities monitor the GCBW's activities, and some officials of the JCCs and the GCBW have been harassed, arrested and detained for several months without charge or trial, or had their passports taken away.

In 1997, after the GCBW approached employers in the textile industry where there is no JCC, to discuss working conditions, the Ministry of Labour told it that it was not its function to do this and not to do it again. Later, the Ministry apparently made some kind of offer to the GCBW whereby they would continue their involvement in the sector.

### 1974 Security Law

The 1974 Security Law forbids actions that would undermine the existing relationship between employer and employees or damage the economic health of the country.

### Union in exile

The Bahrain Workers' Union exists outside the country. It is reported that its two representatives and their families are denied Bahraini citizenship, and that the authorities refuse to renew the passport of one of them, Mohamed Abdul Jalil Al-Murbati.

### Expatriate workforce

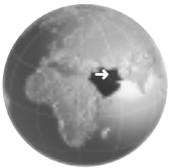
Bahrain depends heavily on labour from other countries, particularly India, Pakistan and the Philippines, and two-thirds of the workforce are expatriates. These workers are under-represented

in the joint council system although they can and do participate. Bahrain's labour laws do not apply to domestic servants.

The GCBW can hear grievances from both Bahraini and foreign workers and can assist them in bringing these to court, or to the attention of the Ministry of Labour. However, the political climate makes this difficult. The official government policy is to try and replace the low-paid Asian expatriate workers with Bahraini nationals.

## Iran

POPULATION : 65,758,000 / CAPITAL : Teheran / ILO CORE CONVENTIONS RATIFIED : 29-105-100-111



**A May Day march took place for the first time in many years although a parliamentary commission had banned it. There were some arrests.**

### Proposals to reduce job and social security

Some parliamentarians, promoting business interests, wanted to revise laws passed after the 1979 Islamic revolution, because they said that they discouraged foreign and domestic investment. They wanted to make it easier and cheaper to fire workers, and in particular to exempt owners of businesses with less than three employees from social security payments for six years. The Workers' House, a national workers' organisation which is linked to the government, and the Ministry of Labour, opposed these moves.

### May Day protests

At the end of April, a parliamentary commission refused to allow workers to hold a May Day march to press for better living standards and improved labour laws. It was the first time in many years that such a march had been planned. Workers said they would hold gatherings around the country.

On 1 May, there were clashes in Teheran between the police and workers protesting against the proposed law on small businesses. Several thousand workers marched towards the parliament and chanted anti-government slogans. The march was organised by the Workers' House. Some workers were arrested.

The parliament adopted the law early in June although the government was reported to be against it.

### Legislation

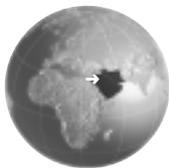
Collective agreements must be submitted to the Ministry of Labour for investigation and approval although the government says that this is in order to ensure that they do not undercut the minimum standards in the law.

The law does not provide workers with the right to strike, although they can suspend work while remaining in the workplace or reduce production.

The government has in the past used its security forces to end strikes. A 1993 law prohibits strikes by government workers, who are also forbidden from having contacts with foreigners.

# Iraq

POPULATION : 21,800,000 / CAPITAL : Baghdad / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111-138



**The law establishes a single trade union structure that is under the government's control. Its task is to promote party policy.**

## Single union under government control

A 1987 law establishes the General Federation of Trade Unions (GFTU) as the sole trade union organisation. It is closely linked to the ruling Ba'ath party and is used to promote party policy among workers.

## Restrictive labour legislation

Public sector workers and workers in state enterprises cannot form or join trade unions or bargain collectively. The state sets their wages. There is no collective bargaining in the private sector. The law does not protect workers against anti-union discrimination.

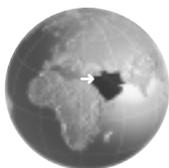
Striking can be punished by imprisonment including compulsory prison labour. There are no reports of strikes taking place.

## Journalists fired

In September it was reported that hundreds of members of the Iraqi Union of Journalists were fired because they had not praised Saddam Hussein and his regime as much or as frequently as they should have done.

