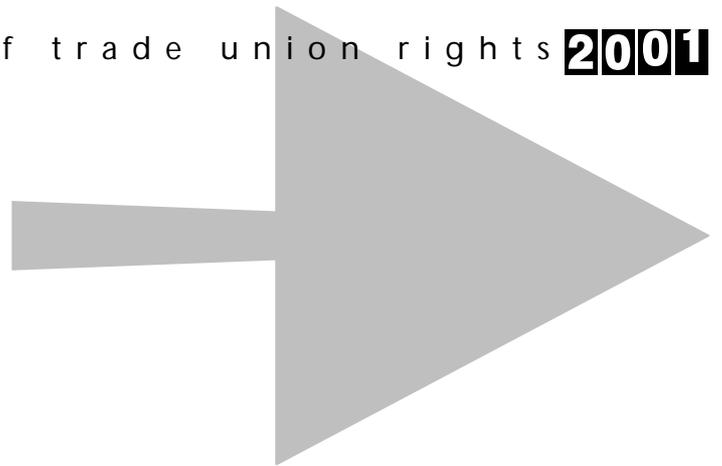


annual  
survey of violations of trade union rights **2001**



The violations of trade union rights reported in this survey took place in 2000.  
The survey was written by of the ICFTU Trade Union Rights Department.

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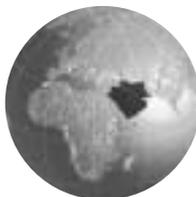
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# Foreword

There is something paradoxical in the contrast between the international community's increasing outspokenness on international labour standards and reality on the ground. Three years after the adoption of the ILO's Declaration of Fundamental Principles and Rights at Work, violations of trade union rights have reached a level never recorded before. As this year's issue of our annual Survey demonstrates, the number of reported assassinations, physical attacks, detentions and other forms of repression against trade unionists and their organisations has risen to new heights.

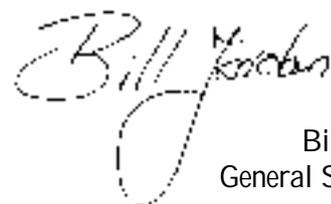
While the expanded scope of our research may at least partly explain this picture, our 2001 Survey covers nearly 150 countries; sadly the real trend of serious violations is undoubtedly also rising: the number of trade unionists killed in the line of duty has risen by a staggering 50% over the previous year's findings. Tragically, however, this increase has mainly affected one single country. Colombia, where twice as many (153) unionists were killed or disappeared as in the previous year, remains our number one preoccupation in terms of the right to life of trade unionists. It would be tempting, if Colombia could be omitted, to see an improvement. But that would mean disregarding figures for arrests, acts of torture, threats, interference in unions' internal affairs and repressive dismissals: violations in all these categories are on the rise and have sometimes increased up to threefold.

The second explanation is even more disturbing: far from receding, suppression of trade union rights world-wide is actually worsening. In many countries, it is no longer tolerable for authoritarian regimes to see workers demonstrate against the non-payment of wages: as often as not, workers claiming the right to be paid for work performed face beatings, detention or death. In other countries, it has become quite acceptable for a factory manager to hang a banner over the gate saying "No to the trade union!", or for a provincial governor to declare that he "will not tolerate any trade unions in my province". Faced with growing competition as a result of globalisation, enterprises openly threaten their workers with closure or transferring production abroad, should they insist on their right to establish or join trade unions.

Where legislation prohibiting anti-union discrimination exists, it is often ignored. Worse still, in many countries riot police, the armed forces or even the courts seem to exist merely in order to defend financial interests: union organisers are thrown in jail, court orders to reinstate arbitrarily dismissed shop stewards are ignored by managers, registration of unions is denied and collective agreements, if they exist at all, simply remain ignored.

Nor are such deplorable situations reserved solely for developing nations: in many industrialised countries, strikes bring punitive fines and damage compensation upon the trade unions, their representatives are sacked, workers encouraged to resign from their unions and often compelled to sign individual working contracts. Some employers don't hesitate to train senior officials in union busting techniques, or hire professional consultants to perform the task for them.

For many years now, the ICFTU has claimed that the figures compiled in its annual Survey of Violations merely represented the "tip of the iceberg". If this issue's findings are anything to go by, a double conclusion must be drawn: first, the visible part of the iceberg has grown in size; second, the volume of the immersed part must have increased in proportion. It is time that world leaders, governments and employers started seeking ways to melt the growing ice mountain.



Bill Jordan  
General Secretary

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

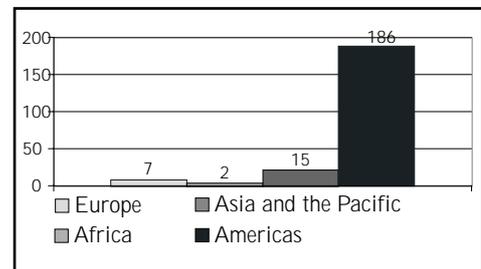
It is indicated in the text whether a country has ratified the following conventions:

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

## Violations of trade union rights: statistical analysis

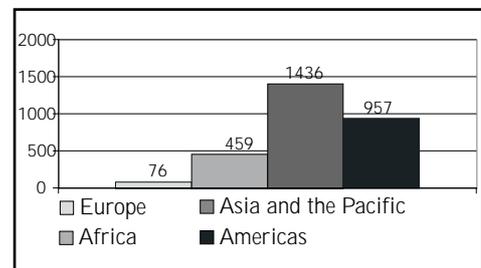
### A. DEATHS AND ASSASSINATIONS

Europe .....	2
Africa .....	7
Middle East .....	0
Asia & Pacific .....	15
Americas .....	186
<b>Total .....</b>	<b>210</b>



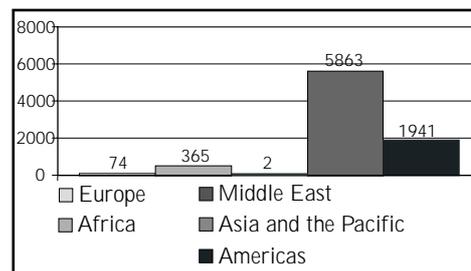
### B. BEATINGS AND TORTURE

Europe .....	76
Africa .....	459
Middle East .....	3
Asia & Pacific .....	1436
Americas .....	957
<b>Total .....</b>	<b>2931</b>



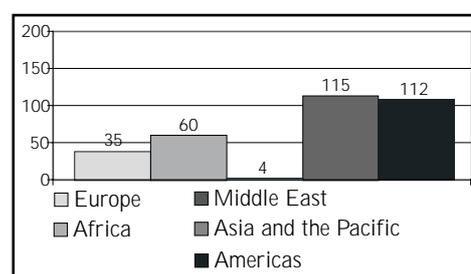
**C. ARRESTS AND DETENTIONS**

Europe .....	74
Africa .....	365
Middle East .....	2
Asia & Pacific .....	5863
Americas .....	1941
<b>Total .....</b>	<b>8245</b>



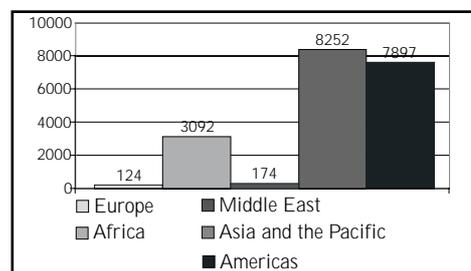
**D. STRIKES AND DEMONSTRATIONS REPRESSED**

Europe .....	35
Africa .....	60
Middle East .....	4
Asia & Pacific .....	115
Americas .....	112
<b>Total .....</b>	<b>326</b>



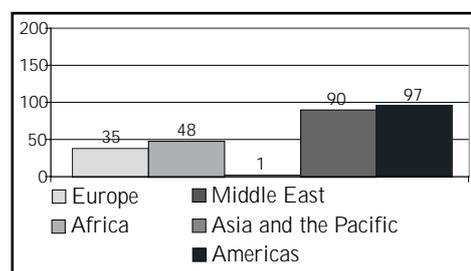
**E. UNFAIR DISMISSALS**

Europe .....	124
Africa .....	3092
Middle East .....	174
Asia & Pacific .....	8252
Americas .....	7897
<b>Total .....</b>	<b>19539</b>



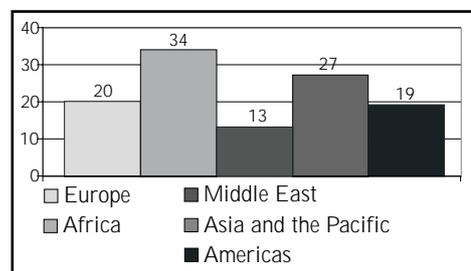
**F. GOVERNMENT INTERFERENCE**

Europe .....	35
Africa .....	48
Middle East .....	1
Asia & Pacific .....	90
Americas .....	97
<b>Total .....</b>	<b>271</b>



**G. RESTRICTIVE STRIKE LAW:**

Europe .....	20
Africa .....	34
Middle East .....	13
Asia & Pacific .....	27
Americas .....	19
<b>Total .....</b>	<b>113</b>



The destructive effects of structural adjustment policies continued to be felt almost everywhere on the African continent.

Public spending cuts, and the consequential shrinking of whole public sectors, the restructuring of parastatals, and privatisation, have had devastating repercussions. Whole national economies have contracted. There are now less and less people employed in the formal sector, there is less money in national economies, and little or no investment. Governments, desperate for investment are put under substantial pressure to weaken labour legislation. The informal, unprotected sector continues to grow.

Those workers still employed in the public sector may experience wage arrears of between 12-18 months. Other workers are paid poverty wages. Salaries have not been reviewed upwards for 10-15 years, yet inflation has not remained static, and purchasing power has been eroded.

At a political level, many African governments still regard their trade union movements with hostility and suspicion. They try and control them through brutality, legislative means, or both - substituting repression for dialogue.

In Zimbabwe, the grave trade union and human rights situation, as well as the economic, social and political crisis, is taking a heavy toll on the majority of the people. Persistent state-sponsored violence against trade union members has led to the death of at least one trade unionist in the period under review. Farm-workers have been particular targets for the regime and its henchmen.



In Djibouti, interference into trade union affairs by the government has finally resulted in the total marginalisation of the national trade union centre. The government has created a "collective of grassroots trade unions" in its place, which contains no representative organisations and no elected leaders.

In Ethiopia too, the government has brought the CETU national trade union centre and its nine affiliates under its control and has carried out a campaign of persecution and harassment of the ETA teachers' union. The president of the teachers' union, Taye Woldesmiate, remained in prison serving a 15-year sentence on trumped-up charges of conspiracy to overthrow the state.

In Swaziland, the government continued to rule by decree, under the 1973 State of Emergency. Union leaders were subject to 24-hour surveillance, and were arrested and charged after organising mass actions. The threat of removal of Swaziland's trade privileges, notably by the US, finally led to the amendment of the Draconian 1996 Industrial Relations Act. However, some important changes promised by the government were rescinded at the last moment by the King's advisory body.

In Morocco, there continues to be little protection in law or practice for trade unionists carrying out their trade union activities. They are not protected against anti-union discrimination including arbitrary dismissal, discrimination at the time of recruitment, and acts of interference by

employers, in particular employer-dominated unions. Trade unionists are liable to be charged under the criminal code and imprisoned for going on strike.

Sudan's trade unions have been under government control for the past 12 years when the regime took power in a coup d'état. In Equatorial Guinea, there are no trade unions and the government maintains a repressive environment, refusing to register any trade union trying to establish itself. Freedom of association is also non-existent in Libya, and in Egypt, the trade union monopoly remains in place. In those countries where there are no free trade unions, migrant workers are more vulnerable. In a serious outbreak of xenophobic violence in Libya, several hundred migrants were killed.

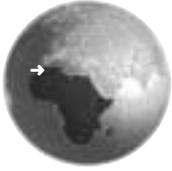
Ghana and South Africa, are countries in which the overall framework for industrial relations and trade union activities remained positive - in a continent where the overall picture is increasingly grim.

# Africa



## Algeria

POPULATION : 29,800,000 / CAPITAL : Algiers / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### Police violence in the wake of restructuring

**The right to strike is severely suppressed in a country where any trade union demonstration can be construed as an act of terrorism or subversion.**

The government has set a major privatisation process in motion without really consulting the trade unions. The Algerian Workers' General Union (UGTA) has criticised the lack of clarity of this process, which also affects social security. Some of the factories have taken measures which undermine workers' rights, which have sometimes sparked violent confrontations.

As a case in point, on 16 May, the police violently dispersed a demonstration of some 10,000 workers of the Alfásid ironworks factory in El Hadjar. On this occasion, several dozens of workers were injured, 20-30 seriously. The company's UGTA trade union section had mobilised the workers following the management's decision to interrupt production and freeze salaries. The demonstration was supposed to start at the factory in El Hadjar and then move towards the headquarters of the state-run ironworks group.

According to a decree issued in 1992, targeting the stability and normal operation of institutions by disrupting public services or blocking traffic is considered to be an act of terrorism or subversion; perpetrators of such acts face up to 20 years in prison. The 1990 Law prohibits trade unions from having links with political parties or receiving funds from abroad.

### Legal interference

The government can prohibit a strike whenever it feels that such a strike may cause a serious economic crisis. Workers can only go on strike after a 14-day period of mediation, conciliation or arbitration. If these measures fail, the government has the right to refer the dispute to an arbitration committee.

## Angola

POPULATION : 12,800,000 / CAPITAL : Luanda / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**The firing of 12 railway workers who had just joined an independent trade union is a flagrant example of the government's ambivalence with regard to its obligations to respect trade union rights**

Although the right to organise, the right to engage in collective bargaining and the right to strike are recognised by the Constitution, they are not always respected by the government. The administration, the public services and State firms, are the country's foremost employer. This control over the national economy, aggravated by a lack of democracy, complicates the task of independent unions. While on the one hand there is no legal basis for the government's interference in trade union affairs, on the other hand, restrictions on civil liberties constitute an important obstacle to those trade union activities which the government considers to be inimical to its interests. Altogether too many areas of activity are classified as "essential services" and the mechanisms which are supposed to protect the workers against discriminatory and anti-union practices are inadequate. Neither the labour legislation nor the judicial system guarantee full respect of trade union rights.

*On 11 November 2000, Antonio Luis Junior, Antonio do Santos Pacheco and nine of their colleagues were fired without notice by the Luanda Railways Company, by which they had been employed as train drivers. The reason given? The Human Resources Department of the State company invoked a necessity to make job cuts (following that, it spoke of the poor health of the workers involved). But no one was fooled. Antonio Luis Junior and Antonio do Santos Pacheco are trade unionists heart and soul, and they had just persuaded several of their colleagues to resign from the National Angolan Workers' Trade Union (UNTA) close to the MPLA, the political party in power, and join the The confederation of free and independent trade unions of Angola (CGSILA). In this connection, they had just attended the trade union seminar held from 23 to 26 October in Luanda by the CGSILA in collaboration with the ICFTU-AFRO and the UGT of Portugal. As of now, the 11 workers have not yet been reinstated in their jobs despite acid criticism on the part of the local (independent) press and the indignation of the international trade union movement as a whole.*

# Benin

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



**The labour code adopted in 1998 has not solved all of the problems faced by workers and their representatives.**

## Prior authorisation

The new labour legislation stipulates that, in order to register, trade unions must first file their articles of association with the government, namely the Ministry of the Interior. The ILO has criticised this requirement and the fines imposed for non-compliance, describing them as potentially serious obstacles to the creation of trade unions. Moreover, the Ministry of the Interior is required to issue an acknowledgement of receipt within a month after the articles of association have been filed, a deadline that is not met. In practice, there also seems to be a tendency among company managers to support parallel trade unions.

Seamen are excluded from the field of application of labour legislation. The law stipulates that they are governed by the merchant navy code, which does not confer trade union rights.

## Legal restrictions on the right to strike

An ordinance issued in 1969 continues to limit the right to strike in both the public and private sectors. The government may prohibit a strike whenever it feels that the strike could pose a threat to the economy and the national interests of the country as a whole. As a case in point, the Cotonou district authority used this provision to outlaw various strikes there. Trade unions have reported that some government departments are not above drawing up long lists of employees who may be requisitioned. Enactment of a bill in the year 2000 could improve the situation, e.g. restrictions on the right to strike would now only apply to essential services. However, the terms of this bill would require trade unions to give the authorities advance notice as to when the strike would occur and how long it would last. The trade unions feel that this requirement limits their right to organise.

# Botswana

POPULATION : 1,500,000 / CAPITAL : Gaborone / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**The law still limits trade union freedoms.**

## Discrimination against public servants

Public servants can only form associations rather than trade unions since the law stipulates that only "employees" can join unions, which therefore excludes public servants. The government has recently ratified ILO Convention 151 on Protection of the Right to Organise in the Public Service. Nevertheless, it is dragging its feet as far as enacting the legislative changes needed to implement this Convention.

## No full-time union officials

There are no full-time union officials in Botswana because current legislation requires elected officials to work full time in the industry or sector that the union represents. This regulatory provision severely limits the degree of professionalism and efficacy of trade union officials.

## Complex registration procedures

In Botswana, the Minister of Labour has broad and discretionary powers over trade union affairs. First of all (with the help of the Registrar of Trade Unions) the Minister of Labour is in charge of registering unions. The Minister of Labour has the power to suspend a union if there is not at least one Botswanan national on that union's committee. He can also dissolve unions if he suspects that their affairs are not being conducted properly. Moreover, he can appoint the Commissioner of Labour to run a trade union's affairs for any period that he deems appropriate...

It should be pointed out that as long as a trade union is not registered, the members of that trade union's committee do not enjoy protection against acts of anti-union discrimination. The Minister of Labour must give his approval for affiliation with international trade unions as well as for receipt of transfers of international trade union solidarity funds. This procedure is nevertheless not applied in practice. If permission for affiliation is withheld, unions can nevertheless appeal to the courts.

### Restrictions on the right to strike

The law also restricts the right to strike. In theory, workers have this right. However, they must first submit their dispute to a very complex arbitration procedure. Moreover, the long list of essential services (which namely includes telecommunications, water utilities, the Bank of Botswana) is another indirect way of undermining this right. These restrictions on the right to strike were put into practice last January when the employees of the Botswana Agricultural Marketing Board went on strike to obtain the salary adjustments that had been promised to them back in 1998 and 1999. The management responded by ordering the strikers to return to work or lose their jobs.

## Burkina Faso

POPULATION : 18,500,000 / CAPITAL : Ouagadougou / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**Restrictions on trade union rights include the government's power to requisition civil servants in the event of a strike.**

### Legislative restrictions

The ILO and trade unions criticise the power to requisition civil servants in the event of a strike. They demand that such a provision be applied only to civil servants holding positions of authority in the name of the state and only for services whose interruption would endanger the life and safety of the population. However, this infringement on trade union rights is but an illustration of the wide range of methods used by the government and employers to erode the basic rights of workers. In practice, however, numerous methods are used to violate trade union rights: trade union infiltration, attempts to corrupt trade union members, acts of intimidation, threats, imprisonment, temporary suspensions of legal provisions guaranteeing trade union rights, dismissals of state officials for having participated in strikes, arbitrary transfers of trade union leaders intended to remove them from their base, and occupation of the premises where union activists meet.

### Trade union and human rights activists arrested

In 1998, the suspicious death of journalist Norbert Zongo aroused strong public sentiment and prompted several civic organisations to form a Workers' Front aimed at fighting against impunity and defending the basic rights of all citizens. On 8 April 2000, the police violently suppressed a peaceful march organised by the Workers' Front. They arrested several demonstrators and injured many others. On 10 April, the police raided the Ouagadougou union headquarters. They also burst into the section headquarters of the Burkina Faso Human and Civil Rights Movement (MBDHP) in Ouagadougou, where 80 people were attending a meeting of the Workers' Front. 33 people were arrested. On 13 April, the police arrested three members of the Workers' Front in their homes, including Tolé Sagnon, General Secretary of the Burkina General Labour Confederation (CGTB) and Vice-President of the Workers' Collective.

### No solution found at SOSUCO

SOSUCO's (Comoé sugar company) director has still not reinstated the 18 union activists who were sacked 15 months ago, despite a ruling from the Industrial Court in their favour and the support of the labour inspection office. These 18 union activists were dismissed following a strike in September 1999.

### Dispute at the Bicia-B bank

In June 2000, the very tense relations between the employees and management of Bicia-B stretched to the breaking point when the management announced that it would not abide by the salary clauses contained in the collective agreement. This resulted in a tug-of-war contest between the employees and the management, with several strikes being called. In September, the general management decided to raise the ante by declaring one of the strikes illegal and then filing a lawsuit with the Court of First Instance against the labour representatives and all of the strikers. The management suffered a major setback when the court ruled in favour of the employees. In early October, however, the management continued its hardline approach by firing 20 union activists who had participated in additional strikes. On 26 October, all of the employees of Bicia-B (and other banks, insurance companies, businesses and industries) joined the movement in a 48-hour strike to demand the reinstatement of the 20 union activists and respect for trade union structures. Employee participation among Bicia-B's 14 branches was massive (between 70% and 100%). Although the management agreed to reinstate the 20 union activists, by early November, the situation did not seem to have improved. No solution had yet been found to solve the initial problem encountered by the employees. However, the pressure exerted by the movement did result in Bicia-B's Board of Directors dismissing its General Manager.

# Burundi

POPULATION : 6,300,000 / CAPITAL : Bujumbura / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**Throughout the year, trade unionists have been the target of attacks and one of their essential rights, the right to strike, has been flouted.**

## Legislative restrictions

The law requires workers to go through a whole series of often lengthy procedures before they can hold a strike in due form, weakening the right to strike.

Over the past few months, the government's attitude has threatened to muzzle strikers. In January, when 21 trade unions called a general strike to protest against a rise in the prices of staple commodities (rice, fuel and sugar), the government declared the strike illegal and threatened the strikers with dismissal unless they called off the strike. The Minister of Communications and government spokesman made the following statement: "This strike is violating the security of citizens and is a blow to the national economy - which is what our enemies want." At the end of March, the Chancellor of Burundi University in Bujumbura uttered similar threats when faced with a strike by the members of his technical and administrative staff, who were demanding better pay and an upgrading of their status. Civil servants' pay is not covered in collective bargaining; it is laid down in individual contracts.

What is more, foreigners working in the public sector cannot join a union.

## Hostile attitude to free and democratic trade unions

Despite the the ILO recommendations, the government is refusing to collaborate with the representative trade unions. According to the SNES-FSU, the national union of secondary school teachers, the government itself chooses the trade union partners it wants to work with in the bodies where workers are represented, such as the National Labour Council or the management boards of semi-public enterprises. The SNES-FSU also reports incidents which occurred during the May Day preparations. As an unprecedented event in the history of Burundi, the speech prepared by labour was not delivered, since the authorities did not like the elected president of the most representative confederation (COSYBU), Dr P. Claver Hajayandi, who was due to deliver it. Several weeks later, at the annual International Conference of the ILO in Geneva, the government replaced him on the delegation by a person who left the COSYBU in January 2000.

# Cameroon

POPULATION : 14,600,000 / CAPITAL : Yaoundé / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



**Intimidation, legal obstacles, interference in the activities of the CCTU trade union centre: signs of government hostility to the trade union movement continue.**

Attempts to destabilise the CCTU were continued and intensified throughout the year. At a press conference in February, the Ministry of Employment, Labour and Social Welfare gave its official sanction to the dissident and non-representative faction of the Confederation of Cameroon Trade Unions (CCTU). On May 1, it tried to keep the legitimate CCTU from helping to organise the annual May Day celebration and from participating in the festivities. Defying this order, several workers who went to the rally were wounded by gunfire. Three of them were hospitalised in a grave condition.

## Interference at all levels

Government interference in trade union can be seen in several sectors of activity. The authorities favour those workers' organisations with whom they believe they can deal more easily. And if none such exist, they sometimes create unions to suit their own wishes. Due to the absence of mechanisms for their enforcement, collective agreements which have been concluded are seldom implemented.

## Legal obstacles

According to the 1968 Law, prior government authorisation to set up a trade union is necessary before it can legally exist. In the public sector, the approval of the Ministry of Territorial Administration is required, and in the private sector, that of the Ministry of Labour. The Labour Code of 1992 stipulates that the founders of a trade union which has not been registered are liable to prosecution. A decree issued in 1969 requires trade unions or associations of

government employees to receive government permission to become affiliated with an international trade union federation. Several unions in the public sector have not obtained the authorisation to register. Government employees are not permitted to strike. In the private sector, workers are allowed to strike only after their case has been submitted to compulsory arbitration.

In July, in the construction sector, the Mipromalo firm made all trade union activity impossible by blocking access to the union offices and confiscating all union properties. The company accused the union of destabilising the workers and interfering in its affairs. In fact, the union merely protested against the dismissal of 14 workers. Following that, the workers were submitted to measures of intimidation. On 7 November, the police arrested André Makong, president of the Wouri Forestry Industry workers' union and member of the CCTU office. He had headed a strike movement which had lasted three days at the Alpicam company in Douala. In November, the Prefect of Dschang arrested two university professors who had tried to organise their colleagues. They were released the next day.

## Central African Republic

POPULATION : 3,600,000 / CAPITAL : Bangui / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### Non-payment of salaries continued to undermine industrial relations.

At a national coordination meeting on 17 October, the country's six government employee unions launched a three-day warning strike, demanding the immediate payment of 12 months' back pay. The government responded by paying the equivalent of two months' salary to workers in the health and education sectors. All other government employees received the equivalent of one month's pay. On 23 October, President Ange-Félix Patassé announced that since the treasury was empty he would put up ten million US dollars from his own pocket, making it possible to pay four months' salary and wages to the 17,000 government workers concerned.

On 2 November, following a breakdown of negotiations, and because the President had not kept his promise, the employees again went on strike. The social climate continued to worsen, and on 7 November, the government broadcast an appeal to the population, and in particular to non-organised workers and workers affiliated with unions that had not given strike notice, to refrain from participation. Many observers saw in this message an attempt on the part of the government to divide the workers and weaken the strike movement.

This government manipulation failed, however. On 24 November, the government attempted at the last minute, but without success, to prevent the striking workers from holding a large-scale procession in the streets of Bangui, which however went ahead without incident.

### Escalation in December

In December the tension again increased, aggravated by government efforts to divide the unions. Trade union action brought most economic activity to a halt for several hours. A few days later, the striking unions, which had decided to break off talks with the government until their demands were met, denounced the government's attempts to break the strike through worker intimidation. The union's national coordination committee made public a letter from the Ministry of Public Services requesting ministry officials to open up a list in all the ministries in order to confiscate the salaries of the striking workers. Later on, the Ministry of Education ordered all teachers to return to work under penalty of having their salaries included under the confiscation order previously mentioned. In December, the government employee union demanded that the government free 65 workers who had been arrested during an opposition party demonstration on 19 December, in defiance of a Government order. The demonstration became more violent following police attempts to disperse the 3000 participants, using tear gas. The police had also opened fire. Approximately 20 persons were wounded and 65 demonstrators were arrested. At the close of the year the unions announced that additional action was to come.

### Legal restrictions

Two aspects of the labour laws, among others, are illustrative of the government's strike-busting tendency. For one thing, the right to strike is associated with a particularly long-drawn-out mediation and arbitration procedure. In the event of a strike, the government reserves the right to requisition workers, invoking a need to protect the public interest. In addition, only union members have the right to strike. Also, the law demands that union leaders be full-time employees in the sector they represent. This restriction, which is contrary to ILO jurisprudence in the matter of freedom of association, has been widened so as to include unemployed workers and retirees, who, under current legislation, are not allowed to hold trade union posts.

# Chad

POPULATION : 7,600,000 / CAPITAL : N'Djamena / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,182



## A trade union member was arrested for giving advance notice of a strike which the Post and Telecommunications Minister judged to be “illegal and political”

On 27 June, Bassou Rakis Singba, Secretary General of SYNAPOSTEL, the PTT workers' union, was arrested by the gendarmerie after having issued advance notice of a strike to the PTT Minister. The union was protesting against various abuses in the appointment of members of the Board of Directors within the Chad Telecommunications Company (SOTEL TCHAD) and the Chad Postal and Savings Company, including ministerial injunctions contrary to the laws, statutes and decisions taken by the boards of these companies. The union leader was freed on June 28. In his reply to the letter of protest written by the ICFTU, the Minister attempted to justify the arrest by declaring the strike to be “illegal and political”.

# Democratic Republic of Congo

POPULATION : 49,600,000 / CAPITAL : Kinshasa / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



## Trade unionists in the public sector were arrested during the year after going on strike to demand salary arrears.

On paper, trade union freedoms and workers' rights are principles which have been relatively well integrated into labour legislation. The law grants all categories of workers with the exception of magistrates and military personnel the right to organise. No prior authorisation is required in order to set up a trade union. The right to strike is recognised, although difficult to exercise due to the tedious procedures involved, and the law bans reprisals on the part of employers in the event of strikes. The law also makes provision for collective bargaining.

Political and socio-economic chaos, however, is making the observance of these trade union freedoms illusory.

In a climate of general insecurity, trade unionists are facing tremendous risk. Acts of aggression are carried out, although it is not always possible to make a distinction between isolated acts and anti-union attacks. During a strike in the public administration to demand the payment of arrears in salaries and the application of long-standing agreements on salary scales, two trade union leaders were attacked in an interval of two days.

Low wages and arrears in salaries are the cause of most protest movements and the subsequent anti-union repression. In March, several participants were sacked after taking part in a civil servants' strike at the Ministry of Finance. A few weeks later four of the trade unionists were arrested and detained for ten days. In July, a letter of protest addressed by the trade union delegation to the management of the local Department of Customs & Excise in Goma led to a week's detention for six activists. In November, it was Lubamba Kabeya and Nsiala Bikietete's turn - the President and Secretary of the National Bureau of the OFIDA trade union delegation respectively, who were harassed because they had called for an end to the arbitrary deduction of part of workers' pay. Collusion between employers, whether public or private, and the police is just as likely in other sectors of activity. On 30 November, Emery Tshipamba, the SYNAFET General Secretary, Steve Mbikayi, the General Secretary of SOLIDARITE, and Mangwala, the General Secretary of the OTUC, were arrested at an inter-union meeting concerning the National Transport Agency. At the end of the year the arrest was reported of several trade unionists in the health and education sectors -- accompanied in some cases by fines.

Even more serious, in October, Lusala Los Bolonga, the General Secretary of the trade union ACTION, was assassinated by men in uniform. In November, Odette Kasal Mukaj, a CDT activist in East Kasai who is the President of the Women's Department of the Confederation and assistant editor of “Flash-CDT”, disappeared without trace and has not been found since. It was suspected that the security forces could be behind of her disappearance.

**Salary arrears in postal sector**

Three leaders of the FNPTT were arrested and detained for two days and 15 workers who were members of that organisation were suspended by the management and threatened with dismissal following a strike to demand the payment of arrears of salaries in the post and telecommunications sector. They are owed a total of 21 months' salary -- five months from 2000 and one month from 1999. According to the National Federation of Post and Telecommunications Workers, there are apparently arrears of up to 36 months in areas outside the capital.

# Djibouti

POPULATION : 66,700,000 / CAPITAL : Djibouti / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**Trade union freedoms now exist only on paper. The government has created a "collective of grassroots trade unions" whose affiliates do not include one single representative organisation with elected members.**

The fierce repression instituted by those in power to muzzle the trade union movement, which was well underway by 1995, continued in 2000. The issue of the reinstatement of the nine trade union leaders who were fired in 1995 is still one of the main demands of the trade union movement. It will be recalled that the two National Trade Union Confederations, the Djibouti Union of Labour (UDT) and the Djibouti General Workers' Union (UGTD), called a general strike in September 1995 to protest against the austerity measures which the government had decided to carry out within the framework of a IMF structural adjustment programme. Nine trade union leaders were dismissed at the conclusion of that action, which was severely repressed.

**Adan Mohamed Abdou's account of events**

*"There were systematic police raids on my home. The police would arrive in large numbers, armed with Kalashnikovs, and they would intimidate the women and children to get the trade unionist to give up the fight." This is how Adan Mohamed Abdou, UDT General Secretary, describes the climate of terror of the past few years. In 1995 he was one of the nine trade union leaders who lost their jobs after the general strike, and he has been unable to find work ever since. "We can't be employed any more either in the public or the private sector, where the government exerts pressure. So I had to move my family out of the capital because I could no longer afford to pay rent there." Adan Mohamed Abdou has had the opportunity to assess the regime's full potential for repression and its propensity for interfering in the running of trade unions and even trying to eliminate them. But he and his fellow trade unionists have not given up the struggle, and this semi-underground existence offers only disadvantages. "Whenever the authorities hear that we are going to travel abroad they obstruct our departure at the airport," he explains. "But since we no longer have a P.O. box it is becoming more difficult for them to monitor us. We now communicate by fax, and fax messages can't be intercepted by the government."*

*On 25 March 2000, Adan Mohamed Abdou again filed a personal application for reinstatement along with his fellow trade unionists who were also dismissed in 1995, as recommended by the ILO.*

## Chronological account of the repression

On 19 January 1996, several teachers were sacked in reprisal for a strike held in the education sector to protest against arrears in salaries. Later in the year the UGTD headquarters was closed down by the security forces and the government decided to freeze the trade union dues of several organisations. In 1997, the repression was stepped up again, particularly against teachers. Trade unionists were injured at demonstrations, and some were beaten up during interrogations. Hundreds of people taking part in these protest actions were taken away to prison camps. In July, the UDT archives were confiscated. In 1998, the acts of violence continued at various demonstrations. Trade unionists were forced into exile. As the result of an ILO mission, the government made several promises – there would be dialogue with the trade unions, a delegation (including trade unionists) would be sent to the annual conference of the ILO, etc. – but then failed to keep its word. In 1999, May Day celebrations led to renewed police violence, but the authorities in the country gradually adopted a new strategy geared more to total interference in trade union affairs and to attempts to manipulate the international community (even though violence and intimidation remained the order of the day). On 15 July 1999, the government organised a sham UDT/UGTD national congress, at which new trade union leaders were appointed. And the following week the P.O. boxes of the UDT and UGTD were closed by the authorities.

## Another sham trade union congress

At the beginning of 2000 the interference worsened following the announcement by the pro-government "collective of grassroots trade unions" that it would be holding a trade union congress. Yet again, the legitimate trade union leaders were excluded from this initiative; they denounced the efforts of this "collective". The authorities continued their

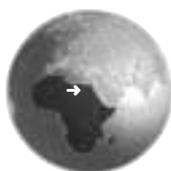
efforts to destabilise the trade union movement by issuing scores of acknowledgements to non-representative local trade unions. The Djibouti Human Rights League (LDDH) said that the government was pursuing an "anti-trade-union crusade" despite the "repeated proposals for dialogue and conciliation made by the leaders of the inter-union confederation UDT/UGTD".

### Legal restrictions

There are three legislative provisions which clearly violate trade union rights. First, workers' organisations must obtain prior authorisation before forming trade unions. Second, trade union office can only be held by nationals. And third, the government has excessive power to requisition public servants who are on strike.

## Egypt

POPULATION : 66,700,000 / CAPITAL : Cairo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**The trade union situation in Egypt is characterised by a single, government-controlled trade union centre and very limited trade union rights.**

The ILO has repeatedly criticised the fact that Egyptian law gives the national trade 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.

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

### Very limited collective bargaining rights

The government sets wages and other terms and conditions of employment in the public sector after consultation with the unions. There is very little collective bargaining in the private sector. Companies must comply with certain government-established standards, namely with regard to the minimum wage, social security and official public holidays. Moreover, any clause in a collective agreement which could jeopardise the economic or security interests of the country is invalid.

### Strikes prohibited

Strikes are considered to be obstacles to public order and have been declared illegal by virtue of the state of emergency decreed by the government in 1981. Strikers face two-year prison terms. Despite this, there have been several spontaneously organised strikes. 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.

### New law under examination

A new bill is currently under discussion which would maintain the absence of the right to strike and the lack of trade union pluralism. Over the past five years, the government has been working with the unions and employers on a new unified labour bill that would apply to both the public and private sectors. There is hope that the new bill will bring improvements in the area of consultation and collective bargaining but it also raises concerns that it will benefit employers by introducing greater labour flexibility and reduced labour costs.

### Several cases of anti-union harassment

Several trade unionists were harassed at the Misr Spinning & Textile Co. This was namely the case with Moustafa Foda. Arrested in November 1999 and detained for 15 days, he was threatened with further arrests and dismissal if he continued in his efforts to defend workers. Then there was the case of Assayed Saad Addin Mohammed, an employee of Egyptian Iron & Steel Co. in Helwan. On 28 March, he was beaten by two security officers who tried to force him to admit to having documents in his possession regarding early retirement. Assayed Saad Addin denied these accusations and suffered a heart attack during the beatings. The security officers involved deliberately delayed his access to a hospital where he could receive medical treatment.

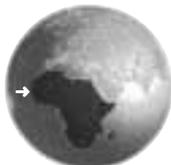
At the Helwan Metal Castings Factory, an accident claimed the lives of five workers on 16 January. The incident sparked calls from all of the workers for safer working conditions. A sit-in was staged on 19 January and the management responded by shutting down the factory for a week. On 20 January, 12 workers were arrested and sentenced by a military court to 15 days in prison. On 13 April, this sentence was extended for an additional 11 days. The conditions of detention in the military camp were harsh.

In a state-owned textile factory in Cairo, a proposed early retirement programme for 5,000 workers as well as accumulated wage arrears sparked a protest from workers. The management reacted by closing the factory in the beginning of 2000. When the factory re-opened a month later, 1,200 workers found themselves with an uncertain future ahead. Instead of reinstating these 1,200 workers, the management decided to bring 500 workers from a factory located 100 km away. This factory had been closed during the previous summer and the 500 workers were forced to

accept the new working conditions (daily 4-hour commute from one factory to the other) or lose their jobs. The factory's independent trade union is convinced that this is a tactic on the part of management to permanently rid itself of these 500 workers.

## Equatorial Guinea

POPULATION : 400,000 / CAPITAL : Malabo / ILO CORE CONVENTIONS RATIFIED : 100,138



### Trade union rights denied

#### Trade union rights are denied in Equatorial Guinea.

The government has always barred the registration of trade unions. The Equatorial Guinea Trade Union, which was founded in 1990, has been forced to carry out its activities in secret. In the public sector, the Independent Services Trade Union (ISTU) has not fared any better. Since 1995, all registration requests filed by the ISTU have been turned down, the government objecting to the term "independent". Moreover, the law enacted in 1992 on trade unions and associations places very high hurdles for the creation of trade unions: at least 50 workers per sector of activity and within a limited geographical area. Labour legislation does not recognise the right to strike, collective bargaining, or the right to join international organisations; it also lacks any provision to protect workers from acts of anti-union discrimination.

### Discrimination

Trade union leaders have reported that police recently visited their homes and intimidated them shortly after they had filed requests for union registration. Allegiance to the party in power continues to be an indispensable prerequisite to obtain a government job. In the private sector, dominated by a few multinational oil industries, recruitment was handled through employment agencies that were entirely controlled by the government. These agencies would first screen workers to make sure that they supported the current regime and would then keep up to 60% of the workers' wages. The situation has recently changed somewhat in the wake of public protests.

## Ethiopia

POPULATION : 61,400,000 / CAPITAL : Addis-Ababa / ILO CORE CONVENTIONS RATIFIED : 87,98,100,105,111,138



### Severe legal restrictions

#### The government has brought the national trade union centre under its control. Teachers' leader Teye Woldesmiat remains in prison.

The labour law only allows one trade union to be established in a company that has at least 20 workers. The Ministry of Labour has the power to dissolve trade unions. Although the right of civil servants and teachers to form and join trade unions is guaranteed by the Constitution, current legislation forbids them to do so. Ethiopia's labour legislation is overly restrictive on the right to strike. The definition of essential services includes sectors that should not be considered as such: air transport, railways, urban and inter-urban buses, petrol stations, banks and post offices. Moreover, the right to strike is hindered by lengthy pre-strike requirements.

### Empty promises

Since 1994, the Ethiopian government has made promises to the ILO that new legislation is being drafted, but these promises remain unfulfilled.

#### *Teye Woldesmiat*

*According to the Ethiopian authorities, he is a terrorist who has been charged with conspiracy to overthrow the state. For workers and trade unionists, however, he is a trade union leader and a political prisoner. Teye Woldesmiat has been in prison now for five years. Both before and during his trial, he was denied proper access to his lawyer to enable his case to be fully prepared. There is evidence that torture was used to extract witness testimony and there are serious questions about the independence of the judiciary in Ethiopia, the extent of government interference in the process and the pressure on*

*individual judges. Today, Taye Woldesmiat is serving 15 years of hard labour in prison. He is confined to a small compound where he spends 24 hours a day, 7 days a week. The cell is a small dark room that he shares with another cellmate. The only outside space is a highwalled yard ten metres by four. He is not allowed to communicate with any of the other prisoners. He has no access to the prison library and is not permitted to work. Despite these conditions, he has told the few visitors that have been allowed to see him that his conditions of detention have improved. At one stage, he was chained 23 hours a day. According to a member of Education International (EI), who was allowed to meet with him, the most remarkable trait of Taye Woldesmiat "is his lack of bitterness". He is in favour of continuing talks with the government, with Ethiopia's government-controlled national trade union centre (CETU) and even with the government's "new ETA". He feels that the "vicious circle has to end somewhere."*

As regards the very serious allegations of human and trade union rights violations perpetrated against teachers, the government's lack of good faith is even more apparent. Despite official complaints filed by trade unions and repeated ILO recommendations, the government continues to harass the members of the Ethiopian Teachers' Association (ETA) and to keep its president, Taye Woldesmiat, behind bars. Problems faced by international trade union delegations to visit detained Ethiopian trade unionists were overcome only through the good offices of the Confederation of Ethiopian Trade Unions (CETU). In July, authorities had refused to grant an entry visa to a delegation sent by Education International (EI). In November, they barred access into the country to an EI representative who was part of an ICFTU-AFRO mission. In December, a new attempt by the EI to send in a delegation failed. Only one EI representative managed to get into the country.

**Background information** Harassment of the ETA began in 1993-94 when the government helped a breakaway group from the association, the "New ETA", to register. The government defied a court ruling in December 1994 to the effect that the executive board led by Taye Woldesmiat was the legitimate ETA leadership. The judge who made the ruling was dismissed shortly thereafter.

The ETA's union dues were awarded to the government's breakaway group. In May 1996, the ETA's president, Taye Woldesmiat, was arrested. Three months later, he was officially accused of conspiracy to overthrow the state. The two main witnesses against him retracted their evidence saying that it had been extracted under torture. On 29 March 1999, one of them, Kebite Desita, died from ill treatment in prison. In April, Shimales Zewdie, ETA acting secretary-general, died from poor health brought on by his 1998 imprisonment. A year earlier, Assefa Maru, one of the leaders of the ETA, was shot dead by police. The members of the ETA are in constant danger, fearing for their lives and those of their loved ones. They are harassed, threatened, and bothered by the police. In June 1999, Taye Woldesmiat was sentenced to 15 years in prison following an unfair trial. Two months later, the ETA was denied permission to organise professional workshops in the four regions of the country. This is part of a concerted effort by the government to "wipe out an independent and democratic teachers' union that has challenged certain aspects of the government's educational policies and has expressed the legitimate demands of its members".

The government's interference in trade union affairs is blatant in every sector of activity. It exerts control over Ethiopia's national trade union centre, the Confederation of Ethiopian Trade Unions (CETU), as well as its nine affiliated organisations. Only one of these, the Industrial Federation of Banking and Insurance Trade Unions (IFBITU), had managed to resist severe repression and maintain its independence from the government. In 1999, however, the government authorities increased their pressure. Illegal trade union elections were held and the new leaders placed the IFBITU under government control. The repression of trade unions in other sectors has led to trade union activists losing their jobs at Ethiopian Airlines and Ethiopian Whole Sale Trade Corporation. Several trade union members employed by Awassa Textile were arrested. In the year 2000, the Ministry of Labour also dissolved the taxi drivers' trade union in Addis Abeba.

## Ghana

POPULATION : 18,900,000 / CAPITAL : Accra / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,182



**Despite promises, new labour legislation has not been forthcoming. Meanwhile, there were acts of intimidation against the Industrial and Commercial Workers' Union.**

### Freedom of association and collective bargaining rights

Freedom of association and the right to bargain collectively are inscribed in Ghanaian legislation but are very poorly implemented in reality. As a case in point, the government enjoys broad powers to deny trade union registration.

According to the Ghanaian Trades Union Congress (TUC), new labour legislation should be adopted by the end of the year 2000. The new legislation is expected to improve trade union rights but would still prohibit trade union activities from being carried out in the workplace during working hours.

**The right to strike**

The 1965 Industrial Relations Act makes it almost impossible to go on strike. Pre-strike procedures are lengthy and complex and no trade union has ever managed to get through the entire process. This means that a certain number of "illegal" strikes took place during the year, though no sanctions were applied to the organisers of these strikes (Ghanaian legislation provides for fines and prison terms for the organisers of such strikes). On 25 July, thousands of union members demonstrated to demand minimum wage increases. The police used water cannons to prevent demonstrators from blocking a main thoroughfare in Accra.

The ILO has also expressed concern about the 1994 Emergency Powers Act, which provides the government with special powers enabling it to prohibit meetings and public marches in sectors for which a state of emergency has been declared. Indeed, this Act confers considerable powers upon the government, which could be used to impede freedom of assembly and demonstration.

**Acts of anti-union discrimination**

The law prohibits acts of anti-union discrimination, requiring reinstatement of any worker who has been dismissed as a result of such discrimination. And yet, companies continue to carry out such acts with impunity. This was namely the case for a major automobile dealer in Accra, AAL/IAL, which sacked hundreds of workers and refused to engage in any negotiations with the trade union. The Industrial and Commercial Workers Union (ICU) became the target of harassment from both companies and the government. In February 2000, the general secretary of the ICU, Napoleon Kpoh, was arrested and detained for several hours. When brought before the court, he was charged with "contempt of court" for a harsh statement that he had made regarding a separate court ruling affecting the trade union. One of the judges whose decision the general secretary had criticised was present at this hearing. The ICU responded by filing an appeal on the grounds that the case was unconstitutional.

## Guinea

POPULATION : 8,000,000 / CAPITAL : Conakry / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



**Under current legislation, there are no sanctions for acts of anti-union discrimination and the right to strike is very limited.**

The list of services that the government considers to be essential and for which the right to strike is therefore outlawed includes the transport and communications sectors. Employers may impose binding arbitration in the event of disputes, which effectively hinders the workers' right to strike. Current legislation does not contain any precise provisions aimed at protecting workers from acts of anti-union discrimination or protecting trade unions from acts of interference by employers. These restrictions have prevented several strikes planned over the past few years from ever taking place; threats from authorities or the police have discouraged workers. A new labour code is currently being drafted.

## Kenya

POPULATION : 30,000,000 / CAPITAL : Nairobi / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



**Basic trade union rights are still denied to certain workers.**

All employees working for companies with at least seven employees have the right to join the trade union of their choice. In practice, however, the Trade Union Registrar has abused its prerogatives in denying this right to several categories of public service employees. In October, civil service representatives backed by the Federation of Kenya Employers and Kenya's national trade union centre (COTU) submitted an official request to the government to have the trade union re-registered.

Registered back in 1956, the Kenya Civil Servants' Union was de-certified in 1980. President Moi annulled this act in 1992, though his decision was never enforced. Two parliamentary motions (1993 and 1997) called for the Kenya Civil Servants' Union to be re-certified, but these motions fared no better. Following COTU's pressure, the government finally authorised the certification of a trade union to represent Kenyan civil servants. This decision is of even greater importance in light of the fact that civil servants are currently facing massive layoffs. Launched in 1993, the civil service reform is as pressing an issue as ever, with the announcement of 50,000 layoffs between now and January 2002.

This austerity programme was elaborated without any consultation whatsoever and includes measures that former civil servants have described as draconian. As a case in point, civil servants who have been laid off are prohibited from ever holding a government job again, even though some of the former civil servants are under the age of 25.

Apart from civil servants, university professors, teachers, doctors and dentists are also denied basic trade union rights and police officers are not allowed to join trade unions.

In cases where the law does permit trade union freedoms, these freedoms are seldom respected: in small-sized companies and companies situated in Export Processing Zones (EPZs), for instance, anti-union discrimination is rampant. There are many cases where workers have been sacked simply because they participate in trade union activities. In November, the multinational Del Monte was denounced for numerous violations of workers' and trade union rights. A ministerial report criticised the working conditions of the ten thousand or so workers employed by Del Monte, mentioning such issues as work schedules, salaries, promotions, and accommodation. Del Monte is also said to have refused to pay the medical bills for workers injured on the job because the doctors are under the influence of the management. The report goes on to list cases of intimidation of trade union representatives.

At the start of November, a strike broke out in the Nazareth Hospital in Limuru after 13 out of 42 nurses were sacked. In the redundancy letters that the management sent to the nurses, the reasons were given as follows: "Having signed (to join the trade union), you have effectively terminated your employment contract with the Nazareth Hospital." The nurses had recently joined the Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA) against the wishes of the management. These nurses were part of the hospital's supervisory staff, who are not permitted to join trade unions. The grievances expressed by nurses relate to salaries, excessive workload, and the lack of job security despite the fact that most have worked for the hospital for over ten years.

Although legislation authorises the right to strike, this right is subject to major restrictions. The procedure is discouraging. All disputes must be submitted to the Ministry of Labour 21 days prior to calling a strike. In the case of essential services such as education, health, air traffic control or water utilities, the pre-strike period is 28 days. Once the dispute has been submitted, the Ministry of Labour may then act as arbitrator, appoint a mediator, or submit the dispute to the industrial court. However, no strikes are permitted during the cooling-off period. The Ministry of Labour also has the discretionary right to decide whether a strike is legal or not. This has been the case in past years during which the majority of strikes have been declared illegal, such as the strikes involving bank employees, healthcare staff, and teachers.

## Lesotho

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



**The law prevents public sector workers from forming trade unions. Trade union rights are frequently violated in the private sector.**

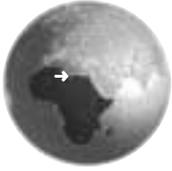
Workers are often victims of the non-observance of trade union freedoms. In the private sector there is, in theory, nothing to stop workers from organising in trade unions and bargaining collectively. But the procedure is very complex and the anti-union attitude of employers adds to the difficulty. In the few industrial zones of the country foreign employers -- mainly textile groups from South Africa, Hong Kong and Taiwan, take advantage of the indifference and inability of the authorities of the country to enforce labour legislation, despite the fact that that legislation is applicable. Deteriorating working conditions, wages below the statutory minimum, the refusal to pay sickness benefits and deductions from wages are common practice on the part of many of these employers. These employers counter any workers' protest, by issuing threats of dismissal against trade unionists, particularly officials.

In the public sector, workers' rights are considerably undermined by laws which were decreed in the mid 1990s. The right to form and join trade unions and to go out on strike is prohibited.

Even where strikes are allowed the right to strike is made virtually impossible in practice by a procedure which is both tedious and dissuasive. This explains why there has not been a single official strike in the country since it obtained independence in 1966. Spontaneous protest actions have been erupting regularly for several years. The physical dangers to which workers are exposed are further compounded by the risk of losing their jobs and being taken to court.

# Libya

POPULATION : 30,000,000 / CAPITAL : Tripoli / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



## Basic trade union rights are denied to Libyan workers.

### No rights

Libyan legislation still prohibits the formation of independent trade unions. The government views them as “unnecessary intermediaries between the revolution and the working forces”. There is a General Trade Union Federation, which is controlled by the government and administered by “People’s Committees”. Nobody goes on strike because it is against the law to do so. Although the notion of collective bargaining exists in Libyan legislation, it is completely nullified by the fact that the government must approve all collective agreements to ensure that they are in line with the nation’s economic interest.

### Migrant workers

The rights of foreign workers are particularly disregarded, despite the fact that the migrant labour force constitutes a very sizeable portion of the working population. Migrant workers do not have the right to join the “so-called” national trade union centre. They also lack protection against the various acts of discrimination that they are regularly subjected to. In October, a very serious outbreak of xenophobic violence resulted in the deaths of 500 people, mainly migrant workers and an even larger number were seriously injured. The victims were mainly from Nigeria, neighbouring countries, or sub-Saharan Africa. Migrant workers are often described in the state-controlled press as being involved in trafficking drugs and other illicit goods.

# Madagascar

POPULATION : 15,500,000 / CAPITAL : Antananarivo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,111,138



## Anti-trade unionism is rife in the country’s many export processing zones as well as in government employment

Most violations of trade union rights in Madagascar in recent years can be traced to government indifference. The most striking example is labour conflict at the National Social Security Administration, characterised by a failure to comply with court rulings. In the 250 export processing zones although the laws are fully applicable, foreign investors are able to ignore them. As a result, violations of the rights of workers and their unions are becoming more and more common. The “Confederation des travailleurs malgaches” (FMM) has denounced the deplorable working conditions to which many of the 60,000 workers have to submit in these zones, characterised by a failure to abide by the minimum wage law, excessively long working hours, precarious tenure of employment and sexual harassment.

Some legal provisions are incompatible with the protection of trade union rights. The laws contain no provisions specifically applying to maritime workers. The conditions for the exercise of trade union rights are still governed by a 1960 ordinance on workers’ associations which does not guarantee the right to establish unions without prior authorisation.

The law authorising the requisition of workers when national security is threatened in a particular sector, or when the security of the population is involved, is not compatible with the principle of freedom to exercise trade union rights. In response to criticism from the ILO, the government agreed to introduce a few changes, but at the same time added to the list of essential services public television, the PTT and the banking sector.

### Conflict at the CNPS

The Director of the national social security fund (Caisse nationale de prévoyance sociale—CNPS) continues to defy the courts in his dispute with the workers, which has been going on for four years. In September 1997, the new CNPS Director in Antananarivo, three months following his appointment, unilaterally cancelled the social benefits contained in the collective agreement. A strike immediately followed. For a while, arbitration by the Ministry of Labour appeared to have ended the conflict, inasmuch as the strikers had agreed to return to work in exchange for a promise that the social agreements would be respected and no penalties imposed. However, after the workers had been reinstated, the Director proceeded to dismiss 20 trade union activists. Since then, the courts have continued to rule in favour of the trade unions and have ordered the CNPS to reinstate the dismissed workers and pay them all back wages. Also, since then, the Director has continued to repress the trade unions with impunity resulting in several trade union leaders being transferred to remote provinces.

# Malawi

POPULATION : 11,000,000 / CAPITAL : Lilongwe / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**As scant adherence to labour legislation becomes the norm, a new bill may weaken trade union and employment rights.**

## Legislative restrictions

Basic rights such as the right to strike, freedom of association and the right to enter into collective agreements are recognised but severely regulated. Trade unions in Malawi must also obtain government approval in order to form federations or join international trade union organisations.

## A climate of hostility towards trade unions

Many workers, especially trade union members, lost their jobs in the wake of company downsizing. Employers have deliberately targeted trade union members when implementing these measures.

## A disappointing bill

The government submitted a new bill to the trade unions early in the year. In its current form, this new bill erodes social benefits as well as trade union rights. As far as membership in trade unions goes, employers have pressured the authorities into adding a provision to the new bill whereby the percentage of workers needed for trade union recognition would increase from 20% to 50% plus one. This provision would also grant employers full discretion as far as layoffs and dismissals are concerned. By year-end, the bill had not been finalised.

## Demonstration quelled

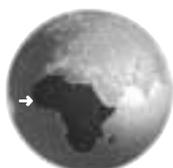
On 15 May, the police brutally cracked down on a peaceful demonstration staged by civic organisations and trade unions (including the Malawi Congress of Trade Unions), resulting in 15 or so injuries and several arrests. The demonstration had been organised to protest against negotiations between the government and with IMF representatives gathered in Lilongwe. The police declared the action illegal and dispersed the crowd with tear gas and rubber bullets. Malawi's Minister of Finance applauded this intervention.

## Nurses' strike

During the Christmas period, nurses called a national strike to demand better working conditions and to protest against the government's decision to deprive them of their state-funded accommodation. In early January, an agreement was reached with the government whereby the nurses would return to work with the government's assurance that no retaliatory action would be taken against those who had participated in this "illegal" strike. Furthermore, the government agreed not to deprive them of their accommodation and to set up a working group to examine their claims.

# Mauritania

POPULATION : 2,600,000 / CAPITAL : Nouakchott / ILO CORE CONVENTIONS RATIFIED : 29,87,105,111



**Numerous restrictions hamper trade union freedoms, including the right to strike. The government's promises to reform the Labour Code -made to the ILO since 1993- have thus far remained empty.**

## Restriction on freedom of association

Mauritanian legislation grants the government the power to decide whether or not to recognise a trade union. The government can also dissolve any trade union involved in what the government considers to be an "illegal" or "politically-motivated" strike. Mauritania's trade union centres have strongly criticised these provisions, pointing to ILO standards which state that only the courts should be given the power to dissolve trade unions.

Trade unions also complain about the fact that many companies in the private sector refuse to recognise the associations that have formed within them to defend the interests of workers.

Foreign workers do not have the right to become trade union officials. An expected change in the new draft of the Labour Code would require foreign workers to have worked in Mauritania and in the profession represented by the trade union, for a period of at least five years. The ILO has called upon the government to change this provision by limiting this restriction to a reasonable period of residence in the host country.

Protection of trade union leaders is not explicitly afforded by the Labour Code, although such protection is conferred upon union delegates within companies.

#### Obstacles to strikes

Various obstacles stand in the way of the right to strike, namely compulsory arbitration. General strikes are difficult to organise, since the government generally invokes errors in administrative procedures or the overly "political" nature of the strike to ban the action. Moreover, civil servants must give a one-month pre-strike notice. In the private sector, strikes must be preceded by the submission of a non-conciliation or negotiation-breakdown report.

According to Mauritania's trade unions, legislation also allows the government to use a trade union's calling of a strike as a justification for dissolving it.

#### New Labour Code reform bill

The new Labour Code reform bill, elaborated in 1993 had not yet been brought before the parliament by the end of 2000, despite government promises made to the ILO. For its part, the ILO has criticised several items of the reform bill, which maintains the above-mentioned restrictions on trade union freedoms, namely in the area of the right to strike and foreign workers being banned from becoming trade union officials.

#### Trade unionists harassed

On 7 March, in Nouakchott, two trade union leaders from the transport sector were harassed by police as a result of their trade union activities. They "took refuge" in the UNDP building for five days. The UNDP has notified the ILO of their wish to obtain guarantees for their safety and be allowed to pursue their trade union activities.

#### "Illegal" marches

On 16 October, the Free Confederation of Mauritanian Workers (CLTM) organised a march to demand greater social justice, among other things. This march was declared illegal by the authorities and led to the arrest of 40 demonstrators.

## Mauritius

POPULATION : 1,200,000 / CAPITAL : Port Louis / ILO CORE CONVENTIONS RATIFIED : 29,98,105,138,182



**Occasional incidents have marred industrial relations especially in the country's export processing zones where it is difficult to carry out trade union activities. The year 2000 witnessed a few altercations between civil service trade unions and the government.**

#### Some companies in the EPZs are hostile to trade unions

The labour law authorises freedom of association within the EPZs. Nevertheless, the rate of unionisation is particularly low. The Mauritius Labour Congress (MLC) claims that this is due to the fact that some employers have intensified their efforts to intimidate workers and have made it difficult for trade unionists to gain access to the workplace. The ILO and trade unions have renewed their call for quick enactment of legal provisions that would provide greater protection to trade unions against these acts of anti-union discrimination.

#### The right to strike hampered by restrictions

According to the labour law, trade unions have the right to strike. However, lengthy pre-strike procedures and the right to call for arbitration make it difficult to organise strikes.

#### Dispute between civil servants and the government

Last September, the government reneged on an agreement made between the previous government and the Civil Service Trade Union Federation (FSSC), to pay Rs 300 (US\$10) to all state employees, contrary to the established labour practice of respecting agreements reached after negotiations.

#### The president of the Medical and Health Officers' Association suspended

Dr Raghurur, president of the Medical and Health Officers' Association, was suspended from his job as state general practitioner by the supervising Minister after giving a newspaper interview in which he harshly criticised the government's health policies.

#### ***The government does not take kindly to Dr Raghurur's views***

*"As everyone is aware, I lost my job as state general practitioner following an interview which appeared in the weekly newspaper "Le Défi Plus" on Saturday, 1 April. This was an interview in which I spoke as president of our trade union, the Medical and Health Officers' Association. Since then, I have been barred entry to the hospital as if I were a common criminal. I have been accused of tarnishing the image of Ministry of Health... My suspension is proof, if any were needed, of the fact that the authorities seek to hide the truth from the people. The real guilty parties are not the doctors, but rather a select group of politicians who manipulate the truth. These politicians favour cushy healthcare consisting of TVs and padded wheelchairs rather than quality healthcare involving qualified personnel, sufficient quantities of the right medicines as well as valid and well-serviced equipment. I am not a politician and see no reason why I should keep my mouth shut and become an accomplice of this system."*

*Extract from a letter written by Dr Raghurur to the newspaper "Le Mauricien" on 3 April 2000.*

# Morocco

POPULATION : 29,300,000 / CAPITAL : Rabat / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



**Serious violations of trade union rights continue. Police brutality is increasingly being used to quell labour disputes.**

## Government interference

Although workers are free to form and join trade unions, the government continues to interfere in the daily work of trade unions.

Moreover, the dahir (law) of 1957 on trade unions does not extend equal rights to workers in the agricultural sector. Magistrates are also completely barred from carrying out trade union activities.

## Failure to comply with collective agreements

For the vast majority of workers, salaries are unilaterally set by their employers. Moreover, numerous labour disputes have arisen as a result of employers failing to comply with collective agreements.

In several companies and even within the public sector, labour law is often ignored.

## Strikers taken to court, anti-union discrimination

The right to strike is established and there have been numerous specific cases. However, the Moroccan Workers' Union (UMT), has called for the repeal of article 288 of the penal code on "the freedom to strike". According to trade unions, this article does not really give workers the freedom to choose whether or not they wish to participate in a strike. It actually gives prerogatives to employers in this sense. This article is often used by employers to take strikers to court, where they face fines or prison sentences.

On 14 April, 3,000 civil servants and dockers in the port of Casablanca (which handles 70% of the country's cargo traffic) went on strike. They accused the public port authorities (ODEP) of having reneged on the collective agreement regarding wage increases and other benefits. An agreement was finally reached after six days of strike and after the UMT threatened to extend the strike to other ports in the country. The ODEP agreed to an 8% pay increase and other social benefits. However, by the end of April, a new 48-hour strike was called to protest against the ODEP's refusal to stand by its commitments in this respect.

General Tire, originally a state-owned company, is now part of the German multinational Continental. In the grips of economic difficulties, which the UMT says were brought on by poor management, the company was initially forced to suppress payment of the thirteenth month to workers, reduce salaries and do away with a series of social benefits. On 4 December, the management of General Tire preferred to shut down the factory and lay off 197 workers rather than examine their demands. In reaction to the attitude adopted by General Tire's management, the UMT chemical union adopted a motion to launch a general sympathy strike.

There is no law that specifically prohibits anti-union discrimination. Employers frequently fire workers for carrying out trade union activities whenever such activities "threaten the employer's interests". The courts have the power to order employer's to reinstate workers but they cannot force them to pay compensation owed to these workers.

## Police violence

At the end of December 1999, the dismissal of 6 seasonal workers prompted 300 workers in the Oulmes mineral water plant to go on strike. This plant is located in the town of Tarmilet, which is to the east of Rabat. With the support of lorry drivers, the road used to enter and leave the factory was blocked, which led to a shortage of mineral water on the market. On 3 February 2000, the police closed in, using rubber bullets and tear gas to break the barrier. Several workers were seriously injured and 16 union activists were arrested and detained. On 5 May, the union activists were released after a royal pardon was issued.

On 3 April, primary school teachers belonging to the National Teachers' Union organised a sit-in in front of the Ministry of Education building in Rabat. The police charged in to disperse the demonstrators and several teachers were detained. By year-end, in response to a strike staged by the National Teachers' Union and the Moroccan Independent Teachers' Federation, the government agreed to reinforce their freedom of association rights, grant new status to civil servants employed by the Ministry of Education, and settle the issue of teachers who had been suspended or fired.

### **Violence against engineers**

*On 12 May, in front of the Ministry of Finance building in Rabat, the riot police violently dispersed a peaceful march called by the UMT's National Engineering Commission (CNI), which demanded higher pay and better working conditions. A dozen engineers were seriously injured. Among them, was Amine Abdelhamid (leader of the CNI, member of the UMT's union*

*committee, and vice-president of the Moroccan Human Rights Association) who had to be taken to the hospital.*

*On 13 June, another engineering strike led to the arrest of Handouf Abderrahim (general secretary of the National Agricultural Federation) and again Amine Abdelhamid. The police also surrounded the UMT's headquarters in Rabat where 500 unemployed university graduates had sought refuge following the ban on protest marches.*

*On 18 June, the police intervened once more against the unemployed university graduates. This time there were 30 arrests and 50 injuries. 15 of the demonstrators (including 12 doctors and engineers on the eleventh day of their hunger strike) were in a serious condition.*

*On 29 June, the police staged a very brutal assault against the engineers inside the UMT headquarters in Rabat. Several people were violently beaten, including pregnant women and the handicapped. The police were trying to prevent the 12 engineers on hunger strike from camping around the UMT building, thereby gaining public attention for their demand for jobs.*

On 9 December, the police again brutally dispersed a demonstration, this time by the Moroccan Human Rights Association, which was being held in front of the Parliament building in Rabat to commemorate the World Day of Human Rights. Around 40 or so demonstrators were arrested, including 7 UMT activists and leaders. Amine Abdelhamid was badly beaten by the police before being dragged to the police station. After 32 hours in police custody, the demonstrators were released. Their case is scheduled to be examined by the Rabat magistrates' court on 28 February 2001.

With regards to a complaint filed last year by the UMT concerning a labour dispute in the AVITEMA chicken factory (located in the province of Temaru), the ILO reminded the Moroccan government that no one should be deprived of their freedom nor be punished for having launched or participated in a peaceful strike. On 2 September 1999, the police had brutally intervened during a legal and peaceful strike organised by the workers of the AVITEMA chicken factory. The police used violence to subdue and arrest 21 of UMT activists, who were later given sentences ranging from a 4-month suspended prison sentence to an 8-month prison sentence. These activists received a royal pardon on 1 May 2000. Although all of them were released, they have appealed their sentences.

A similar royal pardon was given to the fishermen of Agadir who had been jailed after going on strike in 1998.

#### **Complaint filed with the ILO against Fruit of the Loom**

*The Fruit of the Loom factory is a subsidiary of the multinational Fruit of the Loom LTD. It operates out of the industrial town of Salé and employs 1,200 workers. On 19 November, the workers held a general assembly at the UMT headquarters in Rabat for the purpose of forming a UMT trade union in the Fruit of the Loom factory. They also elected the 8 members of their trade union committee at this time. On 25 November, the management caught wind of the news and immediately hired a militia to intimidate the workers who had attended the 19 November meeting at the UMT headquarters.*

*On 27 November, the management received the list of members of the trade union committee and, without any further ado, fired all of them. The managing director, Abdelmalek El Ouassini shouted loud and clear "I do not want a trade union in this factory!" He later posted a huge banner at the entrance of the factory, which stated "No union!"*

*Following this, an atmosphere of terror settled into the factory. The workers were individually watched and prohibited from having any contact with the fired trade union leaders outside the factory. For their part, the 8 trade union leaders were harassed and assaulted outside the factory by the members of the factory's militia. They were even arrested and taken to the police station, where they were detained for five hours. Later on, an anti-union press campaign was launched. A UMT delegation for the region of Rabat-Salé met with the regional authorities and then the governor of Salé to protest against this situation. However, the governor reacted by saying, "I do not recognise nor want a trade union in my prefecture!"*

#### **Bill to revise the labour code**

For years, a bill to revise the labour code has stirred considerable debate, and in April, trade union pressure forced the government to postpone submission of this bill to the Parliament.

The ILO would like this bill to reinforce protection against acts of anti-union discrimination as well as acts of interference, namely by including adequate dissuasive sanctions. The ILO has also expressed its hope that the bill will include provisions aimed at ensuring that all agricultural workers enjoy the same trade union rights as industrial workers. The ILO is pleased with the fact that the bill will do away with compulsory arbitration and that a new clause will establish recourse to arbitration only after the parties to the dispute have been consulted and have given their approval. The bill also introduces a collective bargaining requirement. The ILO nevertheless regrets the fact that there is no information regarding the extension of collective bargaining rights to civil servants who are not involved with administering the state.

# Mozambique

POPULATION : 17,900,000 / CAPITAL : Maputo / ILO CORE CONVENTIONS RATIFIED : 87,98,100,105,111



## Abuse of the notion of essential services denies full trade union rights to several sectors of industry.

Although labour legislation in Mozambique guarantees the exercise of trade union rights as defined by ILO Conventions 87 and 98, those rights are not yet sufficiently observed in several fields. This applies in particular to public service workers. Several of the provisions of the Freedom of Association Act which was amended and promulgated in 1996 prohibit workers from enjoying that right to the full. Likewise, these workers have special status as regards the right to bargain collectively. And there are two further legislative provisions on essential services through which the government reserves the right to interfere in the collective bargaining process by imposing compulsory arbitration in the event of labour disputes. Furthermore, by including sectors of activity such as the public service, postal services or transport on the list of essential services, the government is denying these sectors the right to go on strike.

In the event of strike action the law prohibits employers from recruiting new workers, imposing lock-outs or taking legal action. But in practice, the police have used violence to deal with workers' protests. A final criticism concerns the absence of sufficiently dissuasive measures to prevent discrimination against trade unions.

# Namibia

POPULATION : 1,700,000 / CAPITAL : Windhoek / ILO CORE CONVENTIONS RATIFIED : 29,87,98,105,138,182



## The right to strike has not yet been restored in Namibia's export processing zones (EPZs). The police have also prohibited several trade union protests.

### Strikes still outlawed in the EPZs

When Namibia created its export processing zones in 1995, a special provision was added to the labour code whereby workers in these EPZs would be prohibited from striking or participating in strikes for a five-year period. Workers who failed to comply with this provision risked disciplinary action or losing their jobs. According to the latest information released by the government, the consultative tripartite labour committee has agreed to "issue a recommendation to the Minister of Labour to advise the Parliament before June 2001 not to maintain this provision". However, the authorities have stated that they will be unable to announce their official position until after the issue has been debated in Parliament.

Recent studies still indicate that employers are generally hostile towards trade unions. They refuse to recognise them, do not accept their presence in the company, and do not wish to negotiate collective agreements with them. This trend is particularly apparent in companies operating out of the Walvis Bay EPZ.

### Some sectors find it difficult to organise trade unions

Although farm and domestic workers make up a sizeable portion of the Namibian labour force and are covered by the labour code, they are still subjected to employer intimidation when they organise into trade unions.

### Demonstrations prohibited by the police

During the Southern African Development Community summit (SADC) in Windhoek on 6 August 2000, the police prevented a group of NUNW trade unionists from reaching the venue of the summit. In October, the police also prohibited civil servants from presenting a petition to President Nujoma. This petition expressed worker discontent with the minor pay increases that had been granted to them.

# Niger

POPULATION : 10,500,000 / CAPITAL : Niamey / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**The government has made use of the requisition procedure during teachers' strikes staged to demand payment of salary arrears.**

## Abusive procedure

The 1994 law on strikes requires trade unions to give notice of their intention to strike. Furthermore, in the event of a strike, the government has the power to requisition strikers and force them to provide a minimum service.

## Requisitioned strikers

As in previous years, the year 2000 witnessed many teachers' strikes at all levels of the education system. Teachers demanded payment of up to 12 to 13 months salary arrears that started back in 1996. On several occasions, the government has declared these strikes illegal and has threatened to fire teachers who do not go back to work. In November, the government met with the SNEN teachers' union -under the auspices of the ILO and the UNDP (United Nations Development Programme)- which led to an agreement whereby the government would pay one month's salary arrears.

Another requisition procedure, intermixed with threats of dismissals, took place during a 5-day strike called by several trade unions representing the employees working for the Treasury.

## Customs officers' union re-established

In response to a demand formulated by the USTN national trade union, the government authorised the SNAD customs officers' union on 24 May to restart its activities. As a reminder, the government had suspended this union in 1996 along with two police unions. However, the right to strike enjoyed by customs officers is still limited to work-to-rule actions.

# Nigeria

POPULATION : 110,800,000 / CAPITAL : Abuja / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105



**Although major progress has been made in the past few years, the law still contains violations of trade union rights.**

## Legislative restrictions

Although Nigeria has ratified ILO conventions on freedom of association and the right to bargain collectively, some of the provisions in its national legislation place restrictions on these rights.

## Limited rights as regards forming and joining trade unions

Article 3(2) of the Trade Unions Act prevents certain categories of public employees from forming or joining trade unions, namely those in customs and excise, immigration, prison services, central bank and external telecommunications. Article 5 of Decree No. 26 (requiring that "no strike" and "no lockout" clauses be included in collective agreements as a pre-requisite to salary deductions to pay trade union dues) has not been repealed. This article goes against the right of trade unions to freely formulate their programmes and activities. Article 7 of Decree No. 7 of 1976 modifying the law on labour disputes, provides for compulsory arbitration and a fine or six months' imprisonment for failing to comply with a final decision rendered by the National Industrial Court. Articles 39 and 40 of the Trade Unions Act grant the Registrar of Trade Unions broad powers to supervise trade union accounts at any time. The Minister of Labour can cancel trade union registration in line with the 1996 amendment to Article 7(9) of the Trade Unions Act. Decree No. 2 of 1999 requires a detailed approval request to be submitted to the Ministry in order for trade unions to join international organisations, although in practice, trade unions have not been prevented from joining international organisations in recent years.

## Restrictions on freedom of association and the right to strike in EPZs

In the export processing zones (EPZs), Article 4(e) of the 1992 Decree on EPZs states that "employer-employee" disputes are not matters to be handled by trade unions but rather by the authorities managing these zones. By virtue of Article 13(1) of the same Decree, it is very difficult for workers to form or join trade unions due to the fact that it is almost impossible for worker representatives to gain free access to the EPZs. Moreover, Article 18(5) of the law on

export processing zones prohibits strikes and lockouts for a period of ten years after a company begins its activities in a given EPZ.

#### Civil servants go on strike

Civil servants refused to obey a decision issued by the Court of Lagos in June declaring their strike to be illegal and ordering them to return to work or face dismissals. Clashes with the police resulted in the death of one civil servant in Lagos as well as an escalation of the strike. The strike spread to nearly half of the 36 states of Nigeria and sparked strikes from workers in other sectors, namely textile and education.

#### Dispute at the "The Guardian" newspaper

The dismissals of two members of the editorial office of "The Guardian" newspaper combined with the hostility of the editor towards constitutionally recognised trade union rights resulted in a strike in September that paralysed the company.

#### Dissolution of the Maritime Workers Union

In August 2000, the government dissolved the executive board of the Maritime Workers Union (MWU), invoking internal discord within the trade union as justification. This measure violates the ILO's fundamental labour standards and more specifically, Article 4 of ILO Convention 87: "Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority". The government also designated an outside person to administer the union, which constituted a flagrant violation of the law.

## Rwanda

POPULATION : 7,100,000 / CAPITAL : Kigali / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



#### New restrictions

#### Trade unions have expressed concern over proposed changes to labour legislation.

A new bill, drafted without consultation with the trade unions, is in the process of being adopted. One of the new legal provisions stipulates that civil servants will no longer be permitted to publicly express their political, philosophical, religious, or trade union views. According to Rwanda's national trade union centre (CESTRAR), the provision effectively prohibits trade union activities among civil servants. The government has ignored trade union's demands.

The status of civil servants provides for changes to the article which currently prohibits civil servants from going on strike. The bill stipulates, in a rather vague way, that civil servants will enjoy the same rights and liberties granted to citizens by virtue of the Constitution.

Agricultural workers are still denied trade union rights. Already limited in the private sector, the right to strike is subject to restrictions. Essential services are poorly defined and pre-strike procedures are too complicated.

#### Absence of protective mechanisms

Although legislation does protect union rights, there are no real guarantees that trade unions will be able to freely carry out their activities. The labour courts have still not been reopened since the war. While the court of first instance normally has jurisdiction in the event of disputes, the lengthy procedure and the absence of protection during the lawsuit discourage workers. Not only that, penalties awarded by the court are insufficient. The absence of mechanisms to promote collective dialogue and labour agreements encourage employers to undermine the trade unions. For example, the telephone workers' trade union, SYATEL has been marginalised by the management which has forbidden worker representatives from attending trade union meetings. Over the past few years, similar anti-union sentiment has spread to other sectors of activity, such as the textile and sugar industries.

#### ***A former colonel appointed as leader of ATRACO***

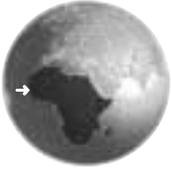
*On 13 July at 5 a.m., the communal taxi drivers of Kigali went on strike at the call of their trade union ATRACO. The demonstration was immediately suppressed by the police, who arrested seven trade union activists, freeing them only a week later.*

*The government completely ignored ATRACO's demands for the dismissal of the union's president, a former colonel in the army who had been imposed on the union with the backing of the authorities without any elections. As a case in point, he would come to trade union meetings armed, placing his weapons on the table to intimidate trade union members. He even formed a sort of militia to enforce discipline.*

*By the end of the year 2000, the former colonel was still in charge of ATRACO. The members of the trade union decided to quit ATRACO to form a new free and democratic trade union with the help of CESTRAR.*

# Senegal

POPULATION : 9,200,000 / CAPITAL : Dakar / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



## Violations of trade union rights took place in Senegal during the year.

### The fate of trade unions remains in the government's hands

The labour code requires prior authorisation from the Minister of the Interior in order to form a trade union. The ILO, which has strongly spoken out against this provision, insists that national laws need to be revised in order to protect trade unions from the government's power to dissolve them.

### Limited right to strike

Both the labour code and the Constitution recognise the right to strike, but only under certain conditions. As a case in point, trade unions representing civil servants must notify the government of their intentions a month in advance. The ILO has criticised this provision, condemning the extensive powers of government authorities to requisition workers, with the potential abuses that may come about as a result. The ILO feels that government requisitions should be limited to maintaining essential services in particularly serious circumstances. However, current legislation allows the government to make use of its prerogatives for workers employed in both private and state-run companies. According to trade unions, the new Constitution (expected to be voted on at the beginning of 2001), does not offer any improvements in this area. The national trade union centre CNTS explains that the new Constitution actually limits the right to strike: the Constitution stipulates that, although the right to strike is recognised, this right may in no way infringe upon the freedom to work nor put the company in danger.

### The SENELEC-SUTTELEC dispute reaches a stalemate

The government has not heeded any of the ILO's recommendations concerning settlement of the ongoing dispute between SENELEC (the state power company) and the members of SUTELEC (the electricity workers' union) who were found guilty of sabotage and sentenced to prison back in 1998. The members of the trade union have still not been reinstated in the company. As a reminder, the dispute began in July 1998 when SUTELEC called a strike to protest against the privatisation of SENELECC. This strike caused power outages all over the country and prompted SENELEC to take SUTELEC to court.

### Workers employed on a daily basis

In several companies around the country, workers employed on a daily contract expressed their anger over the abusive employment conditions that they have had to deal with for many years. In August 2000, the day workers of the SNCDS company -some of whom had been working for the company for over 15 years- staged a walkout to protest against their working conditions and to demand that they be given permanent contracts. Faced with this massive demonstration, the Ministry of Labour called upon the company management to speak with the labour representatives. A list of demands was drawn up and, following discussions, the parties agreed to solve the problem. However, after having signed the draft agreement, the management changed its mind. This sparked another strike, which was violently quelled by the police. Ten of the main leaders of the movement were arrested, detained, tried and given suspended prison sentences. Since this time, these workers have still not been reinstated and no unemployment benefits have been paid to them. Negotiations are currently underway between the CNTS, the government and the management of SNCDS.

In a similar case, the management of SENEMER imposed several "dead periods" on its day workers. During these "dead periods", the workers were temporarily laid-off but were not paid any compensation by the company. When the workers went on strike, the police cracked down on the demonstration, beating several workers. Fortunately, this particular dispute resulted in an agreement between the workers and the management whereby the workers would be compensated.

In another case, this time at the Senegalese Phosphate Company in Taiba, workers who had been with the company for 10 to 15 years demanded that they be given permanent contracts. When the management refused to budge on the issue, the workers had no choice but to block production by interrupting their work. The management called the police, who arrested three strikers. These strikers were given suspended sentences.

# Sierra Leone

POPULATION : 4,300,000 / CAPITAL : Freetown / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



## Trade unionists lost their lives in the civil war

### Rebels fire on the SLLC's march for peace

On 8 May, under the aegis of the Sierra Leone Labour Congress (SLLC), nearly 2,000 demonstrators participated in a march for peace to condemn the atrocities committed by the rebels. The rebels then opened fire on the demonstrators, killing 19 and wounding 50. Some of the wounded were taken to the hospital in serious condition. Three other people lost their lives as a result of their wounds. Among the victims were two trade unionists, including SLLC finance officer Foday S.Brima and journalist Soaman Contech.

# South Africa

POPULATION : 42,800,000 / CAPITAL : Pretoria / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



## The legislative achievements in the area of workers' rights obtained over the past few years are now threatened by a government bill to reform the Industrial Relations Act. It is becoming increasingly rare for employers to consult trade unions before proceeding with massive layoffs.

### Very selective laws

The 1995 Industrial Relations Act recognises the main trade union rights: freedom of association, collective bargaining and the right to strike. However, in reality, these rights are not always respected, especially in the agricultural sector, where workers face layoffs and acts of violence whenever they try to form or join trade unions. Employers strongly oppose any attempt to introduce collective agreements.

On 18 September 2000, 17 workers on a farm in Dikgale were fired for having recently joined the South African Agricultural Plantation and the Allied Workers Union (Saapawu). Their employer, ZZ2, is the largest tomato producer in South Africa. It justified its action by mentioning an alleged onion theft.

As far as the right to strike is concerned, trade unions criticise the fact that employers' have the right to hire other workers to replace those who are on strike. They also call for an amendment to section 189 of the Industrial Relations Act, which allows employers to lay off workers on the grounds of operational requirements. This provision clearly gives the management sole discretion as regards determining the current or expected performance of the company and therefore authorises them to take the subsequent unilateral decision to lay off workers.

### Worrisome reforms

At the beginning of 2000, the government announced its intention to "relax" labour legislation in an effort to attract new investors and supposedly create more jobs. The proposed reforms would include making regulations on hiring and firing workers much less stringent, increasing the working week to 45 hours, restricting the workers' right to strike in the event a company decides to proceed with layoffs or eliminate overtime pay for work done on Sundays. This bill sparked severe criticism from trade unions who notified the authorities that they would mount strong opposition to it. On 21 December, COSATU called a three-day general strike scheduled for June 2001- if the government maintains the bill in its current form. Indeed, COSATU feels that such a bill would imperil the trade union rights achievements obtained over the past few years.

### Massive demonstration to protest against layoffs

In ten years, nearly one million workers have lost their jobs in South Africa. Even if the law requires collective bargaining with trade unions in order to proceed with layoffs, employers are increasingly bypassing this procedure and unilaterally laying off their employees. This tense situation prompted COSATU to organise a series of protest demonstrations in March 2000. These actions culminated on 10 May when several hundred thousand workers participated in a peaceful, one-day nationwide strike. In March, the actions organised by the trade unions (COSATU and its affiliate FAWU in the food industry) prompted employers in the Western Cape region to use their lockout power against workers.

### Conflict at the Telkom company

In an attempt to weaken the Telecommunications Workers Union of South Africa (CWU) -which was about to renegotiate various terms of the 2000 collective agreement- the management of the Telkom company decided to file a lawsuit without any prior notice. The management accused the CWU of having caused considerable damage to the company when it acted in violation of the salary agreements signed in the previous year. Within a context of already tense industrial relations, the CWU sees this "coincidence" as a continuation of a series of other incidents which are part of an intimidation strategy on the part of management. By the end of the year 2000, no agreement had been reached between the trade unions and the management. Worse still, the management had already proceeded to lay off a certain number of workers in the meantime.

## Sudan

POPULATION : 30,400,000 / CAPITAL : Khartoum / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111



**The slightest attempt to stand up for workers' rights is ruthlessly suppressed by the Khartoum regime. The new labour code further limits trade union rights.**

### Background

After the 1989 coup, the democratic trade unions were dissolved and most of the union leaders were either sacked or arrested. The 1992 Trade Union Act established a trade union monopoly controlled by the government. Since then, strikes are outlawed and collective bargaining is nearly nonexistent. Whenever a dispute arises, the Minister of Labour can refer the matter to compulsory arbitration. Salaries are set by a government-appointed and controlled body. According to the Legitimate Sudan Workers Trade Union Federation (SW(L)TUF), the national trade union centre in exile, trade unionists were the first victims of massive layoffs that occurred about ten years ago.

### Persistent violations

A new labour code came into effect in December. The new code continues to deny trade union freedoms. Government control over trade unions has been reinforced. The penalties imposed for infringement include fines and/or six-month prison terms. The code stipulates that one of the trade union objectives is "to co-operate with the government bodies and social forces in order to reinforce national unity, protect the nation's independence and security, move the nation towards its ideals, and develop international relations."

### Violence and arrests

Arrests, detentions, ill treatment during periods of imprisonment, and the deaths of two union leaders have remained unpunished. On several occasions, the ILO has strongly criticised the Sudanese government for its reluctance to work with the ILO on these serious incidents. Still today, such acts of anti-union violence continue against the former members of outlawed trade unions as well as members of the government-controlled trade union. In April, the employees of the Islamic bank in Khartoum went on strike after salary negotiations broke down as well as to protest against the dismissal of various employees, some of whom were trade union members. The management declared this strike to be illegal and hired new employees to replace the strikers. In September, several demonstrations broke out in various towns in the north of the country. Salary arrears for teachers were mentioned among the main complaints. The police brutally intervened. Various demonstrators received gunshot wounds and others were arrested.

Although three export processing zones were created in recent years, only one of these is actually active. Labour legislation does not apply in the EPZs.

### Oil extraction zones: A no man's land

The government has categorically outlawed access to the oil extraction zones to anyone unrelated to the oil companies operating within them. This restriction even applies to the leaders of the government-controlled trade union centre. A recent investigation confirmed that the government has given its approval to use soldiers of the Sudanese army to enforce this restriction imposed on the population. Sudanese workers employed by these companies have been reduced to a state of semi-slavery as a result.

#### **Repression continues**

*In the beginning of January 2001, Suleiman Mustafa from the Trade Union Alliance and six other activists were still being held in an undisclosed location. On 6 December 2000, they had been arrested while speaking to an American diplomat. Their discussion related to the human rights situation in the country. The authorities accused them of working on behalf of the rebels who control the southern portion of Sudan. Three days later, two lawyers were arrested for having sent a letter of protest to the Minister of Justice. In this letter, they explained that the authorities had been notified of the meeting with the American diplomat. At least one of the lawyers had to be hospitalised. In December 1999, a state of emergency was declared and an anti-terrorism law extended the period of detention without trial. Anyone found guilty of terrorism faces amputation, life imprisonment or the death penalty.*

# Swaziland

POPULATION : 900,000 / CAPITAL : Mbabane / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



**Harassment and victimisation of the SFTU and its leaders continued and intensified. The threat of removal of trade privileges forced the government to adopt a new Industrial Relations Act, which nevertheless maintains restrictions that trade unions find unacceptable.**

## Context

Since 1973, political parties have been banned, constitutional liberties suspended and the state of emergency maintained. Trade unions face a wide array of repressive tactics: illegal dismissals, death threats, beatings, tortures and arrests.

## Two strikes in the media suppressed

Like teachers, journalists are among the main victims of violations of workers' rights and trade union freedoms. In February, nearly 80 people (i.e. all of the employees of the daily newspaper, the Swazi Observer) were sacked after the newspaper was shut down by authorities. A month later, 31 TV channel employees lost their jobs. They had gone on strike to claim salary increases back in October and the Swaziland Television Authority Board's reaction at that time was to fire them all. The employees nevertheless continued to work and the impending threat of sanctions appeared to have been lifted. In the end, however, the 31 employees were dismissed.

## Labour legislation

The Industrial Relations Act (IRA) went into effect in 1996, amidst angry sentiment from Swazi trade unions. Indeed, this law was in complete contradiction to trade union rights principles. Concerns about potential loss of trade privileges by some government had forced the government to work with the Swaziland Federation of Trade Unions (SFTU) as well as with the ILO, albeit in a superficial and dubious manner, for the purpose of making changes to this law. Although a new bill was drafted in 1998, the authorities delayed its implementation.

## A law postponed over and over again

The king of Swaziland signed a revised IRA on 6 June 2000, just prior to the ILO's annual conference.

Nevertheless, the amendments imposed by Swaziland's National Council, a body whose mission is to advise the King on matters of custom, tradition and culture, profoundly altered the nature of the legal text. These amendments affected the following:

- The right of any individual to claim damages for losses suffered during a strike.
- As a pre-strike requisite, a majority must vote in favour of the protest action in a ballot (which amounts to calling a national referendum).
- Trade unions will co-exist with works councils that are presided over by a person appointed by the king. This person has the power to negotiate working conditions and worker's salaries.

## Threats of economic sanctions

Trade unions and employers increased pressure on the government to change the IRA 2000, stressing the urgent need to respond to US demands. Indeed, the US government has been threatening to exclude Swaziland from its Generalised System of Preferences (GSP) which provides for favourable tariff conditions for exports coming from numerous developing countries. On 29 September (the deadline set by the USA for Swaziland to amend its labour legislation), a tripartite agreement was reached: the government agreed to change IRA 2000 within 2 months at the very latest. Before then, the government had not hesitated to attack trade unions in various ways: first it tried to discredit trade unions in the eyes of the public by blaming them for the threats of economic sanctions. Then it continued to repress the protest movement. On 24 September, the police dispersed a peaceful march organised in the capital by the SFTU. They threw tear gas and shot rubber bullets at the crowd. Several participants were injured and two were hospitalised. On 28 September, despite a last-minute ban, the government was unable to prevent the general strike from taking place.

## Ban on trade union meetings

In October, the SFTU feared that a new government land distribution policy posed a threat to workers, and particularly its members. The demonstrations that followed were again severely repressed. In a matter of days, fifteen people were injured. By the end of the month, the government lashed out directly at the trade unions. The Prime Minister warned that there could be bloodshed if the trade unions continued to challenge the government. Trade union meetings were banned until further notice.

### **Declaration of Nelspruit**

*Swaziland is the last absolute monarchy on the continent. It is therefore not surprising that the SFTU has received support from sister trade unions such as COSATU in South Africa. The Swazi civil organisations and trade unions have also organised meetings across the border to circumvent the government ban and possible surveillance. The most important meeting took place in the province of Mpumalanga, in early November. It was there that trade unions, together with youth associa-*

*tions, dissidents and victims of evictions, formed the Swaziland Democratic Alliance (SDA). They also signed the Declaration of Nelspruit. In addition to the amendments to the IRA 2000, their claims included a lifting of the ban on political parties, the return of the families who had been forced off of their land, and the setting up of an interim democratic government.*

In November, events took place in quick succession. On 7 November, the members of the executive committee of the SFTU were stopped at a police roadblock on their way to the capital. They were prevented from proceeding to Mbabane where other demonstrators belonging to the newly formed SDA were waiting for them. The plan was for everyone to meet the Prime Minister and submit to him their list of claims.

### Serious violence

On 13 November, a general 48-hour strike was called by the SFTU. The movement was followed by most of the workers in the entire country. To undermine the strike, the government warned civil servants that they would be committing treason and exposing themselves to serious sanctions if they went on strike. Thousands of people participated in the demonstrations. As usual, the police brutally intervened. Several demonstrators were injured, one seriously. At the end of a press conference, SFTU general secretary Jan Sithole was picked up by the police. Without any legal basis whatsoever, he was placed under surveillance, his freedom of movement and speech monitored.

### Government backs down

On 15 November, the courts declared the application of the emergency law to be illegal. On 17 November, the government cancelled the ministerial order that had led to the eviction of 200 village families. On 23 November, the parliament voted amendments to the IRA 2000. However, among the other restrictions placed on trade union freedoms, the law still included the civil liability of strikers. The SFTU immediately spoke out in protest. On 29 November, it organised a blockade on the South African border with the help of COSATU. While the action was supposed to last three days, the SFTU lifted the blockade after the government promised to meet with the trade unions as soon as possible.

Several days later, after several postponements of this meeting, the SFTU announced new protest actions for the beginning of 2001.

## Tanzania

POPULATION : 34,300,000 / CAPITAL : Dodoma / ILO CORE CONVENTIONS RATIFIED : 29,87,98,105,138



### In February of this year Tanzania ratified ILO Convention No. 87 on Freedom of Association and the Right to Organise.

The new law on trade unions went into effect on 1 July 2000. On the same day, the government dissolved the Tanzanian Trade Union Federation (TFTU). The posts of the leaders and of all union staff were eliminated, and the union's assets were placed in the hands of a government-appointed administrator. In order to justify this decision, the government called attention to the absence of a legal TFTU mandate of any kind.

The controversy dates back to 1991, when the government at that time, a product of the sole political party, set up the Organisation of Tanzanian Trade Unions (OTTU), which presided over the creation of 11 trade unions. In 1995, in place of the OTTU, these unions founded the TFTU which, although it had no legal existence, was recognised by the workers, the employers and the international organisations as well as by the government. In 1998, the introduction of a multi-party system forced the legislature to pass a new law, which went into effect on 1 July 2000.

The 11 existing trade unions had three months in which to register (which caused no problems). By the end of the year, they had not registered yet. They were able to continue functioning during the period of transition. However, the same privilege was not granted to the TFTU, despite assurances to the contrary given to its leaders. The government argued that the TFTU was functioning "de facto" without any legal status. It existed only through the OTTU, and because the new law had abrogated the 1991 law which had created OTTU, the TFTU should now be abolished.

The substance of the law has also been subject to severe criticism. Since 1998 the trade unions have been denouncing several of its provisions which violate union rights. The primary subject of disagreement is the article forbidding employees of the public sector to organise. Following negotiations, the government finally decided to modify the bill in order to eliminate this. On the other hand, nothing has yet been done to change the legal provisions granting the government the power to de-register the smaller of two trade unions where more than one exists in an enterprise. The government may suspend a trade union if it considers that the latter violates the law or its own regulations, or that public security or the public order are thereby endangered. It can annul an international trade union affiliation when certain internal procedures have not been followed or when it considers that the organisation with which the union is

affiliated is dealing with problems other than the regulation of relations between employers and workers. Failure to comply is subject to fines and imprisonment. In any given trade union only one union leader may be occupied full time in carrying out his trade union functions. All others must work full time in the enterprise or industrial sector in which they have been elected. In mid-August, following many objections raised by the trade unions and the ILO, the Ministry of Labour declared itself ready to negotiate amendments to the law with employers and unions.

#### Zanzibar and Pemba

The above applies exclusively to Tanzania's mainland, where different laws apply than in Zanzibar and Pemba. Labour legislation is on a territorial basis. A similar law for Zanzibar and Pemba is to be introduced shortly. It applies solely to the private sector and does not protect workers against anti-union discrimination.

## Togo

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



**Union leaders were detained during the year. Teachers continue to bear the brunt of government anti-union repression.**

#### Arrests

On 28 January, Tetevi Norbert Gbikpi-Benissan (general secretary of the UNSIT national trade union centre) and Atsu Pierre Allaga-Kodegui (general secretary of the Teachers' Federation (FETREM/UNSIT)) were arrested for "spreading false and defamatory rumours". The following day, an arrest warrant was issued on the same charge for a third trade unionist, Adrien Béliké Akouete (general secretary of the Togo Trade Union Confederation) who was abroad at the time. These arrests stemmed from an violent incident which occurred at a high school in Lomé, the nation's capital, on 7 December 1999 in which a student was rumoured to have been killed.

Both UNSIT and FETREM called for an independent investigation and notified the Ministry of the Interior of their intention to organise a protest march.

The two trade unionists were held for eight days. Neither their organisations nor their friends were able to put up the bail that the public prosecutor had set at "the modest sum of 10 million francs CFA" -his exact words- (around US\$ 16,000). On 4 February, both trade unionists were released and all charges against them were dropped. The government must have been aware of the fact that on the very next day, a large-scale sympathy march was planned.

#### **Eight days in a Lomé prison**

*"The prison conditions were appalling. Although our 18 m2 cell was intended for 15 inmates, there were 47 or 48 of us packed inside. At night, we formed a human carpet. In order to make the most of the available space, we laid ourselves out like captives on slave ships: the first person with his head against the wall, the second with his feet against the wall, etc. The toilet was in the middle of the cell. It was hot and there was almost no ventilation. We never slept. The food was unfit for consumption. Those who could not get anything from the outside softened cereal with a little water in plastic bottles. They purchased a few packets of sugar and that's how they managed to eat. Visiting rights were sometimes withdrawn, depending on the situation. At any rate, visits were pointless since the bars put 2.5 metres distance between inmates and visitors. Everyone was shouting and you couldn't hear a thing."*

*Tetevi Norbert Gbikpi-Benissan*

#### Teacher grievances

For several years now, teachers who have tried to carry out trade union activities have had to deal with constant suppression by the authorities. Teacher strikes have been called on several occasions to draw attention to the precarious status of teaching assistants, salary arrears and the general deterioration of the Togo education system. Indeed, teaching assistants constitute roughly 80% of the teaching staff in secondary schools. They are underpaid, do not enjoy any real status and are called upon to do a wide variety of tasks. 1,400 of the teaching assistants lost their jobs when they participated in the 1999 and 2000 strikes. The government announced that these teachers had quit and stopped paying their salaries. Several teachers on permanent contracts were also fired for "irregular absence" during these strikes.

#### Trade unionists victims of violent acts

On the night of 8 November, Paul Songo (a member of the National Trade Union for Technical, Secondary and Higher Education) was attacked in his home. The assailants machine-gunned his house, causing major damage before making away with a television and VCR. Curiously enough, Liman Doumougue (deputy general secretary of the UNSIT national trade union centre) had been murdered in August 1998 under almost identical circumstances. Trade union sources

claim that the murder came about as a result of his trade union's opposition to the way in which the national pharmaceutical company, Togopharma, was being privatised. The government has never heeded the unions' request that an independent commission be set up.

#### Privatisation and EPZs

Within a very difficult economic context, trade unions are practically ignored when it comes to the privatisation process which has now affected the National Social Security Office. The situation of workers in export processing zones is still worrisome. According to the 1989 Act, "access to Togo's EPZs is restricted to duly authorised persons and vehicles." Moreover, the 1996 Act on labour relations in EPZs makes no mention of trade unions.

#### Legal restrictions

There are no legal provisions prohibiting retaliatory action against strikers. Furthermore, the legal ban on foreign workers acting as trade union officials could be repealed in the near future.

## Tunisia

POPULATION : 9,400,000 / CAPITAL : Tunis / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**There were dramatic events at the head of the national centre, UGTT, and mounting social unrest.**

#### Restrictions on the right to strike

Under a 1967 law, strikes organised without the prior authorisation of the national centre are illegal. Any union that wishes to call a strike must obtain the permission of the single national trade union centre, the UGTT, ten days in advance. The ILO has once again expressed its concern at this measure which it sees as an impediment to the right to strike and has asked the government to repeal this measure in order to bring its legislation into line with the principles of the freedom of association. The ILO also reiterated its request for greater precision regarding what it sees as a rather vague list of essential services in which workers cannot go on strike.

#### Anti-union discrimination

The law bans anti-union discrimination. The UGTT has however expressed its concern at the anti-union activities of certain private sector employers, particularly the dismissal of trade union activists and the use of temporary workers aimed at avoiding all unionisation. In some industries, such as textiles, building and the hotel trade, a large majority of the workforce is temporary, and it is more difficult to apply the legislation that protects them than in the case of permanent workers. There has also been a multiplication of legal procedures taken against trade unionists, as well as against political opponents and human rights activists.

#### Detention of the former UGTT general secretary

Following accusations of the mismanagement of UGTT funds and enterprises, Ismail Sahbani, general secretary of the UGTT since 1989, submitted his resignation on 21 September to an enlarged meeting of the national centre's executive, which then elected Abdesslem Jrad as general secretary. Sahbani was arrested on Wednesday 13 December on charges of "embezzlement and forgery". At the end of the year, he was still being held in custody, awaiting trial. Given the many precedents of interference by the Tunisian authorities in trade union affairs, including the orchestrated arrest of UGTT leaders and activists, the ICFTU appealed to President Ben Ali to ensure that Sahbani is given a fair trial.

## Uganda

POPULATION : 22,600,000 / CAPITAL : Kampala / ILO CORE CONVENTIONS RATIFIED : 29, 98, 105



**Considerable restrictions continue to limit trade union freedoms.**

The National Organisation of Trade Unions (NOTU) was set up by law and all trade unions in the private sector have to become affiliated. In order for a trade union to be set up it must have at least 1000 members and cover at least 51% of the workers concerned. In 1999, the ILO made it clear to the government that this double requirement was not conducive to promoting collective bargaining, particularly in small or scattered production units. The government admitted that these provisions were not in conformity with the new 1995 Constitution and assured that it would endeavour to

resolve this problem. But no change has been made to date. Categories of workers belonging to services regarded as essential -- the police, the Army, prison personnel and many positions of responsibility -- are excluded from the right to join a union. The teachers' union, which applied for registration in December 1997, still has not been officially recognised. In the course of the year under review, several undertakings operating in the hotel, textile, construction and transport sectors opposed the trade unions or refused to recognise them as negotiating partners.

The right to strike is subject to complex procedures, with the result that almost all of the strikes held in the course of the last few years have been illegal. On 14 February, workers in the Nytil Picfare textile factory were fired because they had launched a strike action several days previously. The workers were trying to join a union and were demanding a pay rise. Since 1996, when the firm in question was privatised, it has been notorious for constant anti-union manoeuvres.

In this type of dispute the government adopts a passive attitude or even clearly sides with the employer. Even the role of the labour tribunal is called into question. Whereas, in principle, the tribunal rules in the final instance, its decisions have on several occasions been appealed before the Court of Appeal by the employers, who claimed that they doubted the impartiality of the tribunal. The president of the labour tribunal has borne the brunt of this criticism: a sudden "promotion" ousted her from office some time after being the target of personal attacks on the part of the Head of State. She has not yet been replaced, a situation which is paralysing the operation of the tribunal. Sam Lyomoki, who is general secretary of the Uganda Medical Union, pitched a tent in front of State House and installed himself there in order to protest against this absence of a successor as well as the government's failure to comply with the decision of the Advisory Committee on Wages to raise wages and salaries. Following this action Sam Lyomoki was taken to the police station and later released.

## Zambia

POPULATION : 10,200,000 / CAPITAL : Lusaka / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**The conflict between the government on the one hand, and more than 300 medical internists on the other, has focussed attention on conditions in the Zambian public health sector.**

When, at the end of 1999, Zambia's junior doctors went on strike, they had no idea that they would be out for many months. On 21 December 1999, close to 300 junior doctors stopped work, demanding an increase in pay (the average was \$250 per month), an improvement in working conditions and the modernisation of the worn-out, dilapidated and under-equipped hospital facilities.