# Israel

POPULATION : 5,984,000 / CAPITAL : Jerusalem / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Palestinians from the West Bank and Gaza Strip who work in Israel cannot join Israeli trade unions nor can they organise their own unions in Israel.**

## No unions for Palestinian workers

Palestinian trade unions in the West Bank and Gaza Strip are not permitted to carry out trade union activities in Israel, nor can Palestinians from the West Bank and Gaza who work in Israel join Israeli trade unions, or organise their own unions in Israel.

They are entitled to protection under Israeli collective bargaining agreements, as well as some grievance procedures, and must pay one per cent of their wages to Histadrut.

A March 1995 agreement said that Histadrut would transfer half of these funds to the Palestinian General Federation of Trade Unions, the PGFTU, and would also increase its representation of Palestinians.

## Border crossings

Border crossings between the West Bank and Gaza Strip and Israel remained lengthy. Journeys of several hours for Palestinians working in Israel were not uncommon. The PGFTU said workers crossing the border were frequently humiliated by border guards.

On 13 July, Ayesh Ebade, the chairman of the General Union of Construction and Carpentry Workers and deputy president of the PGFTU, was detained for some time by the Israeli military at Eriz Checkpoint while travelling between the Gaza Strip and the West Bank. He had a valid travel permit. He was informed that he was not allowed to travel to the West Bank through Israel - although he had done so many times before on trade union business.

Over the last four and a half years the Israeli national trade union centre, Histadrut, has aided in obtaining permits for PGFTU officials and activists.

In November, a stretch of road across Israeli land opened linking the occupied territories of the Gaza Strip and the West Bank.

**Public sector**

If strikes affect "essential" public services, the government can use back-to-work orders while negotiations continue. The law does not define essential services and gives the authorities wide powers of discretion, although this can be challenged in court. The authorities and public sector employers used the law and made repeated court applications for back-to-work orders during a public sector strike in 1997.

Israel's Basic Law allows the government or authorised Ministers to pass emergency regulations to "defend the country, public security and the supply of essential services", which can remain in force for three-months. This allows striking workers to be ordered back to work or face severe penalties.

**Collective agreement cancelled**

In November, management at the Jerusalem Post, owned by Hollinger Inc. announced that they were cancelling the collective agreement. Management proposed a new agreement beginning on 1 January 2000 which drastically cut pay and benefits and increased working time. The staff said that it was the latest move in a union-busting strategy.

# Jordan

POPULATION : 6,304,000 / CAPITAL : Amman / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111-138



**Trade union rights are widely restricted in Jordan.**

**Basic union rights denied to many**

Public sector workers and non-nationals do not have the rights to organise, bargain collectively or strike. Workers in some government-owned companies can form and join unions, but cannot strike. Agricultural workers, domestic servants, gardeners and cooks are not covered by the labour code. Trade unions have to be registered by the Ministry of Labour. Registration is directly linked to 17 professions and sectors in which trade unions exist, making trade union pluralism impossible. Unions can appeal to the High Court if registration is denied.

The 1996 Labour Code does not protect trade unions from acts of interference by the authorities or employers, nor are trade unionists adequately protected against anti-union discrimination.

Permission must be obtained from the government before a strike can take place. The government can impose cumbersome arbitration and independent tribunal procedures, during which strikes are prohibited.

**Law worked in trade unionists favour**

On 1 May 1999, 22 trade union members, including executive committee members at the Al-Thikah factory in the Marka free zone were sacked. The company claimed financial difficulties, and broke the law by not waiting for authorisation from the Ministry of Labour. Under the law, the Ministry must examine the situation to make sure that sackings are not unfair. The employer was prohibited from engaging new staff for a period of a year.

The employer eventually re-engaged the trade unionists in order to avoid being prosecuted.

**Minimum wage not enforced**

In September 1999, the government brought in a minimum wage effective from 1 October. By the end of the year it was reported that nearly one half of factories did not pay it. Research found that employees working for sub-minimum wages were mostly women who were too scared to speak out.

Jordan's labour inspection service is ineffective, the law is not always enforced. It is not unusual for workers to be forced to do unpaid overtime on public holidays.