As an essential service in the same category as the police, the courts, the teaching establishment, prison personnel, the fire fighting services, the energy, water supply and sewage sectors and certain occupations in the mining industry, the public health sector is not permitted to go on strike until it has exhausted all other avenues prescribed by law. On 4 January, the government decided to dismiss the internists on grounds of striking illegally. This punishment was associated with a ban on leaving the country. On January 8, in protest, 42 doctors in hospitals joined the strike, demanding reinstatement of the young doctors and the immediate delivery of pharmaceuticals and medical supplies to the hospitals. In order to avoid the fate of their colleagues, they immediately went on leave. Foreign doctors--Cubans for the most part--were called in to help. On 31 January, the 42 doctors finally went back to work without the government having acceded to any of their demands. Much later, in September, after an amnesty had been proclaimed, some 100 of the 300 internists also went back to work, on the strength of the government's vague promise to improve their working conditions. Later on, their contracts with the government were terminated when the regulation of conditions of employment became the responsibility of independent management boards in each district or in the major hospitals. The boards employed them on two-year contracts. About 50 young doctors left the country and others found jobs in the private sector.

In Lusaka in June, 2000 striking municipal workers were suspended on grounds of failure to comply with an ultimatum to return to work. They had been demanding payment of back wages. There were sporadic strikes in many local councils due to non payment of wages.

# Zimbabwe

POPULATION : 12,400,000 / CAPITAL : Harare / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



## Respect for trade union rights and civil liberties deteriorated further.

On April 15, Tihaona Chiminya, of the Zimbabwe Chemical, Plastic and Allied Workers' Union (ZCPAWU) was assassinated. After stopping his car, men in civilian clothing hit him violently over the head, poured petrol over his vehicle and set it on fire. His female passenger died in the hospital as a consequence of the attack.

However, the wave of violence which hit the country during the first few months of the year claimed other victims as well. Altogether, more than 30 people—political opponents, trade unionist, teachers and human rights activists—were assassinated and hundreds of others were seriously wounded in what is rapidly turning out to be a broadly laid on terrorist campaign orchestrated by ZANU, the party in power under President Mugabe.

In the context of an unprecedented social and economic crisis with a more than 50% unemployment rate, galloping inflation, record debts and various shortages, all of this essentially due to the country's mismanagement, the government has been confronted for several years with trade union protests.

In turn, the government has reacted with more repression against trade unionists and workers. Teachers and journalists were particular targets by pro-government demonstrators during a peaceful march on 1 April in front of the National Constitutional Assembly. The riot police, present at the scene, did not react. Agricultural workers employed on large farms were also targets of those so called "war veterans" who were behind the state-sponsored terrorism. Many of the victims were workers members of the General Agriculture and Plantation Workers Union of Zimbabwe (GAPWUZ).

On 30 April, in view of the atmosphere of terror, the ZCTU decided to cancel its traditional May Day celebrations throughout the country. A 24-hour strike was held on 2 August, called by the ZCTU; however, public service employees did not stop work because the government threatened to fire them. In mid-October, the government harshly suppressed the trade union protest against a 30% increase in the prices of bread and sugar without any compensatory increase in the minimum wage.

### Serious restrictions on freedom of association embodied in the labour legislation

The 1985 law on labour relations as amended in 1992 favours the creation of "workers' committees" in each enterprise. These committees are authorised to negotiate collective bargaining agreements and labour codes which may even take precedence over the sectoral agreements reached by the labour councils composed of trade unions' and employers' representatives.

It is practically impossible to organise a legal strike. The right to strike is not recognised in the Constitution. Public service workers are forbidden to strike at any time, and any occupation at all may be classified by the government as "essential". If the service is not essential, a majority of the workers must give their consent to the strike, and then the government must agree that it is impossible otherwise to find a solution to the conflict. The strike ban is absolute as far as those workers in the public sector are concerned who have not managed to organise and engage in collective bargaining. These rights are also denied to management personnel.

Despite all this, efforts are still being made to extract concessions from the government—albeit so far without success. Parliamentary discussions on a possible harmonisation of labour laws have not always been fruitful, nor have those on the contents of a social contract between the government, employers and trade unions.

### Government interference in trade union affairs

In February, the Ministry of Labour appointed an Investigator, charged with the task of monitoring the finances of the ZCTU under pretext of possible irregularities.

Although the Constitution guarantees the independence of the management of union affairs, a provision in the Labour Relations Law grants the government the right to oversee the management of union finances. In March, the ILO Committee on Freedom of Association considered the investigative powers of the Administration to be excessive.

### Workers dismissed by the Standard Chartered Bank

In September, the Zimbabwe Supreme Court overturned the ruling of the Chamber of Appeals of the Labour court which had been in favour of the workers dismissed by the Standard Chartered Bank. It all began on April 23, 1997, when 580 bank employees went on strike in order to obtain better financial conditions. The bank reacted by obtaining an injunction ordering the workers to return to work. When most of them refused, the Bank fired 365 of them. Somewhat later it offered to let them return under conditions much less favourable than before (temporary contracts and lower wages). A lengthy battle ensued between the Bank and the Zimbabwe Bank and Allied Workers' Union (ZIBAWU), which, due to the unfavourable ruling of the Supreme Court, is at present turning to the advantage of the employer. Under the terms of this ruling, the entire internal disciplinary process must be gone through again from the start, a procedure which will delay once again the final settlement of this case. Meanwhile, ten of the strikers have

died. Of the 211 workers who refused in 1997 to return to work for the Bank under the conditions it had laid down, 172 are still unemployed.

These employees have very little chance of finding work with another bank since their former employer has in effect placed them on a "black list" by pointing to the fact that they would be unable to reimburse any loans contracted during their employment.

**Violation of a collective agreement by the Post and Telecommunications Company**

On 17 April, the Zimbabwe Post and Telecommunications Workers' Union called a strike for an unlimited period in protest against a decision of the Post and Telecommunications Company to carry out wage reductions of up to 50%. A few weeks earlier, this company had signed a collective agreement with the Union and this unilateral decision is considered to be a flagrant violation of the said agreement.

**Deteriorating labour rights in the Export Processing Zones**

The 1995 law establishing Export Processing Zones in Zimbabwe exempts employers in such zones from the obligation to abide by the labour laws. Although the ZCTU has succeeded in negotiating directly with several of these investors in order to permit the organisation of their employees, the working conditions and the conditions with regard to freedom of association in these zones are in general highly unfavourable.

The very south of the continent is facing the harshest economic crisis. Although Argentina has diligently followed the policy prescriptions of the international financial institutions, and has carried out wide-scale privatization and market liberalization, it is suffering severe economic recession. In accordance with IMF and World Bank advice, the government had privatised virtually every public service in the country down to the post office, allowed its national airline to be dismantled, and steadfastly maintained its currency pegged to the US dollar. Yet these measures have done nothing to prevent a virtual economic meltdown. And, as usual, it is the workers and the poorest people who are suffering the most.

Elsewhere on the continent workers are bearing the burden of stringent structural adjustment measures. These policies mean that more and more people are put out of work as privatization goes on apace. Job security has gone out of the window. More than 95% of employment growth is taking place in the informal sector. Health care services and pensions are becoming less and less accessible to the majority of the population.

Strikes and protests took place with increasing frequency in the face of the frequently desperate economic and social situation. Many were injured in violent clashes between police and protesters.

In Venezuela, President Chavez has been trying to dismantle the trade union movement. He held a referendum on 3 December 2000, in tandem with local elections, to dissolve Venezuela's existing national centres and replace them with one puppet organisation tailor-made to service the govern-



ment. As early as August 1999, Chavez made known his plans concerning Venezuela's labour movement threatening to bring in laws to dismantle them and dismiss all union leaders.

Latin America remains the region where the highest number of trade unionists are killed each year. In Colombia the death toll rose to 153. It still holds its position as the most dangerous place in the world to stand up for your rights at work, and is a grim reminder of the hostility to the trade unions. Public sector account for some two-thirds of the victims.

Paramilitary groups, often with links to the security forces, and acting with impunity, are responsible for the majority of the murders.

Violence and persecution, death threats and murders, is also the order of the day in Guatemala. On the banana and coffee plantations, as well as in the textile sweatshops or "maquiladoras" owned by large multinational corporations, trade unionists are systematically intimidated. Workers who complain are dismissed; and when companies find that local conditions are no longer to their liking, they simply shut down and move elsewhere.

Hostility to the unions remained rife in Costa Rica, in particular in its banana region. It is common practice for private sector employers to refuse to recognise a union, dismiss its leaders and members, and instead establish a *solidarismo* organisation, which offers workers benefits in exchange for renunciation of the union and promises of industrial peace. In the public sector, attacks on collective bargaining increased. During the year, the Supreme Court declared all collective

agreements in certain public bodies and institutions, unconstitutional.

In Peru, the downfall of President Fujimori, who had been responsible for far-reaching attacks on trade union and other employment rights, and the subsequent establishment of a transition government, gave renewed hope to the country's trade unions that some of the negative effects of the last decade could be reversed.

There was no change in the big export industries of Central America. Violations of trade union rights and deplorable working conditions in these EPZs are justified by trade related reasons. The situation is the same, if not worse, in Mexico's maquiladoras.

The United States and Canada too, leave much to be desired in their respect for trade union rights. In the United States some 40 per cent of all public sector workers cannot bargain collectively. In the private sector, it is estimated that 80 per cent of employers engage consultants and security firms to assist in anti-union campaigning. Furthermore, extreme exploitation continues to take place in territories under the control of the US Government. In Canada, public employees face many restrictions on their organising and bargaining rights, including on the right to strike. Private employers are no better.

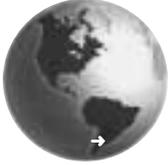


# Americas

## Argentina

POPULATION : 36,600,000 / CAPITAL : Buenos Aires / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182

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### Labour market reforms

**Reforms reducing workers rights were introduced under pressure from the international financial institutions, leading to public protest and sometimes very violent clashes.**

Measures taken by the government at the instigation of the International Monetary Fund and the Inter-America Development Bank were considered too drastic by the trade unions. In May, new labour legislation was adopted leading to a wave of protest by the workers who found their rights reduced by measures to make the labour market more flexible. Although the draft reforms were improved slightly following protests in the early months of the year, the new legislation still weakens trade unions and job stability.

The reforms undermine sectoral collective agreements by reducing the influence of the national federations in the negotiating process. Bargaining can henceforth be carried out at the regional, provincial or enterprise level. In the past only the national federations were able to negotiate on behalf of all the unions in the sector. According to some unions, the government's aim was to reduce the influence of the trade unions in pay negotiations in order to attract more foreign investors.

The reform also extends the trial period for new employees from 30 days to 90 in large enterprises and six months for small companies. These measures, aimed at reducing employers' social contributions, provoked the strongest protest as no compensatory measures were foreseen. According to the government, this measure was adopted to prevent the relocation of production. For several years, many companies, particularly in the automobile sector, have been attracted to Brazil, with its cheaper workforce and relatively lax legal framework.

The process leading up to the approval of these reforms was not without incident. In mid-April, the police harshly repressed a demonstration outside the Congress in Buenos Aires calling on the Senate to reject the reforms. At least 35 people were injured, including three with bullet wounds, when the police tried to disperse the demonstrators. Another was stabbed by a police officer while still lying on the ground. A total of 43 demonstrators were arrested. Following these clashes, the authorities had to suspend 12 police officers for abusive use of force. In another incident in August, the unions demanded that the government cancel the reforms following accusations of corruption. Members of the government had, apparently, paid opposition senators to vote in favour of the reform.

At the end of the year, the impact of the labour legislation reforms was still not clear, given that the measures for its application had still not been adopted.

### Other reforms

In addition to the criticisms of the labour legislation reforms, the government's social policies were condemned by all sides. Throughout the year there were general strikes and road blocks to denounce it. Economic adjustment measures affected the whole population: some civil servants saw their salaries reduced by 15 to 20%; women's retirement age was increased from 60 to 65; retired workers saw their monthly pensions cut by US\$200; social spending by the provinces (school and hospital building, the creation of social plans, etc.) was frozen for five years; tax collection was privatised. Finally, the government continued to study plans to privatise the "Obras Sociales", aimed at transferring the health care services hitherto managed by the trade unions to the private market. The government urged the unions to be understanding. Failing their agreement the measures would have to be passed by decree. In January, the government had already cancelled a measure enabling trade unions to manage a special social assistance fund.

#### **Anibal Verón, a symbol of the Argentinian struggle**

*Anibal Verón has become a symbol of social unrest in Argentina, for which he paid dearly. In September he was dismissed from a transport company that was in crisis. Aged 36, unemployed, and married with five children, his former employer still owed him 10 months salary and his redundancy allowance. He decided to participate together with other workers in a blockade of the 9 November road linking the towns of Mosconi and Tartagal in the Salta province. They were protesting at the severe effects of the economic crisis. The police were not sympathetic. They had orders to disperse the protesters and they followed them, a little too zealously. Anibal Verón was killed. In a fury, the crowd ransacked the public buildings of Tartagal, injuring many on both sides. When this was followed by a call for a general strike, the government declared it illegal.*

### Privatisation of the municipal services of Córdoba

The police violently intervened using tear gas and dogs to disperse a demonstration by 500 workers protesting at the privatisation of the municipal services of Córdoba, the country's second largest city. Five protesters and five police officers were injured. Four people were arrested.

**Hopes of improved legislation**

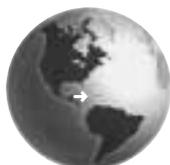
In addition to the reforms adopted during the year, there had been criticisms, including from the ILO, of various legislative restrictions on the status of trade unions. The authorities announced that a tripartite commission would be set up at the end of November to amend this legislation.

The ILO Commission of Experts had criticised the advantages enjoyed by organisations granted trade union status in relation to those who have simply been registered.

04

# Bahamas

POPULATION : 300,000 / CAPITAL : Nassau / ILO CORE CONVENTIONS RATIFIED : 29-87

**Trade union rights steadily deteriorated throughout the year****Controversial bills**

Several bills concerning the trade unions were elaborated without consulting them, for reasons which became obvious. They undermined many of the unions' hard won rights, establishing stricter controls on trade union accounts, allowing for trade unionists to be prosecuted for acts resulting from their trade union activities and repealing the right to strike in support of an industrial dispute as well as the right to hold wildcat strikes.

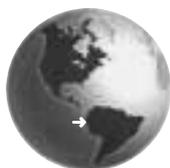
Numerous protests did persuade the government to think again however. At the end of the year none of the bills had been passed and dialogue had been resumed.

**Negotiating in bad faith with air traffic controllers**

The authorities acted in bad faith in negotiations between the Civil Aviation Department and the Bahamas Air Traffic Controllers' Union. The dispute began when the International Federation of Air Traffic Controllers' Associations expressed concerns about the safety of air traffic owing to the bad working conditions. The situation turned sour when the government established new rules without consulting the union. At the end of the year no solution had been found and the union feared draconian measures would be taken against them.

# Bolivia

POPULATION : 8,100,000 / CAPITAL : La Paz / ILO CORE CONVENTIONS RATIFIED : 87,98,100,105, 111, 138

**Social and economic deterioration has exacerbated worker discontent. The government cracks down severely on massive strikes.****Strict legislation**

In December, the government announced that it would not modernise its labour legislation by the end of President Hugo Banzer's term in office, despite repeated criticism from the ILO. There are so many restrictions that forming a trade union in Bolivia has become a privilege. The 1942 General Labour Act excludes farm workers from its scope of application. Moreover, civil servants are not permitted to form unions. In other sectors, 50% of the employees within a company must join in order to form a company trade union. A decree that would strictly regulate the intervention of labour inspectors, who currently enjoy excessive powers in trade union discussions, has been brought back to the bill elaboration stage. Executive board members of trade unions must be Bolivian nationals and trade union leaders must work for the company concerned. A decree from the General Labour Act authorises the government to dissolve trade unions although this goes against Article 4 of ILO convention 87, which stipulates that trade unions can only be dissolved by a judicial authority.

Workers also complain about the fact that it can take a year or more for the labour court to handle illegal dismissal cases and order reinstatement where appropriate.

**Limited right to strike**

The right to strike is also subject to strict conditions, to the point where strikes must sometimes take place illegally. In order for a strike to be declared legal within a company, the strike must gather three-fourths of the workers. General

### Strikes harshly repressed

strikes and sympathy strikes are entirely prohibited and violators face penal sanctions. Compulsory arbitration, which the ILO accepts only for essential services, may be imposed in order to put an end to a strike in sectors that are not always essential. Employees in the banking sector are denied the right to strike.

In the month of April, a wave of social unrest swept the entire country and led to a government crackdown. A government hydraulic installation in the town of Cochabamba, which would have increased the price of water by 20%, was at the heart of the incident. Opposed to the project and its consequences on the life of the population, the Departmental Co-ordination Office for the Protection of Water and Life (COD) -which gathers various associations and trade unions, including one regional branch of the COB national union centre- called a general strike on 4 April. In the days that followed, the protest movement quickly spread to the rest of the country in all sectors (farmers, students, teachers, etc.) and the number of demands increased.

The army responded by using force to quell the various demonstrators and break the roadblocks set up by farmers. Many people were injured as a result. Two days after the first demonstrations, the police burst in on negotiations, arrested the 15 members of the COD and later released them. The following day, police officers wearing ski masks raided the homes of the main leaders of the movement, beat the family members and ransacked their belongings. They then arrested the family members and whisked them off to San Joaquin, a remote region in the middle of the Amazon Forest.

Meanwhile, about a hundred police officers from the special security branch (GES) refused to obey a government order to raid the head office of the COB in La Paz to put an end to a hunger strike involving one of their colleagues, fifteen wives of police officers and a 12-year-old in an attempt to obtain a wage increase.

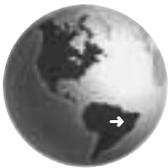
The only response that President Banzer could come up with was to declare a state of emergency for the sixth time in the country's history. By virtue of this declaration, all constitutional rights in Bolivia were suspended for a period of 90 days. Result: largely unheeded claims were made to lift this state of emergency. There were also particularly violent confrontations between demonstrators and the police. On 12 April, the COB launched a general strike to protest against the state of emergency. Both the army and the police brutally intervened, causing further victims and arrests. Among those arrested, six people (two adults and four children) were tortured in order to force them to make accusations against community and trade union leaders. All in all, at least four demonstrators died from gunshot wounds. On the day the state of emergency was declared, a plain-clothed police officer fired shots at a crowd in Cochabamba, killing a youth; a farmer was killed by police in Lahuachaca (department of La Paz) at a roadblock; two others were killed in Achacachi (150 km from La Paz) during clashes at a roadblock. A hundred people were injured and another hundred arrested during the confrontations in April.

### Farmers mistreated

In September, another wave of public discontent was once again harshly suppressed by the government. This time, the demands included salary increases for teachers, elimination of water billing for farmers, and a call for an end to the government's policy to eradicate coca plantations. The determination of demonstrators, mainly the farmers, resulted in the main roadways between the main cities being blocked. Paradoxically, their determination intensified the more the police and army cracked down on them. There were 10 deaths and 165 injuries during the 20-day demonstration. At least 50 farmers were arrested.

## Brazil

POPULATION : 168,200,000 / CAPITAL : Brasilia / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



### State incapable of protecting workers' rights

**Trade union rights violations in Brazil are blatant. Employers and the police rival each other in their attempts to obstruct the work of the trade unions and put an end to demonstrations and strikes. Violence against workers in the rural areas reached alarming new heights.**

The Constitution bans anti-union discrimination, but the authorities are incapable of applying this legislation. Trade unionists are frequently dismissed in total violation of their trade union immunity. According to the Higher Labour Tribunal, two million complaints of such dismissals have been recorded every year for the last five years. By the end of the year, 2.5 million complaints (some dating back ten years) were still awaiting a final decision.

At the beginning of May, Wilson Bortolotto, a member of the Executive Committee of the Paraná State branch of the United Workers' Centre (CUT-PR) was dismissed by the State telecommunications company for opposing its privatisation. Sidnei Araújo dos Santos, a trade union leader at the "Tirreno Indústria e Comércio de Produtos Químicos", chemicals company, in the Sao Paulo State met the same fate shortly after trade union elections were held.

In August, Plantações Eduardo Michelin Ltda, a part of the Michelin group, in Itiquira (Mato Grosso state) dismissed four trade union leaders. The head of security had repeatedly threatened them verbally for being part of the newly-created trade union. Since then, the enterprise has consistently refused to recognise the union and has threatened to sack those who try to join it.

In mid-August, women workers at Marilan, a lingerie factory in Rio de Janeiro, stopped work in protest at the body searches imposed on them daily by the management before they left the enterprise. When the factory manager took them to court, the judge ordered the seamstresses' union to resume work and the enterprise to stop the searches, which are forbidden in Brazilian legislation. The women who led the stoppage had in the meantime been dismissed.

In October, the governor of Recife (Pernambouco State) dismissed 243 military police officers who had gone on strike to demand a pay rise.

#### Virtually no freedom of association in public sector

A detailed analysis of nearly 100 cases recorded between January 1997 and March 2000 by Public Service International (PSI) clearly shows the extent of violations in the public sector. Unfair dismissals and transfers, harassment, obstacles to union organising, refusal to recognise unions, or to recognise the right to strike, are just a few examples of the daily lot of public sector trade unions. A ruling by the Supreme Court dating back to November 1996 declares all strikes by civil servants illegal. The government authorities are particularly reticent to enter into negotiations with the unions. At the beginning of May, workers in the central administration went on strike following the government's refusal to negotiate with the trade unions, who were demanding a pay rise after a six year wage freeze.

#### Police violence against demonstrators

##### *Trade unionists riddled with bullets during strike picket*

*On 6 October, in the small hours of the morning, Gildo da Silva Rocha, press officer for the civil servants' union affiliated to the CUT, married with two children, was shot and fatally wounded by the police. His crime? He was in Ceilandia (federal district) with two other trade unionists to organise a strike picket outside the headquarters of the Urban Cleansing Department. As they were getting ready for the picket, aimed at paralysing activity at the enterprise the following day, the police arrived and opened fire on the workers, injuring one in the foot. In a panic, Gildo da Silva Rocha tried to get away in his car. The police fired and shot him twice in the back. His car was riddled with 17 bullet holes. In an attempt to cover up what really happened, the police planted a gun, drugs and stolen cheques in the car, claiming da Silva Rocha had opened fire on them and that he was linked to the drug world.*

During the ceremonies to mark the five hundredth anniversary of the arrival of the first Portuguese explorers in Brazil, the Bahia police heavily repressed social movements. Some 30 demonstrators were hurt in the clashes and about 100 were arrested.

On 18 May, in Sao Paulo, the police used guns and tear gas against demonstrators who had to responded to a strike call by a coalition of 25 trade unionists. Twenty strikers were injured.

#### Violence against rural workers

Once again there was marked violence against workers in the rural areas. The big landowners, the "fazendeiros", have no hesitation in hiring killers, sometimes with the complicity of the authorities, to eliminate leaders demanding agrarian reforms or supporting land occupations. Their impunity is blatant. According to the Pastoral Land Commission, 1,158 peasant workers and leaders were assassinated between 1980 and 1999. Only 13 of the killers and two people who ordered the killings have been sentenced for these crimes.

On 21 November, José Dutra da Costa, director of agrarian policy for the Rondon do Pará rural workers' union, was shot six times and killed outside his home. He had received several death threats and his name was on a list of 12 trade unionists to be eliminated. One of the two assassins was arrested and in his confession admitted he had been hired by a middle man to eliminate José Dutra da Costa, known for his militant action on behalf of rural workers. At the end of the year the investigation was still under way.

The Landless Rural Workers' Movement (MST) has also been one of the targets of this violence. The police intervened on several occasions to put an end to MST demonstrations, which twice resulted in deaths, in Curitiba (Paraná State) and in Recife. MST leaders are constantly persecuted, and sometimes assassinated. Sabino Pereira Lopes, leader of a landless workers' group occupying a "fazenda", a large property in the Minas Gerais State, was killed in an ambush at the beginning of November.

There have been some encouraging signs, albeit sporadic. At a trial during which Henri Burin des Rozières, a fervent defender of landless workers in the Pará region and Sebastián Ataides, president of the Xinguara workers' union (Pará State) both received death threats, the judges found the landowner Jeronimo Alves Amorim guilty of ordering the murder of Expedito Ribeiro de Souza, a trade unionist assassinated in 1991. The trial was a first for this State, where agrarian disputes are the most violent.

**“Unicidade”,  
an outdated system**

Despite promises of change, the law on the “unicidade” system has not yet been repealed. It stipulates that there can only be one trade union per economic or occupational category in each territorial area. The law prevents the creation of trade unions at enterprise level, although in practice this is ignored. A compulsory trade union tax is levied on each worker by the Labour Ministry which distributes the funds to the national trade union federations according to their number of members. This tax coupled with the “unicidade” system accentuates competition between the unions.

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## Canada

POPULATION : 30,500,000 / CAPITAL : Ottawa / ILO CORE CONVENTIONS RATIFIED : 87,100,105,111,182



**The legislation of both the federal and the provincial governments contains many restrictions on trade union rights.**

Trade union rights are officially guaranteed in Canada’s federal government legislation. Each province also has its own legislation. While these rights are generally respected by the authorities, limitations on the exercise of union rights persist in law in many provinces.

**Alberta: exclusion and denial of the right to strike**

The ILO has criticised the fact that several categories of workers, including agricultural and horticultural workers, are excluded from the application of labour relations legislation and therefore from the protection this provides. For universities, the law authorises the Board of Governors to designate the staff members allowed to form a trade union. This is contrary to ILO Convention 87 which specifies that “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.”

The right to strike is also trampled on. A law on labour relations in the civil service bans strikes by all hospital workers including a whole series of workers who do not fall into the category of essential services. Strikers involved in illegal strikes are liable to heavy fines and even prison sentences. For disputes in the public sector, an arbitration system is foreseen in legislation but the scope is limited: issues relating to promotions, transfers, pensions, the determination of the number of employees etc. are excluded. For issues where arbitration is allowed, arbitrators have to follow very strict guidelines.

The law authorises excessive intervention by the authorities in collective bargaining and allows the employer to bypass the trade union as a bargaining agent, and to use replacement workers in a strike. In November 1999, some categories of employees (journalists, photographers...) at the Calgary Herald went on strike to demand their first collective agreement. Joined in their action at the beginning of 2000 by other employees at the newspaper who wanted to renegotiate their agreement, due to expire at the end of March, they faced insults and threats from the newspaper’s owner. He negotiated in bad faith and sought to break the strike, calling in students to replace the strikers. At the beginning of April, the Alberta Labour Relations Board recognised that the employer had “failed to make every reasonable effort to enter into a collective agreement” and ordered him to resume negotiations. In May, the management evicted 105 employees from the building immediately after declaring a lock-out (the usual requirement is 72 hours notice). When the strikers decided to organise a picket in response, the management called in the police. Several workers were injured and five were arrested. The dispute was not resolved until August when an agreement was reached between the strikers and the management.

**Ontario: negative laws**

Ontario’s labour legislation also excludes agricultural and horticultural workers, as well as domestic workers, architects, dentists, land surveyors, lawyers and doctors. The ILO has also criticised a bill which prohibits people from taking part in community activities from joining a trade union.

Collective bargaining rights have been heavily restricted in education under the terms of a 1997 law. This excludes school principals and assistant principals from taking part in the teachers’ negotiating unit, which can only negotiate working conditions on an informal basis. The government had earlier limited the right to strike in the education sector by imposing arbitration if no progress has been made after three weeks. This was criticised by the ILO which points out that the right to strike in the civil service can only be restricted for those people exercising authority in the name of the State or working in essential services in the strict sense of the term. The education sector does not fall into either of these categories. The ILO also expressed its concern that all the reforms adopted by the government of Ontario over the last few years contained elements incompatible with the conventions on the freedom of association and collective bargaining.

Ontario’s government foresees more amendments further restricting trade union rights. Under its new proposals, if a trade union fails to get registered, no other union can apply for registration for one year.

Finally, the ILO has criticised the naming of the trade union recognised as the bargaining agent in some laws as being in contradiction with Convention 87, under the terms of which no trade union monopoly can be established or maintained by law.

#### **New Brunswick: certain categories of workers excluded**

As in the case of the above two provinces, agricultural and horticultural workers are excluded from the protection provided by labour relations legislation. Casual workers in the public sector cannot affiliate to organisations of their choice and therefore cannot enjoy the corresponding rights such as collective bargaining.

REPAP New Brunswick Inc., a large forestry company in the Miramichi region on Canada's Atlantic coast, did not renew the contracts with three of its contractors after a trade union had been officially registered with them. As a result, the people who had taken part in trade union activities or who had sought compensation for their bad working conditions were all dismissed.

#### **Quebec: limitations on the right to strike**

The right to strike is limited by two acts which give too broad a definition of essential services. In November, the Quebec authorities ordered truck drivers in Montreal back to work after they had gone on strike to demand that their employer recognise the union and engage in collective bargaining. The authorities fined the strikers C\$ 1000 each per day of the strike. The French-speaking national trade union centre, la Confédération des Syndicats Nationaux (CSN) was also fined C\$ 125,000 for not recommending that its members return to work. In July 2000, the Auberge de la Rive hotel in Sorel-Tracy declared a lock-out against 64 workers, aimed at forcing them to accept a contract that would reduce their working conditions and job security. The lock-out came after the workers had demanded a new collective agreement.

The MacDonald's fast food chain challenged the presence of a trade union in one of its restaurants. In 1998, another of the chain's restaurants closed its doors after a union was formed there.

#### **Manitoba**

The law stipulates that if a dispute lasts for more than 60 days, one of the parties may ask the Manitoba Labour Board to determine the content of a new collective agreement. This provision has been criticised by the ILO which considers that arbitration imposed by the authorities at the request of one party is contrary to the principle of voluntary negotiation and the autonomy of the parties.

Another law bans teachers from going on strike and foresees heavy fines for breaches of this law. It also provides for compulsory arbitration at the request of one of the parties after a dispute has lasted at least 90 days.

#### **Prince Edward Island and Nova Scotia**

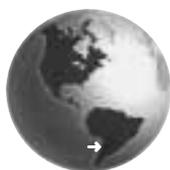
Like Ontario, the provinces have been criticised by the ILO for designating a bargaining agent by law, in the 1983 Civil Service Act in the case of Prince Edward Island, and in the Education Act in the case of Nova Scotia.

#### **Newfoundland**

Strikes are banned in the fishing sector under new collective bargaining laws.

## Chile

POPULATION : 15,000,000 / CAPITAL : Santiago / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



#### **Labour reforms at a standstill**

**The new government had made the reform of the Pinochet-era labour code one of its priorities, but the draft new code had still not been passed by the end of the year. The business world remains a powerful lobby in Chile and prevents the unions from freely exercising their rights.**

Since his election at the beginning of the year, President Lagos has sought to bring all sectors of civil society together to reform the labour code dating back to the anti-union Pinochet era. The new bill, aimed at improving workers' rights, marks a big step forward. For example it would change the number of workers required to form a union and extend collective bargaining rights. It has met with resistance however from both the unions and the employers. As a result, by the end of the year the draft reforms had still not been passed. The two main stumbling blocks were the extension of collective bargaining rights and the replacement of strikers. Employers would not be moved on either point. Current Chilean legislation contains many obstacles in this regard, which have long been condemned by the unions:

- Collective bargaining at the sectoral level is left to the discretion of the employers, and therefore usually takes place at enterprise level. The labour code also makes it difficult to organise trade unions in many sectors. Many workers are employed on individual contracts, preventing them from bargaining collectively, and allowing employers to decide whether bargaining can take place. The unions have denounced these practices, often used by the employers

as a means of preventing union organising. The labour code restricts collective bargaining in many sectors by explicitly defining workers employed in agriculture, construction, mines, the leisure industry and port workers as temporary workers.

- The legislation also allows employers to replace strikers if they do not accept an agreement within 15 days of the start of the strike. In 30 companies, including companies in non-essential sectors, such as electricity, workers do not have the right to strike.

The trade unions have also called for measures to stop anti-union discrimination, which is very common in Chile. For employers found guilty of unfairly dismissing trade unionists, all that is foreseen in the Labour Code is the payment of twice the usual redundancy pay.

#### Pressure by the employers

Chile's very powerful business world seeks to diminish the unions' room for manoeuvre. A few days before the second round of the presidential elections, the employers put pressure on the workers, threatening dismissals and promising pay rises, so that they would not vote for the socialist candidate Ricardo Lagos, who had made labour reforms one of the mainstays of his campaign. Two hundred and fifty official complaints were recorded via a special telephone line opened to denounced abuses during the vote.

#### Anti-union attitude at Sopraval

At the beginning of May police repeatedly charged at striking workers at the SOPRAVAL enterprise, a turkey slaughtering and wholesale company, to allow strikebreakers into the workplace. Several people were injured, and 16 demonstrators were arrested, including 12 trade union leaders. During the May Day demonstrations, the police intimidated workers by surrounding the buildings, although no court order had been issued. At the beginning of October, the management came back on the offensive, harassing the union's president and threatening his life. At the same time, management tried to persuade workers to leave the union. Also in October, 30 people were dismissed during the negotiation of a new collective agreement during which management sought to reduce wages by 50%.

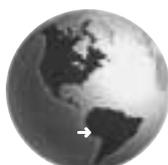
#### **Torturers on trial**

*The name of Tucapel Jimenez, a trade unionist assassinated during the Pinochet years, was making headlines by the end of the year 2000. A determined democracy activist, this charismatic president of the national civil servants' union (ANEF), had called on workers to form a common front to oppose the junta. For 17 years, the affair was kept under wraps by the authorities. It was not until the appointment of a new judge that any progress was made on the case. Since then, 19 people have been charged for their involvement in the murder, including four generals who at the time held prominent posts in the DINA and the CNI, the two intelligence agencies renowned for their violent and criminal behaviour towards opponents of the regime. The killer, a former secret agent employed by these intelligence services, had already been given a life sentence. In an attempt to shake off the murder charges, the agents set out to find a dropout whom they got very drunk so as to make him sign a suicide note in which he admitted to the murder of Tucapel Jimenez. They then drove him back to where he lived and slit his veins to make it look like a suicide.*

*There are many signs pointing to Pinochet's involvement in the murder. Four days before the assassination, he spoke out against workers' action in a speech clearly intended as a warning. Furthermore, the killer admitted that when he asked his superiors who had ordered the assassination, they pointed to Pinochet's portrait.*

## Colombia

POPULATION : 41,400,000 / CAPITAL : Bogota / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**An appalling death toll and a deplorable trade union rights situation: in 2000, more trade unionists were killed in Colombia than in the whole world in 1999.**

#### **The harsh reality of life as a trade unionist**

*His office has enough armour-plating to withstand a powerful bomb blast, the windows are two inches thick and a light constantly flickers on the metal detector at the entrance.*

*But as he slips on his bullet-proof vest and kisses his wife goodbye, Colombian union leader Hector Fajardo, 54, realises each new day may be his last. Fajardo, a teacher who describes himself as an independent, received his first death threat in 1984. The tension grows with every new statement opposing government economic policies or deploring record unemployment levels of 20.4% ... the highest in Latin America. Nowadays, Fajardo – like most of Colombia's top labour leaders*

*– is accompanied by at least five bodyguards. "My life no longer depends on good health but the will of another person who can attack you at any moment... Each day you leave the house and your wife wonders if you'll return" he explains. By Karl Penhaul for Reuters.*

### A gruesome toll

One hundred and thirty-five trade unionists, both leaders and members, were assassinated during the year, bringing the total number of trade unionists killed since 1991 to several thousand. At least another 1,600 others have received death threats over the last three years, including 180 in 2000. 37 were unfairly arrested and 155 had to flee their home region. A further 24 were abducted, 17 disappeared and 14 were the victims of physical attacks.

The whole country is affected by the violence, although the great majority of assassinations were concentrated, once again, in the Antioquia department (Medellín region). Many assassinations were also recorded in the Valle, Valle del Cauca, Santander, Norte de Santander, Cundinamarca and Risaralda departments. The worst affected are trade unionists from the public service sector who account for about 65% of violations. The great majority of assassinations have been attributed to the paramilitaries (about 76% according to the United Nations High Commission on Human Rights), followed by drug traffickers and the guerrillas.

According to the government, rights violations against trade unionists are the direct effect of the armed conflict raging in the country and only about 5 to 10% of all trade union assassinations, it says, are the result of trade union activities. Trade union organisations challenge this view, and have denounced the government's lassitude in tackling the violence. An ILO direct contacts mission to Colombia in February concluded that "despite the fact that the majority of assassinations of trade union leaders have occurred in zones where the internal armed conflict was at its most intense, (...) it cannot be categorically said that the assassinations are unrelated to the status of trade union leader or to trade union activities". The Colombian authorities themselves describe the para-military groups as being on the extreme right, notes the ILO, and consequently there is no doubt about their hostility to everything to do with the trade unions. The activities attributed to the drug traffickers are also incompatible with trade unionism. In cases where the motive is unclear, the only way to be sure is to identify the perpetrators and bring them to trial. Here there is a further problem, in that the assassinations have rarely been cleared up, and moreover public officials are involved. Reports by the United Nations High Commissioner for Human Rights have shown that despite numerous complaints, there is blatant collusion between paramilitary groups and the authorities.

Despite the evidence, the government resorted to cynical manipulation at the ILO Conference in June when the subject of a possible Mission of Inquiry to clarify the situation was raised. It denied its responsibilities and cast doubt on the figures given by the trade union organisations. It even went so far as to suggest that a Commission of Inquiry would jeopardise the peace negotiations being undertaken at that time with the guerrillas and would automatically involve the adoption of economic sanctions by its trading partners, a statement that is legally groundless and politically hypocritical.

### Threats and deaths – the body count

In the middle of a negotiating session on 5 January 2000, Jairo Espinel, treasurer of a trade union affiliated to the Workers' Confederation of Colombia (Confederación de Trabajadores de Colombia - CTC) received a written death threat. Two other trade union leaders from the Risaralda, Humberto Sarmiento and Federman Montoya, also received death threats at the beginning of January. On 13 January, 150 paramilitaries held five members of the building workers' union (SUTIMAC) hostage and drew up a blacklist, forcing the five leaders to flee the Puerto Nare (Antioquia) region. On 24 January, Guillermo Adolfo Parra López of the Antioquia primary school teachers' association (ADIDA) was assassinated by the paramilitary group "Autodefensas Unidas de Colombia" (AUC) together with three other people, including a child, after being kidnapped in the Montebello district (Antioquia). Three days later, Mauricio Vargas Pabón, an activist from the General Confederation of Democratic Workers (CGTD) was shot at five times and killed by a hired gunman as he left his home in Bogotá to go to work. The following day, Reinaldo Gómez, national treasurer of the Colombian electricity workers' union (SINTRAELECOL) and Pedro Merchán, the union's training officer, were abducted by the People's Liberation Army (EPL) guerrilla group in Playón, in the Santander department. On 31 January, Jesus Orlando Crespo García, president of the Bugalagrande (Valle del Cauca) district council workers' union was shot and killed by paramilitaries from the AUC's "Bloque Calima", after accompanying a humanitarian mission whose task was to help people displaced by the violence raging in the region. Paramilitaries were also present at his funeral, terrifying the trade union leaders attending it.

In a press release issued on 8 February, the AUC stated that 104 leaders of various unions had become military targets, accusing them of being the "puppets of the guerrilla forces and traitors to the country". On 23 February, Leominel Campo Nuñez and Franklin Moreno Torres, both members of the agri-food workers' union (SINTRAINGRO), were assassinated by paramilitaries in Apartado (Antioquia). Two days later, José Luis Jaramillo Galeano, an activist from SINTRADEPARTAMENTO in Antioquia, was pursued by two armed individuals near the trade union's head office. The vice-president, José Rangel Ramos Zapata, was still the target of repeated threats when he returned from exile in 1999. He had had to flee the country as a result of constant persecution but had just returned to Colombia, partly in order to give evidence during the ILO direct contacts mission.

On 1 March, unidentified armed men assassinated the top leader of the Medellín region service workers' union (SINTRAEMSDES), Guillermo Molina Trujillo, in Yarumal (Antioquia). In mid-March, José Ricardo Toro Delgado, president of a union affiliated to the national hospital workers' union (ANTHOC) in Ocaña (Norte de Santander) was told that there were people who wanted to kill him. He had previously been threatened every time there was a dispute between the union and the management, as was the case this time. On 29 March, José Atanacio Fernández Quiñones, an activist in the SINTRADEPARTAMENTO of Antioquia, in San Rafael, was assassinated. The union had been asking, unsuccessfully, for a protection programme since 1997. José Fernández had gone to Bogotá a few days earlier with a group of trade unionists to protest at a bill. The vice-president of SINTRADEPARTAMENTO and his family had been constantly intimidated in March and April and requested a protection programme several times but in vain. One day while being followed he had to hide in the cellars of the departmental government's headquarters before calling for help; he later came out, but still with no protection.

On 3 April, two trade unionists were assassinated: Margarita María Pulgarín Trujillo of the ASONAL JUDICIAL union in Medellín and Julio Cesar Betancourt, an activist in the Yumbo district council workers' union, in Yumbo (Valle del Cauca). Margarita Pulgarín was killed when she was shot in the head four times by hired gunmen as she was leaving home in the morning. She lived with her mother and worked as a public prosecutor. The following morning, Oscar Dario Zapata, a trade union delegate for SINALTRADIHITEXCO was abducted in Girardota by guerrillas. The National Liberation Army (ELN) had threatened all members of the union's executive at the beginning of the month, stating that they were harmful to the working class and therefore constituted a military target. During the night, Islem de Jesús Quintero, an activist in the telecommunications workers' union (ATT) died on his way home from work after being hit by three bullets in Pereira (Risaralda). The assassination occurred during a dispute between the union and the management of the national telecommunications company.

#### **8 April, human stupidity at its height**

*As they returned from repairing the Paz de Ariporo (Casánare) electricity grid, Cesar Wilson Cortes and Rómulo Gamboa of the SINTRAELECOL union were attacked and assassinated in Trinidad by the FARC. Two other trade unionists from SINTRAELECOL escaped with serious injuries. To everyone's amazement, a few days later, FARC apologised. Their reason? As simple as it was careless. The guerrilla group had mistaken them for members of the AUC paramilitary group. But the carnage was not over: another SINTRAELECOL trade unionist was assassinated the same day in Argelia (Antioquia). And the same fate awaited Alberto Alvarez Macea of the teachers' union EDUMAG, who was killed in Montería (Córdoba)*

On 10 April, Eibar Meléndez, president of a union affiliated to FECODE, was kidnapped by the Revolutionary Armed Forces of Colombia (FARC) in the Nariño department. On 27 April, two trade unionists from the oil workers' union (USO) and two others from SUTIMAC were shot dead. At the end of the month, Luz Marina Hache Contreras of the ASONAL Judicial union decided to ask for political asylum in Canada. She had received death threats by telephone and had been abducted in Bogotá by armed men who, after threatening her and her family, released her.

The violence continued to affect all sectors. On 3 May, Jesús Ramiro Zapata of ADIDA was abducted. A few hours later, his family received a telephone call inviting them to come and collect his body in the outskirts of Segovia (Antioquia). In mid-May, a trade union leader from the CUT, Gerardo González, and his family received death threats. On 17 May, unidentified individuals shot dead Carmen Emilia González, president of the local branch of ANTHOC in Cartago (Valle del Cauca) as she was entering the emergency department where she worked. On the same day, in Barbosa (Antioquia) paramilitaries burst into the home of Dioselina Chaverra, the widow of a trade unionist from SINTRAGRICOLA, who had been assassinated, and raped her two children aged 9 and 14, destroyed her house, then threatened to kill her if she did not leave the region. In the same month, paramilitaries also declared that all USO leaders were considered military targets.

At the beginning of June, Gilberto Agudelo Martínez, president of the university workers' union of Colombia (SINTRAUNICOL) and a professor at the university of Medellín, was kidnapped by paramilitaries while on his way from Bogotá to Bucaramanga. On 8 June, a parcel bomb was delivered to the headquarters of the Yumbo municipal workers' union (Valle), where it was defused. On the fourteenth, Jorge Heriberto Torres Monsalve, a symbolic figure in the Colombian trade union movement, was arrested for having masterminded the attempted assassination of a lawyer. According to a specialist from the Colombian trade union movement, Torres was the target of a witch-hunt by the authorities and the paramilitary. On 19 June, members of the Antioquia department official municipal workers' union (SINTRAOFAN) had to take refuge in their premises further to threats from paramilitaries. Luis Eulogio Hernández had to escape from the Antioquia region owing to persistent death threats. On 25 June, Edgar Moriño Pereira Galvis, leader of a local branch of ANTHOC, was shot dead in his home in Villavicenio (Meta) after the government had been informed that death threats had been made against all the trade union leaders in the department. Four days later, Rafael Marrugo, a leader of the SINTRAUNICOL trade union, was attacked by two armed men in a block of houses attached to a police station.

On 11 July, Elizabeth Cañas Cano of the SINRAISS was stopped close to her office by two men who killed her on the spot. She was about to go abroad to testify about the massacre in Barrancabermeja on 16 May 1998 in which seven people had perished and another 25 had disappeared, including her son and her brother.

At the beginning of August, Carmen Emilia Sanchez Coronel, a delegate from the Norte de Santander teachers' union (ASINORT) was killed together with seven other people while she was travelling in a bus on its way to Cúcuta in Ocaña. Paramilitaries blocked the road and proceeded to massacre those whose names were on their list. On 14 August, peasants found the lifeless body of Roberto Cañarte Montealegre, a trade union leader from SINTRAMUNICIPIO, in an advanced state of decomposition, in the outskirts of Bugalagrande. He had been reported missing after AUC 'Bloque Calima' guerrillas abducted him at the end of June. On 27 August, Francy Urán Molina, a 21-year-old teacher and member of ADIDA was assassinated in Caicedo (Antioquia). In August, four more ADIDA trade unionists were assassinated, including three in Medellín alone.

#### **Fierce attack on SINTRAEMCALI**

*As he returned home on 19 September, the general secretary of the Cali municipal enterprises' workers' union (SINTRAEMCALI), Ricardo Herrera, had no idea what was about to happen. Two armed men fired at him a point blank range, grievously wounding him. Omar de Jesús Noguera, a trade unionist who was with him, was hit in the face, arms and spine. He fought for his life for four days in intensive care before dying. In the first week of September the union's president, Alexander López, had to leave the country following numerous death threats and intimidation by hired killers. He was luckier however: he escaped three attempts on his life. A mere coincidence? No-one believes that. These attacks took place at the height of a dispute between the mayor of the town, who wanted to privatise the municipal enterprises, and the trade union. The union had also denounced the corruption in these enterprises and had been the target of threats since May, when the paramilitary had posted notices in the town threatening all workers affiliated to SINTRAEMCALI.*

*In response to the workers' demands, the State charged 55 workers with rebellion. The workers continued to be harassed: in October the sister of Alexander Lopez, also a trade unionist, narrowly escaped an attempted assassination.*

In October, Angel Sajas Fajardo, a trade union leader from ANTHOC based in Baranquilla (Atlántico) and his family received death threats in the mail. In the preceding days, he was harassed by two people who went as far as his office to find him.

On International Human Rights Day, 10 December, a paramilitary in Villa del Rosario (Norte de Santander) killed Gabriela Galeno, the youth and women's secretary of the local office of the united workers' centre (Central Unitaria de Colombia - CUT). Five days later, Wilson Borja, the president of FENALTRASE, a federation of most of the public service unions, was attacked in Bogotá as he left his home early in the morning. He and two body guards were badly wounded. A door-to-door salesman who happened to be in the vicinity died in the attack, for which the head of the AUC Carlos Castaño claimed responsibility in person. Wilson Borja was a prominent peace campaigner, and had sought to get the ELN to sign agreements.

The millennium did not end on a good note. On 26 December, César Andrés Ortiz, a 21-year-old youth coordinator for the General Confederation of Democratic Workers (CGTD) was seriously wounded when he was shot in the back. At the end of the year he was still in a coma and his doctors feared he would be left a paraplegic.

#### **Police beat demonstrators**

On 31 March, the anti-riot police broke up a protest movement at the operations centre of the enterprise responsible for the Bogota aqueduct, injuring five workers and arresting 20. The workers were protesting at the management's failure to respect a pay agreement.

During celebrations for International Labour Day, on 1 May, the police arrested 68 demonstrators in Medellín who had taken part in the march and sent them before the public prosecutor claiming that some of them were members of a guerrilla group. All were later released, but not before 24 of them had been made to sign a document admitting that they had committed acts of violence.

At the end of June, the day after the police brutally broke up a demonstration by the U'wa indian community in Cubara (Boyacá), social organisations, including the trade unions, wanted to demonstrate their solidarity but were confronted by the police who arrested 33 people including 14 trade union leaders. Some of them had been beaten and threatened with firearms. The demonstrations continued in protest the following day, and the police arrested a further 38 people.

On 3 August, during a 24-hour general strike against President Andrés Pastrana's austerity measures, the police brutally drove back demonstrators in four towns. A trade unionist in Cali received a bullet wound.

Following the adoption of "Plan Colombia", the name of a programme granting considerable US military aid to the Colombia government and which risks having a damaging effect on the already very serious human rights situation in the country, many social and humanitarian organisations as well as many trade unions have expressed their opposition to the Clinton administration's policy. When the then US President visited the country at the end of August, several demonstrations turned into violent confrontations between demonstrators and the police. In Cartagena, the police arrested at least ten trade unionists, including the regional president of the CUT. In the days preceding the Clinton visit, Moises Sanjuan, a trade union activist from the Norte de Santander department and one of the organisers of the protest movements, was assassinated by paramilitaries in Cucuta.

**Trade unionists dismissed** Further to the decision by the Trade Union Association of Employees of the National Penitentiary Institute (ASEIN-PEC) to refuse to receive any more prisoners because of overcrowding, the authorities dismissed 53 prison warden trade union leaders at the end of May, under the terms of a disciplinary system abolished by law. The union's president received death threats and despite repeated requests was not given protection.

In mid-June, during a peaceful demonstration by the food workers' union (SINALTRAINAL), protesting at the refusal by the Panamco Colombia S.A. (Coca Cola) bottling plants to sign a more favourable collective agreement, the management unilaterally terminated the contracts of ten workers and prevented the Labour Ministry from taking part in the settlement of the dispute. SINALTRAINAL had previously complained at the anti-union attitude adopted by the company, such as the pay rises offered by management to anyone who agreed not to join the union.

The national public sector employees union (UTRAMEC) was also targeted. In May it complained of the illegal dismissal of two trade union leaders from the Colombian Institute for Family Welfare (SINTRAIPOMEN) and leaders from the Arauca municipal workers' union (SINTREMAR). It also lodged a complaint with the ILO in December regarding the arrest on false charges of the president of the public services union at the Tunjuelito hospital (Cundinamarca) and his suspension.

#### Improvements to the legislation...

Law no.584 adopted on 13 June 2000 repealed or amended many legislative restrictions on the exercise of trade union rights, notably the following:

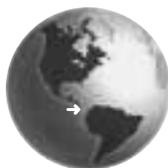
- the article stipulating that the labour inspector must certify that another union does not exist before a union can be registered
- the provision whereby a member of a trade union executive can be deprived of their trade union rights for a certain period if they are responsible for the dissolution of their union
- article 388 of the labour code containing many restrictions, notably regarding the creation of a union and access to trade union leadership posts
- the requirements concerning nationality in order to be able to enjoy trade union rights
- the article which requires that representatives of the authorities be present at general assemblies convened in order to vote on arbitration or strike action
- the provisions that allow the Labour Minister to demand that in the event of a strike call workers should vote on submitting the dispute to arbitration
- the surveillance of the internal functioning of the trade unions and trade union meetings by civil servants

#### ...but some restrictions remain

The ILO, which welcomed the new law, has continued to criticise other clauses that limit trade union rights. The legislation still prohibits federations and confederations from calling a strike. The list of essential services is excessive and strikers taking part in an illegal strike can be sacked, including in cases where strikes comply with the principles of the freedom of association as defined by the ILO. Finally, the ministry may impose compulsory arbitration if a strike lasts more than 60 days. Furthermore, the bill allowing public sector staff to bargain collectively had still not been passed by parliament by the end of the year and the sectoral unions still have to represent at least 50% of workers before they are allowed to bargain collectively.

## Costa Rica

POPULATION : 3,900,000 / CAPITAL : San José / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**The employers' hostility to the trade unions and the slowness of the courts are major obstacles to organising in the private sector, notably on the banana plantations. Collective bargaining is virtually non-existent, particularly since the Constitutional Court declared collective agreements in the public sector illegal.**

#### Inadequate protection for the freedom of association

Although guaranteed by the Constitution and by Conventions 87 and 98, ratified by the government of Costa Rica, the effective exercise of trade union rights is made very difficult in practice. The trade unions have long complained that private sector employers refuse to recognise them and dismiss workers who seek to join a trade union. Such behaviour, although illegal, is tolerated by the authorities and sanctions are too mild to be dissuasive. The situation persists owing to inappropriate legislation and the slowness of the courts.

To get rid of a worker who benefits from trade union immunity, the employer is not obliged to follow any specific procedure to prove the grounds for dismissal, unlike the sort of protection provided for pregnant women for example.

Furthermore, trade union protection only covers a very limited group of representatives.

The procedure for the reinstatement of a trade unionists, by contrast, takes an average of three years, long enough to remove a trade union. The process of seeking reparation for such discrimination is fraught with difficulties. The national labour inspectorate (DNIT) institutes an administrative procedure to certify the violation, which usually takes longer than the maximum two month period foreseen by the Constitutional Court. If the violation is not certified, a preliminary hearing has to take place before the case can go to the judicial authorities. The ILO has criticised this procedure as it gives no guarantee of reparations for damages caused, even if the legal deadlines are respected, since the labour inspectorate simply certifies the wrongdoing and makes the charges. Once a trial takes place, it can be several years before a verdict is reached. In the dispute between the Central American Fertilizer Company FERTICA and its employees' union ATFE (Fertica Workers' Association) over the dismissal of 265 people following a strike, the court took more than two years before deciding on the legal representation of the enterprise and had still not notified it of the legal proceedings against it by the end of 2000, three years after the case had begun. The ILO's Committee on Freedom of Association has asked the authorities to reinstate all the workers.

**Solidarist associations or competition with the unions**

Competition between unions is further accentuated in Costa Rica by the existence of the solidarismo associations. Created initially in the 1940s to counter the success workers' organisations were then enjoying, the associations provided workers with certain advantages. In exchange, they promised not to strike and to avoid other forms of confrontation. Theoretically, these associations should not carry out activities that are the sole prerogative of trade unions, and membership is voluntary. The reality is very different. Claiming to uphold a national ideology that is opposed to the "foreign" concept of trade unionism, employers try to dismantle the unions to set up the more malleable solidarismo associations. Reports from previous years have shown that the Ministry of Labour and Social Security divulged information to employers about trade unions that had just been created, allowing employers to set up solidarismo associations to counter them.

**Banana industry particularly hostile to trade unions**

Of all sectors, workers in the banana industry are the worst affected by anti-union discrimination. A statistical study by the DNIT has established that 36% of all complaints about anti-union discrimination between 1993 and 2000 came from the banana sector. The figure rises to 52% for the private sector on its own. The Banana Plantation Trade Union Coordination (COSIBA) has reported on 210 cases of trade union rights violations still awaiting a court ruling, some of which date back three years.

Falls in banana prices on the world market and Hurricane Mitch both gave employers a pretext to dismiss workers belonging to trade unions, en masse. Working conditions were also affected. The use of pesticides that fail to meet safety standards and their harmful effects on workers' health have been repeatedly denounced by trade unions and humanitarian organisations. In December, former banana plantation workers organised a protest in Guapiles (Limón) to seek compensation for the excessive exposure to pesticides which made them sterile. The police response was brutal, leaving at least 19 civilians, including five children, injured.

**Collective bargaining virtually non-existent in the private sector...**

In the private sector, collective bargaining has been reduced to a bare minimum, say trade unions. The low level of union membership in the wake of employer repression is partly responsible for this. Another reason is the solidarismo associations that try to replace trade unions, with all their prerogatives. And finally the courts can be very slow when dealing with the cancellation or non-respect of collective agreements. FERTICA and the national airline LACSA where collective agreements were arbitrarily cancelled are blatant examples. The courts had yet to reach a verdict by the end of the year, after years of litigation.

Only 13 collective agreements were in force in the private sector at the end of 2000.

**...and under threat in the public sector**

In the public sector collective agreements are more frequent, but they have been seriously undermined by a Constitutional Court ruling in May, declaring collective agreements concluded in certain public bodies and institutions unconstitutional. Specifically, workers from 52 municipalities, universities, the highways department, Education Ministry teachers and all administrative employees, refuse collectors etc. were deprived of the right to bargain collectively. Yet ILO Convention 98 stipulates that this right can only be withheld from people employed by the State who exercise authority in the name of the State.

Other collective agreements are tolerated and considered constitutional, but in some cases certain clauses have been eliminated because they were considered too advantageous for the workers. The ombudsman presented a complaint on the grounds of unconstitutionality to the Constitutional Court against five articles of the collective agreement negotiated between Costa Rica's national oil refinery RECOPE and the oil, chemical and allied workers' union, SITRAPE-QUIA. The court ruled that the clauses provided advantages that were disproportionate in terms of equity and the standards and duties of the public service. This was a collective agreement that had been signed in 1969 and regularly renewed without problem.

The authorities have always been reluctant to accept collective bargaining rights in the public sector. Since 1992, the government has been promising trade unions it will adopt a bill on public sector employment. It had still not done so

by the end of 2000. In the mean time, collective bargaining has been regulated by a provision that was supposed to be temporary and has been condemned by the ILO as being in violation of Convention 98. The Regulation on Collective Bargaining in Public Services requires that agreements be approved by the National Approval and Ratification Commission, with the result that some collective agreements have been rejected despite the consent of all parties concerned. For example, the collective agreement signed by the Union of National Registry Workers and Pensioners (SITRARENA) was never officially approved. When the ILO Committee on the Freedom of Association examined this case, it stressed the importance of adopting the bill as quickly as possible.

Where collective bargaining does take place despite all the obstacles, the Regulation on Collective Bargaining in Public Services excludes all negotiations on any matter that could have an impact on the budget of the public entity, including pay negotiations.

#### Police violence

In March, a wave of protests by rural workers, civil servants and students against the government's economic policy and the controversial plan for the privatisation of the telecommunications and electricity company (ICE) degenerated into confrontations between the police and demonstrators. They were the most serious in recent years. In addition to throwing tear gas, the police also used gunfire to break up the demonstrations, causing the death of one demonstrator, Jesús Martínez, in Ochomogo (Cartago) and leaving at least five others with bullet wounds. A total of 50 people were injured in these demonstrations, and 60 were arrested. The protests ended when the unions and the government reached an agreement suspending the examination of the bill in parliament.

#### Right to strike limited

All the strikes that took place during the year, about 10 in total, were declared illegal. This is not surprising, given that in the 50 years of the Labour Code, the courts have only approved two strikes as legal. The procedures established by law for a strike to be legal are complicated. At least 60% of workers at the enterprise must support the strike. The unions have to draw up lists of names to prove this which, they fear, could be used for dismissals in the event that the percentage falls below 60%. Furthermore, strict and lengthy legal procedures must be followed. An appeal challenging the constitutionality of these requirements was lodged in July 1999, but the Constitutional Court had still not examined the case by the end of 2000. Strikes are banned in railway, maritime and air transport as well as in animal husbandry and forestry. There is a legal vacuum on strikes in the public service. The Constitution bans strikes in this sector, but since 1998 the Constitutional Court has declared some of the articles defining the concept of public service unconstitutional. Consequently, it is impossible, say the unions, to know which activities are considered a public service.

#### Export Processing Zones

Although the Labour Code is as applicable in the EPZs as in the rest of the country, violations persist. The dismissal of trade unionists without justification or warning is frequent. On 19 July, about 580 workers at the maquiladora "Trajes Internacional de la Asunción de Belén" in Alajuela (Alajuela department) were informed of their dismissal on the day the factory closed. Reports also show that employers sometimes oblige workers to work at home as they are not covered by the Labour Code there. There have been some improvements in labour inspection. In 1999 there was one inspector for 30,000 workers. In 2000, this had risen to one inspector for 9,000 workers.

## Cuba

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



### The authorities turned a deaf ear to the ILO's recommendations and continued to harass the independent trade unions

#### Only one trade union centre authorised

For years, the government has promised the ILO that it will revise its trade union legislation but has consistently failed to do so. The Cuban authorities have come in for particularly strong criticism from trade union organisations for only tolerating a single national centre, the "Confederación de Trabajadores Cubanos" (CTC), heavily controlled by the State and the Communist Party which appoints its leaders.

Collective bargaining does not exist on the island. The State controls the employment market and decides on pay and working conditions. There have been no changes in the private sector. State controlled agencies provide staff for foreign or joint capital enterprises who invest in the island. The investors pay the agencies in dollars but the agencies pay the workers in local currency. Workers have to undergo a political investigation by the State before they can be hired. The right to strike is not authorised in law and is totally non-existent.

**Independent trade unionists harassed**

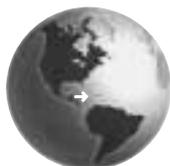
The independent trade unions, which have no recognition, continue to fight for their survival in a hostile and sometimes violent climate. On 20 January 2000, José Orlando González Bridón, president of the Confederación de Trabajadores Democráticos de Cuba (CTDC) and a journalist for Cuba's free press, was briefly held and questioned by police who threatened to take him to court if he continued his activities. On 15 December, he was again arrested and had not been released by the end of the year.

During a preparatory meeting in August for the congress of the Consejo Unitario de Trabajadores de Cuba (CUTC), which was to be held in October, several members and leaders were harassed and detained for several days. The police, acting on the orders of the State Security Department (DSE) confiscated documents about the organisation. A press conference was due to take place a few days before the congress, but the authorities again confiscated documents and prevented many trade unionists and journalists from attending. In Güines, the police arrested and beat up two trade unionists on their way to the congress before releasing them in the middle of the countryside. Four other trade unionists, including the CUTC's general secretary, Pedro Pablo Alvarez Ramos, were arrested as they left home. Pedro Alvarez was kept in prison until the end of the year, but released shortly afterwards. The government also expelled a representative of a Dutch Christian trade union who was there to attend the congress as observer. The Cuban authorities succeeded in their aim ... the congress did not take place.

05

## Dominica

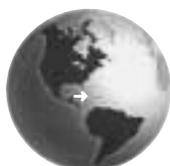
POPULATION : 64,000 / CAPITAL : Roseau / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182

**Too many sectors are prohibited from calling strikes.****A very long list of essential services**

The banana, coconut and citrus fruit industries as well as port services are considered as essential services, which effectively prevents workers in these sectors from going on strike. Despite promises that the government had given to the ILO, no legislative or practical changes were made by year-end.

## Dominican Republic

POPULATION : 8,200,000 / CAPITAL : Santo Domingo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182

**Despite repeated efforts and promises by the government, compliance with trade union rights in export processing zones and sugar plantations is nearly non-existent.**

The privatisation of several state-run companies has had a major impact on trade unions. Following restructuring, almost 75,000 workers lost their jobs, leading to the disappearance of nearly 200 trade unions. Many trade unions attempted to reorganise, but their efforts were in vain.

**Legal framework**

Although the Dominican Republic's Constitution recognises trade union rights, the right to strike is limited. Strikes may only be called in a company when the majority of workers, trade union members or not, vote in favour of the action. This requirement has drawn criticism from the ILO's committee of experts. Civil servants do not enjoy the privileges provided for under ILO convention 87, which was nevertheless ratified by the government. Indeed, in order to form a trade union, at least 60% of the civil servants within the given governmental body must agree to join. Employees of independent and municipal state bodies are also excluded from the labour code. The law and regulations concerning these bodies contains no provisions regarding trade union freedoms. Finally, trade union federations must obtain a two-thirds majority vote from their members in order to form a confederation, a requirement that goes against ILO principles stating that only the federations have the prerogative to establish such criteria.

**Legislation ignored in export processing zones**

Although labour legislation applies in the 80 EPZs, the government does not make any real efforts to see to it that this labour legislation is enforced. Workers in the EPZs are often reluctant to form trade unions for fear of physical harassment to themselves and losing their jobs. Working conditions in the EPZs are often deplorable, with unpaid

overtime and the need to ask for permission to go to the rest room. Employers only rarely comply with the decisions of the industrial court when it rules against them.

As a case in point, by year-end, Hanchang Textil, S.A., which operates out of the Baní export processing zone, had still not complied with the industrial court's order to reinstate 5 union activists who had been illegally sacked back in 1995 after they had notified their boss of their intention to form a trade union. Despite a claim filed by the National Federation of Workers in EPZs (FENATRAZONAS), the Secretary of State for Labour refused to apply the provisions of a law stipulating, among other things, the cancellation of an employer's export license in the event of failure to comply with an industrial court order.

In December 1999, the Minister of Labour denied registration to the trade union of D&P Handbags, Corp., which operates out of the Santiago EPZ. It justified its refusal saying that certain workers -who had nothing to do with the trade union- were not present at the General Meeting to form the trade union. Several of the union activists were then sacked. A few days later, a court ruling overturned the Minister's decision. By year-end, however, the D&P Handbags, Corp. still refused to recognise the trade union and would not reinstate the sacked union activists. In the same EPZ, a blacklist is distributed among companies to prevent union activists from finding another job.

A similar situation can be found in the Romana EPZ. In April 2000, Tortony Manufacturing shut down after the workers called for collective bargaining. In June, the management had a change of heart and decided to rename the company "Gramerci Dominicana". Weakened by this action, the trade union was unable to present its claims. Moreover, many of the workers who had lost their jobs when Tortony Manufacturing closed its doors, were unable to obtain employment in the new company.

The consequences of anti-union resistance in the EPZs are sometimes suffered by lawyers who defend the rights of workers. As a case in point, in March, the lawyers representing 30 workers (illegally sacked in 1995 for having participated in an "illegal" strike) were violently assaulted on several occasions by the authorities when they attempted to pressure the company Will Best Dominicana, which operates out of the Barahona EPZ, to comply with a Supreme Court-upheld order to reinstate the workers.

*In 1998, the company Euro modas, S.A. decided to close its factory, laying off more than 300 trade union members. Disgruntled, the workers decided to take their case to court to obtain redundancy pay. In 2000, the court ruled in their favour. Unfortunately, the company had vanished in the meantime and the owners had formed a new company. On 1 April, the workers decided to make a second attempt by holding a peaceful demonstration in front of the shop belonging to one of the former owners of Euro modas, S.A. The shop is located on El Conde street, one of the most well-known streets in the colonial district of Santo Domingo. They did not expect the harsh reaction from the police. After having beaten the demonstrators, the police arrested 21 workers (16 women, several of whom were pregnant) and held them for three days in jail in deplorable conditions. By June, the workers had still not received any compensation. They held another demonstration in front of the entrance of the new company. Once again, the only response was police brutality. 35 workers were arrested without any charges filed against them. The prisoners included children accompanying their mothers, one of whom was only 5 years old.*

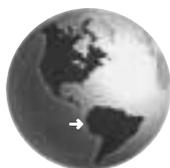
#### Deplorable conditions in sugar plantations

The sugar industry in the Dominican Republic has undergone major restructuring, namely resulting from the privatisation of former state-run sugar companies. The measures have had considerable impact on trade union rights. As a case in point, in March, the management of the Caribbean Sugar Producer's Consortium laid off 150 workers (including 6 trade union leaders) at its sugar mill in Consuelo as punishment for their having formed a trade union. A court order succeeded in getting the workers reinstated but no compensation was ever paid for the period during which the workers were unemployed. In another sugar mill run by the Ingenio Sugar Producer's Consortium in Barahona, five other trade union leaders were also laid off. So far, no legal solution for these workers has been found. Trade unions have nevertheless made some inroads with the management. This was the case in the sugar mills run by the Pringamoza Consortium, where a trade union is currently being formed. The employers have insisted, however, that this be the only trade union and that no collective bargaining is to take place for a period of one year.

Another stumbling block to be overcome is the poor working conditions observed in sugarcane fields. The majority of the workers are Haitian who are reduced to a status that strongly resembles slavery. There are an estimated one million Haitians present in the Dominican Republic. Employed in other sectors such as construction, they constitute a very cheap and often illegal labour force, offering employers the added advantage of not being able to join trade unions. Most of these workers are concentrated in "bateyes", which are makeshift villages where sanitary conditions are appalling and access to school non-existent.

# Ecuador

POPULATION : 12,400,000 / CAPITAL : Quito / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



06

**Throughout the year the Ecuadorian trade union organisations were in the vanguard of several popular protest movements against government policies. Some of these protests were repressed by the police.**

## Repression of January demonstrations

A crisis unprecedented in the history of Ecuador (hyperinflation and a 7.5% fall in GNP on the previous year) sparked off a vast protest movement. On 15 January, President Jamil Mahuad informed the protest movement, composed of indigenous peoples', trade union and community organisations, that he would repress any form of demonstration. His orders were promptly carried out. That evening, 30 hooded and heavily armed men arrived, without a warrant, at the home of José Chávez, president of the Ecuadorian Confederation of Free Trade Unions (CEOSL). They broke down the doors, threatened his family, and took him away. José Chávez had earlier received threats by telephone. That same night, Luis Villacis, president of the United Workers' Front, received the same treatment. The two trade unionists were only released thanks to an appeal for habeas corpus brought by their lawyers. The authorities claimed the arrest was justified under the terms of the state of emergency decreed at the beginning of the year following the many demonstrations demanding the resignation of the President and the withdrawal of his plans for the dollarisation of the economy. Dozens of people had been injured in the protests and about 100 were arrested. Demonstrations (and arrests) continued throughout the country, however, and did not end until a coup d'état led by the army and the National Confederation of Indigenous Peoples of Ecuador (CONAIE) overthrew President Mahuad. After a period of confusion and contradiction between the civilian and military perpetrators of the coup, vice-President Gustavo Noboa was appointed to replace Mahuad.

## Teachers' protest

Discontent remained. The trade unions continued to oppose the dollarisation of the economy, arguing that it would only serve to increase the existing poverty in the country. During a protest demonstration on 16 June, four people were shot and injured and 50 were arrested. On 21 June, the police again intervened against teachers denouncing the return to the 1999 basic minimum wage and the suspension of the new education act. In another operation, the Special Operations Group attacked the headquarters of the National Union of Educators (UNE). They threw tear gas into their offices, damaged vehicles parked outside and arrested the UNE's president, Aracely Morena Silva, who had led a march through the streets of Quito. After a trial of strength between the workers and the authorities that lasted two months, Ernesto Castillo and Carlos Median, also from UNE, were arrested. They were only held for a few days, however. In May, the police prevented teachers from reaching the presidential palace using teargas. The authorities threatened to take very severe measures to force the teachers back to work.

In October, the protests resumed. The police again intervened brutally and arrested some trade unionists. Several people were injured in the clashes.

## Obstacles to forming a trade union

The Constitution of Ecuador stipulates that workers in State institutions can only be represented by a single trade union organisation, which is contrary to the conventions on the freedom of association and right to organise. The Civil Service and Administrative Careers Act prohibits civil servants and public service workers from forming trade unions.

A minimum of 30 workers is required to form a union. As 60% of enterprises in Ecuador employ less than 30 workers, one million workers are effectively excluded from organising. A works council can be dissolved if the affiliates represent less than 25% of the workforce. Furthermore, workers have to be of Ecuadorian nationality to sit on a union executive.

According to the CEOSL, in over 90% of private enterprises where trade unions exist, management seeks to reduce the unions' influence by setting up solidarismo-style associations.

The unions also complain of the Labour Ministry's slowness in registering trade unions' statutes, thereby giving the employers time to get rid of the union. In the course of the year, the CEOSL denounced several cases in which trade unionists were dismissed in order to damage the union, notably in the private enterprise "Textilos Nacionales" where all the union's leaders were sacked or the National Post Office of Ecuador, where 300 workers were dismissed, including trade union leaders.

Finally, trade unions cannot participate in any political or religious activities.

## Right to strike virtually non-existent

The right to strike is virtually non-existent in the civil service. The Constitution stipulates that it is prohibited to paralyse activities in the public sector and in particular health, education, justice, social security, transport, the water service, the electricity supply and fuel distribution. Those breaching this rule are liable to between two and five years in prison.

In the private sectors strikes can only be called at enterprise or factory level. The law further restricts this right for a whole range of sectors by prohibiting the paralysis of the enterprise for a period of 20 days as from the day the strike is called. During this time, workers and employers have to agree on how many workers must ensure a minimum service, which must not be less than 20% of the workforce. If after this period the employers and trade unions have not reached agreement, the General Directorate of Labour takes the final decision. Before calling a strike, 50% of workers in the enterprise, including non-union members, must vote in favour.

The law prohibits federations and confederations from calling strikes. Solidarity strikes and boycotts are restricted to a maximum of three days.

#### Limitations on collective bargaining rights

The Civil Service and Administrative Career Act prohibits collective bargaining for public service workers. While teachers can bargain at the national level, the act prohibits them from negotiating locally or at the work place, although in reality they do. For all other workers, they are only allowed to belong to a union if they manage to form an ad hoc committee representing more than half the workforce.

When collective bargaining takes place in the public sector, the government may be both negotiator and decision-maker, since if the two sides do not reach consensus on the content of a new collective agreement, the decision goes to the Conciliation and Arbitration Tribunal. This court is formed of two representatives of the employer, two of the government and two of the workers, whose decision is final.

#### Government intervention in trade union affairs

The government repeatedly intervened in trade union affairs, openly taking sides in disputes concerning union leadership. Two such cases concerned the Ecuadorian Centre of Class Organisations and the Pacifictel works council.

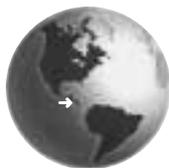
The CEOSL also reported that the government was listening in to some of the national trade unions' telephone lines.

#### Investigation into assassination of Saul Cañar Pauta

At the end of the year, the kidnapping and murder of the trade union leader Saul Cañar Pauta, in December 1998, had still not been cleared up. The government said the investigation of the case was completed in July and that it was impossible at this time to identify the authors of or accomplices to the crime.

## El Salvador

POPULATION : 6,200,000 / CAPITAL : San Salvador / ILO CORE CONVENTIONS RATIFIED : 29,100,105,111,138 ,182



**Several industrial disputes had a positive outcome. There are still considerable legislative restrictions on trade union recognition however.**

#### Constitutional grounds for refusal to ratify Convention 87

The government still refuses to ratify Convention 87, on the grounds of the supremacy of the Constitution of El Salvador (the superiority of the Constitution over international treaties). According to the authorities, by granting civil servants the right to form trade unions the Convention is in breach of the Constitution which only grants the freedom of association to workers in the private sector and independent official institutions. The government's reason for excluding civil servants from this right is simple: they provide essential services for the population and giving them this trade union right would enable them to go on strike and therefore place the population in danger. The ILO criticises this interpretation which it sees as a very serious violation of the most fundamental principles of the freedom of association. Moreover, this measure deprives the whole of the civil service (with the exception of autonomous institutions) of the right to bargain collectively. The ILO says that such a restriction can only be placed on the armed forces and the police. At the beginning of May the Labour Ministry refused to register the Education Ministry workers' union (ATRAMEC) on these grounds, even though all the necessary documents had been duly presented a few months earlier.

#### Other legislative restrictions

Many trade unions have also been critical of the complexity of the procedures for registration. They note amongst other things the need to obtain prior authorisation to form a workers' organisation, which is contrary to Convention 87. On 3 May, the authorities refused to register the food workers' federation (FESTA), which would have represented five unions in the sector, on the grounds that it had not met all the legal requirements. In fact this refusal, apart from confirming the trade unions' accusations, mainly served to highlight the authorities' lack of cooperation with regard to representative workers' movements. The federation had not been told there were gaps in the procedure that they needed to complete.

There are other restrictions on the right to strike, including the requirement that 51% of workers, whether or not they are members of a union, must support a strike in an enterprise. A strike can only be called if it concerns a change or renewal of a collective agreement or the defence of the workers' professional interests.

The labour code does not require the reinstatement of illegally sacked workers, only that employers give the worker a severance payment. Furthermore, the labour code prohibits trade unions from taking part in political activities. It also stipulates that members of unions' leadership bodies must be Salvadorian by birth.

### Victory for health and social security unions

On 23 March the Supreme Court of Justice ruled in favour of workers at the Institute of Health and Social Security (ISSS), in their dispute with the government. The ISSS workers had been on strike for several months in protest at privatisation plans. In November 1999 221 workers had been dismissed after refusing to comply with a court order declaring the strike illegal. The 23 March ruling ordered the government to reinstate the workers, compensate them and reopen dialogue to try to resolve the dispute. A few days earlier, the government used excessive force, according to the human rights ombudsman, by using water cannon and rubber bullets to disperse demonstrators blocking a busy main road, and injuring a journalist in the process. A few days after the court ruling, the Labour Ministry threatened to withdraw the legal personality of the trade unions involved in the dispute. The threat was never carried out.

### ...and in the export processing zones

Workers dismissed in November 1999 for forming a union by Doall, a clothing factory in the San Marcos Export Processing Zone (EPZ) (producing amongst others for Liz Clairborne), were reinstated following pressure from clients and the intervention of the Labour Ministry. Upon their return the workers applied for the registration of their union, SETDESA, which they obtained in September. Management remains reluctant to talk to the union however, say the workers.

Despite this victory, there are still only 32 trade unions in the 220 or more maquiladoras spread across El Salvador's eight EPZs, and there has been no collective bargaining between management and unions. Working conditions remain difficult and the workers, mainly women, are often mistreated. The unions also complain of resistance to strike action in the EPZs.

### Persecution of trade unionists continues

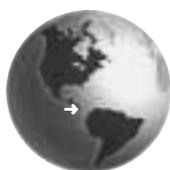
Five members of the El Salvador telecom workers' union (SUTTEL) were dismissed in November by CTE-ANTEL, the newly-privatised telecommunications company belonging to France Telecom. Giving restructuring as its pretext, the company asked dozens of workers, mostly trade unionists, to hand in their notice. When 13 of them refused, the company prevented them from entering the premises. It then submitted a request to the Labour Ministry to stop the registration of the union, arguing that it had not followed the proper steps to obtain it, ignoring the fact that two months earlier the Supreme Court of Justice had accused the government of delaying the process and ordered the authorities to grant the union legal status. Further to this request, SUTTEL lodged a complaint against CTE-ANTEL, but no decision had been taken by the end of the year.

The Labour Ministry accepted the dismissal, in February, of 44 trade unionists by Salud Dairy, judging that the labour code did allow for the dismissal of workers when economic conditions obliged a company to downscale its activities. This argument did nothing to dispel doubts about the enterprise's intentions however, given that these trade unionists were dismissed the day before the last day of the renegotiation of a collective agreement. Furthermore, in the dismissal letters sent to them, the trade union's position in the negotiations was clearly mentioned as the reason for terminating their contracts. Finally, the management put pressure on the remaining 43 trade unionists to leave the union ...and succeeded.

Members of an informal economy workers' union, ANTRAVEPECOS, affiliated to the autonomous workers' centre of El Salvador (CAT), were violently expelled from their work place on the orders of the Mayor of Soyapango, a district of San Salvador. Several people were injured, including minors and a pregnant woman. Four of them were detained before being released.

## Guatemala

POPULATION : 11,100,000 / CAPITAL : Guatemala City / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



### Impunity and the complicity of the authorities

**The ineffectiveness of the legal system and employer hostility towards trade unions undermines the exercise of trade union rights, particularly on the banana plantations.**

Although the government has ratified the two ILO Conventions on the freedom of association and the right to organise, trade union rights are constantly trampled on. The United Nations Mission for the Verification of the Peace Accords in Guatemala (MINUGUA) has expressed concern several times at the violence against workers, notably in its fourth report made public in 1994 on the peace process, in which it stated that there was no real freedom of association owing to the violence against trade unionists.

The Ministry of Justice has often either failed to intervene in industrial disputes, to complete investigations or to show independence in judging the dispute. Several recent cases illustrate this, such as that of the union at the Finca Maria de Lourdes in Genova Costa Cuca, Quetzaltenango. As the union was about to elect a new leadership, the management of the farm sought to usurp the union's legal personality by setting up a *solidarismo* association, adding to the 400 such associations set up by employers to undermine trade union action. In mid-September the management submitted its own list of candidates to the Labour Ministry which accepted it, despite the many errors identified in the procedure. The name of the union given in the documents submitted to the ministry is different from the one that appears in the union's statutes and the name of the manager of the farm was included in the membership list (which is contrary to the union's statutes). Following a complaint by the workers, the ministry cancelled the registration by the enterprise's managers, but the management had still not been notified by the end of the year. Death threats had been made against the general secretary of the union who, despite his requests, had been refused police protection, owing he was told to a lack of means.

Many trade unions have complained of the relative impunity enjoyed by employers called to appear before the courts. They tend to take advantage of their favourable treatment by ignoring court rulings against them. They also seek to delay trial proceedings for as long as possible. As a result, the courts work extremely slowly, with delays that can last several years, even though Guatemalan legislation foresees a maximum of 24 hours for labour courts to rule on the reinstatement of illegally dismissed workers. Workers at the San Juan El Horizonte Hacienda, in the province of Quetzaltenango, for example, were still out of work despite a staggering 67 court rulings ordering the company that owns the hacienda, Exacta, to reinstate them. Similarly, workers sacked by the Hidrotecnia S.A. company in 1997 after deciding to form a union had still not been reinstated by the end of the year despite a court ruling ordering their reinstatement 45 months earlier.

#### Threats and deaths

##### ***Oswaldo Monzón Lima – the cowardly murder of a trade unionist***

*Oswaldo Monzón Lima was found dead on 23 June, in the woods bordering the motorway between Escuintla to Guatemala city, near the 82 km point. He had been shot in the back. His lorry had been found empty the day before, with the windows down and the motor running. His death leaves many questions unanswered. 62-year-old Monzon was the General Secretary of a fuel drivers' union, the Sindicato de los Pilotos de Combustibles de Escuintla. He had been dismissed in 1998 after forming a union at the J.O. Gaitan company. He had also denounced the corruption rife there. His murder took place a few days after a member of the family that owns the transport company had threatened him with death after he refused to accept a redundancy payment. A coincidence?*

At the beginning of the year, José Luis Mendi Flores had to leave his home following numerous death threats against him, beginning in 1999. He had fought for the application of a labour court ruling ordering his reinstatement after his dismissal in 1997 by the Wackenhut company in Guatemala. He had tried to form a union there.

On 6 February, 19-year-old Francisco Ixcoy Osorio from the Town and Country Workers' Centre (CTC) died of his injuries from a police attack the previous day on market traders in Guatemala City. They were protesting at searches carried out by police officers who did not have a warrant to do so. Several market traders were injured and others arrested in the operation.

On 4 May, there was an assassination attempt on Edwin Rafael Fuentes López, a trade union representative from the Palo Gordo company. When this failed, the company boss threatened him with death. The lives of the General Secretary and Assistant General Secretary of the General Workers' Union of Guatemala (CGTG) were also threatened.

On 20 July, armed men shot and killed María Elena Mejía and José Alfredo Quinio Matzar, both leaders of the cooperative workers' organisation "Coordinadora Regional de Cooperativas Integrales" (CORCI) in the San Andrés region of Semetabaj (Solola).

#### Local authorities' hostility towards the unions

Trade union persecution can also come directly from the authorities, whose representatives sometimes defy court rulings. In June, a municipal councillor from the town of Mixco (Guatemala department) was obliged to leave the country because of the constant death threats against him. He had been the instigator of a campaign for the reinstatement, ordered by the Labour Court, of 400 municipal workers fired in February by the new mayor of the town.

A similar situation occurred in the Tecun Uman municipality (San Marcos). In an attempt to reduce the powers of the municipal workers' union, the mayor sought to discredit the union in the eyes of the population when it was seeking to renew social advantages in a new collective agreement. Instead of negotiating the agreement "in good faith between the parties" as foreseen in ILO conventions, he presented the draft submitted by the union to the inhabitants of the town at a public assembly. This policy of undermining the union had been manifest ever since he became mayor in January. Faced with threats, both direct and by telephone, trade union leader Walter Aswaldo Apen was forced to resign (despite his protected status). The mayor had also intimidated the delivery tricycle riders' union.

**Law ignored in export processing zones**

Although labour legislation is applicable throughout the country, employers in the export processing zones continue to resist the formation of trade unions.

The owner of the Cardiz S.A. maquiladora decided on 6 October to suspend the contracts of 600 workers, claiming a shortage of raw materials and the cancellation of a contract by one of his clients. He had not respected the pre-conditions set out in Guatemalan law in this regard. It was perhaps no coincidence that a group of workers had formed a trade union the day before. It was also the last year in which the company was exonerated from tax payments. On 20 October, the owner closed down the enterprise permanently, in violation of the law, leaving 600 workers out on the street. Fifteen days later, a labour court declared the closure of the enterprise illegal, demanded the reinstatement of the workers and ordered the police to keep watch over the enterprise to prevent the owner from taking away the materials inside the factory. As in many other disputes however, the labour court ruling was ignored and none of its three orders were carried out. The employees then occupied the factory to prevent its closure. Shortly afterwards, however, the owner ordered his guards to padlock the entrance doors, locking the workers inside the factory for several hours. At the end of the year, no solution had been found and the workers, who had still not been reinstated, were continuing their occupation of the factory.

Workers at the foreign-owned maquiladoras Ace International and Inexport had faced the same type of repression in February 1996 and November 1999. None of the workers had been given their job back by the end of 2000. The National Workers' Union of Guatemala UNSITRAGUA denounced dismissals and constant changes in working conditions affecting unionised workers at the Minerva maquiladora in Guatemala city. The national centre was also critical of the slowness of the courts.

**Industrial disputes on the banana plantations...**

International competition has led to a deterioration in workers' rights on Guatemala's banana plantations. Producers cite lower production costs in other regions to put pressure on the unions and relocate production to other countries where unions are virtually non-existent in the sector. Unionised workers are told that the collective agreements they fought for have become too onerous compared to the non-unionised production in Ecuador.

**...with Bandegua...**

Although 2000 saw some improvements in the dispute between Bandegua, a subsidiary of the US multinational Del Monte, and SITRABI, the Izabal banana workers' union, not all the workers had been reinstated by the end of the year and the court case was not yet over. Members of SITRABI, affiliated to the United Trade Union Confederation of Guatemala (CUSG) were violently attacked by 200 armed men and were forced to take refuge following numerous death threats. The attack came after the union's leaders had refused to accept the dismissal, in contravention of the collective agreement, of 900 workers on three banana plantations in the Bobos (Izabal) district. They had been laid off in September after the enterprise decided to rent plantations from independent producers. MINUGUA described these events as the second most serious violation of human rights since the signing of the peace accords in 1996.

Although progress has been made on the reinstatement of the dismissed workers, it has been a laborious process. A new collective agreement foreseeing the reinstatement of all the dismissed workers between Bandegua and SITRABI was not signed until October, seven months after the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco & Allied Workers Associations (IUF) had reached an agreement with Del Monte. This agreement had already stipulated that the dismissed workers were to be reinstated, it recognised their right to belong to SITRABI, SITRABI's right to represent the workers in collective bargaining, and the right to one collective agreement for the three plantations. The agreement also stipulated that none of the people involved in the October 1999 attacks on the workers could occupy a position in the plantations Del Monte had relations with. Bandegua never applied these agreements however and the producers only planned to rehire part of the dismissed workers. Bandegua also demanded an official statement from SITRABI exonerating them from the October incidents. About 100 workers were still out of work by the end of the year, and the producers were using external labour. Moreover Bandegua, which had agreed to rehire workers who could not be taken on by the independent producers on its other plantations, offered them lower salaries than other workers. Negotiations on this had not been completed by the end of the year.

This type of violation can be taken before the courts, although the justice system still has glaring shortcomings: an unwillingness to execute the law, the inaction of the police, the sluggishness of the legal machinery and inequality in the application of the law. The justice system had everything at its disposal to deal with the case effectively, including dozens of eye witnesses. In June, the Court of First Instance rejected the charges brought by the prosecution of kidnapping, intimidation, serious attacks on ownership rights, and aggravated illegal detention, preferring the lesser charges sought by the defence of an attack of ownership rights, illegal detention and coercion. The final hearing was not foreseen until Spring 2001. During the various sessions of the trial of the accused, the judges showed their complicity by omitting to transfer arrest warrants for some of the accused to the police, releasing all of those accused of very serious offences on bail. The five top leaders of SITRABI, who were under a protection programme, still fear for their lives if they testify. Armed individuals have been seen waiting outside as people leave the court, in an attempt to intimidate potential witnesses.

**...and with COBSA**

After hurricane Mitch in 1998, many producers used the subsidies meant for rebuilding to relocate production to other plantations where trade unions are non-existent. The Corporación Bananera S.A. (COBSA), a subsidiary of the

multinational Dole, dismissed about 500 workers in November 1998 when it transferred production to the south coast of Guatemala. In 2000 it was still using various ploys to prevent workers from organising, including hiring workers, after investigating their past, for just three months before transferring them to other plantations. The workers have become so discouraged that only 80 out of 500 are still fighting in the courts for reparation and reinstatement.

Workers at the Kiowa plantation, which produces for Chiquita Brands, who faced a similar problem to those at COBSA, abandoned their struggle last November. Here too the labour courts had distinguished themselves with their sluggishness.

#### Anti-union behaviour by Good Year Guatemala

In April, the Gran Industria de Neumáticos Centroamericana S.A. (GINSA) factory, which produces tyres for Good Year, sacked 48 members of the GINSA workers' union, (STGINSA), in violation of the collective agreement. The management also dismissed STGINSA leaders, despite a legislative provision stipulating that members of the executive committee of a trade union cannot be dismissed other than by the decision of a court. Fifteen complaints were submitted to the general labour inspectorate, asking that inspectors be sent to verify the violations. However, the inspectors simply reported on the matter and recommended that the union give in to employer pressure. The management went so far as to threaten to close the factory, claiming high costs and low productivity.

#### Some legislative progress but...

In June the government announced its intention to amend legislation to protect workers' advantages. The bill would include important advances, particularly as regards the right to strike. By the end of the year the bill had still not been adopted.

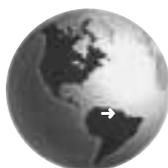
Current legislation makes it impossible to go on strike because of the many restrictions. Two thirds of workers in an enterprise and of trade union members must vote in favour of the strike, which is excessive by international standards. Compulsory arbitration, making strikes impossible, is imposed on services which are not essential in the strict sense of the term, such as public transport and fuel-related services. Inter-union solidarity strikes are banned. The government also has the power to declare a strike illegal if, in its opinion, it could jeopardise the national economy. This is used to prevent agricultural workers from striking at harvest time. But existing punitive measures are enough to dissuade workers from striking. Employers have the right to dismiss strikers after any strike that is declared illegal. The legislation foresees penalties of between one and five years in prison for perpetrators of acts aimed at disturbing the functioning of enterprises that contribute to the country's economic development. The law also foresees the possibility of calling in the national police to guarantee the continuity of work in the event of an illegal strike and to take the instigators to court. The proposed new law would abolish some of these measures, including the quorum required for calling a strike, and the penalties. It would also extend the right to strike to more sectors.

The new bill would abolish the current obligation on the members of the provisional executive committee of a trade union to make a sworn statement that they do not have a criminal record, and would relax the government's strict control over trade union activities. The bill makes no mention of the current requirement that anyone standing for a trade union leadership posts must be of Guatemalan nationality.

Collective bargaining, in addition to being limited by the employers' reluctance to sharing power with trade union organisations, is subject to legal restrictions. The ILO has criticised the requirement that all collective agreements must be submitted to the general labour inspectorate and that they be supported by two thirds of the union's members, which is in excess of international standards. Twenty-five per cent of workers in a production unit or sector must be members of a union for a collective agreement to be signed.

## Guyana

POPULATION : 800,000 / CAPITAL : Georgetown / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### The Forestry Commission harbours serious anti-union discrimination.

#### Discrimination and lost jobs

Workers have absolutely no legal protection against acts of anti-union discrimination. In August 2000, Guyana's Public Services Union (GPSU) claimed anti-union discrimination when it reported that 21 union activists were fired by the Forestry Commission in implementing a restructuring plan decided in 1997. This comes in the wake of a previous restructuring phase that laid off 29 union activists in 1999. At the time, the trade union was involved in the collective bargaining process which somehow provoked antagonism from the new director of human resources. Shortly afterwards, the Forestry Commission's secretary stated flatly that the trade union had not reached an agreement and was

not even recognised by the Forestry Commission. The GPSU filed a lawsuit for perjury, but the court dismissed the case. The trade union then appealed and the secretary fled the country. By year-end, no final decision had yet been reached.

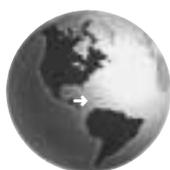
In May 2000, following persistent refusals by the Forestry Commission to recognise the GPSU, the workers decided to express their discontent by striking during their lunch breaks outside the Forestry Commission. The management responded by ordering the security guards to keep the front gates closed in order to prevent the workers from leaving the buildings. In reaction to the interference, the GPSU decided to take their case to court. At the same time, the Forestry Commission was already in the process of filing a lawsuit against GPSU President, Patrick Yarde, for having damaged the front entrance. By year-end, these two court cases were still pending.

### Strike legislation

The ILO once again insisted that Guyana amend its provision requiring binding arbitration in the event of a strike in non-essential services such as public utilities. Indeed, this provision offers the government a convenient means to quell strikes.

## Haiti

POPULATION : 8,000,000 / CAPITAL : Port-au-Prince / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



**The deterioration of the country and its institutions has created a climate of political violence that has seriously affected trade unions and led to occasional deaths among their ranks. There are practically no trade union rights in Haiti.**

### Unfavourable climate for trade unions

The record unemployment rate of 70% of the population has severely weakened the position of trade unions. Many trade union leaders, who themselves are unemployed, have to deal with solid opposition from the government and employers. The constant political instability surrounding this year's various elections did not make things easier as far as trade rights are concerned.

### A legal framework dating back to the dictatorship

Although the constitution (promulgated in 1987 after the fall of the Duvalier regime) recognises freedom of association in all sectors as well as the right to strike, the more restrictive labour code (dating back to the dictatorship) is still in effect. This labour code does not recognise trade union rights for civil servants; it does not protect trade unions and their members from acts of anti-union discrimination upon recruitment; it does not provide for reinstatement in the case of unjustified dismissals of trade union members; it requires prior government approval for any association of more than 20 people.

### Government lacks the resources and the desire to enforce the law

Moreover, the government has shown very little desire to enforce the law. In this sense, the ILO has drawn attention to the government's lack of co-operation in relation to the last three complaints submitted to it. No response was ever given by Haitian authorities despite several reminders sent by the ILO. The three cases related to illegal dismissals of trade unionists, threats made against them and interference in trade union affairs in 1999 involving EDH (Haitian Electricity), YAS Sewing Enterprise and the education system. In this latter case, the CNEH had reached an agreement with the government to reinstate two trade unionists who were dismissed following a strike. By year end, however, only one of the trade unionists had been reinstated but was later transferred for no justifiable reason.

### Violations of the right to organise

Employers sometimes adamantly oppose the formation of trade unions in their companies. As a case in point, on the Saint Raphael and Madeline plantations of the Guacimal company, whose workers pick the bitter oranges used to make Cointreau, the directors refuse to negotiate with the company's trade unions regarding the awful working conditions. In November, the management tried to delay registration of the trade unions and threatened their members on several occasions. On the Madeline plantation, the management decided that it would no longer tolerate absences from work. This was, in fact, a tactic to prevent potential meetings between the workers on the Madeline plantation with the trade union on the Saint Raphael plantation. In December, the management of Guacimal decided to take retaliatory measures in order to prevent the strike planned by the workers on both plantations. On the Saint Raphael plantation, the General Secretary of the trade union was hacked at with a machete when he protested against an order given by the management to pick oranges no matter what. At the Madeline plantation, the workers were forced to return to work as a result of various intimidation manoeuvres. By year-end, the management of both plantations still refused to speak with the trade unions.

**Demonstration quelled at TELECO**

In September, the state-owned telephone company (TELECO) used various incidents that had taken place a few days earlier as justification for not honouring payment of the traditional 13th month bonus generally given to all full-time employees. Activities returned to normal after the management fired some employees and threatened others. However, there had already been problems at TELECO back in May: a few engineers stopped working to express their concerns over reductions in the health insurance package and pension funds. The management reacted by promising to catch up on overdue payments, but fired the four protestors.

**Political violence affects trade unionists who belong to the national centres...**

The generalised rigging of elections has instilled terror in the hearts of those opposing the political party in power, Fanmi Lavalas. These include the trade unionists. Towards the end of the year, trade unionists received several threats to their lives or those of their families. Various individuals were approached by people who informed them that hit contracts had been taken out on them, which prompted many to move into hiding. In July, the Haitian police arrested Laurius Joseph, president of the Workers' Union for the Recovery of the Anse-à-Foleur region (OTRA). He had recently claimed victory at the municipal elections in May, but in vain. The members of his team, all trade unionists, were also arrested and beaten before being released 24 hours later. On 22 September, the police again arrested Rosny Aristide, an OTRA trade unionist, holding him in custody for 8 days. The police issued arrest warrants for 12 others, who chose to flee the region. In early December, the police arrested Wilson Duverson and Rigaud Saint Juste before releasing them a few days later.

Following these elections, the members of Haitian Workers' Confederation (KOTA) were pursued in the Trou du Nord region and various attempts were made to kill some of them. A similar fate awaited some of the members of the Autonomous Confederation of Haitian Workers (CATH).

**Trade unionist killed under strange circumstances**

*On 4 September at 10 p.m., Elison Merzilus, a member of the CATH-affiliated ADFEMTRAH union, was taken from his home in the Commune of Gros-Morne by ten armed men. His wife and three children had no idea what was going to happen, but this was the last time that they would see him alive. Two weeks later, his body was found at the bottom of a ravine in another section of the commune. A few days prior to his abduction, Elison Merzilus was about to form a women's association that would join the CATH.*

**...as well as local trade unions**

The political violence has also affected local trade unions and worker activists. On 6 July, in the region of Belladère, a police commando unit and local members of the Lavalas political party burst into the home of Wilner Fondeneche, a leader of the Haitian Workers' Movement Batay Ouvriye. Finding him absent, they sacked his house, threatened his wife and beat a visitor with their rifle butts. On the same evening, they returned with a delegate and forced the people to shout "Long live Aristide". They assaulted the four people inside the house, three of whom were members of the local trade union, and ordered them to stop meddling with the issue of elimination of illiteracy since this was the sole remit of the government. Faced with death threats, these trade unionists were forced to flee.

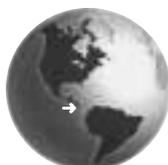
In Saint Michel de l'Attalaye, two other members of Batay Ouvriye were threatened for having tried to remove the name of a member of the Lavalas party from the list of local "elected" candidates. This individual had murdered the brother of a trade union member from behind and in cold blood.

At the Zephir Plateau in the North-western part of Haiti, a group of individuals tried to ambush other members of Batay Ouvriye in July as they were leaving a meeting of sharecroppers and farm workers. Although they barely escaped with their lives, the death threats that still hung over the heads of members prevented trade union meetings from taking place.

At Môle Saint Nicolas and Bombardopolis, death threats were also made against members of the local trade union in an attempt to prevent any meetings from taking place. The house of one of the members was set on fire.

# Honduras

POPULATION : 6,300,000 / CAPITAL : Tegucigalpa / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**Despite noteworthy improvements, trade unions still have a difficult time carrying out their activities in maquiladoras. The legislative and economic context does little to favour trade union development.**

**Restrictive legislative framework**

There are numerous legislative barriers conditioning trade union formation in Honduras. Workers at some farms and ranches are excluded from the labour code and, as such, do not enjoy trade union freedoms. At least 30 workers are needed to form a trade union, provided that there is not already one in the same company or institution. Moreover, at

least 90% of trade union members must be Honduran nationals and foreigners are not allowed to become trade union officials.

The ILO criticises the numerous restrictions on the right to strike, especially the excessive quorum required, the fact that federations and confederations are not permitted to call strikes, and also the fact that the government can put an end to a labour dispute arising in a non-essential service sector. It is nearly impossible for state employees to go on strike since the law requires a 6-month strike notice and government approval.

#### The government refuses to recognise trade unions in export processing zones

There were noteworthy improvements in the export processing zones, as demonstrated by the two compliance certificates that were issued, for the first time ever, to two Honduran companies (one private entity) for improvements in the working conditions of the maquilas. Nevertheless, rights violations continue and union activists are regularly subjected to all types of repression.

In July 1999, the workers of Kimi and Yoo Yang, two companies operating out of Lima's Continental Park export processing zone, decided to form a trade union (SITRAIMASH) in the hopes of carrying out collective bargaining for the entire zone (an area known for its anti-union sentiment). In March 2000, three months after the deadline established by Honduran law, the authorities turned down the recognition request, stating that the registration procedures had not been followed and that the law prohibited the coexistence of two trade unions within the same company. However, in reality, these workers had not had any intention of creating two trade unions within the same company but rather to form an industry-based federation that would complement the existing trade union at the Kimi company. As a result of the Ministry of Labour's refusal, the workers of the Yoo Yang company were denied their basic right to form a union. Although the Ministry's decision was appealed, no resolution had yet been rendered by year-end. This prompted the International Federation of Textile, Clothing and Leather to file a complaint with the ILO.

A few days before the authorities rejected the recognition request, Yoo Yang had reached an agreement with SITRAIMASH which was supposed to lead to a collective agreement once the new industrial federation was recognised. The workers' hopes were to be short-lived, however. The management later informed the trade union that it would not comply with the agreement until SITRAIMASH was officially registered. The workers responded by attempting to form a trade union within the company. Once again, registration ended up being delayed by deceitful means. Various trade union organisations suspect that the Yoo Yang company had bribed trade union leaders because they resigned and disappeared on the very same day that the registration request was submitted to the Ministry of Labour. The workers eventually managed to obtain official recognition for their newly-formed trade union after submission of a second registration request and a 14-month wait. This new union is called the Yoo Yang Workers' Union (STEYY).

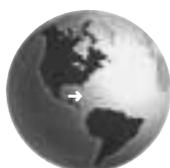
The workers employed by the Kimi company were less fortunate, however. Kimi had been the first company in this export processing zone to have negotiated with a trade union. However, in 1999, the company's owner announced that he no longer wanted this trade union, or any other trade unions, on his premises. Nevertheless, the company managed to remain there under certain conditions. Shortly afterwards, the management decided to relocate production to a non-unionised company in Guatemala, in complete disregard for the agreements that had thus far been reached with the trade union.

#### Strike suppressed

In early October, the police brutally intervened during a strike that had been called by the Confederation of Honduran Workers (CTH). The CTH was protesting against the continuous rise in the cost of basic utilities (water, electricity...). They demanded wage increases to compensate for the workers' steady loss of purchasing power since hurricane Mitch had struck. The police tried on several occasions to disperse the strikers who were demonstrating in key zones of the country, mainly the ports. There were dozens of injured among the strikers.

## Jamaica

POPULATION : 2,600,000 / CAPITAL : Kingston / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



**The law does not guarantee the right to strike and workers have a hard time organising in export processing zones.**

#### Limited right to strike

The main legal text governing industrial relations and guaranteeing trade union rights contains no provisions regarding the right to strike. While legislation does not prohibit strikes per se, there is nothing to prevent workers who par-

ticipate in such a movement from losing their jobs. The legal text also limits the right to strike by extending the list of essential services to include a certain number of sectors (telephone, banking services for the government, etc.) that would not endanger the life, health and safety of people in the event of interruption. The ILO has long denounced the wide-ranging powers conferred upon the Minister of Labour to take labour disputes to court, effectively enabling him to nip any strike in the bud.