# Kuwait

POPULATION : 1,811,000 / CAPITAL : Kuwait / ILO CORE CONVENTIONS RATIFIED : 29-105-87-111-138



## **Kuwait's restrictive law remained unchanged despite government promises. Foreign workers continued to suffer exploitation and ill-treatment.**

### **Labour legislation**

There were again no changes to the labour law despite the fact that the government told the ILO in 1996 that the Council of Ministers had already approved draft amendments.

The law establishes a single trade union system - saying that only one general confederation and one union per establishment or sector can exist. Despite this, two unions exist outside the confederation.

Unions can only form federations if they represent workers in the same occupation or industries producing similar goods or services.

At least 100 workers are required to establish a trade union.

At least 15 founder members of unions must be Kuwaiti nationals. This prevents unions being organised in sectors where few or no Kuwaitis are employed, such as the construction industry. The Minister of the Interior must issue a certificate approving of a union's founding members before it can be established.

Foreign workers, who constitute around 80 per cent of the workforce, must live in Kuwait for five years and obtain a certificate of good reputation and conduct before they can join unions as non-voting members. They cannot be elected to trade union office. In practice, it had been reported that foreign workers have joined unions within the five-year period and make up around one third of union membership.

The authorities have wide powers of supervision over trade union books and records.

If a union is dissolved, its assets revert to the Ministry of Labour and Social Affairs.

Unions cannot engage in political or religious activity.

The law restricts the right to strike.

### **Excluded from Labour Code**

Employees of the state and public sector, and fixed-term contract workers employed by the state under regulations for the employment of Indian and Pakistani workers, domestic workers, and seafarers cannot form or join trade unions because they are excluded from the scope of the Labour Code.

### **Applications to form unions rejected**

Since the 1980s the Ministry of Labour has turned down several applications from workers to establish trade unions, including from state employees and workers in the oil sector. The Ministry falsely alleged that the law prevents workers in the state sector from establishing unions, despite the provisions of the law and the fact that a registered trade union federation exists with member unions in nine government Ministries.

### **Abuse of migrant workers**

Although a law was passed to encourage Kuwaitis to work in the private sector, some 80 per cent of the workforce continue to be migrants. While the government has improved their legal protection in recent years, they remain vulnerable to abuse.

It is often the case that after being recruited in their home countries, migrants arrive in Kuwait to find themselves without a job, or without a proper salary. In 1999, there were many reports of Egyptian migrants suffering this fate.

### **Domestic workers**

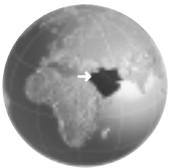
Reports continued of physical and sexual abuse of domestic workers. They can be prosecuted for leaving their employers who often illegally confiscate their passports.

In March 1999, the Sri Lankan government repatriated some 300 domestic workers who were being badly abused and had been stranded without money, visas and passports. In June, the Indian government banned Indian domestic workers from being employed in Kuwait because of abuse and low pay.

Kuwait's Foreign Employment Bureau pledged to better monitor the well being of women workers.

# Lebanon

POPULATION : 3,191,000 / CAPITAL : Beirut / ILO CORE CONVENTIONS RATIFIED : 29-105-98-100-111



## Interference by the authorities into internal trade union affairs continued.

### Protest allowed – with limitations

On 21 April, the CGTL and other trade union and civic organisations held a protest march over fuel price rises and tax increases in the 1999 budget. It was the first protest allowed by the new government, which had lifted a ban on public protests in December 1998.

However, the authorities introduced new rules on public demonstrations, notably that the number of participants should be fixed in advance, five per cent of union members had to assume the role of stewards, and the organisers had to sign a documents assuming responsibility for any damage caused.

### Government interference

In May, one month after Elias Abu Rizk, the president of the CGTL national trade union centre had been elected as president of the administrative council of the CNSS national social security fund, government interference led to him being ousted. A government-backed candidate replaced him.

In November 1999, Abu Rizk and Yasser Neameh, were acquitted on charges of tarnishing Lebanon's reputation after filing an ILO complaint in 1997 against the previous government. One month later the authorities appealed against the acquittal.