#### Workers punished for striking

At the end of December 1999, the prison guards took sick leave to protest against the continued employment of the current prison warden, because of his dominating attitude. Apparently this warden is overly dominating in his dealings with his employees. The government's response came in early January to punish the 800 guards who refused to return to work. Disciplinary action was taken two months later and the strike was declared illegal. In May, the court was in the process of a case-by-case examination of the charges levelled against the guards. By year-end, it had not yet reached a verdict.

#### EPZs resist the formation of trade unions

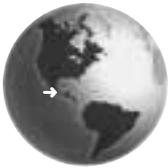
By the end of 2000, there was still not a single trade union in any of Jamaica's three export processing zones, although the laws apply to these zones. According to the trade unions, this absence can be explained by the hostility demonstrated by multinationals towards labour movements. Salaries and working conditions are determined exclusively by the management. There are only a few company-controlled in-house committees to hear worker complaints.

#### Collective bargaining is sometimes difficult

The ILO has also asked the government to amend the provisions regarding the designation of trade unions as the collective bargaining agent, since these provisions go against ILO Convention 98.

## Mexico

POPULATION : 97,400,000 / CAPITAL : Mexico / ILO CORE CONVENTIONS RATIFIED : 29,87,100,105,111,182



**Independent trade unionists faced difficulties in organising during the year. The local Conciliation and Arbitration Boards (CABs), which have considerable powers, can delay or withhold union registration.**

#### Powers of the local Conciliation and Arbitration Boards over union registration

No prior authorisation is required to create a trade union. To obtain legal status, however, the unions must be registered by the CABs. These are tri-partite committees composed of representatives of the government, employers and workers. Although about 50% of trade unions are not affiliated to a national centre, independent trade unions can have difficulty in getting registered. The CAB can delay or even withhold recognition of a trade union, especially if they are hostile to government policy, to influential employers or to unions controlled by the employers. This has notably been the case in the maquiladoras. An unregistered union cannot call a strike or participate in collective agreements, and is excluded from all tri-partite committees.

#### Restrictions on the right to strike

The CAB also has discretionary powers to declare a strike illegal. When it does so, workers have to resume work within 24 hours or face dismissal. In August, a CAB declared the strike at the Volkswagen factory in Puebla non-existent, obliging workers to either return to work or have their employment contracts terminated. The strikers were calling for pay rises to reflect their increased productivity and partly compensate for rising inflation. Acting on the management's orders, the Board claimed the union that called the strike had not respected its own statutes.

The law also requires that before public sector workers can go on strike they must have the support of two thirds of the employees of the entity concerned. The ILO has criticised this requirement, stating that civil servants who do not have the authority to act on behalf of the State must benefit from the right to strike without excessive restrictions. This limitation is sometimes applied outside the civil service. At the beginning of December, the federal CAB banned a strike in the sugar industry because the union behind the strike did not have the support of two thirds of the workers.

The law also enables the government to requisition workers in a national emergency, including when this is caused by an industrial dispute. The authorities sometimes abuse this power. On 1 June, for example, they obliged the striking crew of the Aeromexico airline company to return to work, claiming that the strike threatened the country's economic welfare.

Finally, a bill introduced by the new President would restrict the right to strike by banning solidarity strikes and reducing the maximum duration of a strike to 30 days.

#### Other legal restrictions

The ILO has again denounced the trade union monopoly imposed by federal law on public service workers. Once workers in this sectors are members of a union, they cannot leave the union and the leaders cannot stand for a second term. The ILO has also criticised the ban on foreigners holding trade union leadership posts.

**Maquiladoras: a "rights-free zone" ?**

There are frequent abuses in the country's 4000 or so maquiladoras. This cheap labour, high productivity sector continues to be a strong attraction for many investors. The government makes very little effort to apply legislation in the zones, as it welcomes this massive influx of capital. Since the North American Free Trade Agreement (NAFTA) came into force, some 3000 assembly-for-export companies have set up business in Tijuana. But this sector has sometimes developed at the workers' cost. According to a study by Infolatina, over 1,300,000 workers are paid less than six dollars a day to work in often deplorable conditions and only 40% of them stay more than three months in their job. Unpaid overtime, sexual harassment, discrimination in employment, non-existent health and safety precautions and unfair dismissals are just a few examples of the daily lot of maquiladora workers.

Establishing an independent trade union, in other words a union that is not controlled by the employers, can resemble an obstacle course. Employers themselves sometimes set up a union, although workers may not even know there is a union in their factory, because there are no meetings, no elections and no collective bargaining. "Protection contracts" are frequently used, with the blessing of the authorities, to prevent independent unions from organising. These contracts consist of an agreement whereby the company pays a monthly sum to the union. In exchange, the union guarantees social peace. Blacklists of trade unionists' names regularly circulate in the factories.

**Independent trade union resistance at Duro Bags**

With the support of the management, the authorities severely repressed a workers' demonstration at Duro Bags Manufacturing. The workers were demanding the right to form a democratic and independent trade union and were protesting at the fact that management had not fulfilled its promises to improve working conditions and wages. This was not the first time the workers had faced opposition from the management of this enterprise, based in Rio Bravo, in the Tamaulipas State. A few months earlier, workers had been dismissed and had been threatened by management during a visit by Hallmark, one of the factory's major clients.

The police were called in by the management while the workers were demonstrating peacefully at the beginning of June outside the factory. A dozen workers were arrested and handcuffed. One of the police officers threatened one of the strike organisers, pointing his machine gun at his temple. When a woman cried out urging him not to fire, he threatened to kill her. A pregnant worker was hit with a rifle butt in her abdomen and had to be hospitalised, while another woman was struck across the face. Those who tried to run away were pursued and thrashed with batons. Finally, an international observer was also called in for questioning. A few days later, the arrested demonstrators were released but faced charges of participating in criminal gangs and the illegal detention of others, on the grounds that the manager and guards were still in the factory when the strikers hung their banners on the gates.

A few days later the police questioned and intimidated two trade unionists at Duro Bags after they organised a trip to the State capital to request the registration of their union. Shortly afterwards, the State government ordered a ban on transferring collect calls to a humanitarian organisation that supported the Duro Bags workers in their dispute. At the end of June however, the State governor, who was in mid-campaign, promised the workers they would be reinstated and that the union would be registered, which was duly done in August despite renewed threats from the management and the authorities.

Aside from this positive step, the repression continued. On 31 October, the house of Eliud Almaguer, a trade union leader, went up in flames. The fire fighters took three quarters of an hour to arrive. Before this incident his house had been broken into and trade union documents had disappeared.

The authorities also delayed setting a date for the elections, which the new trade unions had called for in order to decide who would represent the workers in collective bargaining. By the end of the year, the date had still not been fixed and a new "house" union had suddenly emerged as a rival to the independent trade union.

**Independent trade unionists at Han Young beaten during seminar**

During a NAFTA-hosted seminar on the freedom of association in Mexico, a dozen independent Han Young trade unionists were repeatedly beaten when they burst into a room where the under-secretary for labour, Javier Moctezuma, had just begun to speak, waving trade union banners calling for the freedom of association. They were protesting at the management's failure to honour its commitments. Han Young workers had faced hostility from the management of the Korean enterprise when they tried to organise an independent trade union in 1997, until the government recognised the trade union and ordered the management to negotiate. Nothing had been signed since then and only one of the trade unionists dismissed during the years of repression had been reintegrated. On the contrary, they were more likely to be on the black lists that circulated: a worker dismissed after a strike at Han Young, who then went to the Hyundai factory to work was turned away when a supervisor recognised him.

**No solution at Congeladora del Rio S.A. (CRISA)**

Despite promises made last November, following the authorities' intervention, by the management at the Congeladora del Rio factory, a fruit freezing and canning factory in Irapuato, in the Guanajuato State, none of the workers sacked for going on strike the previous July had been reinstated by the end of the year. Complaints submitted to the courts by 158 workers seeking reinstatement had still not been dealt with. Management in the meantime had instituted legal and criminal proceedings against the strike organisers, even though a civil judge in Guanajuato had already ruled, in February and March, that two of the organisers were not guilty.

Since the beginning of the year, the management had been fighting tooth and nail to delay the reinstatement for the strikers for as long as they could. It threatened to close the factory several times and announced that it would not proceed to distribute the usual profit shares to employees owing to the impact of the July 1999 strike on production. It also intimidated workers by making them sign a document whereby they renounced their demands, and the camp that the strikers had set up close to the enterprise was ransacked or burnt down several times. The police also exceeded their powers by questioning workers in their homes, although no order had been issued, and tried to get them to come to the police station to make new statements.

#### Teachers disappear

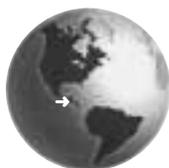
Six teachers, all members and/or activists of the National Teachers' Union (SNTE) of Mexico disappeared in June. The SNTE suspects that a group of paramilitaries or federal judicial police agents abducted them following a stoppage by teachers between May and June.

#### Attempt on life of peasant leader

Marco Antonio Abadico Mayo, a leader of the Sierra del Sur peasants' association (OCSS) was shot and seriously wounded by a paramilitary group active in the region as he returned home. He had been detained on 12 January by the army and had been tortured while held. Since that time he had been the constant target of threats of all kinds.

## Nicaragua

POPULATION : 4,900,000 / CAPITAL : Managua / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**Despite progress reported in previous years, trade unions are virtually non-existent in Nicaragua's EPZs. Those that do exist must deal with the constant hostility of employers who sometimes act with the complicity of the authorities.**

#### Inadequate legislation

In terms of trade union rights, numerous improvements have been incorporated into the 1996 labour code (supplemented by certain amendments in 1997), which replaced the much more restrictive 1944 labour code. Nevertheless, major changes still need to be made. The ILO has drawn attention to various provisions in the labour code that it disagrees with, namely: the limit placed on the number of foreigners who may be appointed as trade union officers and the fact that federations and confederations are only permitted to provide moral or economic support to workers in the event of a dispute. The ILO also criticises the fact that civil servants -since the 1990 law on the civil service and government careers was repealed- are now deprived (on paper) of their rights as defined by ILO Convention 87. There is also the issue of the provision in the labour code that allows company management to get rid of trade union leaders by offering double redundancy pay.

It is still particularly difficult to legally go on strike in Nicaragua. In order to do so, trade unions must first obtain approval from the majority of the workers in the company. They also need a permit from the Ministry of Labour, which they can only receive if they can prove that they have already tried negotiating with the management in good faith. Once a strike has been declared legal, the authorities reserve the right to requisition workers to a compulsory arbitration procedure after 30 days have elapsed. The ILO criticises this provision under the assumption that rulings from such arbitration are binding. Consequences: since the 1996 labour code went into effect, only one strike has been declared legal. Since legislation only protects workers involved in legal strikes, in all other cases, strikers often lose their jobs.

#### Frequent violations in EPZs

Loopholes in labour legislation open the way for violations of trade union rights, particularly in the EPZs. According to some reports, prevailing conditions are close to modern slavery. The workers, mostly women, are often required to work unpaid overtime and are regularly bullied by their supervisors, who even go so far as to dock their salaries if they spend too much time in the restroom. The few trade unions that do exist are prime targets for employers. There have been reports of blacklists including the names of some 800 union activists being distributed.

Operating out of the Las Mercedes EPZ, the company Jem III, a subsidiary of the U.S. company Jem Sportswear (which produces clothing for Wal-Mart), contacted the Ministry of Labour at the end of 1999 to find out if their trade union's leaders had legal protection. When it was told that such protection expired during the end-of-year holidays, Jem III sacked the union leaders and members in early January 2000, accusing the workers of conspiring against the company. In reality, the management could not accept the government's decision to declare the December 1999 strike legal. In one fell swoop, Jem III had managed to rid itself of the entire trade union.

At the beginning of the year, again in the Las Mercedes EPZ, the company Mil Colores (main client: the Kohl department store chain) tried to get rid of a CST-affiliate which was carrying out its activities on the company's premises. During the month of January, a hundred or so union activists were fired. The day after the trade union held an assembly to re-establish the trade union's legal status (10 January), the management fired the newly elected general secretary,

José Domingo Martínez Esquivel. On 21 January, after having obtained government approval, the management laid off more workers, including all of the workers who had attended the trade union assembly. As a sign of protest, the workers decided to stop working on two occasions. This led to further dismissals and a violent confrontation between workers on one hand and security guards and police on the other. The clash resulted in thirty injuries and five arrests. The management then filed charges against 68 of the sacked workers (with possible imprisonment). These repeated attacks against trade unions prompted an international campaign by various social and humanitarian groups. Following this pressure, the management and the trade union finally signed an agreement on 17 November: the trade unions promised to improve discipline among their ranks and the management agreed to drop charges against the workers and reinstate, on a case-per-case basis, those workers who had been fired.

#### **Trade union rights flouted at Chentex**

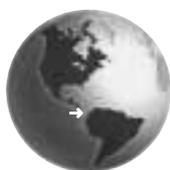
*Christina, who works for the Chentex factory in the Las Mercedes EPZ, lives in miserable conditions in Tipitapa, a village located 20 minutes away. One day, her employer claimed that she was not productive enough and fired her. However, Christina does not believe that this was true. Her sister, had just been fired from the same company for having belonged to a trade union. Christina's husband works seven days a week in another EPZ. However, even with overtime, the couple can barely make ends meet, with a baby and a run-down home. Unfortunately, there is nothing unusual about Christina's story. It reflects the reality of life for hundreds of male and female workers employed in the Chentex factory.*

*Since Chentex was created in 1998, its management has gone to great lengths to undermine the trade union. Intimidation, insincere collective bargaining, dismissals of trade union leaders, interference in the trade union's internal affairs (generally with the complicity of the authorities) have been the daily lot of the "José Benito Escobar" Trade Union Confederation, which is a CST-affiliate. Chentex has never honoured the terms of its collective agreements with the trade union and has always favoured the presence of a "yellow" trade union in the factory. On 14 April 2000, the trade union tried to obtain authorisation from the Ministry of Labour to go on strike as a sign of protest... prior to calling for work to stop a few days later. After the authorities informed the trade union leaders that the company had asked to cancel their contract, the situation deteriorated and the trade union went on a wildcat strike. The authorities then proceeded with the dismissal of nine trade union leaders. The management gave the remaining members a choice: either join the "yellow" trade union or quit and receive redundancy pay. Those who turned down the company's offer were fired on the spot. All in all, nearly 400 union members lost their jobs, leaving only three members behind.*

*Not satisfied with having liquidated the trade union, the management of Chentex filed charges against 11 union activists (with a possible 7-year prison term) on 29 June. Nevertheless, like the Mil Colores factory, Chentex backed down in the face of international pressure from social and humanitarian organisations. Towards the end of the year, Chentex had renewed discussions with the trade union and planned to reinstate two trade union leaders and 128 members. It also promised to drop charges filed against the trade union leaders. However, no specific agreement had been signed by year-end.*

## Panama

POPULATION : 2,800,000 / CAPITAL : Panama / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### **Legal framework restricts the rights of workers**

#### **Legislative restrictions prevent trade unions from acting freely. State employees are particularly affected by this.**

The law allows the government to put an end to strikes in the public sector, including services that are not considered to be strictly essential (transport). It requires state employees to provide minimum service, requisitioning at least 50% of the employees to do so. There are heavy sanctions for failure to comply with this requirement. The ILO has also criticised several other legislative provisions that affect trade union formation: only a single trade union is authorised per establishment; trade unions may only open one branch office per province; the quorum required to form a trade union is deemed excessive.

Harsh restrictions apply in the export processing zones (EPZs). Arbitration is compulsory for all labour disputes. According to ILO, such arbitration is normally only required for essential services. There is also a pre-strike period of 36 days in order for a strike to be declared legal, with penalties for non-compliance ranging from fines to dismissals.

The government has repealed the article in the labour code that required 75% of trade union members to be Panamanian nationals. However, the Constitution still requires all of the members of the trade union's executive board to be Panamanian.

## State employee trade unions in danger?

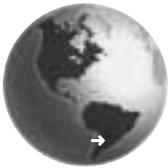
State employees find their most fundamental rights severely affected. The law affords them only token protection: of the 150,000 employees affected by the 1994 law on the Civil Service, only 10,000 civil servants have the right to strike; 130,000 state employees do not have the right to bargain collectively.

The government renewed obstacles preventing the National Civil Service Federation (FENASEP) from joining the national trade union centre *Convergencia Sindical*. In 1997, the authorities had refused to grant such affiliation, which led to a complaint being filed with the International Labour Office's Committee on Freedom of Association against the Panamanian government. The Ministry of Labour responded in August 1999 by passing a resolution accepting the trade union's affiliation. This affiliation was short lived because in March 2000, the Ministry of Labour informed *Convergencia Sindical* for the first time that another resolution to repeal the August resolution had been passed...in September 1999, six months earlier. In a document submitted to the ILO, the Panamanian National Trade Union Board argued that such a decision is a clear violation of ILO Convention 87 and constitutes a blatant attempt to prevent trade union federations and confederations from freely carrying out their activities.

Along this line, when the FENASEP protested against the massive layoffs in the public sector following restructuring, the General Secretary was threatened with disciplinary action on several occasions.

# Paraguay

POPULATION : 5,400,000 / CAPITAL : Asunción / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,182



**The authorities have shown little tolerance towards protests against their economic restructuring policies.**

## Trade union repression in Itaipù Binacional

In the early hours of the morning of 7 January, the police violently evicted 30 members of the Alto Paraná Civil Engineering Workers' Union (STUCCAP), which had set up a strike picket outside the head offices of the Itaipù Binacional electricity company. Several workers were arrested and ten injured. Trade union materials were confiscated. The workers had been on strike for three days in protest at the non-respect of the collective agreements signed between the union and the Itaipù Binacional sub-contractors.

A few months later, in September, two sub-contractors evicted 46 and 120 workers respectively. They had set up strike pickets a few days earlier, again in protest at the failure to observe agreements between the union and the company.

## Serious trade union rights violations at ANDE

The national electricity company (ANDE) has tried everything to destroy its workers' union (SITRANDE). Its attempts began at the end of last year and culminated in the first half of 2000. The reason for such hostility was the union's action in denouncing embezzlement, the non-respect of collective agreements and privatisation. When SITRANDE went on strike at the end of 1999 and the beginning of 2000, mainly to condemn the non-application of collective agreements, the repression was stepped up. About 100 workers were sacked, suspended or transferred. The reason given by the company was that they had taken part in an illegal strike. The Labour Court of First Instance had ruled that their action was against the law, and Paraguay's legislation does not prohibit the dismissal of trade unionists in the event of an illegal strike. When SITRANDE submitted an appeal to the Supreme Court of Justice on grounds of unconstitutionality, the Labour Court's decisions were suspended until a final ruling by the Supreme Court. Despite this suspension, ANDE continued to refuse to reinstate the workers, claiming, with complete disregard for the law, that the suspension did not apply until explicitly imposed.

Another court ruling ordered the immediate reintegration of nine trade union leaders dismissed despite legal protection. ANDE again defied the court's verdict, transferring the workers to other regions and suspending their pay when the trade unionists refused to comply with this decision.

During this time, the management adopted further measures that violated the collective agreement. It stepped up its control of the union's leaders by obliging them to seek permission to leave their work stations to carry out union activities, failing which they would not be paid their dues. They also installed surveillance cameras to film the dismissed or suspended workers who had stationed themselves outside the enterprise. Anyone showing solidarity with these workers was threatened with suspension or dismissal.

SITRANDE did not allow itself to be discouraged however, and sought solutions when grievances arose. Each agreement reached with the union was systematically violated by ANDE however. The management even refused to negotiate, on the grounds that the SITRANDE assistant general secretary had been suspended. This was again interference in the internal affairs of the union, which has the exclusive right to appoint its own negotiators.

Despite these violations, the Supreme Court of Justice upheld the decision that the strike was illegal, alleging that the union had not completed all the legal steps with the Justice and Labour Ministry. Faced with this intransigence, SITRANDE decided to take the case to the ILO Committee on the Freedom of Association.

### Fierce police repression

Public sector employees held several strikes during the year to protest at the government's privatisation plans. During one of these, which took the form of a national march, organised on 27 March by the Trade Union and Social Front (FSS) and the National Peasants' Organisations' Coordination (MCNOC), the demonstrators were dispersed by the police. The marchers were demanding agrarian reforms and the defence of national assets in face of the privatisation policies of President Luis González Macchi. They were heading for the capital, Asunción, but the police intervened when they reached San Pedro, attacking the peaceful demonstration. One demonstrator died and six others received serious bullet wounds.

By 22 June, the protest movement had spread to all sectors. The public sector employees had been joined by workers from the national trade union centres of Paraguay and civic movements, all of whom had called for a general strike. Their demands concerned, inter alia, the privatisation of the telephone, water and railway companies. The police tried to break up to this mass mobilisation by firing water cannon and throwing tear gas at the demonstrators. At least 70 trade union leaders were detained across the country. Some 20 people were injured in the confrontations between police and protestors in Asunción and Ciudad del Este.

### Improved legislation?

The Paraguayan authorities said they had prepared a bill to improve the labour code by amending the provisions that were not in compliance with the conventions on the freedom of association and collective bargaining.

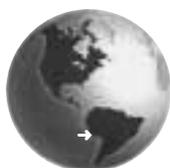
Current legislation requires at least 300 workers to form a union, which is too many under the terms of Convention 87. This number would be reduced to 50 under the new bill (still too high). According to the current labour code, candidates for trade union elections must work in the enterprise and be an active member of the union. This provision would be amended to allow for exceptions if the union statutes permitted other categories of members to apply for leadership posts. Another provision in the current labour code, criticised by the ILO as allowing interference by the authorities in the internal affairs of the trade unions, obliges unions to respond to all requests for information from the labour authorities. The new bill would restrict this intervention by the authorities to the annual financial statements and complaints by members of violations of trade union law or union statutes.

The right to strike is currently limited to action to directly and exclusively defend workers' professional interests. As the term "professional interests" is open to a very broad interpretation, and the new bill would specify that trade unions are prohibited from intervening in purely party political affairs, in electoral processes that are not related to the promotion of workers' interests, or in religious affairs. Finally, under present legislation there is no consultation with the trade unions over the minimum services that must be ensured in the event of a strike in an essential public service. The new bill would change this, specifying that henceforward the minimum service to be ensured in the event of a strike would be decided in agreement with the workers' organisations.

Despite these possible improvements, however, there are still many problems. The ILO has for many years criticised the lack of dissuasive measures to prevent anti-union discrimination. Added to this is the fact that the legislation does not oblige labour courts to reinstate unfairly dismissed trade unionists. Even when the courts do decide to do so, employers do not apply the decision. The sluggishness of the courts has also been criticised. According to some reports, trade union leaders dismissed six years ago are still waiting for a court decision. But this slowness is not limited to the labour tribunals, it affects the system in general. Registration procedures are cumbersome and can take several months, particularly given that employers can challenge the creation of a trade union by submitting a formal notice of opposition.

## Peru

POPULATION : 25,200,000 / CAPITAL : Lima / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



### Repression of democracy rallies

**The authorities violently repressed demonstrations for a return to democracy, in which the trade unions took part. The transitional government inherited obsolete trade union legislation.**

Trade union rights are constantly violated in Peru, as illustrated by the 34 complaints presented to the ILO's Committee on the Freedom of Association between 1990 and 2000, a record figure. During the election campaign, repression took the upper hand over the freedom of expression and association. The 28 May ballot that returned

Alberto Fujimori to the presidency for the third time led to a wave of protest. The election, marked by numerous irregularities, sparked off a series of demonstrations in which the trade unions took part. The situation resulted in the withdrawal of all candidates from the first round. In the second round, the only remaining candidate was elected: Fujimori.

On the day of the second round, police barricades prevented demonstrators who had come from all over the country from gaining access to strategic areas of the city. Over 400 people were arrested. Despite police repression, people continued to show their growing discontent. On 10 June, the police charged at demonstrators, grievously wounding the leader of the peasant communities of the Huancavelica region. Dozens of people taking part in the June demonstrations were injured.

#### **"Marcha de los Cuatro Suyos"**

In July, the country's largest political and social movements, including the Central Unitario de Trabajadores (CUT) and the Confederación General de Trabajadores del Perú (CGTP) organised the "Marcha de los Cuatro Suyos" (referring to the four key points of the ancient Inca empire), to demand fresh elections. This march, launched on July 26 in various parts of the province was due to end two days later in a big rally in the capital, Lima. The aim of the demonstration was to protest against Fujimori's swearing in as President, due to take place that day. Once again, repression took the upper hand over the freedom of expression and association.

The day before march was due to set off, individuals burst into the CUT's premises. They took all the materials prepared by the organisation for trade unionists taking part in the march. When the organisation complained to the Montserrat police, whose station was close to its offices, none of the officers on duty was prepared to come and make a report of the incident.

During the march, hundreds of people were taken away for questioning or harassed for the pettiest of reasons. Dozens of buses were stopped by police who claimed their documents were not in order. The Huancayo authorities also organised a car race which blocked a strategic route for buses from the central mountain range and the forest.

On 28 July, the evening of the inauguration of Fujimori, 40,000 police and army officers tried to prevent 300,000 demonstrators who had succeeded in gathering despite all the obstacles from reaching the historic city centre. About 200 demonstrators were arrested and over 150 others were injured when police threw tear gas grenades and fired real bullets.

The toll rose in the evening when the bodies of six bank guards from the "Banco de la Nación" were found asphyxiated and burnt following the fire in the building caused by the tear gas grenades. In August the authorities threatened the CUT and the CGTP that they would prosecute those who initiated the protests. The trade union organisations denied all responsibility, laying the blame on the authorities. Agents provocateurs had been sent by the police to infiltrate the march and had been responsible for the vandalism that led to the burning of several buildings.

#### **More demonstrations, regime falls**

Thousands of people responded to the trade unions' call for a day of protest in mid-October to demand Fujimori's resignation. The police again resorted to force, notably in Lima where several demonstrators were killed.

The political and social unrest that prevailed following the imposition of Fujimori as president for the third time created a climate of instability. This combined with overwhelming proof of the regime's involvement in corruption and other crimes, including top leaders such as secret service chief General Vladimiro Montesinos, irreparably damaged the regime and Fujimori finally fell from power.

At the end of 2000, after the departure of Fujimori's authoritarian regime, positive developments could be seen in the political situation.

#### **Retrograde legislation**

The Peruvian constitution grants everyone the right of association without prior authorisation. No administrative order can dissolve these associations. In practice, things are completely different. The legislation, dating back to 1992 when Fujimori suspended the Constitution and granted itself emergency powers, lays down certain restrictions. The government that takes power after the 2001 presidential elections will have its work cut out for it.

At the end of July, a bill (taking into account some of the ILO's remarks) was presented to parliament. Under this text, the ban on workers joining a union during their trial period will be lifted. At present the law prohibits workers on temporary contracts from joining the same union as workers on permanent contracts, encouraging employers to use temporary contracts to prevent a union from growing. Another improvement is that the number of workers required to form a branch union will be reduced from 100 to 50. Only a union's own statutes can set out the requirements for becoming a member of the executive. Unions will be about to carry out political activities "in conformity with the Constitution". Controls on the trade unions will be relaxed: the unions will no longer be obliged to present a report whenever the labour authority chooses to request one. Only the courts will be allowed to cancel a union's registration. At present the labour authority can do so, and while the cause of the cancellation may no longer exist, the union cannot be reregistered for at least six months. Finally, public sector workers will be able to go before a judge to challenge the number and occupation of workers who have to ensure a minimum service when a strike is called in an essential service, which they could not do before.

The bill remains silent on several points, however. To call a strike, an absolute majority of workers must vote in favour. Once the vote has been passed, the strike notice, containing the signatures of the workers, must be presented to the labour authority and the employer. This could discourage workers from going on strike for fear of reprisals by the employers. General strikes and solidarity strikes are prohibited in practice.

There are rigorous rules governing the creation of federations and confederations. The ILO Commission of Experts has strongly criticised the restriction preventing civil servants from joining federations or confederations that also include private sector workers. The law also requires a minimum of five unions to form a federation or confederation, in excess of international standards.

#### Trade unionists frequently dismissed

Although a law was passed in May introducing provisions in the penal code prohibiting labour discrimination, it has not proved sufficient to dissuade anti-union repression. Nor does it foresee any sanctions against employer interference. The trade unions complain further that the law does not oblige employers to reinstate unfairly dismissed workers, it merely calls for financial compensation.

In May, Industria Pacocha S.A., a subsidiary of Unilever, drew up a strategy to rid itself of some of its staff, including trade unionists. Ignoring the legal protection they enjoy, the company invited 25 workers to sign letters of resignation, threatening them with dismissal and loss of benefits if they refused. The union within the enterprise was never consulted.

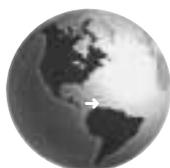
The Peruvian subsidiary of the Spanish multinational Telefonica continued its anti-union policy. The Telefónica del Peru Workers' Federation, FETRATEL, called a strike in protest at a policy of staff cut-backs and to demand collective bargaining. Telefónica had dismissed about 9,000 people since 1994. The management did not let trade union immunity stand in its way. In November, when strike was over, it dismissed 18 trade union leaders.

#### Trade unionist assassinated

On the evening of 2 July, Luis Baltazar Caviedes Nuñez de la Torre was found in a coma on the banks of the river Chuypai, in the Quillabamba (Cusco) region. His body was covered in cuts and bruises. He died in hospital a short time afterwards. He was the founder of the Quillabamba branch of the National Association of Journalists of Peru (ANP). The authorities maintained a suspicious silence, refusing to inform the family of the progress of the investigation. This does not bode well, given that investigations in the assassinations of two trade unionists in 1994 have yet to be completed.

## Saint Vincent and the Grenadines

POPULATION : 121,000 / CAPITAL : Kingstown / ILO CORE CONVENTIONS RATIFIED : 29, 98, 105



**Despite legislation guaranteeing trade union rights, anti-union discrimination on the part of employers is rampant.**

#### Recognition of trade unions is threatened

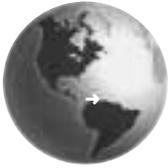
There is no law that forces employers to recognise trade unions as a party to negotiations. Worse still, employers have asked the government to make it their constitutional right not to recognise trade unions. This has led to recognition disputes arising between employers and officially registered trade unions.

On 10 August, the East Caribbean Group of Companies (ECGC) fired seven trade union members with no justification whatsoever. Six of these employees were the ECGC trade union officials who had opposed the appointment of an outside person to a management position. Coincidence? A few days earlier, the trade union had registered with the authorities. However, the East Caribbean Group of Companies could not accept its name being used with the words "trade union" beside it. Despite conciliation attempts by the Ministry of Labour, the ECGC refused to reinstate the workers and, a month later, they accepted their redundancy payments.

# Trinidad and Tobago

POPULATION : 1,300,000 / CAPITAL : Port of Spain / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111

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## Crisis in the health sector

### The crisis in the health sector demonstrated the government's hostility towards the trade unions

In March, nurses decided to begin a series of stoppages to protest at the deterioration in working conditions in the health sector in general. During the dispute the authorities took a hostile attitude to the strikers and their union, the Public Services Association, negotiating in bad faith. They sought to undermine the movement by offering individual contracts to members of the PSA and refusing to pay wages during the dispute. The union's members were only able to maintain their protest action going thanks to money collected from the public for a strike fund, which is illegal on the island.

The government had already demonstrated its ill-will towards the PSA, the most representative public sector union, by refusing to negotiate with it during the reform of the health sector, the biggest part of the public sector, demanded by the international financial organisations.

## Restrictive legal framework

In its annual report to the ILO Commission of Experts, the government, which had set up a tripartite commission to analyse the comments made by the Commission the previous year, stated that it had no intention of amending certain provisions limiting the right to strike, arguing that they were in line with the cultural and legislative environment of the country. The ILO had criticised certain articles of a 1972 law which prohibited strikes in essential services because these had been defined too broadly. The same law imposes a straightforward ban on strikes for teachers and central bank employees. Those who break that law are liable to a prison sentence. The Commission of Experts also criticised the ban on strike action by minority unions. According to ILO Convention 87, it is only the decision of the majority of those voting in a strike ballot that counts, not the majority of employees.

Although the law protects the right to bargain collectively, unions that do not represent an absolute majority in a negotiating unit can find it difficult to negotiate a collective agreement on behalf of their members.

# United States of America

POPULATION : 280,400,000 / CAPITAL : Washington / ILO CORE CONVENTIONS RATIFIED : 105,182



## Sacking of union supporters commonplace

### 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.

At least one in ten 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 a nine-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., The union represents approximately 3,500 Overnite drivers and loading dock workers at 37 of the company's terminals. Because these facilities include some of the largest in the company the union represents approximately 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.

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. Workers in a Chicago terminal voted for union representation in 1982 and are still without a contract.

By the summer of 1999 the company had sacked over 200 key union supporters. In October 1999 after three years of unlawful harassment, intimidation and dismissals workers at the Memphis Tennessee facility launched an unfair labour practices strike that spread quickly to 140 terminals in 39 states.

**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 the period under review, 250 workers employed at Crown Central Petroleum's refinery in Pasadena Texas remained locked out of work. (Note this dispute was eventually resolved in 2001.)

Throughout 2000 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 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. The Basic Vegetable Products garlic and onion processing plant in King City California has been operated with strikebreakers since a strike was initiated in July 1999.

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 2000.

In December 2000 a five and one half year labour dispute involving strikebreakers at two newspapers, the Detroit Free Press, which is owned by Knight Ridder Inc. and The Detroit News, which is owned by the Gannett Company was resolved.

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 2000 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.

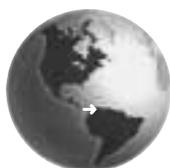
#### Public sector – also facing a lack of protection

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 : 23,700,000 / CAPITAL : Caracas / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**The existence of the country's trade union organisations was threatened, supposedly in the name of freedom of association, following the adoption by the National Constituent Assembly (NCA) of three decrees contravening ILO Conventions 87 and 98. A trade union referendum was held in December, setting a dangerous precedent for state interventionism.**

#### Political context

President Chavez's arrival in power coincided with a desire for far-reaching changes in the country's institutions. In December 1999, a new Constitution, which included innovative provisions on human rights, was approved by referendum. Analysts agree however that these constitutional improvements are in marked contrast with the concentration of power in the hands of the President.

The first year's of President Chávez's administration were marked by a climate of constant hostility and political conflict, as demonstrated by his plans to take control of existing institutions, conferring their powers upon himself. One sector that had so far escaped his control was the trade union movement. But not for much longer...

#### Intervention in the internal affairs of the trade unions

The independent trade union organisations denounced the government and its political allies for seeking to eliminate all dissenting voices in the trade union movement. Their views were corroborated by human rights organisations such as the Venezuelan Human Rights Action and Training Programme (PROVEA). Its annual report stated that events showed there was a policy of interfering in trade union affairs and controlling the trade union movement politically by seeking to impose a single trade union structure.

In August 1999, claiming powers conferred upon it by its supra-constitutional and plenipotentiary status, the NCA had sought to dissolve existing trade union organisations by decree. It then sought to convene general trade union

elections in order to create a single national centre, before retracting its proposals in face of internal and international pressure. According to ILO Convention 87, a trade union organisation can only be dissolved upon a decision of its members or by court order, but under no circumstances by an administrative order. Despite the pressure, the NCA adopted, at its very last session on 30 January, six decrees on "measures to guarantee the freedom of association". In fact these decrees were an attack on the entire trade union movement. Although thanks to ILO intervention only three of them were published in the Official Bulletin in March 2000, thereby making them enforceable, the independence and existence of trade union organisations was still at risk.

One of the decrees intervened directly in the functioning of trade unions by setting out guidelines governing the freedom of association and creating a national trade union electoral Commission whose task would be to call a referendum in which workers would vote on the question of a single trade union structure. The Workers' Confederation of Venezuela (CTV) the country's biggest national centre, refused to be a part of this commission. It said it was conscious of the workers' desire for change, however, and wanted to organise its own elections in accordance with its statutes. The National Electoral Council (NEC) banned these elections three times, on the basis of one of the March decrees, contrary to the principles of the freedom of association. The decree suspended collective bargaining in the oil industry and the public sector for 180 days, and internal trade union elections for the same period. In July the NEC extended the suspension until the end of October. The third decree affected the Peasant Workers' Federation of Venezuela, convening elections within the federation, imposing an electoral commission and suspending its representatives in public institutions.

Although the idea of a single trade union structure is not contrary to the principles of Convention 87, imposing or favouring such a structure is, says the ILO. It specifies that a single trade union structure or monopoly must be the decision of the affiliated workers, and that no administrative order can take precedence over this.

#### **Decrees affect PDVSA workers**

Although the government claimed that the decrees were to protect trade union rights, they had the opposite effect, as could be seen in the oil industry.

Management at the state-owned oil company, *Petróleos de Venezuela S.A. (PDVSA)*, at which the decree was specifically aimed, exploited the situation to impose a new and less favourable collective agreement on its workers. Even though the oil workers' federation, *FEDEPETROL* and the management agreed on 95% of clauses, negotiations for the renewal of the collective agreement were unilaterally suspended for six months. Shortly before this deadline, in August, the management tried to get its version of the collective agreement approved by consulting the workers in question, without any involvement of the unions or the NEC. During this consultation, that even the then Labour Minister *Lino Martínez* criticised, the unions denounced it as fraudulent. Finally, victory went to the workers in mid-October after a four day strike, with the signing of a collective agreement granting them a pay rise and other demands. They also obtained the immediate release of 300 employees arrested across the country during demonstrations. The strike and its outcome constituted a major victory for the oil workers and a patent failure of the government's policy, clearly promoted by the President of the Republic, of interference in trade union affairs.

#### **Hostility to existing trade unions**

The government defended itself against the criticisms of the international community by arguing that the trade union movement had turned its back on the interests of the working class and had illicitly grown rich at the workers' expense. Trade union leaders responded to the accusations by stating that they were prepared to go to court to prove their innocence. No case was brought against them. On the contrary, the authorities opted for direct intervention, bypassing the courts. One of the decrees that did not get published foresaw the auditing of the trade unions' accounts and would have prevented trade union leaders from leaving the country. A smear campaign was launched to publicly undermine the trade union movement, particularly the CTV. On 3 September, President Chavez openly announced the creation of the "Bolivarian Workers' Force" (FBT), closely linked to his party, the Movement of the Fifth Republic (MVR – *Movimiento Quinta República*), to compete with the CTV, in yet another case of interference in purely trade union affairs.

#### **Referendum and insults against the international trade union movement**

Continuing its anti-union policy, the National Assembly (NA) launched a further attack on trade union autonomy in November. It approved on first reading a bill concerning the so-called protection of the guarantees of freedom of association, which set out the rules for the creation and functioning of trade union organisations and the election of their representatives. The bill had been suspended at the end of the year however owing to internal and international pressure. The National Assembly also approved the holding of the trade union referendum.

The announcement of the trade union referendum, timed to take place on the same day as the municipal elections (3 December) to ensure maximum participation, heightened tensions. The referendum was open not only to trade union members, as might have been expected, but to all citizens, including those who had no links to the trade unions. A high level trade union delegation, led by the General Secretaries of the ICFTU and ORIT, went to Caracas at the end of November to seek a solution to the situation and prevent the referendum. President Chavez responded with insults and remained determined to go ahead with it.

Many critics within the country added their voices to the opposition from the trade union movement. The Public

Prosecutor and the ombudsman both brought a suit before the Supreme Court of Justice for violation of the constitution. Their argument was based on article 23 of the new Constitution which confers Constitutional status upon human rights treaties, pacts and conventions signed by the Republic of Venezuela. They pointed to the fact that freedom of association is considered a human right. As the referendum was a violation of ILO Convention 87, ratified by Venezuela, to hold it would clearly be in breach of the Constitution. Trade union and human rights organisations also appealed against the referendum to the Supreme Court using similar arguments. The court did not accept those arguments however, and allowed the referendum to go ahead.

In the referendum, citizens were asked to vote on a proposal to hold elections for a new trade union leadership within 180 days and on the immediate removal from office of all existing leaders of national centres, confederations and federations.

The trade unions, with the support of political and human rights organisations and other social actors, called for a boycott. The public responded. Despite a yes vote, the trade union referendum was a political set-back for the administration, with over 90% of those eligible to vote abstaining. The referendum was roundly condemned by the international labour world, and the ILO called on Chavez to declare the results nul and void, as the referendum constituted a very serious case of interference in internal trade union affairs. In addition to the suspension of trade union leaders from their posts for 180 days, also condemned by the ILO, the referendum left a legal vacuum as regards the existence and functioning of trade union organisations.

The Executive Board of the CTV, stating that it did not recognise the results of the referendum but wished to demonstrate its willingness to participate in the democratisation of the trade union movement, resigned and appointed a provisional committee for the transition period. The committee's principal task was to organise union elections on the basis of the Confederation's existing statutes.

#### Administrative violations

The Commission on the functioning and restructuring of the legal system mandated by the NCA to reorganise the whole judicial system issued a resolution in March that violated by the freedom of association and the right to collective bargaining. This resolution stipulated that the restructuring commission would henceforward abstain from signing collective agreements and that all requests presented to the competent authorities at the Labour Ministry would be held in abeyance. It also suspended the job security of workers in the judiciary. Several trade union leaders were dismissed, in total violation of their trade union immunity. Appeals to the Supreme Court of Justice did however result in the reinstatement of two of them.

In mid-March, the National Legislative Commission, the transitional legislative body set up until the restructuring of all the public authorities was complete, adopted a decree that abolished the job stability established by law or collective agreement, thereby leaving the way open for dismissals. Eleven workers employed by the State of Táchira, including three trade union leaders, learnt of their dismissal from the newspapers. The legal workers' union of the State of Táchira (SUTLETA) had been assured by the Labour Inspectorate that nobody would be dismissed during the dispute between the union and the management over the union's new set of claims.

#### Other violations

In November, the National Assembly employees' union lodged a complaint with the ILO following the transfer of union leaders, in violation of their collective agreement.

In December, workers in the Guacara industrial zone (Corabobo State) complained to the labour inspectorate following the mass dismissal of workers by the Fundición Guacara C.A., Taller Micromecánico C.A. Servicios Automáticos S.R.L. and Preparados Industriales S.R.L. mechanical engineering companies. The unions say the workers were dismissed just after they had complained to the authorities about the violation of their collective agreement. The matter had not been resolved by the end of the year.

#### Right to peaceful demonstration ignored

The human rights organisation PROVEA listed 14 cases of peaceful demonstrations organised by workers that were brutally repressed by the authorities between October 1999 and September 2000.

#### Legislative restrictions

The ILO has for years criticised restrictions in the Organic Labour Law governing industrial relations. For a foreigner to sit on the executive body of a trade union, they must have been resident in Venezuela for at least 10 years, which the ILO considers too long. Furthermore, 100 workers are needed to form an independent trade union, again an excessive requirement. The ILO is also critical of the overly long and detailed list of the functions and objectives of the trade unions. At the same time, sanctions against anti-union discrimination and employer interference are too weak. Finally, a trade union must represent the majority of workers in an enterprise to conduct collective bargaining. The new Constitution approved by referendum in 1999 was also criticised, notably for provisions on matters that should be the sole prerogative of the trade unions. Article 95 stipulates that the terms of office of trade union leaders are not renewable. Article 293 says that trade union elections are to be supervised by the National Electoral Council until the new electoral laws are promulgated. Under the terms of Convention 87, procedures for the election of trade union leaders can only be established by the statutes of workers' organisations, not by an outside body.

In Asia the process of globalisation has resulted in workers losing more than they have gained. The financial and economic crisis that shook the region in 1997/98 is still being felt because of the austerity programmes that have been imposed in its wake to ensure fiscal stability. Workers are suffering from the mistakes made by governments, banks, directors and managers, and from the fact that the vast majority of countries affected had no social security nets for people to fall back on. Tens of millions have lost their jobs - reducing many to poverty. The informal or unprotected sector is growing. Industries are under pressure to keep wages and working conditions as low as possible.



On top of this, the slowdown in the US economy is having its greatest impact in Asia. It is affecting export industries, and putting additional pressure on employment, wages and working conditions. Even the most successful economies in the region, Japan, Singapore, Taiwan, are facing very low growth or total recession. All this has led to the erosion of trade union rights.

In Burma, the independent Federation of Trade Unions of Burma (FTUB) operates clandestinely. It maintains structures, organises migrant workers and runs workers' training activities in countries bordering Burma, as well as maintaining underground contacts with workers inside the country. Violations of trade union rights in Burma's textile sector, which employs some 300,000 workers in about 400 large, medium and small factories, came to light during the year. The military has taken over many of the largest factories and they are operated by army consortiums. There are also

several large factories belonging to joint ventures of the army and multinational corporations. No trade unions exist in these factories, and there is no collective bargaining.

China's national trade union centre exists to carry out party policy. Workers have little means of defending themselves. Yet millions continue to be laid-off from state-owned factories, often without receiving their due entitlements in pay and benefits. This has led to protests which frequently result in confrontations with the police. Independent worker activists are arrested and detained.

The aftermath of the coup in Fiji has meant the reversal of major improvements in industrial relations that had taken place in 1999 after a long battle by the FTUC. The illegal regime began to racially fragment unions and divide the workers. It brought back supervision of strike ballots by the authorities, transferred workers in the civil service on grounds of race, and nominated its own appointees to tripartite bodies.

In Australia, not content with introducing laws undermining collective bargaining and promoting individual employment contracts, and its failed bid to break the Maritime Union in 1997-98, the government's Ministry of Workplace Relations was revealed to have developed a handbook setting out a code of conduct for senior civil servants on "how to lie, confuse, discredit and disseminate misleading information as a bargaining tactic." The apparent aim of the handbook was to help various government departments prepare for bargaining with the unions.

In Pakistan, the law contains longstanding and severe restrictions on basic trade union rights, and shows no sign of improvement. An exception to this was the restoration of trade unions rights at the WAPDA Water and Power Development Authority, which had been removed by the government at the end of 1998.

In Korea, the unions continued to struggle to defend their members in the face of the government's inability to tackle structural problems and the accompanying massive job losses and increasing unemployment. The authorities remain bent on the repression of the trade unions through mass arrests and detentions, and regularly use large contingents of police to intimidate and dislodge striking workers. More trade unionists have now been imprisoned in Korea since President Kim Dae Jung came to power than under his predecessor.

In Indonesia, employers victimise workers when they try to form or join a union. If workers are sacked for trade union rights activity, at best they receive some redundancy payment and are almost never reinstated. The authorities are unable to protect these workers. They act very often in collusion with the employers and sometimes shoot at striking workers.

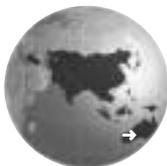
On a positive note, in Thailand the rights of the state enterprise workers were restored when the 1991 SELRA law, brought in by the military government, was amended to allow these workers to join trade unions and bargain collectively.

And in New Zealand, the anti-union 1991 Employment Contracts Act which had dismantled the existing system of collective agreements and wage awards and replaced it with individual employment contracts, was finally repealed.



## Australia

POPULATION : 18,900,000 / CAPITAL : Canberra / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



### Massive restrictions on the right to strike

Despite the complaint lodged with the ILO for its anti-union stance, the Australian government still refuses to apply the ILO's recommendations. Operating in a difficult legislative context, the trade unions have nevertheless scored some encouraging victories, especially at Rio Tinto.

While strikes are not banned in Australia, the legislation does massively restrict the right to strike. However, "unprotected" strikes can have repercussions in terms of civil liability and lead to the striking workers being fired. The following limits are placed on the right to strike:

- A strike may not be staged during the period when a collective agreement covered by law is in application.
- The law refuses workers the right to strike when bargaining is under way at multi-company, branch or national level.
- The law prohibits any protest action seeking to force an employer to pay wages corresponding to strike periods.
- Protest action will cease to be "protected" if this concerns a dispute over which one of various rival unions is representative, and if it concerns a specific category of workers or the functions that members perform.
- Sympathy strikes are banned by law while solidarity actions involving indirect boycotts are not protected.
- If the strike threatens to cause serious damage to the Australian economy or a major part thereof then it will lose its "protected" status. Union registration may be cancelled if it (or its members) takes any action that disrupt the economic or commercial activity or the provision of a public service. However, according to the ILO, strike action can only be limited or banned in the case of essential services, i.e. those whose interruption would threaten life or personal safety or health.

### Complaint lodged with the ILO

The Australian government's unfavourable attitude towards the trade unions has resulted in a joint complaint being lodged with the ILO by the ICFTU, the International Transport Workers' Federation (ITF), the Australian Council of Trade Unions (ACTU) and the Maritime Union of Australia (MUA). On 30 March, the ILO reacted by sending a series of recommendations to the government, requesting in particular that it:

- amend labour legislation on working relations that establish a link between restrictions on the right to strike and harmful effects on trade. Such a link can hamper strike action;
- take all necessary measures, including amending the law on trade practices, to enable workers to participate in legal sympathy strikes;
- take all necessary measures, including by amending the law, to ensure that Australian Workplace Agreements (AWAs) do not restrict the right to engage in collective bargaining and no longer give individual labour relations precedence over collective relations as is presently the case. The AWAs are individual contracts which provide less protection to workers than collective agreements negotiated between employers and their employees or unions;
- ensure that the unions are authorised to maintain ties with international trade union bodies, take part in their legitimate activities and benefit from the services and advantages arising out of this participation. In 1998, the government had instructed the MUA to cease calling for international support from the ITF.

The ILO also criticised the Australian government for using defence personnel to replace MUA members in 1998. It called on the government to amend its legislation to ensure that all categories of worker are protected by the provisions that ban anti-trade union practices.

Reacting to the ILO recommendations, the Australian government declared that these "reflect a misunderstanding of Australian legislation". It again rejected all recommendations.

### Other legislative problems

Finally, it should be stressed that the law on labour relations includes restrictions on trade union action, in particular the abolition of the trade union exclusivity clause, with the resultant risk of a number of small trade unions being created at a single place of work. It also introduces a new system on unfair dismissal that further restricts employees' rights to damages and compensation.

Another defect worth pointing out is the lack of sufficient protection against discrimination based on involvement in collective bargaining talks for multiple companies.

### Jurisdiction of the states

In the state of Western Australia, the 1979 law on labour relations, in its amended form, contains no provisions guaranteeing the protection of workers against anti-trade union discrimination. This state also discourages collective bar-

gaining and prefers individual agreements. The ILO stresses that the fact of simply allowing collective agreements rather than actively promoting and encouraging them is not sufficient to satisfy the requirements of Convention 98. However, the recent election of a Labor Government in WA means that substantial changes to the law can be expected, as the government is committed to giving priority to collective bargaining.

In Queensland, the 1999 law on labour relations states that an organisation's registration can be cancelled if its members participate in protest action that prevents or disrupts economic or commercial activity or the provision of a public service.

#### **Government anti-trade union manual**

Australia's Conservative government has, moreover, published a manual setting out a code of conduct for senior civil servants on "how to lie, confuse, discredit and disseminate misleading information as a bargaining tactic". The press has revealed that training of this kind had been developed by the Ministry of Workplace Relations. The most controversial part of this manual concerns the advice on how to discredit trade union negotiators by portraying them as "not very commendable" people and how to win a battle through misinformation. The apparent aim of this manual is to help the various government departments prepare their own negotiations on wages and working conditions. The trade unions state that this proves, if further proof were needed, that the government is simply not disposed to negotiate in good faith.

#### **Employers taking full advantage of legal loopholes**

If employees decide to take strike action despite not being protected by the Australian legislation, there are some unscrupulous employers who will not hesitate to use violent means to repress their action. In one dispute over safety at work, a trade unionist was injured in the middle of the night when four bread trucks forced their way through a picket line outside a baking plant owned by Buttercup Bakeries in Fyshwick. Any truck driver who had refused to cross the picket line risked prosecution. Other bosses threaten to shift production if unions organise protest action. This was the case of the glass multinational Pilkington, which employed strike breakers during action staged to protest against the company's anti-trade union stance and wage cuts. The company threatened to cease operating in Australia altogether and to import its glass from non-unionised factories in China.