The complaint was filed after the authorities interfered into elections for the general council of the CGTL. Although Abu Rizk was re-elected as CGTL president at April 1997 elections, a second group, who had not participated, elected Ghanim Zoghbi as president. The authorities immediately recognised Zoghbi's election.

In May 1997 Abu Rizk was arrested. He was charged with falsely claiming to head the CGTL, and disseminating false information prejudicial to state honour. This referred to the ILO complaint. In November 1997, a court ruled that the Zoghbi faction was the legitimate CGTL.

In May 1998, the authorities withdrew their support from Zoghbi, who resigned. Abu Rizk was elected as CGTL president in elections at the beginning of July 1998, which were recognised by the authorities.

### Labour Code

Lebanon's Labour Code dates from 1946. it bans around 150,000 government employees from forming or joining trade unions, although state school and university teachers have formed unofficial unions that cannot bargain collectively.

The Minister of Labour has wide powers under the law and must give prior authorisation before a union can be formed. He must approve the results of all trade union elections. In 1996, the government issued a decree amending an earlier decree, which empowered the Minister of Labour to set the date of union elections and determine procedures.

The law permits the administrative dissolution of trade unions.

Unions are prohibited from engaging in political activities.

Sixty per cent of workers must agree before a union can engage in collective bargaining, and a collective agreement must be approved by two-thirds of union members at a general assembly.

The law does not adequately protect workers against anti-union discrimination, nor against acts of interference. The right to strike is restricted.

## Oman

POPULATION : 2,382,000 / CAPITAL : Muscat / ILO CORE CONVENTIONS RATIFIED : 29



**In Oman there are no trade unions, collective bargaining, or strikes.**

### Consultative committees

Omani and foreign workers each make up around half of the workforce. Working conditions are generally defined by law or by individual contracts within government guidelines.

In enterprises that employ more than 50 workers, the law requires joint consultative committees of labour and management representatives to be set up, although the law is not always implemented. The committees cannot discuss wages, working conditions or working hours.

Workplaces employing more than 50 workers also have to establish grievance procedures. The Labour Welfare Board mediates in cases where these procedures fail to resolve the individual grievances of Omani or foreign workers. If this fails, a report is sent to the Director of the Labour Department who imposes binding arbitration.

### Total strike ban

A 1973 decree issued by the Sultan states that "it is absolutely forbidden to provoke a strike for any reason". Workers can be fired for striking or inciting other workers to strike, and strikes rarely, if ever, take place.

Collective disputes are very rarely referred to the Labour Welfare Board. If mediation by the board fails, another mediator can be appointed, or the dispute can be sent to a tripartite arbitration panel that votes to take a binding decision.

### New labour code?

When Oman joined the ILO in 1994 the government said that it was drawing up a new Labour Code. A new Code was drafted in 1994, and was expected to make some improvements. The appointed Consultative Council recommended changes in 1996. There has been no further news of the new Code.

### Migrant work force

Migrant workers from Bangladesh, India, Pakistan, Sri Lanka, and other countries make up over one quarter of Oman's population. Like most other gulf countries, Oman wishes to find more jobs for its own nationals, particularly in the private sector where some 500,000 migrants work, compared to around 40,000 Omanis. Most private companies prefer to employ cheaper expatriate workers.

# Qatar

POPULATION : 579,000 / CAPITAL : Doha / ILO CORE CONVENTIONS RATIFIED : 29-111



**Trade unions are illegal. Collective bargaining is prohibited.**

## Consultative Committees

The law provides for joint worker and employer consultative committees to be set up. They discuss working conditions, but employers set wages.

Most private sector workers have the right to strike after a conciliation board has ruled on a dispute. Correspondingly, an employer can close down a workplace or sack employees.

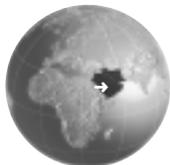
Local courts can handle individual disputes between a worker and employer.

## Migrant workforce

Three-quarters of the workforce are migrant workers. They are dependent upon their employer for residency rights and for permits to leave the country and are thus vulnerable to abuse.

# Saudi Arabia

POPULATION : 20,181,000 / CAPITAL : Riyadh / ILO CORE CONVENTIONS RATIFIED : 29-100-105-111



**There are no trade union rights in Saudi Arabia. Many migrant workers, in particular women, are abused.**

## Trade unions banned

Trade unions and strikes are banned by royal decree. Collective bargaining is forbidden. Anyone trying to form a union can be sacked, jailed, or in the case of migrant workers, thrown out of the country.

## Migrant workforce

Half the workforce is made up of migrants who fill most of the jobs in the private sector. Under its Saudiisation policy, the government currently discourages employment of migrants in both public and private sectors and plans to fill 60 per cent of the jobs done by them with Saudi nationals. Employers set their wages, which vary according to nationality.

Except for domestic servants, who are not covered by labour law, migrant workers can use Saudi labour courts. However, fear of deportation, closed hearings and no access to legal advice means that they rarely, if ever, do so.

## Abuse of migrant workers

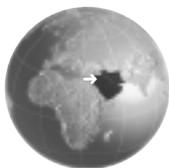
Abuse of migrant workers, particularly women domestic servants is widespread. This includes restrictions on their movement and forced confinement, not being fed, and physical and sexual assault. It is not unusual for employers to refuse to pay wages and other entitlements.

Some countries have in past stopped sending women workers to Saudi Arabia until their safety can be guaranteed.

During an on-the-spot mission to Saudi Arabia, the Indonesian authorities found that between 30 and 40 per cent of Indonesian contract workers, especially women, had been sexually harassed, 30 per cent did not get their salaries on time, and 40 per cent were working without contracts. Others had been tortured.

# Syria

POPULATION : 15,333,000 / CAPITAL : Damascus / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111



**There is a single trade union system in Syria that is part of the state apparatus. The law contains very many restrictions on trade union rights.**

## Single union system

- The law names the General Federation of Trade Unions (GFTU) as the single trade union federation. It is part of the state apparatus and is dominated by the ruling party.
- The single union system also applies to craftsmen's associations and peasants' co-operative associations.
- The GFTU controls most aspects of union activity and determines which sectors or occupations can form unions and federations. It can dissolve the executive committee of any union.
- Under the law, every union constitution must correspond to a model established by the GFTU.
- The law establishes the percentage of union dues to be paid to union or federation.
- Unions are banned from accepting gifts, donations and legacies, without the approval of the minister and the GFTU.
- The law determines the composition of the GFTU congress and its presiding officers.
- The law allows the Ministry of Social Affairs and Labour to supervise the financial affairs of all unions, to inspect union documents, and to demand information at any time. The Ministry can also determine how union assets are invested.
- Workers must be union members for at least six months before election to union office, and also be of Arab nationality. Non-Arab foreign workers cannot join a union unless there is a reciprocity agreement with their home country.

## Collective bargaining restrictions

The Minister of Labour and Social Affairs can refuse to approve an agreement or nullify all or part of a collective agreement on the grounds of national economic interest. The government has again told the ILO that it has drawn up a draft Bill that will amend parts of the Labour Code, including this provision.

## Strikes heavily penalised

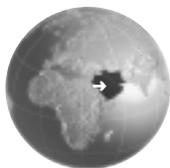
- The right to strike is restricted by the imposition of sanctions including imprisonment.
- Public servants who hinder the functioning of the public service could lose their civic rights.
- Strikes by over 20 workers in certain sectors of the economy, or which take place on roads or public places, or where buildings are occupied, can be fined or imprisoned.
- A maximum sentence of one year in prison or a fine can be imposed on anyone who encourages a strike.
- Forced labour can be imposed on anyone who causes "prejudice to the general production plan".
- Strikes are illegal in the agricultural sector, punishable by between three and 12 months in prison.

## No unions in the EPZs

There are no unions in Syria's free trade zones and employers are exempt from regulations on hiring and firing workers.

# United Arab Emirates

POPULATION : 2,353,000 / CAPITAL : Abu Dhabi / ILO CORE CONVENTIONS RATIFIED : 29-105-100-138



**There are no trade union rights in the UAE, where trade unions are illegal.**

## Union rights denied

Trade unions are illegal in the United Arab Emirates.