#### **Trade union victories**

The trade unions won a number of legal victories against major employers in the mining and finance industries that tried to use the feeble national legislation to adopt a highly anti-trade unionist stand: they refused to enter into further collective bargaining and expressed their desire to replace collective agreements with individual work contracts. Subsequently, one of these decisions was overturned at trial, with more final rulings expected over the course of the year.

#### **Joy Mining Machinery**

Joy Mining Machinery, a member of the Harnischfeger group, had refused for months to enter into a new round of collective bargaining with its trade union. The bosses wished to impose four separate agreements on staff based on job categories. The union members came under intense pressure to sign these new agreements and the company even threatened closure. The workers set up a peaceful picket line at the factory gates only for the company to bring in scabs from other regions. After a dispute lasting seven months, the Australian Industrial Relations Commission finally found in favour of the workers. They were able to return to work having won a series of benefits: a wage increase, union consultation in the event of outsourcing, etc.

#### **BHP**

The Australian multinational BHP (Broken Hill Proprietary), active in the steel, iron ore, coal, oil and gas sectors also sought to use the government's highly anti-trade union legislation to force its employees at an iron ore plant in Western Australia to abandon collective agreements in favour of individual contracts. Because a majority of employees were keen to retain the collective agreements, the union staged a series of sit-down strikes in BHP's Australian plants. The multinational responded violently. At the Newman site, pickets were attacked during the night by baton-wielding police. A number of arrests ensued. Meanwhile, at BHP's Port Hedland factory, 80 policemen were used to disperse pickets. Among those arrested was Gary Wood, Western Australia branch secretary of the CFMEU (Construction, Forestry, Mining and Energy Union). He was later released on bail on the condition that he did not return to the picket lines. In another picket-related incident, a unionist from the AMWU (Australian Manufacturing Workers' Union), John Mossington, was run over by a BHP car and had to be hospitalised.

By seeking to force its 1,000 mining and iron ore workers in Western Australia to agree to individual contracts, BHP, Australia's biggest company, was hoping to put a stop to union action once and for all. On 31 January the Federal Court ordered BHP to stop offering individual contracts to its workers in the Pilbara region of Western Australia. It found that the multinational had violated the law on several occasions, especially by urging workers to leave their union: company bosses offered better wages and working conditions to workers who agreed to sign an individual contract and refused collective deal-making. On 10 January, at the hearing on this dispute, the Court ruled that BHP had not unlawfully discriminated against union members or sought to induce workers to leave their union. The unions are continuing to fight for their right to bargain collectively, with most workers refusing to sign the individual contracts.

#### **Rio Tinto**

Mining giant Rio Tinto has been fighting the trade unions for several years. It helped the Conservative government amend the law on labour relations to reflect a more anti-trade union stance. This is the law that has since been severe-

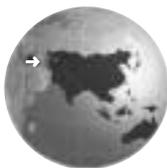
ly criticised by the ILO as contravening the conventions on the freedom of association and the right to collective bargaining.

Like BHP and Joy Mining Machinery, Rio Tinto had asked its employees to sign individual contracts rather than seek the cover of a collective agreement. The workforce proposed two motions at the company AGM, one on good management practice and the other on compliance with the ILO's core conventions. The company's board opposed these motions, but they nevertheless polled 20.3% and 17.3% at the May shareholders' vote respectively, a most encouraging sign for the unions. Rio Tinto management has since taken note of this serious warning. Its chairman, Robert Wilson, has thus spoken of "reconciliation" with the unionised workers and admitted that Rio Tinto had made mistakes in the past in its relations with its employees. Rio Tinto has since undertaken to respect its employees' collective bargaining rights. In July it made an offer to resolve a long-running dispute at its Mt. Thorley mine, this gesture coming on the eve of a week-long international trade union protest against Rio Tinto. The company has also concluded new collective agreements in Australian coal mines.

After years of persecution, unfair dismissals, wage cuts and other reprisals, the unionised workers of Rio Tinto are now enjoying their first victories. The unions hope that this wind of change now blowing through Australia will also be felt at other Rio Tinto sites around the world.

## Azerbaijan

POPULATION : 8,000,000 / CAPITAL : Baku / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**The strongest restrictions on trade union rights are the limitations on the right to strike and the ban on carrying out political activities. The trade unions are also hampered in their work by the failure to transfer trade union dues.**

### Legislative restrictions

Despite some improvements in 1999 to the law governing the right to strike, article 188-3 of the penal code continues to ban collective action aimed at disrupting public transport services. Workers who disobey risk up to three years in prison.

In violation of the right of workers to freely define their activities and programmes, the State prohibits unions from exercising any political activities, from being associated with political parties, from carrying out any joint activities with them, or receiving or providing them with any financial aid.

### Collective bargaining rights denied

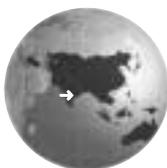
The law on collective bargaining (1996) is not applied. The Confederation of Azerbaijani Trade Unions (AHIK) has recorded cases of some ten factories that violate clauses in the collective agreements they have signed.

### Dues frozen

One of the most serious problems facing unions in Azerbaijan is that union dues are rarely transferred to them. As a consequence, the unions do not have the resources to carry out their activities effectively. The AHIK has listed some 40 enterprises in almost all sectors, from the fishing industry to textiles to construction where dues have not been transferred.

## Bangladesh

POPULATION : 134,600,000 / CAPITAL : Dacca / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,182



**Legislation and the lack of protection prevents most workers from joining a union. The possibilities for organising a legal strike are very limited. The police fired repeatedly at demonstrators, many of whom died.**

### Radical restrictions on trade union rights

While the Constitution guarantees the right to join a trade union and – with the government's approval – to form a union, there are many restrictions on and obstacles to the exercise of these rights:

- 30% of workers in an enterprise have to be members of a union before it can be registered, and the union can be dissolved if the membership rate falls below this level. Only registered unions can engage in collective bargaining. The ILO Committee of Experts has called on the Bangladeshi government to abolish this 30% rule.

- Workers who try to create a trade union are not protected before registration and are often persecuted by their employers, sometimes by violent means or with the help of the police. The names of workers who apply for union registration are frequently passed on to employers, who promptly dismiss them, particularly in the textile sector. Even after a union is registered, legal protection against anti-union discrimination is insufficient: workers suspected of carrying out trade union activities are regularly harassed and may be transferred arbitrarily or dismissed. In such cases, a complaint to the Labour Court is of little use given the underlying corruption and the serious backlog of cases, which in some instances stretches back more than ten years.
- Workers in the public sector and State enterprises may not belong to a trade union (with the exception of railway, postal and telecommunications workers). Some categories, such as teachers and nurses, have formed associations which exercise some trade union activities, but not collective bargaining. The wages, allowances and working conditions of public sector workers are usually set by government-appointed wage commissions whose decisions are binding.
- The Registrar of Trade Unions has wide powers to interfere into internal union affairs. He can enter union premises and inspect documents.
- Candidates for union office have to be current or former employees of an establishment or group of establishments. A worker dismissed for misconduct is not entitled to become a trade union officer. This provision is often used to prevent a worker becoming a union official.

Trade unionists also have to have authorisation from the government to attend ILO meetings.

**Many restrictions on the right to strike**

The law does not specifically recognise the right to strike, but work stoppages are frequently used as a means of protest by trade unions.

They are constrained by various legal restrictions and government interference however:

- the government can ban any strike if it is considered a threat to national interest or involves a public utility service under the Essential Services Ordinance
- three quarters of union members must agree to a strike before it can go ahead, an unacceptable level in relation to international standards
- sentences of up to 14 years forced labour can be passed for offences such as "obstruction of transport" a commonly used tactic in strikes.

**Export processing zones**

About 93,000 workers, 90% of them women, are employed in the country's two export processing zones (EPZs) in Chittagong and Savar (Dhaka), primarily in the textile, clothing, electronics and leather industries. The number of zones is currently being expanded. On the pretext of attracting foreign investment, the zones are exempted from the major laws establishing freedom of association and the right to bargain collectively and setting standards on pay and occupational health and safety. Consequently, there are no trade unions in the zones and no collective bargaining.

Many employers in the zones take advantage of the absence of trade unions to commit many violations of international labour standards: sexual harassment, physical violence against workers, unpaid overtime, child labour, non-compliance with minimum wage regulations, deplorable safety conditions etc. Health and safety conditions, moreover, are a recurrent problem in Bangladesh, both in the export processing zones and elsewhere, and there has been a spate of fatal accidents in recent years, particularly in textile factories.

**Government fails to meet commitments**

In 1992 the government promised to end all restrictions on freedom of association and the formation of unions by 1997 and to apply all sections of labour law in the EPZs by 2000. It did not meet these commitments, but in December 2000, under pressure from the United States, it again promised to allow full freedom of association in the export processing zones before January 2004. Foreign investors (mainly from South Korea, Japan, Hong Kong and the US) are firmly opposed to the arrival of trade unions in the zones but not to the establishment of "welfare committees" where workers could defend their rights without being able to organise strikes or demonstrations. The process of forming such committees has begun, but it seems clear that the workers cannot elect their representatives freely.

From time to time, workers in the EPZs mobilise to demand that trade unions be allowed into their factories. On 24 August, such a strike broke out in Chittagong, paralysing the port. The demonstrators exploded several Molotov cocktails and seven workers were arrested by the police.

**Workers die in police violence and gunfire**

At the beginning of May, the Chinese ready-to-wear clothing factory Ring Shing Garments, in the Savar EPZ (20 kilometres from Dhaka) announced a wage cut and the dismissal of 25 workers. On 4 May, they went to the factory together with other workers to protest. The management locked the doors and called the police. When the confrontation became heated, the police opened fire on the demonstrators. Two were killed on the spot, and another 30 were killed in the scuffle, two of whom later died of their injuries.

On 8 September, a man was killed and nearly 50 others, including 18 police officers, were injured in a confrontation between textile workers and the police in Dhaka. The violence broke out after the police threw tear gas and fired blanks to disperse hundreds of workers from Acolade Fashions Limited who were blocking the road to demand the payment of wage arrears.

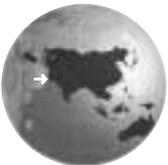
On 26 November, a strike broke out in Chittagong to protest at the mysterious attack on a trade union leader, Yakub Ali, who was hospitalised after being shot at by unidentified assailants.

On 5 December, the police charged and opened fire at 2,000 striking workers at the Mongla port. The workers were demanding more staff to load and unload the ships. Four demonstrators were killed and about 100 others injured in the fighting which began, according to witnesses, after a trade union leader was arrested and his friends tried to free him. The strike ended on 7 December when the workers were assured that an inquiry would be held into the death of their colleagues.

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## Brunei

POPULATION : 300,000 / CAPITAL : Bandar Seri Begawan / ILO CORE CONVENTIONS RATIFIED : - - -



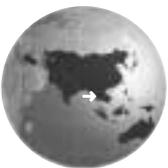
**Trade unions are not entitled to join international organisations. There are no legal provisions for collective bargaining.**

The 1962 law on trade unions authorises the creation of union federations but prohibits them from joining an international organisation. An individual contract between each employee and his employer is compulsory, but the legislation stipulates that legal union activities cannot be deemed violations of these contracts. Local legal experts interpret this provision as giving workers the right to strike, but there have not been any strikes: local tradition favours consensus over confrontation, and wages tend to be good. The three registered unions are in the oil sector, where they represent less than 5% of the workforce.

Brunei legislation does not include any provisions on collective bargaining, which is found in very few companies.

## Burma

POPULATION : 47,100,000 / CAPITAL : Rangoon / ILO CORE CONVENTIONS RATIFIED : 29,87



**Trade unions are forbidden by law and no collective bargaining exists. Abuse of workers' rights is rampant, especially in export-oriented industries. Any attempt to protest leads to detention and sometimes torture at the hands of the ruling military. Independent unions must work underground and their leaders, when captured, are given severe prison sentences. Forced labour has continued on a massive scale, drawing severe criticism from the ILO and the wider international community.**

### The law prevents independent trade union activities

A "Trade Union Act", which dates back to 1926, technically remains in effect but it makes the formation of trade unions dependant on prior government authorisation. It is, however, completely ignored in practice and no trade unions are allowed to be established or to function. The trade unions that existed before the present military regime was put in place in 1988 have been dissolved. Freedom of association is further prevented under order 2/88 issued in 1988 by the (then) State Law and Order Restoration Council (name of the junta, which was changed to State Peace and Development Committee, SPDC, in 1997). The order prohibits any activity by five persons or more, such as "gathering, walking or marching in procession ... regardless of whether the act is with the intention of creating disturbances or of committing a crime or not". This order is further strengthened by the "Unlawful Associations Act". Under art. 17.1 of the latter, "whoever is a member of an unlawful association, or takes part in meetings of or receives or solicits contributions for such association.. shall be punished with imprisonment of not less than two years and not more than three years".

The ILO Committee of Experts on the Application of Conventions and Recommendations has called on the government for over 40 years to amend its legislation and practice in order to bring them into conformity with ILO Convention 87, which Burma has ratified. In 1999, the ILO Conference Committee on the Application of Standards, by way of a special paragraph on Burma in its final report, strongly criticised the government for its persistent failure to comply with these demands.

**Independent trade unions are forced to operate underground**

The independent Federation of Trade Unions – Burma (FTUB) has been forced to operate clandestinely since its inception, in 1991. It maintains structures, organises migrant workers and runs workers' training activities in countries bordering Burma. It maintains underground contacts with workers inside Burmese territory, where it actively collects evidence of violations of workers' rights, especially forced labour. It monitors the denial of collective bargaining rights in the industrial sector. The FTUB General Secretary, Maung Maung, is regularly attacked by the junta's media and diplomats, who present him as a fugitive criminal.

**Trade union leaders in jail**

Two members of the FTUB's Central Executive Committee (CEC) have been in jail for over four years. U Myo Aung Thant, a member of the All Burma Petro-Chemical Corporation Union, was arrested with his wife and children on 13 June 1997 and sentenced to life imprisonment for "high treason" in August of the same year, on trumped-up charges of smuggling explosives into the country. His conviction rested on a confession obtained under torture; his trial was held in secret and he had no legal counsel. He also received ten additional years imprisonment on other charges. At the end of 1998 he was moved from Rangoon's Insein prison to a remote prison in Myitkyina, Kachin State, in the far north of the country. The prison is too distant for his family to visit him. U Myo Aung Thant's wife was sentenced in the same trial to ten years in prison as an accomplice to her husband and also remains in jail.

U Kyin Kyaw, an official of the Seafarers' Union of Burma and FTUB CEC member, was also arrested with his wife in 1997. He had earlier 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 currently held but it is known his case is related to that of U Myo Aung Thant. He is serving a 17-year prison sentence in Thayarwaddy prison in Pegu division. His health is poor.

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.

**Workers denied elementary rights and working conditions**

In September, the FTUB reported serious violations of workers' rights in the textile sector, where 300,000 workers are employed in about 400 large, medium and small sized factories. Many of the largest ones, like Thamaing, Shwe Taung and Paleik Textile factories have been taken over by the military and are operated by army consortiums, such as the Union of Myanmar Economic Holdings Ltd. (UMEH). There are also several large factories belonging to joint ventures involving the army and multinational corporations, such as Daewoo, associated with UMEH. No workers' organisations exist in these factories, nor does any collective bargaining take place. Wages are set unilaterally by management, which often cheats workers out of their earnings, for instance by refusing to pay overtime production, which is mandatory under threat of dismissal. Such is the case, for instance, at Myanmar Yes, a Korean-owned garment factory, located in Rangoon's Hlaing-tha-ya industrial zone. Though official working hours are from 7:30 am to 4:00 pm, overtime is compulsory from 5:00 to 10:00 pm and occasionally stretches on into the early morning when customer demand rises. At the Taw-win garment factory, owned by Apolo Garment, a private Burmese company, overtime is compulsory every alternate day, with a sum of 1 or 2 kyat (\$US 0.002 to 0.004) paid for overtime work if production reaches above the daily quota. There are only two days of closure per month at the factory.

At the Jong Lih backpack factory, owned by a Taiwanese investor, workers can be dismissed for absence caused by sickness or by a worker's wife giving birth to a child. Use of the toilet is restricted to six minutes and each additional minute is fined. The factory only closes two days per month; on any other day than that of official closure, workers are forced to remain on the premises and forbidden to receive visitors, even when off duty.

Workers at the Myanmar Yes factory, mentioned earlier, are divided into ten lines, each composed of over 100 workers; each line receives one single access card to the toilet. No medical facilities are available. On 16 May, Ma Moe Htay, a worker on Line 6, was refused permission to rest after she was taken seriously ill on the production line. After she cried and begged, according to the FTUB, she was instructed by her supervisor to hide behind a stack of garments. Two days later, her dead body, clad in a Myanmar Yes uniform, was found in the vicinity. Although her colleagues were deeply distressed by the incident, neither the management nor the police did anything to investigate her death.

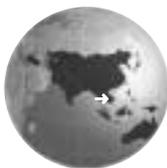
On 5 October, workers staged a collective protest after the employer retracted a promise to pay piece rates for each garment produced. The management called in the army, which sent in Military Intelligence (MI) unit 26, headed by the unit commander, Maung Maung Lay, to quell the disturbance. Thirty workers were detained, in two separate groups: the first one, comprising 20 workers, was detained at the Hlaing Tharywa police station, while another ten were taken to the Ye Kyi Ai military interrogation centre, where political prisoners are known to be tortured. Several of those arrested remained in detention for up to three months, while all those who had been arrested lost their jobs.

The FTUB-affiliated Seafarers' Union of Burma (SUB), which is also illegal in Burma, seeks to protect Burmese seafarers sailing on foreign ships, mostly under flags of convenience (FOC). Burmese sailors typically have to pay three months' wages in advance to state-controlled or private shipping agents in Rangoon before they are allowed to take up their assignments on foreign ships. Their contracts are also subject to approval by the regime-controlled Seaman's Employment Control Division (SECD). Once aboard, they are prohibited from complaining about their working and living conditions, which are notoriously disastrous aboard FOC ships. In particular, they are strictly forbidden to seek or accept assistance from the London-based International Transport Workers' Federation (ITF), an international trade secretariat associated with the ICFTU. Burmese sailors having contacted the ITF in the past have on occasion been captured abroad by the junta's military intelligence (MI) and, once forcibly repatriated, sent to prison.

*Burmese sailors serving abroad run severe risks if they contact the ITF. Maung Kyaw Htin Latt was one of ten seafarers contracted to serve aboard the "MV Devo", sailing under a Bahamian flag of convenience. Before leaving Rangoon, they each had to pay over 1,400 US dollars to the local shipping agent, the "Golden Eagle". When they joined the ship, in Malta, they discovered working and living conditions were appalling and the food they were served was both substandard and insufficient. Even worse, their US\$ 470 monthly wages were not paid for over five months. They eventually complained to an ITF maritime inspector in the port of Veracruz, in Mexico, who succeeded in forcing the company to pay the seafarers their full back wages, as specified in their contracts. However, the ship's master indicated in their seaman's books that they had received assistance from the ITF. Upon returning to Rangoon, nine of the Burmese crew had to report to the Director General of the Department of Marine Administration (DMA), who informed them that their seaman's books were revoked and their qualifications as seamen cancelled. He unsuccessfully attempted to force them to sign an acknowledgement that they had been thus informed. At the same time, the SECD refused to issue them with a copy of their notice of dismissal and to post the order on its public notice board, as per standard practice, therefore depriving them of any formal evidence. As for Maung Kyaw Htin Latt, who had remained behind in Bangkok, he unsuccessfully sought employment with several Burmese shipping agents in Thailand: all of them refused to hire him as soon as they discovered the "ITF" mention in his seaman's book; he has remained jobless ever since.*

## Cambodia

POPULATION : 12,800,000 / CAPITAL : Phnom Penh / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,11,138



**Efforts by the government to protect workers' rights are little more than smoke in the wind. Although economic pressure from the US has achieved some results towards enforcing the labour code, there are still too many reports of acts of anti-union harassment, and the occasional use of violence.**

**The government makes a show of good intentions**

Cambodian legislation grants workers the right to form and join trade unions. In practice, however, the government's enforcement of these provisions is irregular at best. Eager to show its good intentions, the government has simplified trade union registration procedures, which used to be particularly onerous. It has removed the requirement that all members of the executive board forming a new trade union obtain certificates of good conduct from the police, duly approved and stamped by the Ministry of Justice. This is a major step forward since there is little legal protection against employers firing workers who participate in the formation of a trade union. The longer the procedure takes, the greater the risk of these workers losing their jobs.

**...but in practice it allows employers to do as they please**

The good intentions shown by the government are little more than smoke in the wind. Indeed, employers do not think twice about using anti-union discriminatory practices to deal with trade union members, even going so far as to fire them. For its part, the government has never taken action against employers nor punished acts of anti-union discrimination. The Ministry of Labour, which has often ruled in favour of workers, only rarely uses its legal power to sanction employers who disregard its decisions. More often than not, the Ministry of Labour's advice in such cases is for workers to take their case to court. However, trade unions point out that such action is costly and ineffective.

**The right to strike is a relative concept**

Labour legislation guarantees the workers' right to strike and protects strikers against retaliation. Cambodia witnessed 76 strikes in 2000, most of which took place within the 7-day pre-strike period required by law. The government generally tolerates strikes and demonstrations, although the police intervenes, sometimes violently. Enforcement of the provision protecting strikers against retaliation nevertheless leaves much to be desired: several workers have reported losing their jobs or being forced to quit in exchange for redundancy pay after having organised or participated in a strike.

**Ambiguous legislation**

The same problems arise when we examine enforcement of legal provisions that guarantee workers the right to bargain collectively. In practice, with the exception of civil servants (whose salaries are set by the government), salaries are

determined by market factors. There are only two collective agreements registered with the government. This can be partly explained by the lack of experience and the weakness of trade unions in Cambodia. However, there are also difficulties raised by the legislation itself in its definition of the body authorised to negotiate on behalf of workers in a company: According to the wording of the provisions, all companies must choose a "representative", regardless of whether a trade union has been formed for that company or not... It is therefore possible for a company to have a worker representative and trade union representatives at the same time. Employers take advantage of this ambiguity to quell trade union activism. Indeed, the labour code stipulates that trade union representatives cannot be fired without approval by the Ministry of Labour, although the Ministry of Labour has stated that this notion also covers worker representatives.

**The clothing industry is booming, and so is worker exploitation**

According to a French trade union report into Cambodia's textile industry, " Most of the female workers coming directly from rural areas are fully exposed to the authoritarian and suppressive behaviour of foreign employers seeking to make the most advantage of the US import quotas granted to Cambodia. 70% of production in this sector goes to the US market. The labour code adopted by Cambodia in 1997 falls considerably short of guaranteeing minimum workers' rights since it has only recently been enacted and the Ministry of Labour lacks the means to verify compliance. For one thing, there are not enough labour inspectors. Their average salaries, established by the government at \$20 per month, are too low to prevent corruption by employers in the event of conflict. The labour court has not yet been set up due to a lack of funds and the government has thus far been dragging its feet.

**Efficient international economic pressure**

US pressure has played an important role in the clothing sector. An agreement signed in 1999 provides for an increase in the USA's annual import quota for textile goods if Cambodia complies with fundamental social standards. In April, a 5% hike was granted, with the promise of an additional increase if Cambodia agreed to allow the ILO to implement a programme to monitor working conditions in this sector. The trade unions admit that since this system was set up, their relations with the Ministry of Labour have improved, together with their ability to negotiate solutions to labour disputes in the factories.

**Social security rights ignored**

Even if solutions and improvements are negotiated, there is still no guarantee that they will be enforced. As a case in point, most of the strikes in the clothing industry are aimed at forcing employers to comply with legal provisions (minimum salary, payment of overtime, reinstatement of fired union activists, etc.). The minimum salary, which went from \$40 to \$45 per month in 2000 has yet to be applied in many companies. Workers are forced to fight for the salaries that they are rightfully entitled to.

**Increased sanctions?**

The CFDT report states that improper behaviour on the part of certain employers has prompted the Ministry of Trade and the Ministry of Social Affairs to provide for heavier sanctions on employers who fail to comply with the labour code: "Once the measures provided for in the labour code have been exhausted, the Ministry of Trade may sanction any employer who continues to ignore his legal obligations. Such sanctions may include suspension of the employer's export license, certificates of origin, or export visa on commercial invoices." It has yet to be ascertained whether these threats carry more bite than bark.

**Little social dialogue**

Labour legislation does not apply to civil servants, teachers, judges, military personnel, or household staff. Workers employed in the maritime and air transport sectors are not entirely covered by law either, but are free to form trade unions.

**Union activists fired in the clothing industry**

The year 2000 was marked by specific examples of serious violations of trade union rights, particularly in the clothing industry, which is one of the few industries where trade unions have been able to demonstrate.

One such incident occurred on 3 April at the Golden Z clothing factory in Phnom Penh. The management of Golden Z, which works namely for Columbia Sportswear, fired seven trade union leaders of the FTUWKC, claiming that there was not enough work for all of its employees. Considering that the trade union had recently obtained registration on 24 March, it seems that their justification was little more than a pretext for retaliation. Moreover, the workers who lost their jobs on 3 April were misled, being told to sign a document that supposedly notified them of the management's intention to lay off certain workers. It turned out that the document that they had signed was their letter of resignation!

*On 15 January, Eam Youlong, president of the FTUWKC (Free Trade Union of Workers of the Kingdom of Cambodia) in the Luen Thai Garment factory, was suspended by the management without explanation. Coincidence? Only a short time before this happened, the FTUWKC had gathered together and submitted all of the documents needed to register with the Ministry of Labour. In the negotiations that took place between the management and the FTUWKC in the months of January and February, the management made several promises to reinstate Mr Youlong. However, it reneged on these promises, claiming that Mr Youlong had been involved in a car accident and still owed \$300 to the victims. Mr Youlong never received any copy of this "court ruling" and the police, when contacted by the trade union, could find no trace of any accident involving Mr Youlong. The police nevertheless came up with a series of reasons not to issue a certificate to attest to Mr Youlong's innocence (one day, the official stamp was unavailable; another day, the police officer whose signature was absolutely*

essential was absent, etc.) The FTUWKC feels that this attitude proves that the police were working hand in hand with the management of Luen Thai Garment to fabricate a pretext that would justify the firing of Eam Youlong.

The Luen Thai trade union went on strike on 24 April to demand that its president be reinstated. The management agreed to reinstate Eam Youlong if he could to produce a police certificate within 15 days, attesting to the fact that he had no criminal record and that he had not been involved in a car accident. At the beginning of May, he had still not received anything from the police. The management then fired Eam Youlong on 11 May, stating that he had lied on his job application form. This was the third time that Eam Youlong had been fired since the beginning of the year! Since the start of the dispute, the management has sacked 12 other members of the FTUWKC. The Ministry of Labour claims that it can do nothing to protect them since they are only trade union representatives and not worker representatives (as a reminder, the definition of the word "representative" used in the legislation is ambiguous, giving rise to this sort of interpretation). Moreover, the management of Luen Thai, a company that supplies clothing to Ralph Lauren, Calvin Klein, Hagggar and GAP, stated in the presence of the workers that it would never accept a trade union in the factory.

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### Three trade union leaders arrested and held without charges

In another suspicious case, the management of Gladpeer Garments and Broadland Garment Industries fired trade union leaders for having arrived late once. At Supreme Choice Ltd., two trade union representatives and 20 strike leaders were fired on 18 March, 20 days after the start of a strike in which the workers demanded payment of the salaries that they were legally entitled to. Cambodian Apparel Industry fired six trade union officers, again in complete violation of Cambodian legislation. The Ministry of Labour ordered the company to unconditionally reinstate the workers but did not press the case with company. Cambodian Apparel also connived with the police to arrest and detain three trade union leaders for a period of 26 hours. No charge was ever made against them, in complete violation of legislation, and they were denied food, water, covers or other necessities.

In cases where the Ministry of Labour proposes arbitration to the management, the management's refusal is taken as final. The Ministry of Labour then informs the workers that it has done all it can and that they should take the matter to court. This was the case with the Ying Kan Garment company, which had laid off 46 workers without redundancy pay, three of whom were trade union leaders. The workers filed a complaint with the Ministry of Labour, which ordered the company to reinstate the workers. The company did so...reinstating all of the workers except the three trade union leaders. It claimed that they were incompetent (although they had never received the slightest reprimand regarding the quality of their work).

### Violence against strikers

Physical violence is sometimes used to suppress peaceful demonstrations of workers. One such incident occurred on 23 February, involving 300 workers employed by the Tack Fat Garments factory, which is owned by Hong Kong entrepreneurs. While the workers were demonstrating in the street, they were beaten by police and the factory's security guards. A 20-year-old worker, Chorn Kong, was very violently pummelled in the face. He had to be taken to the hospital.

The purpose of the strike was to claim an increase in monthly salary from \$40 to \$60 together with a reduction in working hours from 11 to 8 hours per day. Workers also complained about poor working conditions and mistreatment by factory managers. The police department claims that it did not resort to violence and that the perpetrators could very well have purchase police uniforms on the black market prior to beating the workers! Sok Sombath, the trade union's leader, was also illegally fired.

The impunity granted to employers who harass trade union representatives has made workers and trade unions afraid to come forward to the management with their grievances. This has resulted in wildcat strikes taking place when the workers simply cannot stand the exploitation any longer. This was namely the case on 31 August in the Supreme Choice factory, located 10 km to the south of Phnom Penh. The workers went on strike to protest against the fact that the management illegally fired several of their co-workers and briefly detained a trade union representative after talks with the management had broken down. The factory managers threw stones at the strikers protesting outside the building, injuring two. Both were taken to the hospital, the first was unconscious and the other's arm and head were bleeding.

### A \$5-dollar dock in pay for participating in the strike of 1 May

On 1 May, approximately 10,000 workers joined the demonstration organised by the FTUWKC. The demonstration took place without incident but several workers reported that their employers had threatened to deduct \$5 from their salaries for having participated in the strike.

### Cambodian clothing industry workers organise the most important demonstrations in recent history

At the end of June, thousands of workers from 20 textile workshops took to the streets of Phnom Penh to demand salary increases, freedom of association, and better working conditions. The demonstration took on even greater importance in light of the incident that occurred in mid-June, where 160 workers of the Yung Wah factory were knocked unconscious by a short circuit that sent a powerful bolt of electricity through their sewing machines. These demonstrations were the largest in the recent history of the country, and there were a few violent incidents. On 22 June, at least four people were injured in a confrontation with security guards at a workshop located in the suburbs of the capital. A woman was hospitalised and at least two young men were hit by stones. These incidents took place when 2,000 to 3,000 angry protesters, mostly women, started throwing rocks at the June Textiles Co. Ltd building, shattering most of the windows in the process. The police responded by throwing stones back and one of the security guards, who apparently panicked, fired several shots of his assault rifle into the air before levelling the weapon at demonstrators. After

six days of the strike, the largest trade union in Cambodia called for a return to work after having obtained a promise from the management that it would increase salaries. According to the FTUWKC, a total of six people were injured in the clash between security forces and strikers.

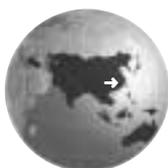
### Blacklist to remove union activists

Some employers in the clothing industry also draw up blacklists to prevent trade union leaders from being hired again. Proof of this came with the opening of the Lucky Zone Apparel factory, following a transfer of production from the Belgian Garment factory. The management of the Belgian Garment factory, which had an active trade union, had promised that all of the laid-off workers would get a new job at Lucky Zone. This was exactly what happened...everyone was given a new job except the trade union leaders, whom Lucky Zone did not want to hire. Trade union members who had been hired by Lucky Zone were subsequently sacked once the management realised that they were trade union members. An inquiry carried out by the Ministry of Labour and a trade union revealed that a certain Michael Lai, former manager of Belgian Garment, was the manager of Lucky Zone. Not only that, both companies were owned by some of the same people. All of this leads to the assumption that the transfer of production between the two factories was solely intended to remove trade union leaders from the employee register.

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## China

POPULATION : 1,264,800,000 / CAPITAL : Beijing / ILO CORE CONVENTIONS RATIFIED : 100,138



**The official trade union exists to serve the interests of the State and carry out its policies. Independent trade unions are banned and anyone attempting to create one is either sent to prison, a psychiatric hospital or a forced labour camp. There is little respect for other fundamental workers' rights.**

### The single trade union, the government's puppet

The freedom of association, guaranteed by the Constitution, does not exist in practice. The law states that this right is subject to the interests of the State and the Communist Party (CP). Only one trade union is recognised, the All China Federation of Trade Unions (ACFTU). It remains under the strict control of the Communist Party, which appoints all its officials. The ACFTU exercises a legal and heavily protected monopoly over all trade union activities. Its president is a key member of the Politburo, and he has on several occasions warned against strikes and spontaneous expressions of discontent by workers.

The ACFTU's principal tasks are to improve discipline at work, mobilise workers to achieve the objectives of the CP and the government, explain their policies and distribute social benefits. In practice, ACFTU unions spend much of their time organising recreational activities for workers.

In recent years, the authorities have urged the ACFTU to set up unions in private enterprises, but there are still very few (less than 10% of them are unionised). Where unions do exist, their congresses usually serve to rubber stamp agreements between management, the CP secretary and the union representative. In small enterprises, including foreign companies, it is not unusual for one person to hold all three posts.

### Forced labour for challengers of the single union

The creation of a trade union must be submitted for the approval of the ACFTU. Independent trade unions are illegal, and discovery leads to repression. Those who try to create one are systematically detained under the "re-education through labour" system. It is a form of administrative detention: there is no need for a trial and no appeal. The police can decide on sentences up to a maximum of three years in a forced labour camp. In practice the sentences are renewed as often as the authorities see fit, as several cases have proved. Sometimes, a period of "re-education through labour" is followed by a trial and sentencing to a long period of forced labour. These procedures however are often secret, and the rights of the defence ignored.

### Appalling conditions for trade union prisoners

Independent trade unionists are subjected, like political prisoners, to particularly harsh treatment during detention. In addition to direct violence by the guards, they are beaten up by gangs of other prisoners who in exchange are granted certain advantages by the prison authorities. This physical violence is combined with locking them up in sections of the prison reserved for detainees with infectious or viral diseases, such as tuberculosis or hepatitis. Several trade unionists have contracted these diseases while in detention.

The families of imprisoned independent trade unionists are also subjected to harassment by the authorities. They are not told where the prisoners are and often their visiting rights are withdrawn. Family members who act on behalf of imprisoned trade unionists risk being sent to prison themselves, under the same conditions, sometimes for long periods, without trial. After their release, some have been forced to leave their usual place of residence to prevent any contact with the imprisoned trade unionist.

**Strikes are banned, but on the increase...**

The right to strike was removed from the Constitution in 1982 on the grounds that the political system had "eradicated problems between the proletariat and enterprise owners". Yet more and more strikes have broken out in China in protest at the non-payment of wages, at bankruptcies resulting from mis-management or the embezzlement of an enterprise's funds, or to demand the respect of labour legislation. According to some sources, more than 100,000 strikes took place in 2000. ACFTU unions never call strikes. Rather, they are called to the rescue by employers or local authorities to urge workers to return to their posts. The Trade Union Law confers on them the role of mediators or intermediaries with employers when there is a strike. Mediation procedures exist in the event of a dispute, but the Labour Bureau tends to give preferential treatment to employers in these procedures. The number of strikes has forced the local authorities to desist from systematically resorting to violence to stop them (although it still happens), and to at least begin a discussion. In some cases, the authorities have released funds to alleviate the arrears in the payment of wages or social benefits denounced by the demonstrators. In others, they have resorted to force or threats to make the strikers go back to work.

**No real collective bargaining**

Theoretically, the right to bargain collectively is guaranteed by the first Labour Code to come into force in China, in 1995. According to the government, the aim is to prevent abuses of workers' rights in foreign-owned and joint-venture enterprises. The provisions on collective bargaining are not applied in practice however. Employment contracts are drawn up by employers who set wages and working conditions themselves, where they are not defined by law. There have been many examples of employers ignoring this new law.

**Angry miners**

The coal mining industry, China's principal supplier of electricity, is in crisis: over production, the collapse in prices, corruption, illegal mining, falling safety standards. According to official figures, there are about 10,000 deaths a year in the sector, but the real figure is probably closer to 20,000, because the authorities often hide occupational accidents. The government decided to reduce the number of small illegal mines. This measure, combined with the closure of big public mines, caused the dismissal of hundreds of thousands of workers during the year. Protest movements broke out here and there, sometimes with violence, and the police intervened brutally to disperse the demonstrators. Such an incident took place in April in the Sichuan province and another in the north of the country. When the police do not have enough strength on their own, the local authorities call in the army to restore order. Recently the ACFTU has made some effort to reduce the mounting tension caused by mass dismissals in public enterprises. It offered training to workers to given them a chance to find another job.

**Repression continued in 2000**

Many workers' rights activists are still in prison or in forced labour camps after being given long sentences during the crackdown on the Chinese democracy movement in May to June 1989. Arrests, arbitrary detentions and prison terms for those who wanted to create or join the organisation of their choice have continued unabated ever since. When people are released they are sometimes placed on blacklists, preventing them from finding another job.

**Ten taxi drivers arrested**

On 2 March more than 1,000 taxi drivers paralysed traffic in Dachuan, in the Sichuan province, in protest at the imposition of a tax amounting to more than half their revenue. At least ten drivers were arrested when the police intervened to break up the demonstration.

**Metal workers unpaid for 18 months**

On 16 May, thousands of workers in a State metalworking company blocked the main road between their district, Liaoyang, and Shenyang, the capital of the Liaoning province (north East), an area badly affected by unemployment. They were demanding payment of their wages (frozen for 16 months) and payments to retired or dismissed workers. Hundreds of armed police officers were deployed during the night to disperse them, injuring some 50 demonstrators. Three of the protest organisers were arrested, then released. Earlier in the year, the province had already witnessed clashes between dismissed miners who were owed 18 months wages arrears and the police and army. The region was briefly placed under martial law.

**Ten year prison sentence for speaking to foreign journalists**

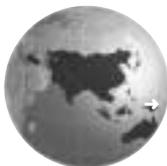
In May, Zhang Shanguang, founder of an association for the protection of the rights and interests of dismissed workers (which was quickly banned) who had been sentenced to ten years in prison for providing foreign journalists with information about a workers' demonstration in the Hunan province had his sentence confirmed on appeal. He was arrested on 21 July 1998 and his initial sentence was handed down on 27 December that year. He had previously spent seven years in prison following an attempt to form independent trade unions during the Tiananmen Square events of 1989. He contracted tuberculosis while serving his sentence. He is now suffering from lung disease, and regularly coughs up blood. He is forced to work with his feet in irons and is beaten up if ever he tries to take a rest from work. He is being held in a prison factory producing electrical apparatus, "Hunan Prison no.1" in the town of Yuanjiang, where the detainees are notoriously ill-treated and tortured. By the end of 2000, Zhang had spent four months in solitary confinement for "refusing to confess his crimes" and had been deprived of family visits for several months.

In June, another verdict in the province violated fundamental rights: Liao Shihua, arrested in 1999 and accused of subversion, was sentenced to six years in prison. He had organised unemployed workers in order for them to ask local government representatives to tackle corruption and protect the rights of the unemployed.

- Worker friendly labour lawyer in critical state in prison** On 18 July, Xu Jian, a lawyer specialised in labour law, was sentenced to four years in prison by a court in Baotou (autonomous region of Inner Mongolia) for "incitement to overthrow State power". His activities, legal and known to all, consisted of helping workers win recognition of their rights through the courts. He also constantly reminded workers of their right to elect their representatives within their enterprise, and the right of workers' councils in State enterprises to have their say in the big decisions of the enterprise. The authorities accused him of receiving foreign financial aid which he used to buy office equipment. He is suffering from hepatitis, contracted in the Chifeng prison, where he is being held, and at the end of 2000 he was said to be in a critical state.
- Corruption and arrests in the paper industry** On 7 August, Li Jiaqing, a trade union activist, was arrested for organising the occupation of a paper factory by about 100 workers. The workers were protesting at the merger of their factory, in Zhengzhou (central China) with a local enterprise which, after making many promises to workers, embezzled the money available. Li had also taken part in the creation of an independent trade union which had drawn up a petition against the merger. After they had occupied the factory for two months, the police intervened, and 20 workers, including Li Jiaqing were taken in for questioning. All were released a few days later except Li and another worker sentenced to four months in prison for obstructing traffic. At the end of the year, Li was still in prison.
- Railway line blocked to denounce corruption** On 29 November, the sale of a public textile company led to a protest in the eastern province of Anhui: one thousand striking workers blocked the Beijing-Shanghai railway line for eight hours after learning that their factory in Chuzhou had just been bought by a competitor, who planned to make half of the 3,600 employees redundant. The demonstrators denounced the corruption rife in the enterprise and demanded greater job security. Three leaders were arrested.
- Psychiatric hospitals make a comeback** On 15 December, another trade unionist, Cao Maobing, was called in for police questioning after trying to set up a trade union at the Funing Silk factory, in the eastern province of Jiangsu. He was promptly imprisoned in psychiatric hospital no. 4 in the town of Yancheng, where the authorities forced him to take medication. Cao Maobing was one of the organisers of one of the demonstrations that took place in November after the authorities rejected an application for the registration of an independent trade union. The Chinese authorities also accused Cao Maobing of speaking openly to the American media about the lack of respect of workers' rights in China and the inaction of the official trade union.
- Interviews – taking a heavy risk** Journalists who show a strong interest in workers' rights are also repressed. Feng Daxum was arrested on 16 December after interviewing some of the 2,000 workers dismissed by a public enterprise in Neijiang. They were blocking a main road in protest at the non-payment of wages for a year. On 9 June, Feng Daxum was accused of subversion, for which he risks up to ten years in prison. He has already spent five years in prison, in the eighties, for his involvement in the pro-democracy movement. Since October 1998, at least three dissidents were imprisoned for revealing information concerning workers' protests.
- Two former opponents released** On 14 June, a political dissident, Zhang Jingsheng, was released two years before the end of his sentence. He had been given a 13-year term after creating a trade union during the pro-democracy demonstrations on Tiananmen Square in 1989. The authorities at the Yuanjiang prison (Hunan province) released him before the end of his sentence because he had worked overtime during his incarceration. He was severely beaten by his guards in 1992 for going on hunger strike. Zhang is the third political activist arrested during the Tiananmen events to have been released early between April and June. On 8 June, Li Wangyang, a former leader of the same independent trade union as Zhang, was also released after serving 11 years of his 13-year sentence for "propaganda and counter-revolutionary incitement". Li and Zhang both went home in a deplorable physical state. Li is now partially deaf and his sight is weak. Other workers' rights activists remain in prison since the Tiananmen events, and have not been granted early release, including Liang Qiang.
- On 20 June, Xue Jifeng was also released from a psychiatric hospital where he was imprisoned and subjected to a treatment he was in no need of. Xue Jifeng was arrested and sent to prison on 17 December 1999, shortly after giving an interview to a foreign radio station. He also tried to create a workers' organisation in the town of Zhengzhou (Henan province). During his incarceration, the police said he would not be released until his wife signed a document stating that he was "cured", which she always refused to do.
- In August, Wang Fenshan, who had created the organisation "China Workers' Watch", was released. He had been sentenced to two years in 1999. Two other founders of this organisation, Yue Tianxiang and Guo Xinmin, sentenced at the same time as Wang Fenshan to ten and two years respectively are still in prison.
- Trade union activists sent to prison before 2000** In addition to the cases mentioned above, many trade union activists are currently serving long prison sentences dating from before 2000 (for details on some these see the 1999 edition of the Survey). A non-exhaustive list includes: Tan Li, Tu Guangwen, Yang Jinheng, Li Bifeng, Zhang Shangguan, Kang Yuchun, Hu Shigen, Liu Jingsheng, Wang Guoqi, Wang Miaogen, Yao Guisheng, Chen Gang, Peng Shi, Liu Zhihua, Wang Changhuai, Mao Yuejin, Huan Lixin, Wang Zhaobo, Huang Fan, Pan Quiboa, Hu Min, Wan Yuewang, Yuan Shuxhu, Guo Yungqiao, Li Xiaodong, Zhu Fangming, Guo Qiqing, He Chaohui, Hu Nianyou, Wang Fanghua, Wang Fengshan, Wang Heping, Wang Ligu, Wang Qun, Xu Wangpin, Yan Jinhong, Yang Qinhe, Zhang Jun, Zhao Changqing, Zhu Wanhong.

# Fiji

POPULATION : 800,000 / CAPITAL : Suva / ILO CORE CONVENTIONS RATIFIED : 29, 98, 105



## Numerous violations of trade union rights came in the wake of the coup that overthrew the democratically elected government.

The violations of trade union rights reported in the year 2000 came about primarily as a result of political events, namely the coup orchestrated on 19 May against the democratically elected government. Civilian rebels led by George Speight and a few soldiers overthrew the Fijian Prime Minister, Mahendra Chaudhary, -who is also general secretary of the National Farmers Union (NFU) and former general secretary of the FTUC (Fiji Trades Union Congress)- holding him hostage along with several other ministers. While the trade union movement launched a strike to demand the return to a legitimate State, a military leader proclaimed himself Head of the State, tried to repeal the Constitution, declared martial law and governed by decree. One of these decrees imposed supervision of all public meetings. Violence broke out in many areas and was perpetrated primarily against Indo-Fijians, who represent 47% of the population. On 11 June, an attempt was made to burn down the house of FTUC deputy general secretary, Diwan Shanker.

In July, a civilian government backed by the army came to power. By the end of the month, this government ordered the arrest of George Speight and the other rebel leaders. A Constitutional Review Commission was established but its work was interrupted in December following a decision by the High Court to keep the 1997 Constitution, which is a non-racist text that namely guarantees the right to form and join trade unions.

The Fijian economy was ravaged by the coup and the subsequent sanctions imposed by the international community. A very large number of workers lost their jobs.

### Still the same old violations

The post-coup government did nothing to improve the weak points in labour legislation as regards respecting workers' rights. Many categories of workers are denied the right to strike and join trade unions, especially in the export processing zones. Moreover, labour legislation does not always protect trade unions against acts of interference by employers. There are no provisions requiring reinstatement of workers who have been sacked for carrying out trade union activities.

A 1991 decree did away with compulsory deduction of union dues from workers' salaries and transfer to the union. This system was not reintroduced because of strong opposition from employers. This is a major obstacle preventing workers from joining trade unions: most workers do not have bank accounts (a minimum deposit of 500 dollars is required to open an account and bank fees are costly), which makes it difficult to organise payment of union dues.

In the workplace, only the most representative trade union has the right to bargain collectively, a right guaranteed by law if the trade union represents more than 50% of the workers. Employers can also recognise minority trade unions for collective bargaining purposes if they wish. As far as the right to strike is concerned, this right is recognised for all matters except those relating to trade union recognition. However, the post-coup government introduced a new definition of strikes, which now includes go-slow strikes, reduced production strikes, and refusal to carry out the employer's instructions.

Export processing zones are subject to the same laws as the rest of the country. Despite this fact, the FTUC has been unable to enter into a collective agreement for the EPZs and criticises the generalised employer intimidation of workers.

### New post-coup restrictions

Fiji has taken a few steps backwards as far as legislation protecting workers' rights is concerned. As a case in point, supervision of union ballots by the Ministry of Labour, repealed in 1997, was once again imposed by the new government. The Registrar of Trade Unions has gone back to accepting ethnic trade unions, as a means of dividing workers on the basis of their ethnic background. Trade unions must also submit their accounts to the Registrar of Trade Unions each year.

The post-coup government completely ignored the FTUC-appointed delegates (the only trade union federation in the country) to the national tripartite committees and replaced them with individuals from small trade unions.

Faced with an economic crisis, the new government took the liberty of unilaterally decreasing salaries of state employees by 12.5% as of 1 August. However, the trade unions managed to overturn this decision through an arbitration procedure.

Several trade unionists were detained and mistreated by the army in June. These included Felix Anthony (FTUC national secretary), Gaffar Ahmed (the secretary of a branch of the National Farmers Union), and Jain Kumar (treasurer of the same branch of the NFU). Felix Anthony's arrest lasted three hours and occurred while he was visiting sugar cane workers who had gone on strike to protest against the coup and to demand a return to democracy. The

army forced these workers to return to work. Some of their leaders were threatened with physical violence and detention if they did not obey. The soldiers told them that trade unions did not exist under martial law.

In August, Felix Anthony was once again briefly held hostage with seven other trade unionists by Fijian nationalists before finally being freed by police. The trade unionists were told that they would be killed if the FTUC did not put an end to its campaign against the new regime.

On 10 October, several associations (including trade unions) staged a peaceful demonstration called "Fiji Blue" to demand the return of democracy: they asked the inhabitants to wear blue clothing (the dominant colour of the Fijian flag) on that day. The Public Services Commission warned that any civil servants who heeded the call would be considered as dissidents.

The FTUC also criticises the fact that numerous civil servants of Indian descent (including high-ranking officials) are being transferred and replaced by native Fijians. These acts are based on purely racist motives. Removing the Indo-Fijians from high-ranking positions was one of the objectives of the coup, which overthrew the first Indo-Fijian to have ever held office as Prime Minister.

#### Trade union victory

The repressive measures perpetrated against trade unions is not limited to the chaotic context of the coup, however. Prior to the political upheaval caused by the coup, many employers had already refused to recognise trade unions formed in their companies. This was namely the case in February at China International Water & Electric Corporation, which refused to recognise its trade union despite the fact that it represented 100% of the workers. The company also refused to discuss matters of health and safety. When the employees launched a strike to fight for their rights, the management fired the trade union president, Lepani Kadi, and hired strikebreakers under police protection. The International Federation of Building and Woodworkers (IFBWW) orchestrated an international solidarity campaign which went a long way towards bringing the management back to the negotiating table: on 19 August, the management signed an agreement with the trade union whereby it would recognise it as representing the workers within the framework of collective bargaining. Moreover, the management agreed to reinstate the sacked workers and refrain from taking any retaliatory action against former strikers. Finally, it agreed to set up a system of compulsory withholdings on salaries for the purpose of paying union dues.

#### Companies shut down without paying salaries

On a more negative note, several companies -including Fenning Pacific, Trident Garments and Radar Pacific- shut down without warning. 1,000 workers were left without their final salaries. Fenning Pacific even kept the compulsory withholdings on salaries for union dues. The other two companies seem to have left the country overnight. There is nothing the workers can do about it.

#### Hotel owner acts in bad faith

In September, a trade union at a hotel fell victim to commercial manoeuvres: When the Tambua Sands Resort was sold, its new owner, Peter Bullock, refused to recognise the existing trade union. All of the employees except one were made redundant in an attempt to force them to accept individual contracts. The new owner took advantage of the fact that the collective agreement signed by the former owner did not include a "transfer clause" requiring the new owner to recognise the existing trade union.

#### Police threats

The police sometimes work with employers to fight against trade unions. As a case in point, in September, the general secretary and the president of the trade union at Pacific Fishing Company Limited were prevented from entering the factory. This effectively prevented them from carrying out trade union activities. Tomasi Tokalauvere (the trade union's general secretary and investigative reporter) was threatened by individuals who, according to him, seemed to belong to the police force. The following month, however, the trade unionists were permitted to enter the company.

#### Fire brigade union activists arrested

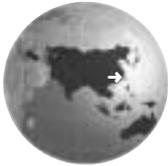
Even firemen are not free from anti-trade union repression: on 6 September, two of their union activists were arrested and interrogated by the army for several hours when they tried to organise a trade union to find solutions to the shortage of employees. One of these activists also received a letter from one of his superiors stating that he was suspended for 21 days.

*Soldiers under the command of Captain Jattan entered my office on 13 June at around 3.45 pm and took me to the police station in Ba. They kept me there for an hour. I was told to force the farmers to begin harvesting the sugar cane fields. On 15 June at around 6 pm, five armed soldiers escorted me from my home to the hall of the Fijian Sugar Corporation. I was told to sit in a corner while a soldier pointed his rifle at my head. At gunpoint, I was taken before a crowd of 50 people and mistreated in front of them. The soldiers ordered me to begin the harvest the following day. When I refused to do so, I was taken back to the police station in Ba. Captain Jattan reiterated the order and told me that my house and sugar cane field could be burned. I was released at 9 pm.*

*(Jain Kumar, treasurer of the Ba branch of the National Farmers Union)*

# Hong Kong SAR China

POPULATION : 6,700,000 / CAPITAL : Victoria / ILO CORE CONVENTIONS RATIFIED : - - -



**There is no institutional framework guaranteeing the right to trade union recognition or collective bargaining.**

Since it was returned to Chinese sovereignty on 1 July 1997, the Hong Kong authorities have sought to undermine its democratic institutions, notably the trade unions, in order to please the Chinese government. Workers risk victimisation and dismissal when they create unions or carry out trade union activities. For the employers, it is not difficult to sack a unionised worker because they can be virtually assured that they will not face prosecution.

Ordinance no.3 on employment does not, in its present form, guarantee the right to reinstatement unless there is a prior joint agreement between the employer and the employee. The government has however promised to change the legislation so that the Labour Court can order reinstatement without the consent of the employer. In November 1999, it also announced its intention to revise the Employment Ordinance in order to guarantee that workers cannot be dismissed following a strike, but nothing has been done. The law does not ban strikes, but in practice most workers have to sign employment contracts stipulating that absence from work may lead to dismissal.

Furthermore, under the terms of the Public Order Ordinance, strike pickets can be broken up by force. Employers frequently ask the courts for an injunction to dislodge strikers from their premises or prevent their access. On 15 October, the HKCTU organised a rally to call for this ordinance to be amended.

The Employment and Labour Relations Ordinance (ELRO) restricts the freedom of a trade union to manage and use its funds as it wishes, particularly the use of funds for political ends or transferring them to foreign trade union organisations.

## Repeal of new law following hand-over

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.

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 dismissed for union activities.

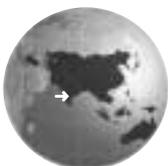
After the hand-over, the new government suspended the three ordinances "for review" until the end of October, when the Provisional Legislative Council (PLC), repealed their most important provisions.

*A teacher at the American International School of Hong Kong, Ruth Prevenslik, was dismissed in suspicious circumstances. "One Friday, during the lunch break, I passed out Hong Kong Professional Teachers' Union membership applications and newsletters" she explains. "Three hours later, I was summarily dismissed, without notice or warning!". The teacher had also refused to give top marks to the principal's son...*

*The Hong Kong courts disagreed with the view of the teachers' union, ruling that Ruth Prevenslik had been dismissed for reasons unrelated to her trade union activities.*

# India

POPULATION : 992,700,000 / CAPITAL : New Delhi / ILO CORE CONVENTIONS RATIFIED : 29,100,105,111



**While civil servants still do not enjoy their full rights, the government wants to amend legislation to the detriment of the trade unions. The police are brought in to deal with strikers, sometimes violently.**

## Discrimination against public sector workers

Current legislation makes a very clear distinction between civil servants and other workers. Public service employees have very limited organising and collective bargaining rights. According to the government, the aim of this differential treatment is to protect the neutrality of civil servants.

<b>Restrictions on the right to strike</b>	<p>The Essential Services Maintenance Act enables the government to ban strikes and demand conciliation or arbitration in certain "essential" industries...but the Act does not define what these essential services are! Interpretation varies from one State to another. Legal mechanisms exist however for challenging a decision taken under the terms of this Act, if a dispute arises.</p> <p>Public servants have to announce a strike at least 14 days in advance. In some States, the law demands that all unions, including private sector unions, must submit formal notification of a strike before it is considered legal.</p>
<b>Amendments to Trade Union Act</b>	<p>The government has announced its intention of changing the Trade Union Act, much to the unions' anger. One of the proposed amendments is that a union should represent at least 10% of an enterprise's workforce before it can be accepted by the Registrar of Trade Unions. At present, only seven people are required in order to form a union. While the government's aim is to limit the proliferation of small workers' organisations, the unions would prefer that workers be asked to vote by secret ballot to decide which union should represent the staff in collective bargaining. This system would avoid arbitrary decisions about union recognition by the employers.</p> <p>The new law proposed by the government also seeks to reduce the number of foreign workers at the enterprise allowed to sit on the union executive, and would require unions to submit their accounts for auditing.</p> <p>The government has set up a labour commission to draw up recommendations for reforming the country's labour legislation, without consulting the trade unions. Only two national federations are represented on it.</p>
<b>A State excluded from the system: Sikkim</b>	<p>The law on trade unions does not apply in Sikkim, a State annexed to India since 1975. Consequently the workers there do not benefit from trade union rights. Although there are some workers' associations, no one sector as such is organised. And although there is a government notice permitting the registration of trade unions, a workers' association can only be established after the authorisation of the police and a thorough inquiry. The police only have to make one negative comment about one member of the union's executive for it to be refused registration. Furthermore, the public also have the opportunity to state their objections to the creation of a trade union, which sometimes can also be enough to prevent its registration.</p>
<b>Collective bargaining</b>	<p>Collective bargaining is the usual means of setting wages and resolving disputes in unionised workplaces. Specialised labour tribunals arbitrate in disputes, but there is a long back-log of unsettled cases. Furthermore, many national agreements setting public sector salaries (coal, steel...) expired in 1998, and despite the national federations' offer of constructive dialogue, there has been no acceptable proposal from the competent authorities. The government, on the contrary, has ordered that the unions be forced to enter into 10-year agreements, rather than the usual five years.</p>
<b>Only a small minority of workers protected</b>	<p>In practice, the legal protection of workers' rights only concerns some 30 million people in the organised industrial sector, out of a total workforce of 400 million. It is difficult to enforce legislation in the informal sector.</p>
<b>Situation growing worse in the export processing zones</b>	<p>India has seven export processing zones. Entry is restricted to the workers, who are bused in by their employers. They have the right to join trade unions and to bargain collectively, but the fact that trade unionists are not able to enter the zones makes it very difficult to ensure the exercise of these rights.</p> <p>The government clearly wants to limit trade union action in the zones as much as it can, and encourages States to apply flexible labour legislation. It has decided that factories operating in the zones are to be considered public utilities, thereby limiting the right to strike.</p>
<b>Tensions mount on the tea plantations</b>	<p>Tensions remained high on the Manjolai tea plantation (Tamil Nadu State) in 2000. Workers are demanding an increase in their poverty wages, to which they have a right under law. They also denounce the very harsh working conditions and the caste-based discrimination at their workplace. Workers are still in a state of shock following the massacre they witnessed, and in some cases fell victim to, on 23 July 1999 when the police fired into a crowd of thousands of peaceful demonstrators in the Tirunelveli district killing 17 plantation workers and members of their families. The victims included a two-year-old child who was with his mother. They had been taking part in the demonstration to demand the release of her husband: one of the 652 workers arrested in June by the police with the help of the plantation owners. The police pursued the fleeing demonstrators all the way to the river, where they continued to beat them, causing some to die by drowning. Yet the demonstration had been approved by the authorities. A long strike had broken out in 1999, when many of the participants in the 23 July events feared they would be beaten or arrested if they returned to work. Hundreds of them have gone back to the plantations since then, but the struggle continues, even though the tea plantation owners shrink at nothing to discourage their staff from joining a union.</p>
<b>Demonstrators injured</b>	<p>On 19 January, during national demonstrations to demand higher pay for dock workers, two demonstrators were injured in clashes with the paramilitary police guarding the port of Calcutta. The armed forces were also used in several ports around the country to carry out the tasks abandoned by the strikers, notably security and tug operations, in blatant violation of ILO rules on the freedom of association.</p>

On 22 January, at least 20 people were injured in clashes between police and striking public sector workers in Dholpur (Rajasthan). About 1,000 others were arrested and 2,000 threatened with dismissal if they did not resume work within the week. Over 20 workers were dismissed. The strikers were demanding payment of bonuses and other allowances.

**Thousands of strikers arrested**

Also in January, the government of the Uttar Pradesh State arrested thousands of workers on strike to protest at plans to privatise the electricity sector. They were held under the terms of the national security law and the Essential Services Maintenance Act. Army personnel replaced workers in generating stations to try to keep the electricity cuts caused by the strike to a minimum. The Uttar Pradesh government threatened the workers with dismissal if they did not return to their posts, then proceeded to sack 2,000 strikers. An agreement was finally reached at the end of the month, all the charges against the workers were lifted and the strikers reinstated.

**Suspicious deaths**

Two trade union activists were killed in October in mysterious circumstances at the Maruti Udyog Limited car factory, a joint venture between the Indian government and Suzuki Motors. The workers had been putting pressure on management for a month for, amongst other things, better pensions. The union had submitted a 72-hour strike warning, but management, determined to maintain production, had illegally forced the workers to remain at the factory in Gurgaon (a Delhi suburb). A union member was found dead within the factory grounds. The body of an apprentice was also found not far from him.

Another worker died and many others were injured on 20 November when the police broke up a demonstration in New Delhi. The workers were protesting against the government's strict anti-pollution measures.

**"Illegal" strike**

On 14 December, under pressure from the Delhi High Court, the Indian government declared the 10 day strike by 600,000 postal and telegraph employees illegal. The strike had been called to demand that the 300,000 private agents running small local post offices be given the status of post office employees, and all the benefits attached to that (pensions, salaries, ...). The government warned the three postal workers' unions that the workers could be prosecuted if the strike continued while negotiations were underway, a rule that applies to all public utilities. They did not return to work until 18 December, after some of their demands had been met.

**Trade unionist murdered**

On 19 December, the police arrested four people suspected of the murder of a trade unionist, Kundalal Koda, vice-president of the Rajasthan branch of the Confederation of Indian Trade Unions. The assassination was believed to be linked to Mr. Koda's efforts to secure higher wages in the factories.

**An end to activism in western Bengal?**

The government of western Bengal declared in December that he would no longer allow trade union activism, in the interests of attracting industry.

India has ratified neither ILO Convention 87 nor 98, and has not announced any plans to do so.

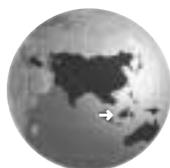
***Violence against Anganwadi women***

*On 30 March, in the Andhra Pradesh State, Anganwadi women (rural workers in the health sector) were the victims of police violence when 10,000 of them demonstrated to demand that the promises made four years ago regarding improvements in the salaries ( 9 dollars a month) and their living and working conditions be met. The trouble began when members of their delegation were arrested as they left the chief Minister's office after presenting their demands. The women waiting outside crossed the barricades to help them. The police were unable to hold them back with water cannon, and when they threw tear gas canisters, the women simply threw them back. The mounted police were then called in, and they charged at them, wielding truncheons. Hundreds of women were wounded, including one who was kicked in the stomach by a horse's hoof.*

*The chief Minister apologised the following day for the police violence, but did not agree to the Anganwadi women's legitimate demands. A few days later, he told a delegation of primary school teachers that he wanted to ban trade unions.*

# Indonesia

POPULATION : 209,300,000 / CAPITAL : Jakarta / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**President Wahid has taken some steps towards improving the respect of human rights in the country, but serious violations of trade union rights persist. Workers are subject to violence by the police, the army and hired thugs.**

**High rate of ratification, low rate of application**

Indonesia is the first country in the Asia-Pacific region to have ratified the eight ILO core conventions. In practice however, little has been done to apply them. Few of the provisions of, notably, Conventions 87 and 98 have been effectively transposed into national legislation.

**New law on trade unions**

On 10 July, a new Trade Union Act unanimously adopted by the Chamber of Representatives was then signed by President Wahid. The new law stipulates that trade unions must be registered and that they can form federations or confederations.

Trade unions have expressed their disapproval of this new law.

The principal criticisms are:

- The law makes State interference in the internal affairs of the trade unions legal. The unions have to keep the government informed of nominations to and changes in their governing bodies, on pain of losing official recognition, and therefore their right to represent the workers.
- The law does not guarantee the right to strike
- The law does not address the settlement of jurisdictional disputes between different trade unions at the same workplace. This ambiguity sometimes leads to violent confrontations between trade unions, such as on 28 June in Medan in northern Sumatra, when the offices of the SBSI (the Indonesian Prosperity Labour Union) were attacked by a crowd bearing clothes stamped with the logo of the FSPSI, the successor to the SPSI, the only trade union tolerated by the former Suharto regime.
- A court can dissolve a trade union if its members or leaders have committed a crime against national security in its name and have been sentenced to at least five years in prison for that reason, or if its establishment violates the 1945 Constitution or the Pancasila, the government-sponsored national ideology which puts the emphasis on consensus, national unity and social justice. When a trade union is dissolved its leaders cannot form another one for six years.
- The trade unions must report all external funding from abroad.

The new law does contain some advances on previous legislation however:

- It makes those who prevent a worker from joining a union liable to a prison sentence or fine
- It guarantees the right of civil servants to join a public service union. In the Suharto era, they did not have the right to organise.
- It allows for more than one union at the workplace.
- The number of workers required to form a union has been reduced from 25 to 10.

**Other proposed legislative amendments**

In October the government announced that the 1997 Manpower Act would not come into force until 1 October 2002, to give the Chamber of Representatives time to amend it. Trade unions had strongly opposed this law. In June, the government submitted two bills on labour protection and the settlement of industrial disputes to the Chamber of Representatives. Under current legislation, disputes are supposed to be settled by a special government committee, but many workers complain that the government always sides with the rich enterprises, which pay bribes. Under the new system the parties would be sent to a tribunal after mediation or arbitration.

On 8 November, President Wahid asked the Minister of Manpower to review the 20 June decree providing for higher levels of compensation for workers who are dismissed or have resigned, following objections by Japanese and South Korean investors.

**Restrictions on meetings**

In 1995, the government announced its intention to relax the rules requiring police permission for any meeting of five people or more held outside offices or workplaces. In practice, the rule is still applied to trade union meetings.

<b>Abusive use of the law on subversion</b>	The police use article 160 of the Criminal Code, on subversion, as a tool to stop protest movements. Two SBSI trade unionists were found guilty on 27 March of inciting workers to commit acts of violence against their enterprise, PT Gajah Tandang (Tangerang), and were given a three-month suspended sentence. In reality they had simply carried out a non-violent strike for the recognition of the SBSI and against the dismissal of some of its activists in March 1999. On 12 November, the same article 160 was used to arrest Wuaya Kawilarang, the SBSI regional coordinator, further to his refusal to obey a police order to stop a strike at the PT Paiko company. During the strike, the Samarinda police fired rubber bullets at the strikers. Although more discreet now than before, military personnel still infiltrate the workers' ranks and try to provoke violent action, to enable the army to intervene.
<b>Dishonest practices in favour of the SPSI</b>	Trade unions other than the SPSI have problems in getting their dues deducted directly from workers' salaries. Sometimes union dues are deducted from the salaries of workers not affiliated to the SPSI...but are then paid to the SPSI!
<b>The economic crisis – a convenient excuse</b>	The effects of the economic crisis still linger in Indonesia, where many workers have lost their jobs. Some employers use it as an excuse to get rid of militant or older workers however. A few weeks or a month later they hire younger, lower paid workers.
<b>Limitations on the right to strike</b>	With the exception of civil servants, all workers have the right to strike. Before a strike can be legally organised in the private sector, however, the law demands intensive mediation by the Manpower Ministry. A strike warning must be given (but not a request for permission). In practice, the mediation procedures are so lengthy and so lacking in credibility that they are almost never followed. Strikes are usually wild cat strikes that break out after the failure to settle long term grievances, after the employer has tried to prevent the formation of a trade union or has refused to grant legal rights or advantages.
<b>Collective agreements</b>	In practice, collective agreements rarely go beyond the legal minimum provisions set by the government, and the agreements are usually presented to workers' representatives for signature rather than negotiation.  The law stipulates that collective agreements must be signed within 30 days or must be submitted to the Manpower Ministry for mediation, conciliation or arbitration.
<b>A single teachers' union</b>	Teachers have to belong to the Teachers' Association (PGRI). Technically, this association is classified as a trade union, but it continues to operate more as a welfare organisation, although it does ask the government to improve the status and salaries of teachers. Groups of teachers have formed unofficial unions outside the PGRI. Others have organised strikes for better pay and benefits.
<b>Distrust of foreign observers</b>	The authorities seem to want to limit the contact of foreigners with the trade unions. At the beginning of the year, an employee of the American Center for International Labor Solidarity was repeatedly questioned by police when he wanted to renew his work permit. The police were unhappy about his observation of demonstrations and strikes, but did finally agree to renew his documents. In May, the Medan police (northern Sumatra) briefly detained two ACILS employees when they arrived to take part in a trade union workshop. The police stated they had not received the necessary documents from the Jakarta police.  In April, the ICFTU representative to the SBSI's national congress was refused entry into the country by the immigration authorities. He was put on the next flight back, on the pretext that his name was on a "blacklist" of people refused entry to Indonesia.
<b>Persecution of trade unionists</b>	In 2000, many employers dismissed workers who wanted to form trade unions, in contravention of the Manpower Act. The Ministry of Manpower does not do enough to defend these workers. If workers are sacked as a result of trade union activity, they receive financial compensation at best, and are almost never reinstated. On 2 May, the State Administrative High Court ruled in favour, for example, of an appeal by the PT Tong Kyun company to allow it to dismiss 132 members of the SBSI who had gone on strike the previous year. The PT Arrish Rulan, PT Miwon Driyorejo, PT Everwin, PT Usman Indah, PT Olaga Food Industry, PT Sulistyawati Kusuma, PT Sugizindo, PT Harmoni Nusantara Development and PT Everbright Batteries companies also dismissed or suspended workers after they created a union or took part in a strike. The PT Chian Haur Indonesia factory dismissed 210 unionised employees after collective bargaining talks had broken down.  The situation is not necessarily any better in foreign capital companies. On 20 April, the US enterprise PT Chicago Bridge and Iron, based in Cilegon (western Java) suspended 27 members of the SBSI union, then refused to meet one of its delegations that had come to discuss the problem.  According to the SBSI, there were no fewer than 135 cases of intimidation and trade union rights violations against it in 2000. The other independent unions are targeted in the same way.

**Police fire at demonstrators**

On 21 February, about 1,500 unionised workers at PT Surabaya Meka Box (eastern Java), a factory that produces nails and boxes for export, went on strike in support of three of their colleagues who had been fired (trade union representatives who had maintained a firm position in a collective bargaining round). The following day, the management called in the police, then the army. After four days of the strike, workers were injured in attacks by the security forces. On the fifth day, 200 police officers again attacked the workers and pursued them around the area surrounding the factory. People living in the area let them hide in their homes, in disgust at the way a police van had driven into a group of demonstrators sitting on the road.

On 20 March, police fired rubber bullets at 1,200 striking workers at the PT Nanindah Mutiara enterprise in Batam. Seven workers had to be hospitalised as a result. Later the Manpower Ministry authorised the mass dismissal of workers from the enterprise.

**Sony – anti-union**

On 26 April, 928 workers from PT Sony Electronics Indonesia, a subsidiary of Sony in Bekasi (western Java) went on strike, mainly following the introduction of new rules requiring them to work standing up through their eight-and-half hour day, without consulting them. These workers, mostly women, were ready to accept the idea of working on their feet, but provided that they would be better paid, have a 30 minutes rest and have permission to drink and visit the toilet during working hours.

In response to the strike Sony threatened to move production to Malaysia where electronic workers cannot form unions. The management then announced its decision, on 6 July, to sack 1,007 workers. The Central Committee for the Settlement of Labour Disputes, under government supervision, approved the dismissals. The enterprise planned to hire other people to replace them. Back in 1999, Sony had dismissed a trade union leader from the factory and in March the management had tried to force another trade unionist to resign. During this year's strike, the president of the Sony factory union was kidnapped and held for two days by unknown individuals after leading a workers' demonstration. Some sources have also reported on attacks on strikers by isolated gangs.

Thanks to the international solidarity organised by the International Metalworkers' Federation (IMF), Sony finally reached agreement with the union in September, agreeing to reinstate all the dismissed workers and pay compensation to those who wished to leave the enterprise.

**May Day clashes**

For the second time since the fall of Suharto, Indonesian workers were able to celebrate May Day. Confrontations took place here and there however, notably with activists from the FNPBI (National Front for the Indonesian Workers' Struggle). In eastern Java, for example, employers and police chiefs met in secret to prevent the mass participation of workers in May Day events. They hired thugs to intimidate the workers while the police arrested and beat trade unionist Attar Muhammad. In western Java members of the security forces tried to prevent 2,000 workers from Bandung from joining in the celebrations. In the Jakarta region, three organisers were arrested and illegally questioned while preparing their Labour Day celebrations. Widodo, a worker at the Muara Profile Industry factory, was struck on the cheek during questioning. All these incidents show there is still a big difference between the official lip-service paid to a more open society and the way the security apparatus sees things in reality.

**Government calls for police to take firmer action against striking coal workers**

On 14 June, some of the miners at the PT Kaltim Prima Coal mine in Sangatta (East Kalimantan) went on strike to demand better pay, allowances and working conditions. The workers took control of several production sites belonging to this Rio Tinto - BP Amoco joint venture (the company is Indonesia's biggest coal exporter). The Regional Committee for the Settlement of Labor Disputes declared the strike illegal but the police were unable to dislodge the strikers. The management refused to agree to the workers' demands and threatened to cease their activities, claiming that if they were to give in to their employees demands once, there would be more to follow. When explaining to clients why deliveries had been suspended, the KPC claimed it was due to "circumstances beyond its control".

By mid-August the enterprise had already lost 50 million dollars as a result of the blockade of the sites and the SBSI union, the strike organiser, declared that the workers were ready to return to work if the management promised not to punish them afterwards. The Manpower Ministry however approved the dismissal of 66 workers by management. An SBSI lawyer and three activists at the KPC were arrested briefly. Faced with more specific threats from the police, the striking workers agreed to end their occupation of the sites and accept disciplinary measures, in exchange for a verbal promise that they would not be sacked (including the 66 workers dismissed earlier) and a small pay rise. The movement initiated by the SBSI, and supported by international solidarity, also help it assert its presence in the enterprise.

At the same time, SBSI members working at the Vico enterprise, which processes natural gas in Kutai (East Kalimantan) reached an agreement with their management to enter into negotiations in good faith, after a two-week strike. Five of them had had to be hospitalised on 10 August after the police had opened fire with rubber bullets.

**Repression against activists**

In August, the management of the Jakarta International Container Terminal at the Tanjung Priok port decided to transfer nine trade unionists to the Panjang port. The nine believe this was probably linked to the strike held in May. On 25 August, the workers at the enterprise went on strike, amongst other things to protest at the decision and to demand better working conditions. They stopped the strike after they won on the first issue.

On 2 September, about 200 workers at PT Cakra Compact Aluminium Industries, a factory that processes aluminium in Tanjung Morawa (Medan), were sacked without warning and are no longer able to enter the premises. They presume these measures are linked to the strikes that took place two weeks earlier.

**Hired thugs**

Although the security apparatus resorts less frequently to violence in the repression of labour disputes than during the Suharto era, employers hire gangs of thugs to attack recalcitrant workers. The police hold back at such times. In October, 300 striking workers at PT Mepoly Surabaya, an enterprise located in Surabaya (western Java) were attacked by gangs of thugs hired by the management, which had rejected all attempts at peaceful negotiation. As the police looked passively on, the thugs threw sickles at the workers. At least six strikers were injured and one of them, Sutrisno, was left in a very serious condition after the attack. Dozens more were then beaten by the police when they were arrested and taken to the police station. A member of the family of one of the arrested strikers, Wahono, was taken by force to the police station where he was made to say that he had provoked the brawl. Of the 36 workers arrested, nine were still in prison one week later.

A similar incident occurred on 24 October in Surabaya when striking workers at the PT Maspion electrics factory were attacked by thugs after seven strike leaders had been dismissed

**Strikes at Caltex**

On 23 November, the Minister of Energy and Mines threatened to bring in the police to disperse the 3,000 striking workers at PT Caltex Pacific Indonesia. Earlier in the year, a subsidiary of Caltex, PT Tripatra, had dismissed three organisers of a strike that took place in March, accusing them of theft even though the police were unable to prove anything.

**Dismissals instead of end-of-year bonuses**

It was a sad ending to the year for workers at the PT Warna Indah Samajaya (western Java) factory: instead of receiving a bonus, like millions of workers, they were threatened with dismissal, apparently for forming an independent union. Most of the workers protested, but their management informed them that they would no longer need them, for "productivity" reasons. Three employees who had been appointed to the leadership of their union were dismissed, and another 50 were singled out for threats after criticising the dismissal.

**The Marsinah affair**

The inquiry into the murder in 1993 of Marsinah, vice-president of the SBSI union at the PT CPS enterprise in Sidoarjo has still not been completed, despite promises by the police and government. According to reports from the East Java police in June 1998, an army captain had admitted that Marsinah had been tortured and murdered by Sidorajo army personnel.

**Good news**

At the beginning of January, after heavy international pressure and a tour of 10 US States, Haryanto, a trade unionist dismissed by PT Lintas, a factory producing shoes for Nike, was reinstated. But four other trade unionists from the same factory are still waiting to get their jobs back.

On 11 October, Lufti Chafid, the president of the APSM (Malang Prosperous Workers' Association) was found innocent by a court and released shortly after his imprisonment. He had been charged with falsifying phrases in a collective agreement. Earlier in the year, he had been questioned at home by the police regarding his contacts with striking workers.

**Police arrest strikers at Shangri-La hotel**

*On 26 December, the management at the five-star Shangri-La hotel in Jakarta called in hundreds of anti-riot police to expel striking workers. 19 trade union activists and leaders, including the IUF's representative in Indonesia, Hemasari Dharmabumi, were detained by police for 24 hours without charge. The Shangri-La management then locked out all its workers and sent letters to hundreds of unionised workers threatening to sack them if they did not resign from the union immediately.*

# Japan

POPULATION : 126,800,000 / CAPITAL : Tokyo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,138,182



**Japanese law restricts the fundamental union rights of civil servants and public sector workers**

**No public sector strikes**

Strikes are prohibited for all public sector workers, including teachers and the employees of state-owned companies. These measures run counter to the recommendations of the ILO which state that only civil servants in positions of

authority and acting on behalf of the state may be prevented from going on strike. Public sector employees who incite strike action can be dismissed and fined or imprisoned for a maximum of three years. As a number of cases submitted to the ILO by Japan's biggest trade union, Rengo, illustrate, these sanctions are applied. Government employees are not entitled to negotiate their wages, which are set by the government, nor can they conclude a collective agreement.

Even greater restrictions are placed on members of the armed forces, the police and the fire brigade who are not even allowed to form their own trade unions. Fire service staff are allowed to form staff committees, but these do not compensate for the absence of trade union rights.

#### Collective bargaining limited in state-run companies

Article 8 of the law on labour relations in public companies excludes from collective bargaining all issues to do with the management and operation of public companies. This includes promotion and demotion, transfer, dismissal, seniority and disciplinary measures. A number of other matters, such as education, training, health care, leisure time, and staff safety and well-being are also excluded from collective bargaining in public sector companies, although when working conditions are affected by decisions taken in these areas then a collective bargaining process may be launched.

The system of trade union registration in the public sector is too restrictive because it requires independent unions to be created in each municipality. This can result in the unions being broken down into small units. Similarly, the list of senior executives not entitled to join the same union is considered too broad.

#### Japan turns a deaf ear to ILO recommendations

The ILO has been criticising Japan for several years for its failure to respect Conventions 87 and 98 in its public sector. It has called on the Japanese government to "look into the measures that could be taken to encourage and promote the more widespread development and use of voluntary bargaining procedures, making it possible to regulate the conditions and ways in which this category of workers is employed via collective agreements." It has also asked the government to provide guarantees of swift and impartial compensation for workers whose right to strike is restricted. Japan does not appear to take these recommendations seriously.

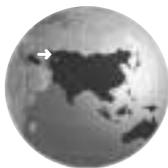
In the private sector, trade union rights are generally well respected by employers, although the rehiring of workers fired for having participated in trade union activities is a slow process.

#### Sexual harassment and suicide figures up

The number of complaints of sexual harassment in Japan rose by 35% in 2000. A survey carried out by Rengo in 1996 had revealed that more than 40% of female workers faced problems involving sexual harassment. Another worrying trend is the rise in the number of suicides directly related to excessive workloads, since employers are using the recession as an excuse to put their employees under pressure to work more for the same wage.

## Kazakhstan

POPULATION : 16,300,000 / CAPITAL : Astana / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**Trade union rights are constantly trampled on. In addition to legal obstacles, the unions face threats and direct attacks by the authorities and the employers.**

#### "House" unions

The practice of creating a "house" union or organisation is widespread among employers. They can be very persuasive in convincing their staff to join them. Management at the Kazakhmys mining group threatened workers (more than 2,500 people) with dismissal if they did not sign a declaration in which they said they were leaving the existing mining union to affiliate to a new organisation whose leader is the director's right hand man.

#### Very precarious employment contracts

New labour legislation came into force on 1 January. It favours the already existing trend among enterprises to encourage short term individual contracts rather than collective agreements. These contracts make workers very vulnerable in relation to their employers. At Vedepster, a Hungarian banking company, employment contracts are drawn up for a period of one to three months. The creation of a trade union in March was quickly followed by draconian measures by the management which did not renew the contracts of the union's leaders or several of its members. In the meantime, it clearly showed its hostility to the union, blocking the collective bargaining process by any means possible and sending a message to the staff in which it deplored the creation of the union. In another example, at the "Bus" transport company contracts are usually renewed every month. In August several drivers got together and dared demand less precarious working conditions. The management promptly called the police who dispersed the workers. They lost their jobs a few days later.

**Trial of strength continues**

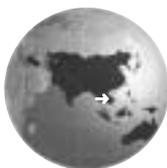
Marut Urtaubaev, a trade union delegate at TngizChevriOil, was dismissed for having put together a case file in which she had gathered proof of trade union rights violations by the employer. In the Iskat-Kormet department of the Tenteksk mine, the president of the union who defended the interests of workers dismissed in violation of the labour code, was subjected to many forms of attack by the management. In one incident she was attacked by security guards while posting her union news letter on the notice board and another time she was refused access to the union premises because, said the management, the entrance door had been welded. In March, at the Metallist factory, trade unionists organised several actions to protest at the non-payment of wage arrears. The authorities reacted by accusing the trade unionists of forcing workers to affiliate and pay membership dues. Several activists were prevented from entering the factory. A leader, Ainur Kurmanov, was arrested and imprisoned for a week.

Throughout the year, many trade unionists were arrested. Madel Ismailov, a very active trade unionist in the building sector, was sentenced to one year's imprisonment after a trial in camera. He had been found guilty of insulting the President of the Republic, Nursultan Nazarbayev. In 1999, he had been sentenced for the first time to an identical term after a demonstration to protest at across-the-board price rises announced by the authorities.

10

## Korea (North)

POPULATION : 21,700,000 / CAPITAL : Pyongyang / ILO CORE CONVENTIONS RATIFIED : - - -



**There are no trade union rights in North Korea. The state-controlled General Federation of Trade Unions does not actually play a trade union role.**

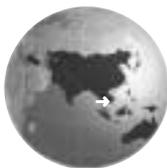
North Korean workers do not have the right to strike, the right to engage in collective bargaining or the right to organise. The official union is closely monitored by the sole political party, the KWP (Korean Workers' Party). Operating along Stalinist lines, it aims to mobilise workers so that they achieve the production targets set by the state and to provide health care and educational, cultural and social welfare services. Independent unions are prohibited.

The state sets wages and assigns all jobs. Joint ventures and foreign-owned companies have to hire their employees from lists of workers vetted for their 'ideological purity'. These lists are drawn up by the ruling party. An export processing zone has been established in the country.

The constitution of North Korea stipulates that all citizens of working age must work in full compliance with working discipline and working hours. The penal code provides for the death penalty for any individual who hinders the nation's industry, trade or the transport system by purposely failing to fulfil a specific duty "even though he or she claims to be working normally". The penal code also states that anyone failing to properly carry out an assigned task shall be subject to at least five years in prison. A North Korean functionary once described the North Korean labour force to an audience of foreign businessmen thus: "There are no riots, no strikes and no differences of opinion" with management.

## Korea (South)

POPULATION : 46,400,000 / CAPITAL : Seoul / ILO CORE CONVENTIONS RATIFIED : 100,111,138,182



**Obstacles to the right to strike, arrests and violence against trade unionists, a ban on union membership for most workers ... South Korea stands out, for all the wrong reasons, from other OECD countries.**

**Government fails to respect international commitments**

South Korea's admission into the OECD (Organisation for Economic Cooperation and Development) in 1996 was subject to one condition: "that it reforms its legislation in compliance with internationally accepted standards, including essential rights such as the freedom of association and collective bargaining". South Korea had already promised to do so when it joined the ranks of the ILO a few years earlier, but had not taken any steps in this direction. In 1997, international pressure obliged it to make some improvements to its labour legislation, but it continued to violate trade union rights, in both law and practice. The OECD has introduced a special procedure to monitor the country's behaviour on these issues, an unprecedented move by the organisation.

<b>Civil service virtually devoid of trade union rights</b>	<p>Broad categories of civil servants remain deprived of the right to belong to professional associations: out of a total of 930,000 civil servants, only 338,000 can exercise this right. The ILO has criticised the government of South Korea on several occasions on this point, recalling that all civil servants, with the possible exception of the armed forces and the police, must be free to form associations.</p> <p>The ban on teachers' unions was lifted in 1999, but organising at school level is still prohibited, as are all political activities.</p> <p>The right to collective bargaining is also violated in the civil service, as workers in government agencies, State enterprises and the defence industry may not exercise this right.</p>
<b>Right to strike broadly denied</b>	<p>The 1997 Trade Union Labour Relations Adjustment Act (TULRAA) and public service legislation ban strikes by people working for the central government or local governments, and by those involved in the production of military goods. The law sets out a long list of "essential services" where the right to strike can be heavily restricted by the imposition of mediation and arbitration procedures. Under the pretext of protecting students' right to learn, teachers are also refused the right to strike.</p>
<b>Interference in the internal affairs of the trade unions</b>	<p>The TULRAA allowed for immediate trade union pluralism at industrial and national level from 1997, but left the ban on pluralism at enterprise level in force until 2002. Unfortunately the same law prohibits employers from remunerating leaders from 1 January 2002, a measure criticised by the ILO. The organisation also points out that the legislation again goes too far in banning dismissed workers from remaining members of a union, and in proclaiming that non-union members are not eligible for trade union office. Such matters should be left to the discretion of the trade unions' statutes.</p> <p>The ILO has also called on South Korea to remove the obligation to notify the Ministry of Labour of the identity of third parties involved in collective bargaining and in industrial disputes (sanctions are foreseen if they intervene without the Ministry being notified). Current requirements for the registration of third parties make this a very cumbersome operation.</p>
<b>Imprisonment on the increase</b>	<p>Arrests of trade unionists are frequent in South Korea, although people are usually only held for short periods. Article 314 of the penal code, which considers strikes as an "obstruction of business" is often used as a pretext to arrest trade union leaders, as is infringement of the obligation to go through arbitration procedures before calling a strike in an essential service. There have been more imprisonments since President Kim Dae Jung came to power (528) than under his predecessor (507), even though he was more authoritarian. The government regularly uses large contingents of police to intimidate and dislodge striking workers.</p>
<b>Arrests of trade unionists at Daewoo</b>	<p>The industrial relations scene in 2000 was also marked by difficulties at Daewoo Motors, whose creditors announced plans to sell the enterprise, possibly to a foreign buyer. The workers, who feared for their jobs, undertook a series of actions which met with government repression. On 29 March, the anti-riot police prevented workers from Daewoo Motors from marching towards the ruling party's central office. Then, on 6 April, as workers from the car factory began a one week strike, a list of 35 arrest warrants for trade union activists was drawn up for "obstruction of business". The government announced that the strikes were illegal because the workers had left their posts without respecting the compulsory 15-day notice period before beginning the strike. In solidarity, workers from other car manufacturers in South Korea (Hyundai, Ssangyong and Kia) went on strike for a week. A warrant was issued for the arrest of one of their trade union leaders. Repression continued on 25 April at 3.40 am when 100 police officers in combat uniform raided the office of the Bupyong Daewoo trade union, near Seoul. They arrested 20 trade unionists, 13 of whom were quickly released.</p>
<b>Difficult year for hotel industry unions</b>	<p>Several disputes broke out during the year in the big hotels in Seoul, in protest at the violations of the trade union rights of temporary workers, who cannot belong to trade unions or be represented by them. At the Hilton, for example, temporary workers who become permanent do not have the right to strike. The same reproach was made of the Swiss Grand Hotel where the management, instead of negotiating in good faith, asked for ten trade unionists to be arrested for "obstruction of business" when workers went on strike in June.</p>
<b>Strikers locked in cells only just vacated by others</b>	<p>On 1 July, shortly after the first attack on the staff at the Lotte Hotel (see box), 3,000 police officers charged on 1,600 striking workers at the National Health Insurance Corporation's building. They broke doors and windows, threw tear gas canisters and took 1,000 workers by force to the 20 police stations around Seoul. The cells they were locked in had only just been vacated by the Lotte Hotel workers. All but nine of the workers were released within 48 hours (after which time a warrant is required to hold someone in detention).</p>
<b>Two members of health workers' union arrested</b>	<p>On 29 September, two trade union leaders in the health care sector, Cha Soo-Ryun and Yoo Seung-Joon, were arrested on the orders of the government because they had organised a strike in the hospitals, even though the sector is considered an "essential service".</p>

### Bank workers face helicopters and anti-riot police

On 27 December, several thousand anti-riot police, with helicopter back-up, swarmed into the financial training centre at the Kookmin bank in Ilsan (Kyonggi province) to disperse a six-day old peaceful strike by some 8,000 workers. They were protesting at plans to merge two of Korea's biggest banks, Kookmin and Housing and Commercial Bank. Most of the demonstrators threw themselves to the ground before being surrounded by police, who tried to eject them from the centre one by one. At least six trade unionists were arrested while one of the strike organisers, Lee Yong-Deuk, president of the Korean Financial Industry Union, had to hide to escape arrest after a warrant was issued.

During the year anti-union attitudes also emerged at the South Korean subsidiary of Novartis (a chemical and pharmaceuticals multinational), Novartis Agro Korea.

### Export processing zones "in the public interest"

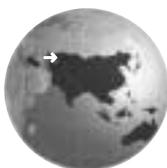
There are export processing zones (EPZs) in South Korea. The government considers enterprises in the zones as being in the public interest, and workers' organising rights are more restricted than elsewhere.

#### **Violence unleashed against Lotte Hotel workers**

*There was intense repression on 29 June at the Lotte Hotel when 3,000 anti-riot police launched an attack on 1,000 workers who had been conducting a peaceful strike since 9 June. The Lotte Hotel is one of the five luxury hotels run in Korea by the Tokyo-based Lotte Group. During their attack, the police threw tear gas and beat strikers mercilessly, including ten pregnant women. Two trade union leaders were arrested and accused of "obstruction of business". The police again used excessive violence on 10 July. While the Lotte workers were lying on the ground within the hotel's perimeter, the police charged, trod on them and beat them with batons. Many strikers had to be hospitalised. They arrested 30 trade union leaders including the president of the KCTU (Korean Confederation of Trade Unions), Dan Byung-ho, whom they dragged to the police bus. There, they ordered him to crouch down with his head between his knees. When the union leader refused to be subjected to this humiliation, the police kicked and punched him. On 20 July, the Lotte management announced the dismissal of four trade union leaders and 22 temporary workers who had supported the strike. The following day they lodged a complaint against 42 trade union officials, demanding more than 4.2 million dollars for the damage caused by the police raids of 29 June and 10 July. Dan Byung-ho began a hunger strike on 27 July and was hospitalised 22 days later, for fear of irreversible complications for his health. It was not until 20 August that the management agreed to seek a negotiated solution, by reaching an agreement with the Hotel Lotte Workers' Union. This agreement acceded to the trade union's principal demands, notably the cancellation of all legal and disciplinary measures against the union and the granting of permanent status to temporary workers after three years' service.*

## Kyrgystan

POPULATION : 4,800,000 / CAPITAL : Bishkek / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



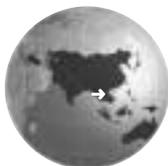
### The lack of democracy makes life easier for foreign investors anxious to have a free hand.

Over recent months, the demands of trade unions seeking to rid themselves of their soviet legacy have been countered by the schemes of foreign investors. There was a series of strikes in the refuse collection sector protesting to foreign employers over unpaid wages. There are also several export processing zones in which some 3,000 people are employed.

From August, the Ak-Si International company, belonging to the English company Siton Ltd began to be very aggressive towards trade unionists. Discriminatory measures against the union president when she tried to negotiate on workers' rights, threats of dismissal directed at trade unionists, openly hostile statements against the existence of a trade union in the enterprise and the refusal to negotiate a collective agreement are just some examples of the anti-union climate in the company. In November, management even refused a State commission that included the Federation of Trade Unions of Kyrgyzstan access to the enterprise.

# Laos

POPULATION : 5,200,000 / CAPITAL : Vientiane / ILO CORE CONVENTIONS RATIFIED : 29



## A single national trade union

**The only authorised trade union is controlled by the only legal political party.**

Trade union freedom does not exist in Laos: the Lao Federation of Trade Unions (LFTU) is the only authorised national centre. The LFTU which must submit annually an activity report to the government, is directly controlled by the LPRP, the only legal political party in the country, which founded the centre in 1966. All trade unions must belong to the LFTU. Congresses are held every four years. It elects the members of the executive committee who, in turn, select their chairman. All of this takes place with the authorisation of the LPRP. The last congress was financed by the chamber of commerce...using money deducted from the workers' overtime pay!

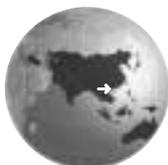
It should be noted that the FLTU representatives in the public sector or in the state-run companies tend to be members of the LPRP or the management. There is practically no labour representation for joint ventures funded with foreign capital.

## Minimum labour standards

New labour legislation was enacted in 1994. In theory, it protects workers by establishing a certain number of minimum labour standards. However, the right to collective bargaining is considerably limited. While strikes are not outlawed as such, they cannot take place without government approval. The government prohibits all "subversive" activities and "destabilising" demonstrations.

# Macao SAR China

POPULATION : 400,000 / CAPITAL : Macao / ILO CORE CONVENTIONS RATIFIED : - - -



## No protection against anti-union discrimination

**The transition to Chinese sovereignty has been accompanied by reduced protection of trade union activities. China also has influence over the largest trade union in the private sector.**

Pursuant to an agreement signed by China and Portugal on 13 April 1987, Macau became the Macau Special Administrative Region (SAR) of China on 20 December 1999. While the ILO's two fundamental conventions protecting trade union rights still stand, this is not really reflected in the new national legislation. The law protects trade union freedoms and the right to strike but fails to protect workers against acts of anti-union discrimination.

Although the government does not prohibit collective bargaining, there are no specific protections to guarantee this right, contrary to the prevailing situation under Portuguese sovereignty. Macau trade unions nevertheless were unaccustomed to bargaining collectively. With the exception of migrants, workers are generally employed without a written contract.

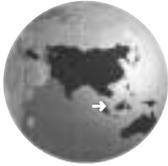
## A major pro-Chinese trade union

The largest trade union federation in the private sector is particularly favourable to Beijing. This has prompted it to embrace Chinese political interests rather than defend the rights of its members or bargain collectively. The federation insists on the importance of stability and minimal disruption of work. Only a few trade unions escape Chinese influence.

At various times in 2000, the unemployed took to the streets of Macau to protest against the import of foreign workers. On each occasion, the police intervened brutally, injuring at least one demonstrator and arresting at least another.

# Malaysia

POPULATION : 21,800,000 / CAPITAL : Kuala Lumpur / ILO CORE CONVENTIONS RATIFIED : 29,98,100,138,182



## Anti-union environment

### Government policies, restrictive legislation and inefficient industrial courts prevent workers from freely organising and bargaining collectively.

There are still numerous obstacles to trade union formation. These include legislative restrictions on workers' associations within companies, dismissals of trade union recruiters and the slow and tedious procedures needed to obtain trade union recognition. The MTUC (Malaysian Trades Union Congress) continues to exert pressure on the government to finally ratify ILO Convention 87 on Freedom of Association and Protection of the Right to Organise, so far without success.

## Legislative restrictions

The Trade Unions Act of 1959 and the Industrial Relations Act of 1967, as well as subsequent amendments, place extensive restrictions on freedom of association. In response to this reproach, the Malaysian government explains that certain restrictions on basic trade union rights are needed in order to ensure that the interests of the country and its people are not sacrificed for the benefit of "a few" individuals. The government also says that certain aspects of trade union activities must be regulated in order to ensure that trade unions act in a healthy, democratic and responsible manner and that the rights and interests of their members are protected. So many interpretations that leave the door wide open for abuses...

General unions are prohibited and mergers between unions in different professional sectors are practically impossible.

- The Director General of Trade Unions (DGTU), who has the power to supervise and inspect trade unions, can refuse to register a trade union without assigning any reason for such refusal and, in certain circumstances, withdraw registration. Trade unions whose registration has been denied or withdrawn are considered to be illegal associations. The DGTU can specify the category a union would be permitted to organise. Invoking such powers, the DGTU classified three factories unionised by the Metal Industry Employees' union as electronics industry and denied recognition.
- The Director General of Trade Unions can take as long as he likes to examine a registration request. He must also give his approval before a trade union is permitted to join an international organisation. Any appeals of his decisions must be presented to the Minister of Human Resources, which is the same body that put him in office. These appeals can easily take between three to five years to be heard. The Ministry of Human Resources has the power to order the suspension of a trade union for a maximum period of six months if he feels that the union has been used for purposes that are prejudicial to or incompatible with public safety or order. During this period, the trade union must cease all activity. However, such a suspension order has never been issued.
- The law prohibits industrial unions from organising employees in managerial and executive positions, employees entrusted with confidential matters, or employees performing security-related tasks. Such employees must form or join a trade union that only represents their category of employees. According to the government, this provision is intended to avoid conflicts of interest. Employers often take advantage of this legal provision to prevent as many people as possible from joining a union. Employers often interpret managerial and executive category to include supervisors, assistant supervisors, section leaders and lower level supervisory personnel. The trend has also been to consider all workers working in information technologies to fall into the "confidential" category, which effectively prevents them from joining the same trade union as the rest of the employees. In this manner, employers are able to maintain a series of small-sized, and therefore weaker, trade unions.
- Trade unions are not permitted to use their assets for political purposes. The law has established a detailed list of all issues that may be considered as "political subjects". The Minister of Human Resources can add other themes to this list.
- The law establishes restrictions regarding who qualifies as a candidate to become a trade union official.

## Inefficient labour courts

Some employers have opposed government directives granting trade union recognition and have refused to comply with industrial court orders to reinstate illegally dismissed workers. They are always able to come up with this or that excuse to justify their refusals (economic difficulties, disciplinary measures, etc.). So far, the government has failed to apply any sanctions against these "outlaw" employers. There have even been cases where companies have changed their name or ceased to exist during the court case.

The MTUC has criticised the delays in processing claims filed with the industrial courts. Indeed, even if a worker has been fired for carrying out trade union activities and is later reinstated following a court decision, the three or four years that have elapsed between the moment the worker lost his/her job and the subsequent court decision to reinstate him/her can be very long for the victim. During this period, the worker is deprived of a means of subsistence but the

employer can continue to live off of the income generated by his company. This long period without income is an important measure of intimidation for workers wishing to join a trade union.

On 10 October, around 800 members of the MTUC stood in picket lines outside the Ministry of Human Resources building to protest against the delays in processing labour dispute claims: there is a backlog of over 5,000 cases pending, including 85 dismissal complaints filed back in 1998, 25 cases involving trade union recognition problems filed over a year ago, and 15 cases filed six months ago. This is despite the fact that Malaysian legislation requires claims to be processed within three weeks. On that occasion, high-ranking officials within the Ministry agreed to meet with MTUC delegates but also declared that their picket lines were illegal! The government has explained that it lacks the employees needed to handle the increasing workload caused by the economic crisis, when many employers laid off workers and shut down their businesses.

#### The public sector

Trade unions in the public sector are permitted to organise trade unions per ministry, department, profession or activity as well as join federations. Employees in statutory bodies (ports, Employees' Provident Fund, etc.) are only authorised to join internal trade unions which, in turn, may join the Civil Service Federation or the national trade union centre. Employees working for the Defence sector, police force or prisons do not have the right to form or join trade unions.

#### Foreign workers barred from trade union membership

Public affirmations by the government and restrictive notices written on work permits state that foreign workers are not allowed to join trade unions. The Minister of Human Resources, for instance, has declared that foreign workers do not have the right to become trade union members...despite the fact that the law only prohibits them from becoming union officials. One of the conditions mentioned on the work permits issued to foreign workers by the authorities is that they are not allowed to join "associations".

The government has stated that it does not encourage foreign workers to become involved in trade union activities because their work contracts are of limited duration. This does not make sense because, in many companies, up to 40% of the labour force is made up of foreign workers who are often victims of wage discrimination. The government claims that these workers enjoy protection from the labour courts. However, such protection is inefficient, as proven by delays in processing labour claims and refusal on the part of employers to comply with industrial court rulings.

#### Restrictions on the right to strike

Legal restrictions make it practically impossible for workers to hold a legal strike:

- Trade unions are not allowed to go on strike for disputes relating to trade union registration or illegal sackings.
- Legislation requires that parties to a dispute notify the Ministry of Human Resources prior to going on strike or imposing a lockout. The Ministry can then attempt conciliation and, if this fails, refer the dispute to the industrial court. This entire procedure takes much too long and during this period, strikes and lockouts are prohibited.
- Essential services are very broadly defined and trade unions in these sectors face additional restrictions on their right to strike, including the requirement to give at least 21 days strike notice.
- Two-thirds of the members of a trade union must vote in favour of a strike in a secret ballot.
- The ballot must include a resolution that states "the nature of the acts to be carried out or to be avoided during the strike".
- Pre-strike authorisation procedures are tedious.

#### Restrictions on collective bargaining

The Industrial Relations Act limits collective bargaining in "pioneer" companies. The electronics industries, among others, have enjoyed this status for a very long time, even though they can no longer be considered as pioneers. Since 1994, the government has claimed that measures were being taken to repeal this provision, but nothing has been done thus far. The Industrial Relations Act also excludes hiring and firing, transfer and promotion, dismissal and reinstatement from the scope of collective bargaining. By stunting the growth of trade unions, the government prevents collective agreements from benefiting a large number of workers.

The government has frequently warned that increasing salaries poses a threat to the country's competitiveness. Employers often use the government's argument to limit discussions on salary during collective bargaining.

In the public sector, the joint council system limits public sector unions to a consultative role where their only power is to "express their point of view" on principles regarding wages and working conditions. It is practically impossible to go on strike in this sector. Trade unions do not have the right to take their disputes to the industrial court without the specific permission of the King of Malaysia.

#### Other laws used to stifle trade 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 invoked to restrict the exercise of trade union rights. The Malaysian Penal Code requires police permission for public gatherings of more than five people.

### No national trade union allowed in the electronics industry

The electronics industry employs over 150,000 people in Malaysia, 80% of whom are women. Since the first factory opened in 1971, these workers have largely contributed to the country's economic development. However, their efforts have not been rewarded with recognition of their rights. Indeed, workers employed in the electronics industry still do not have the right to form a national trade union. When the Electrical Industry Workers' Union (EIWU) tried to organise the workers in the electronics industry, the government prevented them from doing so stating it was not the same industry.

However, when the workers in the electronics industry tried to form trade unions within their own companies, they were met with fierce opposition from their employers. Indeed, their employers did not think twice about firing union activists, funding alternative trade unions under their control, or threatening to relocate production to another country if their workers tried to form their own trade union.