The law does not recognise the rights to organise, bargain collectively or strike. Pay is set by individual contracts that are reviewed by the Ministry of Labour or, in the case of domestic workers, by the Ministry of Immigration.

Workers' individual grievances can be addressed through conciliation committees run by the Ministry of Labour, or by special labour courts. Domestic servants, particularly women, are liable to be mistreated. While in theory they can take their grievances to court, the high costs, fear of reprisals and even deportation deter them.

## Abuse of migrant workers

Migrant workers make up around 85-90 per cent of the workforce. They would risk deportation for trying to organise unions or going on strike.

There are reports that migrants work in conditions of extreme heat which have caused illness and sometimes death. These workers are mainly from India, and are employed in the port of Dubai and other UAE ports. They are housed in hostel accommodation where between two and eight workers share a room. The workers, who are hired on three to five year contracts, have to hand over their passports to prevent them leaving the country or travelling internally.

# West Bank and Gaza Strip

POPULATION : 827,000 / ILO CORE CONVENTIONS RATIFIED : 29-105-87-98-100-111-138



**Although there were discussions on the urgently needed new labour code for the territories, major amendments made by the PGFTU were ignored.**

## Draft labour code

The Palestinian Authority has been in charge of labour affairs since September 1995. Until new labour legislation is introduced, different laws apply in the West Bank and Gaza Strip.

The PGFTU national trade union centre and the government discussed several drafts of a Labour Code in 1999. On 5 July, the PGFTU organised a massive demonstration in Ramallah to support its demands to amend the draft Palestinian Labour Code. The demonstration came to a halt outside the Palestinian Legislative Council, where it obtained an undertaking that the Council would discuss the PGFTU's proposals before the second reading of the bill.

The PGFTU said that there was a lack of clarity in the draft on the fundamental principles of the right to organise and collective bargaining, as well as on the role of the social partners. The latter were not included on decision-making bodies, nor in official tripartite consultative bodies.

The major PGFTU amendments were not taken into account in the third and final reading of the bill, scheduled for October. The bill had not been adopted by the end of the year.

## Public service laws

A public service law came into force in 1998 regulating employment benefits and salary guarantees for public servants including postal workers, teachers, and doctors.

# Yemen

POPULATION : 15,678,000 / CAPITAL : San'a / ILO CORE CONVENTIONS RATIFIED : 29-87-98-100-105-111



## Labour Code

**The 1995 Labour Code contains numerous restrictions on trade union rights.**

The Code repealed the previous system of a legal trade union monopoly in most respects, but it still makes reference to the General Federation of Trade Unions.

Foreign, casual, domestic and agricultural workers are only covered by the Code under certain conditions.

Registration of collective agreements is compulsory. Agreements can be invalidated if they are "likely to damage the economic interests of the country".

Strike procedures are very restrictive and include the possibility of compulsory arbitration at the request of only one party. Permission to strike must also be obtained from the General Federation of Trade Unions.

The law does not protect workers adequately against anti-union discrimination.



# Appendix

Survey of complaints submitted by the ICFTU, national affiliates and International Trade Secretariats under consideration by the ILO Committee on Freedom of Association (1999).

## Africa

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
1.	CAPE VERDE	2044	ICFTU/UNTC-CS	- Requisition of civil workers during a strike (Complaint April 1999)	Report in which the Committee requests to be kept informed of developments March 2000
		2023	UNTC-CS	- Prohibition of a demonstration and detention of trade union leaders (Complaint April 1999)	Report in which the Committee requests to be kept informed of developments March 2000
2.	DJIBOUTI	1851	ICFTU	- Arrests, dismissals and suspensions of trade unionists following strike action	2nd Interim Report November 1999
		1922	UDT/UGDT/EI	- Confiscation of trade union archives - Interference with May Day demonstrations (Complaint September 1995, April 1997, May 1998)	3rd Interim Report November 1999 Direct Contacts Mission January 1998
		2042	ICFTU/UDT/UGTD	- Government interference in union congress (Complaint July 1999)	Interim Report November 1999
3.	ETHIOPIA	1888	EI	- Death, detention and discrimination of trade unionists - Interference in the internal administration of a trade union (Complaint June/November 1996, August 1997)	2nd Interim Report June 1999
4.	GABON	1978	CGSL	- Acts of anti-union discrimination (Complaint July 1998)	Report in which the Committee requests to be kept informed of developments November 1999
		2028	CGSL	- Imprisonment of trade union leaders (Complaint May 1999)	New case
5.	MOROCCO	2048	UMT/ICFTU	- Violent intervention of the police - Arrest of union members including women (Complaint September 1999)	Interim Report March 2000

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
6.	NIGERIA	1935	ICFTU/ICEM	<ul style="list-style-type: none"> <li>- Arrest and detention of trade union leaders</li> <li>- Dissolution of union executive councils</li> <li>- Government interference in union structure and functioning and restrictions on international affiliation (Complaint August 1997)</li> </ul>	Report in which the Committee requests to be kept informed of developments March 1999
7.	UGANDA	1996	ITGLWF	<ul style="list-style-type: none"> <li>- Violation of freedom of association (Complaint November 1998)</li> </ul>	Report in which the Committee requests to be kept informed of developments June 1999
8.	SWAZILAND	2019	SFTU	<ul style="list-style-type: none"> <li>- Legislative violation of Freedom of Association (Complaint March 1999)</li> </ul>	New case
9.	ZIMBABWE	2027	ZCTU	<ul style="list-style-type: none"> <li>- Assault on a trade union leader</li> <li>- Restrictions on the right to strike (Complaint May 1999)</li> </ul>	Report in which the Committee requests to be kept informed of developments March 2000
10.	ZAMBIA	1976	ZCTU	<ul style="list-style-type: none"> <li>- Imposition of a wage freeze on all workers in the public service and government-aided institutions for 1998 (Complaint July 1998)</li> </ul>	Definitive Report March 2000

# Americas

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
1.	BRAZIL	1982	CUT	- Suspension of a trade union leader (Complaint August 1998)	Definitive Report March 1999
2.	CANADA (Ontario)	1943	CLC	- Governmental interference in arbitration and labour tribunals (Complaint November 1997)	Report in which the Committee requests to be kept informed of developments November 1999
	(Ontario)	1951	CLC	- Interference with collective bargaining - Denial of the right to organise, to bargain collectively and to strike - Lack of protection against anti-union discrimination and employer interference (Complaint February 1998)	2nd Interim Report June 1999
	(Ontario)	1975	CLC	- Bill prohibiting workers taking part in community participation (work-fare - compulsory work as a condition of receiving benefits) from joining unions, bargaining collectively or striking (Complaint July 1998)	Interim Report June 1999
	(Ontario)	2025	EI	- Legislative interference in the right to collective bargaining of teachers (Complaint May 1999)	Definitive Report March 2000
	(Federal)	1985	CLC	- Adoption of legislation in violation of the right to bargain collectively (Complaint September 1998)	Report in which the Committee requests to be kept informed of developments June 1999
	(Saskatchewan)	1999	CLC	- Legislation extending collective agreement for three years and prohibition of bargaining and strikes during this period (Complaint November 1998)	Report in which the Committee requests to be kept informed of developments November 1999

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
3.	COLOMBIA	1787	ICFTU	- Murders and other acts of violence against trade union officials and members and anti-union dismissals. (Complaints June/October/November 1994, October/November 1995, May/July 1996, February/April/May/June/July/October/November 1997, January/March/June/October/November 1998)	2nd Interim Report March 1999  (Article 26 complaint lodged June 1998)
4.	COSTA RICA	1984	IUF	- Acts of anti-union discrimination (Complaint September 1998)	1st Interim Report June 1999 2nd Interim Report March 2000
		2024	ICFTU	- Violation of Labour Code - Dismissal of union leader - Refusal to negotiate (Complaint April 1999)	Report in which the Committee requests to be kept informed of developments March 2000
		2030	CTRN/SITRARENA/ ICFTU	- Violation of the right of collective bargaining (Complaint May 1999)	Definitive Report March 2000
5.	ECUADOR	2010	ICFTU	- Murder of a trade union official - Quelling of protest movements - Intimidation campaign against other officials (Complaint February 1999)	1st Interim Report June 1999 2nd Interim Report March 2000
6.	EL SALVADOR	1987	CI	- Refusal to recognise and grant legal personality to various trade unions (Complaint August 1998)	Definitive Report March 1999
7.	GUATEMALA	1960	ICFTU	- Violations of freedom of association (Complaint April/July 1998)	Report in which the Committee requests to be kept informed of Developments June 1999

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
8.	HAITI	1970	ICFTU	- Murders, physical assaults, death threats, raids on the home and attempted abduction of trade union officers and members - anti-union dismissals - obstruction of collective bargaining - requirement of approval of collective agreements on working conditions (Complaint July 1999)	1st Interim Report June 1999
		2050	ICFTU	- Violation of freedom of association (Complaint September 1999)	New case
		2052	ICFTU	- Anti-union dismissals of union leaders and members (Complaint September 1999)	New case
		2072	EI	- Dismissals of teachers and other acts of anti-union reprisals (Complaint December 1999)	New case
9.	PANAMA	1965	ICFTU	- Arrests and ill-treatment of trade unionists (Complaint May 1998)	Interim Report November 1999
		1967	ICFTU	- Refusal by the authorities to recognise the affiliation of a federation to a trade union central (Complaint May 1998)	Report in which the Committee requests to be kept informed of Developments March 1999
10.	VENEZUELA	1812	ISETU/FISTAV	- Employer interference in the establishment of a trade union (Complaint October 1994)	Report in which the Committee requests to be kept informed of Developments March 1999

# Asia and Pacific

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
1.	AUSTRALIA	1963	ACTU/ICFTU	- Violation of the right to strike (Complaint May/August 1998)	Report in which the Committee requests to be kept informed of developments March 2000
2.	CHINA	1930	ICFTU	- Violations of the right to organise and trade unionists' basic civil liberties, detention of trade unionists and harassment of family members (Complaint June 1997)	Report in which the Committee requests to be kept informed of Developments June 1999
		2031	ICFTU	- Violation of the principle of freedom of association (Complaint June 1999)	No reply from the Government
3.	INDONESIA	1773	ICFTU/IUF	- Denial of union recognition - Government interference in trade union activities - Harassment and detention of trade unionists (Complaints April/May/August/November 1994, June/August 1996, April/November 1997)	Report in which the Committee requests to be kept informed of Developments November 1999
4.	PAKISTAN	2006	APFTU/PSI/ICFTU	- Denial of trade union and collective bargaining rights for workers of the Pakistan Water and Power Development Authority (WAPDA) and of the Karachi Electric Supply Corporation (KESC) (Complaint February 1999)	Interim Report November 1999
5.	REPUBLIC OF KOREA	1865	KCTU/ICFTU	- Arrest and detention of a trade union leader - Government refusal to register a trade union organisation - Adoption of labour law contrary to freedom of association  (Complaint December 1995, September/December 1996, January/May 1997, August/September 1998)	1st Interim Report March 1998 2nd Interim Report November 1998 3rd Interim Report March 2000

# Europe

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	COMMITTEE ON FREEDOM OF ASSOCIATION
1.	ESTONIA	2011	ICFTU/EAKL	- Governmental interference in the establishment and internal functioning of trade unions (Complaint February 1999)	ILO Mission sent in August 1999



# Appendix

## ILO CONVENTION ON FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE, 1948 (No 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**
1. 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.
  2. The public authorities shall refrain from any interference which would restrict this right or impede 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**
1. 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.
  2. 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**
1. 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.
  2. 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.

**ILO CONVENTION ON THE RIGHT TO ORGANISE AND COLLECTIVE BARGAINING, 1949 (No 98)**

- Article 1**
1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
  2. Such protection shall apply more particularly in respect of acts calculated to:
    - (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
    - (b) 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**
1. 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.
  2. 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**
1. 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.
  2. 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 anyway.