The absence of a national trade union in the electronics industry has led to situations such as the one in Applied Magnetics, a US-based company, which closed its Penang factory in January despite owing large sums of money to the Employees Provident Fund and the government's Social Security system: 2,100 workers lost their jobs without any redundancy pay whatsoever.

Violations of workers' rights are particularly widespread in the export processing zones (EPZs), where labour legislation is supposed to apply just as much as in the rest of the country.

### Ericsson threatens to do away with its trade union

Not even existing trade unions that have been bargaining honestly for years are safe from unpleasant surprises. As a case in point, the management of Ericsson Malaysia sent a letter to its trade union in May to inform it that a study would be carried out to determine whether or not the trade union should continue to represent its employees! International solidarity and other Malaysian trade unions finally pressured Ericsson into withdrawing its threat.

### Chugai, General Electric and Ramatex harass trade union members

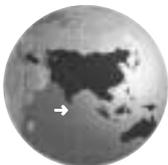
The Chugai corporation, whose main headquarters are in Japan, harassed workers that have been union members since the trade union requested recognition in 1999, despite the fact that this request was approved by the appropriate authorities. The management sent a letter to 20 of its employees to inform them that they would be transferred to another site if they did not terminate their trade union membership.

In a similar case, the US multinational General Electric successfully persuaded the Department of Trade Unions to prevent their employees from joining an existing trade union.

In Johor, Ramatex Textile Industries suspended 70 workers for 14 days because of their trade union activities. Most of those dismissed are area committee officials of the union at plant level.

## Maldives

POPULATION : 300,000 / CAPITAL : Male / ILO CORE CONVENTIONS RATIFIED : - - -



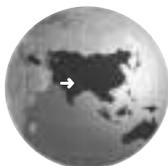
### The government does not ban the exercise of trade union rights, but they are not recognised in legislation either.

There are no trade unions on the Maldives. While not specifically imposing a ban, the government does not recognise the right to form a trade union or the right to strike. In 1995, the US government suspended the Maldives from its generalised system of preferences, because the government had not taken any measures to guarantee that its workers enjoyed internationally recognised labour rights.

There is no law to protect workers against anti-union discrimination, nor is there any legislation on collective bargaining.

# Nepal

POPULATION : 22,500,000 / CAPITAL : Kathmandu / ILO CORE CONVENTIONS RATIFIED : 98,100,111,138



**Police violence and legislative restrictions hinder trade union activities. The release of a trade unionist ten months after his disappearance has raised hopes, however.**

## Legislative restrictions

Although the Nepalese Constitution guarantees the right to form and join trade unions, a series of legislative restrictions hampers trade union activity. As a case in point, the law authorises the government to stop a strike or suspend a trade union's activities if they disturb the peace or affect the economic interests of the nation. The Labour Act also stipulates that a strike is only legal if 60% of the union's members vote in favour of the action in a secret ballot. Strikes are also prohibited for a very long list of essential services. After state employees staged a strike in August, the government announced that it would enforce the 1957 Essential Services Act, which prohibits strikes in this sector.

In 1992, the parliament enacted the Trade Union Act, which defines the procedure to be followed when creating a trade union. This act also prohibits anti-union discrimination. Despite this step forward, the government has not yet implemented all the provisions of this law. It is revealing to note that, after a decade of democracy, the authorities still do not recognise trade unions as valid representatives of workers despite the fact that they express the aspirations of a majority of workers.

While the Labour Act provides for collective bargaining, the organisational structures needed to perform this function do not exist. Collective bargaining is still very rarely practised due to a lack of experience on the part of workers and a lack of good intentions on the part of employers.

## Police violence

The government resorts to violence against workers who try to draw attention to their plight. As a case in point, on 28 and 29 June, the police intervened to quell a peaceful demonstration organised by workers employed by the Nepal Civil Aviation Authority, a government institution. The workers were protesting against the suspension of 27 workers which occurred in the wake of an investigation into the hijacking of an Indian plane in 1999. The police arrested 188 workers, including trade union leaders, and beat both women and children.

In July, the police once again moved to quell a strike involving thousands of state employees demonstrating in front of the Ministry of Finance building in Kathmandu. The dispute related to salary issues. The police injured several of the hundreds of women who stood in the front ranks of the demonstration and arrested some of the protestors.

## The Nepal Bank Ltd refuses to budge

In July 1999, the Nepal Bank Limited declared that its employees "of a certain level" did not have the right to join a trade union. The Bank Employees' Union brought the matter to the Supreme Court, but the case was dismissed. Despite international pressure, the bank management has still refused to budge on the issue.

## Sexual discrimination

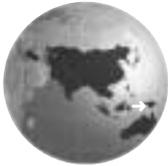
Sexual discrimination is deeply rooted in the culture of the country and the basic rights of female workers are constantly violated.

### **Release of Bishnu Pukar Shrestha**

*The Nepalese teachers paid a heavy tribute in their struggle to defend trade union rights. In 1999, at least 30 members of the Nepal Teachers' Association (NTA) and the Nepal National Teachers' Association (NNTA) were murdered. Dozens of others were imprisoned on trumped-up charges, attacked and injured by the police and unknown persons. The disappearance of NNTA general secretary Bishnu Pukar Shrestha on 2 September 1999 was a considerable loss. He had been kidnapped by unknown assailants while on his way to visit members of his family. It turned out that Mr Shrestha had been imprisoned. He was released on 6 July 2000, 19 hours after the death of his father.*

# New Zealand

POPULATION : 3,700,000 / CAPITAL : Wellington / ILO CORE CONVENTIONS RATIFIED : 29,100,105,111,182



## New legislation

### Employment relationships and workers rights given a boost when the government repealed a very anti-union law.

The Labour government elected in November 1999 has kept its election promises by repealing the very anti-union 1991 Employment Contracts Act. This Act had dismantled the existing system of collective and minimum wage awards, replacing it with individual employment contracts. It also placed restrictions on the right to strike. As a result the number of workers covered by collective agreements dropped by half, real salaries decreased and trade union membership plummeted. Despite these measures, neither the New Zealand economy nor worker productivity improved.

The new Employment Relations Act, which went into effect on 1 October, gives new impetus to trade unions by restoring access to work sites and the right to bargain collectively. There are still some restrictions for the army and special arbitration procedures for the police force, which cannot go on strike. The new Employment Relations Act is intended to re-establish bargaining in good faith, placing emphasis on mediation and problem-solving rather than arbitration or the obligation to obtain results. Some companies have nevertheless attempted to circumvent the spirit of the law by encouraging the use of employer-paid, in-house bargaining agents who are more likely to strike employer-friendly agreements. Further reforms in favour of workers are planned.

## Setting up picket lines still a challenge

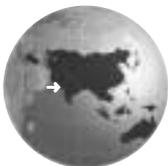
The New Zealand Council of Trade Unions reports that the list of essential services is still too long. The NZCTU also says that there are still restrictions placed on the right to set up picket lines and that trade union delegates are still being harassed. As a case in point, the Waterfront Workers Union complained that the police was overly zealous and violent when it intervened to disperse a picket line set up in Port Chalmers in December.

## Solidarity with Fiji

Secondary strikes, sympathy strikes or other politically-motivated demonstrations are still illegal. A brief work stoppage nevertheless took place in June to express the solidarity felt by New Zealand's workers towards Fijian trade unionists who had suffered in the wake of the coup. This demonstration was not quelled by the authorities, however.

# Pakistan

POPULATION : 137,600,000 / CAPITAL : Islamabad / ILO CORE CONVENTIONS RATIFIED : 29,87,98,105,111



### The government that came to power in the 1999 coup d'état continues its heavy repression of fundamental workers rights.

## Military regime

The government of General Pervez Musharraf, which came to power in a coup d'état in 1999, uses every means available to stifle democratic movements and violate trade union rights. The Constitution has been suspended, the freedom of the press halted, and undeclared martial law effectively bans any strikes.

## Many workers exempted from labour legislation

Labour legislation does not apply to companies that employ less than 50 people. Agriculture, where much of the workforce is employed, is also not covered by the country's labour legislation. In industry, employers sometimes divide production up into small units to evade labour legislation, or even have employees of different enterprises working at the same premises.

## Restrictions on the right to join a trade union

There are many categories of workers who do not have the right to join a trade union. They include hospital staff, some civil servants, teachers, workers in numerous defence-related establishments, supervisory and managerial staff, workers in agriculture and forestry and workers in export processing zones (EPZs). This large group of workers, deprived of the freedom of association, are also consequently deprived of their right to bargain collectively.

Some employers have artificially promoted workers to managerial status so that they can no longer join a union, particularly in the banking sector. The workers are moved up the hierarchy...but without the salary that should go with such a promotion.

- Export processing zones** In addition to being banned from forming or joining a union, workers in the EPZs do not have the right to bargaining collectively or to strike. They have no protection against employer interference or anti-union discrimination. In a report to the ILO, the government of Pakistan stated that the exclusion of EPZs from the application of labour legislation was to end at the end of 2000.
- Obstacles which make legal strikes almost impossible** Many strikes are spontaneous and illegal owing to the many restrictions that make it almost impossible to hold a strike legally:
- The government considers any strike by workers who are not members of registered trade unions illegal. The procedure for union registration and the appeals process can take many years if an employer is opposed to the formation of a union. During that time, union organisers are often harassed and victimised.
  - Cumbersome conciliation procedures have to be followed before a legal strike can be held.
  - The government has the right to ban any strike which may cause "serious hardship to the community" or be prejudicial to national interests.
  - The government can put an end to any strike that has lasted more than 30 days.
  - The Industrial Relations Ordinance (IRO) allows the government to ban strikes in any public service utility, which is far more than just essential services. The 1952 Essential Services (Maintenance) Act (ESMA) provides for penalties of up to one year's imprisonment for anyone who contravenes the ban.
  - Strikes are often broken up by the police and used by employers to justify dismissals. Illegal strikes, go-slows and lock-outs, considered acts of civil insurrection in Pakistan, are liable to a maximum penalty of seven years imprisonment.
- As if all those measures were not enough, on 15 March, ten days before the visit to Pakistan by US President Bill Clinton, the military regime decided to ban all public political meetings, strikes and demonstrations. "The country cannot allow itself the luxury of agitation and the politics of violence which disturbs normal public life" stated the official Pakistani press agency.
- Ineffective legal system** According to the law, private employers must reinstate workers dismissed for their trade union activities. In practice, however, this protection is ineffective: workers do not seek redress in the courts because the procedure is lengthy, onerous and often corrupt.
- In a dispute, the authorities almost always side with the employers: many of the ruling politicians and army officers are themselves businessmen and have no respect for workers' rights.
- Measures to weaken bank workers** Amendments to the Banking Companies Ordinance in 1997 state that a worker cannot become a union member or official in a banking company unless they are employed by the bank in question. The bank workers' union affiliated to the APFTU national centre challenged the ban in the High Court on the basis that it was unconstitutional. Its fears were confirmed by the recent wave of dismissals aimed at weakening trade unionism in the sector. A trade union leader dismissed by their bank must leave their trade union post immediately, causing undeniable organisational problems for the union.
- Other measures aimed at weakening the unions in this sector prevent activists from using any of the bank's equipment (not even the telephone) for their trade union activities, which must not be carried out during working hours.
- Anti-union attitudes on the railways** In February, the management of the railways sent a circular to the trade unions in the sector to inform them that trade union activities were banned during working hours. Throughout the year, management harassed trade unionists, who were fighting to prevent the privatisation of the railways. Some were threatened with dismissal for using foul language in a meeting with management, others were sent to work far from where they lived.
- Eight workers were arrested over a period of several days in the Rawalpindi district after organising a demonstration in protest at the demolition of the trade union's premises. At least one trade unionist, Bashir Botton, was dismissed before being arrested on 26 May. He was taken to the woods in the Texila region, about 30 kilometres from Rawalpindi, where the police told him to run away. He refused, knowing that this type of order was a tactic used by the police to shoot at the runaway, and he therefore remained in detention.
- Repression against trade unionists continued after a public meeting organised on 18 October: the railway management lodged a complaint with the Lahore police against ten trade unionists, who risk arrest at any moment.
- Karachi Port** Workers at the port in Karachi are also faced with an anti-union attitude by their employers. The legal secretary of the OKPTW (Organisation of Karachi Port Trust Workers) was refused permission to enter the port premises. Later, after a strike by port fire fighters in July, two union leaders received a letter of suspension.

**Arrested and dismissed for creating a trade union**

Between 28 June and 7 July, no less than 13 workers from the Dada Bhai cement factory were arrested by the Dadu district police (Sind province) shortly after the National Industrial Relations Commission (NIRC) of Pakistan refused to register an independent trade union at the factory. Later, 60 Dada Bhai workers were dismissed for raising funds to create the new union.

**Repression of sugar mill workers**

Several protests by workers dismissed by the sugar mills took place in July and August in the Sind province. On 26 August, striking workers at the Shad Murad Sugar Mills found themselves in violent clashes with thugs hired by their employers and police officers who were trying to escort temporary workers recruited to replace the strikers. Four workers were injured and the police registered charges against several trade unionists.

**Encouraging signs**

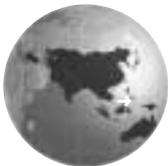
There was some good news, however, such as the lifting of the ban on trade union activities at the Pakistan Water and Power Development Authority (WAPDA). A Presidential Ordinance of 1998 removed the trade union rights of the 130,000 WAPDA workers. The restoration of their fundamental rights seems to have been the result of international pressure, amongst others by the ILO and the international trade union movement, which had warned Pakistan that it would ask the World Bank and International Monetary Fund to suspend their aid if the government did not restore the workers' right to freedom of association and collective bargaining. Another encouraging sign is that the government has re-established 1 May as a public holiday.

The Presidential Ordinance which bans workers at the Karachi Electric Supply Corporation from forming and joining a union remains in force, as do the anti-union attitudes at Suzuki Motors, the Ghazi Barotha hydro-electric project (see the ICFTU's 1999 Annual Survey), and at the national post office. Pakistani trade unions complain in general of the anti-union attitude that prevails among almost all the multinationals operating in the country.

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## Philippines

POPULATION : 74,200,000 / CAPITAL : Manila / ILO CORE CONVENTIONS RATIFIED : 87,98,100,105,111,138,182



**Philippine legislation interferes with the freedom of association. However, this seems not enough to satisfy either the government or the employers, who resort to harassment, dismissals and even violence in order to repress trade unionists. It is in the export processing zones (EPZs), that the repression is the most severe.**

The political situation in the Philippines remains tense owing to popular pressure and protest movements against the corruption scandal in which President Joseph Estrada is alleged to have been involved. The Philippine economy has suffered a setback and the investment outlook remains bleak. The Trade Union Congress of the Philippines (TUCP), is one of 16 organisations known to have signed the petition demanding the President's dismissal.

**Legislative restrictions**

Philippine laws contain many obstacles to trade union activity in general. For example, a union is not allowed to register unless it represents at least 20% of the workers of a given collective bargaining entity. In addition, the quota of trade unions which the law requires before authorising the establishment of a trade union federation or centre is much too high. Furthermore, trade union leaders are required to be employed in the same enterprise in which they represent the workers. As for foreign nationals, they can neither set up a trade union nor belong to one unless there is a reciprocal agreement between their respective countries and the Philippine Government.

Although the right to strike is recognised under Philippine law, in practice the government and the employers take advantage of the restrictions contained in the law in order to deprive the workers of their legitimate rights. In order to obtain permission to strike, a trade union is required to give advance notice, wait for a certain period and obtain the agreement of a majority of its members. First, all avenues of conciliation must have been exhausted. Moreover, if the Minister of Labour and Employment considers that the industry concerned by the strike is vital to the economy, he can impose compulsory arbitration and compel the workers to return to their jobs.

The law also prescribes disproportionate penalties for participation in an illegal strike, in which case the trade union leaders are liable to prison terms of up to three years. Furthermore, persons who have organised or directed any meeting for the purpose of spreading propaganda against the government are liable to imprisonment for life or the death penalty. The ILO has emphasised that in this case the term "meeting" covers the notion of picketing during a strike.

The requirement to give advance notice to the Ministry of Labour of the intent to strike opens the way for employers to use extralegal means in order to divide the workers among themselves and, in most cases, to organise reprisals against them. However if the workers succeed just the same in launching a strike, the employers request the National Commission on Labour Relations to issue an injunction against holding the strike. Instead of playing an impartial role,

the government has interfered in labour disputes only to the benefit of the employers. Still another violation consists of the restrictions placed on the freedom of negotiation of workers in the public sector. They are forbidden to strike.

#### **Enterprises in EPZs afraid of trade unions**

Whereas the failure to enforce the labour laws discourages trade union activity throughout the Philippines, this is especially the case in the export processing zones. The political leaders of those regions of the country where the unions are established place every obstacle they can in the way of their proper functioning. The results are low membership and reduced efficiency. In such areas, restrictions on freedom of association go hand-in-hand with poor working conditions, sexual harassment and failure to pay minimum wages.

According to a study carried out by the Trade Union Congress of the Philippines (TUCP), in seven export processing zones (Cavite, Victoria Wave, Luisita Industria Park, Laguna, Subic Bay Metropolitan, Bataan and Cebu) at least 977 employees of 43 enterprises had been dismissed either simply for being trade union members, forming a trade union or being in favour of transparent trade union elections (i.e., elections in which the employer had not put up a "sweetheart" union). In more than seven enterprises the management has obstinately refused to recognise the trade union, and in eight others it has refused to negotiate. More than 17 enterprises have closed down temporarily or indefinitely because a union had just won the elections or because they wished to prevent a union from being formed. In addition, five enterprises have transferred workers to other production sites for fear of seeing a trade union established. Finally, six firms have set up their own "sweetheart" unions in order to sabotage the trade unions already in place. It would appear from this that the unions inspire a veritable phobia on the part of the management in the export processing zones.

#### **The Manilla rapid transit authority lets 900 workers go**

As if it weren't satisfied to see the employers repress workers for defending their rights, the Philippine Government itself has been engaged in the same violations. Thus it has resorted to measures of repression against striking workers of the Manilla metropolitan underground railway. It had previously forbidden them to strike on the basis of its argument that the metro was an essential service, and this despite the existence of a court ruling to the effect that this type of public transport could not be classified as such. More than 900 workers were dismissed in the course of a strike. In addition, legal charges are pending against four trade union leaders, including the union's head, Sammy T. Malunes.

#### **Pickets attacked by the police**

In February, workers engaged in picketing in connection with a strike at the clothing manufacturing firm of Triumph International in order to press their demands, were attacked by police forces. More than 2,000 workers had been out on strike since the 18th of November, 1999, in order to press for the granting of their legitimate demands. On March 3, 2000, they returned to work with the hope that an acceptable solution would be found. However, instead of showing its appreciation for this gesture of conciliation, the management suspended, and then dismissed about 20 trade union members on 11 May.

#### **Fraud and harassment in the PT & T**

In April, members of the PT & T Progressive Workers' Union denounced the harassment they had suffered from the management of the Philippine Telegraph and Telephone Company (PT&T)Y, as well as the attempts to discredit the union by entering announcements in the main daily newspapers claiming that their strike was illegal. The management resorted to suspensions and illegal and arbitrary personnel reductions. Seven employees were dismissed without any reason being given, and five others were placed in the status of "preventive suspension". In spite of the procedure and the clause on job security which had been signed by the union and management, the latter has refused to negotiate on this point. The union has also denounced the fraudulent behaviour of the company management, which has continued to make social security and housing loan deductions from wages without paying the money into the funds concerned.

#### **The police spoil the May Day celebration**

Several trade unions celebrated May Day by organising a nationwide protest against the government's economic policies and demanding a wage increase. In Manila, the police took issue with the demonstrators, attacking them with batons and water canons. At least 10 persons were wounded and seven union members were arrested and detained for several days at the headquarters of the "Western Police" on United Nations Avenue before being finally released.

#### **Shots against striking dock workers**

In May, the dock workers at the port of Cebu went on strike after a maritime shipping firm had dismissed 14 union members. Although the situation calmed down following arbitration by the Ministry of Employment and Labour, 21 other union members were dismissed and a new strike was held for a brief period. In September, company security guards opened fire on striking workers, wounding two. In the wake of these events, the National Commission on Labour Relations took action against the company for disloyal labour practices, and against the fired workers for engaging in an illegal strike. As the year ended the matter had not yet been settled.

#### **Anti-union attack at Nestlé**

On June 1, the management of Nestlé Philippines at Cabuyao dismissed 67 workers on the pretext of economic difficulties. Was this just by chance? All of the workers affected were members of the union...and had been employed by the firm for at least 20 years to the employer's satisfaction. One of them was a trade union leader and several others were trade union delegates. This management decision occurred at a time when the union was preparing to enter into collective bargaining with respect to wages. This action was obviously intended to weaken the union's position in this regard.

**Trade union leader suffers bullet wounds**

In November, the "New People's Army", the principal communist insurgent group, opened fire on and wounded a union leader and a policeman at Tarlack City. Just before the attack, the trade union leader had held a meeting at the regional offices of the Ministry of Agricultural Reform in order to protest against plans to distribute provisions accumulated by plantation owners.

**Child labour continues to be widespread**

It should also be pointed out that despite the existence of legislation prohibiting child labour, in the Philippines there are still close to four million child workers, many of whom are working in dangerous environments such as mining, prostitution and construction, and some others of whom are engaged in exporting sectors (bananas, sugar, etc.).

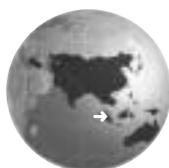
**Acts of violence against peaceful demonstrators**

*The posh Manila Hotel boasts of being a host to royalty, heads of State and stars from all over the world. Nevertheless, when it comes to its own personnel it is behaving like an ordinary hoodlum. Its authoritarian ways were exposed for all to see in January, when negotiations were scheduled to begin with the trade unions for the purpose of reaching a collective agreement. The hotel management (which counts among its members, retired army and police officers) was opposed to such a move and fired the trade unionists who were engaged in preparing the negotiations. The workers then went on strike in an attempt to compel the management to negotiate with the unions, however, their efforts were crushed by force six different times. On 10 and 22 March, policemen under the influence of alcohol had attacked the picket line and arrested the workers and sympathisers at the site. Fifty-three of the later were brought to the police station, where most of them received violent blows on the head, arms and shoulders.*

*The violence of the authorities continued during the days that followed. On 15 March, when the strikers and their sympathisers arrived at Avenues Burgos, not far from the hotel, 200 policemen were stationed in their way, blocking the road leading to the main hotel entrance where the workers wished to reconstitute the strike picket destroyed on 11 March. The demonstrators formed a delegation in order to negotiate with the police, but the latter would hear nothing of it. Even worse, when the strikers decided to engage in peaceful actions from the place where they had been blocked, and to attend religious services, they were attacked by 200 policemen armed with cudgels backed up by hoses turned on them from two fire engines. In the course of the scuffles and the chases which followed, 13 participants were arrested and brought to the police station and 60 others were wounded. This example of unprovoked brutality against peaceful strike movements shows the complicity existing between the Philippine Government and the employers in repressing the trade unions.*

# Singapore

POPULATION : 3,900,000 / CAPITAL : Singapore / ILO CORE CONVENTIONS RATIFIED : 29, 98, 182



**Legislative provisions restrict the freedom of association and the right to bargain collectively. Singapore has still not ratified ILO Convention 87 on trade union freedoms and the protection of trade union rights.**

**Restrictions on trade union registration**

The Constitution grants all citizens the right to form trade unions. The Parliament may nevertheless impose certain restrictions for matters relating to security, public order or morality. Forming a trade union is subject to approval from the Registrar of Trade Unions who has, for reasons specified in the legislation, powers to refuse or cancel registration of trade unions, particularly where one already exists for workers in a particular occupation or industry. These powers may be used to obstruct the establishment of trade unions and impose a single trade union structure. Unions have pointed out that these provisions help prevent the formation of 'yellow' or company-sponsored unions which would undermine trade union unity. Particularly in view of the small size of many workplaces in Singapore. The Registrar of Trade Unions is also given far-reaching powers under the law to investigate union finances.

**Trade unions in the public sector are prohibited by law, but authorised in practice**

The Trades Unions Act of 1940 (adopted while Singapore was still a British colony) places a general prohibition on government employees forming or joining trade unions. However, the President of Singapore has the power to make exemptions from this provision of the law, as has already been done. Indeed the public sector trade union which is called the Amalgamated Union of Public Employees (AUPE) is the second largest trade union in Singapore.

**Certain legislative restrictions are not applied**

Most labour disputes are settled through conciliation with the Ministry of Manpower. If such proceedings fail, the parties to the dispute may submit their case to the Industrial Arbitration Court, whose members include representatives of workers and management. In some cases, the law provides for recourse to binding arbitration, which can put an end to collective bargaining at the request of either one of the parties. This has not happened since 1981, however.

Collective agreements must be certified by Industrial Arbitration Court before going into effect. The Industrial Arbitration Court can refuse certification at its discretion on grounds of public interest - although this has never happened. Transfers and layoffs are currently excluded from the field of collective bargaining, which the ILO feels should not be the case.

The Industrial Arbitration Court can also refuse to certify collective agreements in newly established companies if these agreements provide for more favourable conditions than the legal minimum laid down in the Employment Act. This refusal applies for a renewable five-year period. Exemptions from this provision may be granted at the employer's request, however, for the record, it should be stated that all such requests have thus far been granted. The NTUC (National Trades Union Congress) has asked the government to amend this law. The government has informed the ILO that it is currently doing so in consultation with the social partners.

#### Restrictions on the right to strike

Legislation requires that 50% plus one vote of all of the trade union's members be in favour in order to call a strike. This is excessive in light of the fact that international standards consider it reasonable to require trade unions to obtain a 50% favourable vote among the trade union members participating in the vote. Legislation also prohibits strikes in essential services (water, gas, electricity). In February, a debate took place in the Parliament on the issue of whether or not to apply a no-strike clause to a new national security agency called the "Defence Science and Technology Agency". Although some of the MPs viewed this clause as an infringement on the fundamental rights of workers, the clause was kept.

#### Interference in the internal affairs of trade unions

The law restricts the right of trade unions to elect their officers, as well as whom they employ. Citizens with a criminal record are not permitted to work for a trade union. The same is true for foreigners. In both cases, however, exemptions can be granted by the Minister. Moreover, the law limits the objectives on which unions may spend their funds and prohibits payments to political parties or the use of funds for political purposes. Such issues should only be addressed internally.

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## Solomon Islands

POPULATION : 500,000 / CAPITAL : Honiara / ILO CORE CONVENTIONS RATIFIED : 29

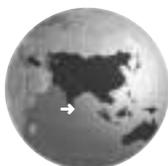


**According to the new Prime Minister appointed after the coup d'état, trade unionism is a foreign concept that needs to be revised...**

The government of the Solomon Islands was overrun in a coup d'état last June. The conflict arose primarily from rival sentiment between the inhabitants of the island of Guadalcanal, the economic hub of the country, and the island of Malaita. The prime minister, a former trade union leader, was forced to resign in the aftermath of inter-ethnic disputes and the subsequent coup d'état. The trade unions intervened in the crisis by appeasing ill feelings and convincing the international community not to condemn and isolate the country, as it had done with the Fiji islands. This gesture of openness contrasted sharply with the rhetoric of the new prime minister, Manasseh Sogavare, in his year-end speech to the parliament. In his speech, he threatened to eliminate and prohibit all trade union activities, stating that there is no room for trade unionism in such a small economy as that of the Solomon Islands. It is a foreign concept that needs to be revised!

## Sri Lanka

POPULATION : 18,700,000 / CAPITAL : Colombo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,111,138,182



**The government considers many sectors to be "essential", which means that strike action is prohibited there. Legislation protecting trade union activists is not properly enforced, especially in the export processing zones. The right to collective bargaining is widely flouted.**

The raging civil war pitting the government forces against the Tamil Tigers is creating a climate where human rights are violated in Sri Lanka, a climate which also impacts on union activities and sometimes on workers' freedom of

expression. On 3 May, the government adopted an emergency regulation in response to military events in the north of the country. Placing Sri Lanka on a "war footing", this regulation banned all strikes and established stringent controls of press freedoms. It looked as if the Sri Lankan government was using the armed conflict as an excuse to increase its control over civil society. However, the emergency regulation was suspended on 5 June.

The President of Sri Lanka may designate an entire industry or service as "essential", thus giving him the power to outlaw strikes. The ILO has stressed that essential services should consist of those services whose interruption would endanger the lives, personal security or health of the people. The government of Sri Lanka has a much broader interpretation of the concept of "essential services", which in its view include the distribution of petrol, the supply of electricity, the export of commodities (ports, etc.), the sale of food and drugs, and so forth. Most civil servants are not entitled to strike either.

The law bans reprisals against strikers in non-essential sectors. A legislative amendment adopted in December 1999 granted compulsory recognition to any union which represents more than 40% of the workers at a given workplace, while at the same time prohibiting employers from firing a worker as a result of his or her union activities. Employers may only fire workers on disciplinary grounds. If an employer is found guilty of firing a worker on the grounds of his or her union activities, then the employer must re-hire the worker but may transfer him or her to another workplace. There is another point worth highlighting: the Labour Ministry is legally authorised to forbid the registration of a union that has not submitted an annual report, but that is the only legal reason allowing the Ministry to take such action.

#### Trade unionists sacked

Despite the legal protection, reprisals against trade unionists did not stop in 2000. The employers continued to suspend or sack activists; others were intimidated, humiliated or had their lockers searched. One political and union activist, B.A. Sarath Kumara, was suspended on 4 October by Elastomeric Engineering Company, a firm which produces rubber components for the European automotive industry. This was his second suspension in five months. Management accused him of pursuing his union activities during working time and is threatening to fire him outright. He was suspended immediately after the company was forced to re-hire another union activist, Krishanta Jayasinghe, who had been suspended after being falsely accused. The company is going after Sarath Kumara and other trade unionists because they oppose its restructuring plans and are struggling to defend jobs.

In another case, S.B. Abeysekera, president of the Ceylon Bank Employees Union (a union affiliated with UNI) at Hatton National Bank, was also unfairly dismissed. He was fired directly as a result of Hatton National Bank's takeover of Sampath Bank and his efforts to protest against the misappropriation of funds from the Employees Provident and Pension Fund. It was when S.B. Abeysekera revealed Hatton National Bank's illegal use of the fund to invest in Sampath Bank that false accusations were made against him and his dismissal orchestrated.

#### Export processing zones (EPZs)

Nearly 110,000 workers are employed in export processing zones (EPZs) in Sri Lanka. Violations of trade union rights have not diminished. Even though legislation guarantees the right to collective bargaining, it is never complied with in the EPZs. Workforce representatives stress that the Commissioner of Labour – a labour tribunal – responds to pressure from the government's Board of Investment (BOI) by failing to persecute employers who refuse to recognise trade unions or to engage in collective bargaining with them.

In the EPZs, employers only allow unions to take part in works councils which discuss well-being at the workplace, but on which workers have practically no right to put forth a discordant opinion. These works councils are run by the BOI and may only issue recommendations.

While wages are generally higher in the EPZs, the mostly young female workers face other problems, such as sexual harassment, insecurity and poor-quality, overpriced dormitories. They are so afraid of losing their job that they generally do not dare oppose their bosses because any workers who do are sacked.

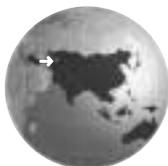
Although permitted by law, few unions have been set up in the EPZs, due in large part to restrictions on unionists' access to them. Some union representatives say that the BOI, which runs the EPZs, has discouraged trade union activity. The BOI also sets wages (US\$ 37 per month on average) and defines working conditions in the EPZs. Health and safety standards, in particular, are widely flouted in the EPZs.

#### Employers' demands

Several major industrial groups wrote recently to the president of Sri Lanka asking him to take steps to make industry more competitive and encourage investment. One of their main demands was to be able to hire and fire workers without being subject to the restrictions found in the labour legislation.

# Tadjikistan

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



## Some areas of national legislation are in contravention of ILO Convention 87

The freedom of association, the right to strike and the right to collective bargaining are recognised in national legislation. The government of Tadjikistan has also ratified ILO Convention 87. For several years however the ILO has questioned the extent to which national legislation complies with Convention 87. Its questions concern two main points:

- Firstly, Convention 87 establishes the right of workers' and employers' organisations "to draw up their constitutions and rules, to elect their representatives in full freedom, and to organise their administration and activities". The law on trade unions however says that trade unions can exercise their activities independently and the authorities may not intervene except "in cases foreseen by law". The ILO has therefore asked the government to state in which cases the public authorities are authorised to intervene in trade union activities.
- Secondly, on the right to strike the labour code says that "restrictions on the right to strike are subject to the provisions foreseen in the legislation in force in Tadjikistan". The ILO would like the government to provide it with the text of the measures governing these restrictions. The ILO would also like the authorities to specify whether the provisions in the penal code applicable in the USSR, notably those restricting the right to strike in the transport sector and foreseeing heavy sanctions (including prison terms of up to three years) have been repealed or not. So far there has been no reply to the ILO's questions.

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# Taiwan

POPULATION : 22,300,000 / CAPITAL : Taipei / ILO CORE CONVENTIONS RATIFIED : - - -



## The new government has taken encouraging steps towards respecting trade union rights. More lenient labour legislation is also in the works.

### Recognition of new federations

In March, the victory of the Democratic Progressive Party in the presidential elections was the first time in the island's history that a political party had handed over power to another. The new government has loosened restrictions on the freedom of association by recognising three new national trade union federations. Until this time, only one trade union federation had been permitted. Despite this step forward, the law still does not allow more than one trade union to operate in any given administrative zone.

### Legislative restrictions

Legislation authorises the government to interfere indirectly in the internal affairs of trade unions. As a case in point, trade unions must submit their articles of association and rules to the authorities for review prior to official registration. The authorities can also dissolve unions if they do not meet certification requirements or if their activities constitute a "disturbance of public order".

Moreover, despite a 1995 court decision stating that the right to organise trade unions was guaranteed by the Constitution, civil servants, teachers and employees working for the defence industry are still not permitted to form trade unions.

There are many restrictions placed on the right to strike, which makes it difficult to hold a legal strike and undermines collective bargaining. The authorities can impose mediation or arbitration procedures for disputes that it considers to be serious or involve "anti-competitive practices". During such procedures, the law prohibits workers from interfering with the "working order". Severe sanctions are applied for failure to comply with the law, workers are not allowed to strike and employers are not allowed to take retaliatory action.

### Inadequate protection

Protection against anti-union discrimination is inadequate since there are still no legislative provisions to punish violations.

**Few collective agreements**

The number of workers covered by a collective agreement is rather low: although authorised by law, collective bargaining is not mandatory and generally only takes place in large-sized companies. Only 5% of the companies operating in the country fall within this category.

**Legislative improvements over the horizon**

The new government intends to improve several areas of labour legislation. A new bill is in the works that contains a number of improvements. The bill would enable workers in small-sized companies to join a union, reduce the number of workers required to form a trade union from 30 to 10, increase the amount of protection afforded to trade union leaders by imposing sanctions against employers found guilty of intimidation or anti-union discrimination. The bill also makes important inroads in the area of freedom of association: the bill contains a provision that would allow civil servants, teachers and employees in the defence industry to join trade unions (but not necessarily bargain collectively nor go on strike).

**Notoriety of Taiwanese multinationals**

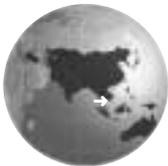
Taiwan's reputation is still tarnished in the international trade union world due to the behaviour of its multinationals, many of which violate national legislation and workers' rights throughout the world. These companies invest primarily in developing countries in Central America, the Caribbean, Southern and Southeast Africa. Trade union rights are often non-existent in factories that are funded or run by Taiwanese nationals.

**Release of Tseng Mao-hsing**

*President Chen Shui-bian commemorated the International Day of Human Rights by signing amnesty for 21 prisoners. These prisoners namely included trade union leader Tseng Mao-hsing who had led a group of workers to block a train during a 1996 demonstration. Considering this act to have been a threat to public safety, Tseng Mao-hsing was sentenced to ten months in prison.*

# Thailand

POPULATION : 62,000,000 / CAPITAL : Bangkok / ILO CORE CONVENTIONS RATIFIED : 29,100,105,182



**After nine years of struggle, the employees of state enterprises have finally regained the right to join a union. In the private sector though, sanctions for violations of the labour code are inefficient. Anti-union practices abound.**

**Insufficient protection**

While the 1975 Labour Relations Act (LRA) protects the activities of existing trade unions, it does not provide any protection to workers forming new trade unions for acts of anti-union discrimination committed in the period prior to official registration of the union with the Ministry of Labour and Social Welfare. However, it is often during this period that union activists fall victim to such acts. Even after official registration has taken place, those workers participating in union activities who are not union committee members are still exposed to this risk.

**A victory for trade unions**

The trade union movement scored a major victory on 16 February with the unanimous approval of the amended State Enterprise Labour Relations Act. This law, which went into effect on 8 April, grants employees of state enterprises (e.g. Thai Airways or State Railway of Thailand) the right to join trade unions and bargain collectively. The enactment of this law is the culmination of a nine-year struggle by Thai trade unions: The State Enterprise Labour Relations Act (SELRA), enacted by the military dictatorship government of the National Peacekeeping Council (NPKC) on 15 April 1991, had abolished state employee trade unions. These unions were replaced by "State Enterprise Employees' Associations", which were barred from collective bargaining. Although it is a major step forward, the new law does apply to civil servants, who still do not have the right to form a trade union. The law also maintains prohibitions on the right to strike in the state enterprise sector.

A strange detail that still needs to be ironed out: the State Enterprise Labour Relations Act that went into effect on 8 April allows state employees to join the same national congress as employees in the private sector... However, the 1975 LRA prohibits them from doing so because the LRA was also amended by the military NPKC government! The government has made it known that it intends to solve this problem through the revision of the LRA, and has included language to this effect in its draft law.

**Limitations on the right to strike**

The government maintains the power to limit strikes in the private sector when such strikes affect national security or lead to negative repercussions on the population in general. The law also prohibits strikes in "essential services". However, the Thai government's list of essential services goes far beyond what would normally be included according to ILO criteria, including such sectors as telecommunications, electricity, water and public transport.

<b>No more than two trade union advisors permitted</b>	<p>NPKC Decree 54, which was introduced by the same illegitimate military regime in 1991, prohibits trade unions from calling upon more than two outside advisors (legal advisors from national centres, non-trade union specialists, etc.). These advisors are allowed to work with unions in all aspects, and to join the union's collective bargaining team in negotiations with employers. Trade union advisors are required to obtain a license from the Ministry of Labour (MOL) every two years. Anyone can be denied a license according to the MOL's discretion, and acting in an advisory capacity without such a license is punishable by law.</p>
<b>Few collective agreements</b>	<p>The LRA 1975 requires that all trade union executive board members must, by law, be a full-time worker in the factory. This means that all leaves of absence for trade union work must be negotiated with employers, and the employer can easily harass a trade union leader. The LRA 1975 also provides that all workers in a factory can receive the benefits of a union contract even if they are not a union member, and there is no requirement for them to pay dues or service fees for non-members receiving the benefits of union representation. This results in a 'free-rider' that significantly hinders union efforts to raise dues to levels sufficient to sustain continuous union activity.</p> <p>The low percentage of unionisation combined with the autocratic attitude adopted by many employers explains why there are only a few collective agreements in Thailand. As a rule, salary increases tend to dovetail the legal minimum salary increases rather than occur as a result of collective bargaining.</p> <p>Minimum salaries can also be applied in each province and are set by the National Wage Committee based in Bangkok which sets minimum wages according to zones.</p>
<b>Inefficient labour jurisdictions</b>	<p>Thai trade unions also denounce the partiality and slowness of tri-partite Labour Courts in the handling of labour disputes, although the courts have been known to sometimes rule in favour of the workers. Following a court order to reinstate illegally fired workers, for example, companies generally react by offering sizeable sums to the workers in exchange for their waiving their right to reinstatement. This is namely what occurred at the end of December in a lawsuit between the Par Garment company and 5 union activists. They turned down the company's offer, however. Thai law does not provide for punitive damages in the case of wrongful dismissals.</p> <p>During the crisis, the LRA 1975 protection of union board members, requiring that the employer receive permission from the Labour Court before they could fire a board member, was often insufficient. Many Labour Courts were controlled by unsympathetic judges and employer representatives who were more than willing to approve the firing of labour union leaders.</p>
<b>Outsourcing as a means to bypass trade unions</b>	<p>Outsourcing is sometimes used as a means to bypass trade union activities. This was namely the case for various factories working for Nike when they outsourced their production to subcontractors that had no trade unions. Union members employed by the Thai Iryo Garment factory in Rangsit, for instance, were laid off when production was moved to Garment Tech in Bangkok and VT Garment in Sathupradit. The same thing occurred in the Lian Thai factory. The workers who lost their jobs approached the golf champion Tiger Woods to ask if he could pressure Nike into improving working conditions and guaranteeing trade union rights in the factories manufacturing Nike-brand products.</p> <p>In another case, the company British-Thai Synthetic Textile also used outsourcing as a means of cutting its costs and undermining the influence of its trade union. It even fired one of the most outspoken activists, Thitinan Numchaiyaphum, who played an important role in the negotiations that ensued when the company laid off workers due to supposed economic difficulties. When the trade union published a leaflet explaining the problem to workers, the company accused it of inciting rebellion and tarnishing the company's good reputation. British-Thai Synthetic sells its products to very high profile brands in the United States and Europe: Marco Polo, Oxford, Nike, Women Secret, Docker, etc.</p>
<b>Union activists sacked</b>	<p>There were other flagrant cases of anti-union discrimination such as the Metallic Engineering company. Indeed, following the drafting of a collective agreement, this company fired 30 workers who had been involved in drawing up the list of claims. Seven of these workers were union activists who had participated in the negotiation. The trade union president and six members of the board were reassigned to new tasks within the company.</p> <p>Towards the end of the year, a labour dispute broke out between the Almond Company and its employees over the issue of payment of the yearly bonus. The primarily US-owned Almond Company produces jewellery for large-scale distribution chains in the US, namely Wal-Mart and JC Penney. When the workers tried to create a trade union, the management took a series of measures against the overly zealous: 45 were fired without redundancy pay; two were falsely accused of theft, fired, and then sued; others were reassigned to tasks for which they were not qualified. The management also made an announcement to all of its employees that there would be no more talk of creating a trade union. It threatened retaliatory action against anyone who tried to join one.</p>

## A toy company relocates and takes a swing at its trade union

The Master Toy factory, based in Samut Prakan, earned a very bad reputation for itself throughout the year as a result of its management's determination to violate the rights of its workers. The Master Toy factory produces miniature cars which are sold under the Maisto brand. With owners in Hong Kong, the company exports its products all over the world. Drawn by more advantageous tax legislation in another province, the owners decided to open a new company there in 1995. Production and workers were gradually relocated to the new company, Maisto Manufacturing, but workers were rehired at considerably lower salaries. Those who refused were sacked. On 6 January 2000, a trade union was officially created at the Master Toy factory...but the management immediately took action to discourage its activists. The trade union's president, Prasit Prasertdee, was removed from his position as quality inspector and re-assigned as a garbage collector. Assistant director Melle Jittasareewong was fired because she backed the trade union's cause.

On 28 March, the remaining 174 workers employed by Master Toy were transferred to the new factory. Since this factory was not entirely ready, the workers were forced to work in a warehouse that lacked an emergency exit and equipment to protect them from metallic dust. They refused to work under these conditions and went on strike, eventually demonstrating in front of the Ministry of Labour, the Chinese embassy and the US embassy. They also received international solidarity support. The government admitted that Master Toy had violated labour legislation and ordered the company to pay the appropriate compensation to the workers who had lost their jobs. However, the government also criticised two trade union leaders, Sunporn Boonyod and Saneh Hongtong for having entered the Ministry of Labour building with demonstrators even though permission to do so had been granted by the same Ministry. When the two trade union leaders were called to the police station in Din Daeng (Bangkok) on 17 September, they were accompanied by a crowd of 1,000 people who gathered outside the building. In the end, the trade union leaders were allowed to leave of their own volition.

### **Very serious violent acts committed against the workers of Thai Durable**

*The Thai Durable Kriang textile factory is located in the region of Bangkok. It employs over 1,888 workers, more than half of whom belong to the textile trade union. The financial crisis of 1997-1998 prompted the company to ask its workers to considerably reduce their demands. The workers accepted and Thai Durable began to accumulate profits. The employees felt that they deserved to be rewarded accordingly. In September 1999, the trade union drew up a list of demands, with salary increases. Its aim in doing so was to renegotiate the labour agreement, which was set to expire on 18 February 2000, but the management immediately refused to consider any salary increases.*

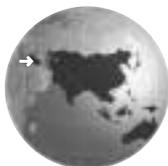
*On 30 May, 1,000 workers took control of the factory. In order to break the strike, the management fired 390 workers, including 15 trade union representatives. Shortly afterwards, violence broke out. "On 14 and 15 June, a few dozen vandals managed to enter the factory, explains one trade union representative, Suparb Sansvay. " They threw stones at us, beat us with wooden clubs, and sprayed the contents of fire extinguishers in our direction. One female worker ended up with broken ribs, several others were hospitalised. When the police arrived, they arrested the troublemakers, but then let them go before they even reached the police station." Violence against the strikers was renewed a week later. " This time, there were 150 vandals, surrounded by men in uniform and led by the company manager "recalls a 19-year-old female worker, Nipaporn". First they destroyed the barricades that we had set up to bar entry. So, we sat down on the ground and held onto one another elbow to elbow to prevent them from entering the factory. That was when they started hitting us with handcuffs and clubs. They also kicked us all over our bodies. The manager encouraged them to continue beating us." It took an hour and thirty minutes for the police to arrive and chase away the assailants. Once again, no arrest was ever made.*

*The workers did not give up, however. By then, their plight had caught the attention of international groups, who sent hundreds of letters of protest to the government. On 26 October, the Minister of Labour asked the workers to return to work and ordered the company to reinstate them at previous salary levels. The workers obeyed but not the manager of Thai Durable, who refused to reinstate the 390 workers that he had fired when the strike broke out. Only some workers were permitted to keep their jobs. To make matters worse, most of the sacked workers have now been put on a "blacklist", which prevents them from finding another job elsewhere in the textile industry. They were only allowed to pick up a few of their personal belongings that were in their sleeping quarters. For its part, the management maintains its aggressive stance. It has even gone so far as to sue the workers, claiming astronomical sums for the electricity and water consumption used while the strikers had occupied the premises.*

*On 18 November, a fire broke out in the factory. The management took advantage of this incident to temporarily shut down the factory, placing the 532 workers on unpaid "dead" time (whereas labour legislation stipulates that workers are to receive 50% of their salaries in such cases). Most of these workers were trade union members. Only 200 workers were allowed to return to their jobs when the factory reopened on 23 December.*

# Turkey

POPULATION : 65,700,000 / CAPITAL : Ankara / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**State of emergency allows for lengthy detention without charge**

**Trade unions face many restrictions and are closely watched by the authorities. The right to strike and to collective bargaining are regularly violated.**

Turkey would like to join the European Union as soon as possible, yet its government is still responsible for many violations of human rights, including trade union rights. It has promised to put an end to all violations by the end of 2001, but it has a long way to go before it meets this goal. Restrictions are particularly acute in the four provinces in the south-east of the country, where the state of emergency continues and allows the authorities to detain suspects for lengthy periods without charge. Many trade unionists are held under a draconian application of article 312 of the penal code, which provides for imprisonment for "inciting hatred".

**Many restrictions on trade union rights**

Although the law does recognise the freedom of association and the right to form a trade union, it imposes many restrictions. Candidates for union office must have worked for at least ten years in the sector represented by the union. Unions must obtain official permission to organise meetings or rallies, and must allow the police to attend their events and record the proceedings. If a union seriously contravenes the laws governing their activities, it can be made to suspend its activities or enter into liquidation on the order of a labour tribunal.

Workers in the private security sector do not have the right to form trade unions. People of foreign nationality can join a union, but workers have to be Turkish to be a member of a union's executive body.

The ILO Committee of Experts has criticised the trade union law that bans union delegates from standing in local administrative or general parliamentary elections, under penalty of imprisonment of up to two years. The Committee recalled that the effect of being a candidate or being elected in elections should be left to the determination of the trade union members and should not be a matter for the government to regulate.

There is also inadequate protection against anti-union discrimination: the size of the fines that can be imposed on employers who do not respect trade union rights is not dissuasive, trade union leaders are not properly protected against transfer and dismissal and the law does not impose any obligation on the employer to reinstate dismissed trade unionists, other than union delegates.

Proposed legislative changes submitted to parliament further restrict civil servants' rights: if adopted they will limit the right of about 500,000 civil servants to join a union, will reduce the collective bargaining rights of those who can still bargain and will allow the government to abolish trade union without any court order being required; two civil servants' unions, one in the military sector (ASIM SEN) and another for prison personnel (TÜM YARGI SEN) will cease to exist.

A government-proposed decree could, furthermore, make it easier to dismiss civil servants, particularly if they carry out trade union activities. The President has refused to sign it twice however, on the grounds that it violates the Constitution.

**Limitations on the right to strike**

Solidarity strikes, general strikes and go-slows are banned. Severe penalties are foreseen for participation in illegal strikes, including imprisonment.

Strikes are also banned in many sectors that do not fall under the category of essential services defined by the ILO. The Turkish government bans strikes in savings banks, funeral parlours, the administration of cemeteries, the exploration, production and refining of gas and oil, banking services, public notaries, hospices for the elderly, etc. The law imposes compulsory arbitration in these services. They cannot be considered essential in the strict sense of the term, but the Turkish government interprets them this way. Civil servants are also denied the right to strike. A bill was presented to parliament to allow them to do so, but was not adopted.

On 1 December, some 400 teachers were detained for questioning by the police throughout Turkey, including 300 in Eregli, while they were taking part in a national civil servants' strike. The strike had been declared "illegal" the day before by the Minister of the Interior. The civil servants were protesting at the 10% ceiling on pay rises for the first half of 2001, in line with a severe anti-inflation programme supported by the International Monetary Fund, while inflation was still at an official annual rate of 44.4% in October. All those arrested were released the following day. In total, 93 strikers were transferred, 9,758 were prosecuted and administrative inquiries were opened against 76,047 civil servants. Five people lost their jobs.

Where strikes are allowed, there is an excessively long waiting period (nearly three months) from the start of negotiations before a strike can be held. Collective bargaining must take place first. Furthermore, the law allows the govern-

ment to suspend a strike for up to 60 days for reasons of national security, health or public safety. Unions can petition the Council of State to lift such a suspension but 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. There was an example of this on 5 May, when the government "postponed" a strike in the tyre industry which had been going on for a week, claiming absurdly that it was a threat to national security! In August, 14,000 council workers were forced to stop their strike by the government, this time on the grounds that not collecting refuse was a threat to health.

There are further restrictions on the right to strike: it is prohibited to prevent raw materials entering a factory or finished products leaving it, and to prevent non-union members from working. Only four or five strikers can remain at the factory gates to supervise the strike, they cannot set up a tent or any kind of shelter to protect their food, or display banners that say anything other than "there is a strike at this workplace".

Even stricter rules apply in the nine export processing zones: strikes are banned for ten years after the creation of a zone and the law imposes binding arbitration in the event of a dispute. The ILO Committee of Experts reminded the government that the imposition of binding arbitration constitutes a serious limitation on the right of workers' organisations to organise their activities and formulate their programmes of action without intervention by the public authorities.

### Restrictions on collective bargaining

Collective bargaining is heavily restricted in Turkey. To be recognised as a bargaining agent, a union must represent more than half the employees in an enterprise and 10% of all employees in the sector. The ILO has asked the government to repeal this provision. There have been reports that the government manipulates membership figures to deny collective bargaining rights or deprive unions of their rights by claiming there are irregularities in membership figures.

In July, ten trade unions lost their collective bargaining rights because they did not meet the 10% rule. The Ministry of Labour and Social Affairs did not give an official explanation, but in unofficial discussions it said that the unions had lost 500,000 members since the beginning of the year owing to deaths, retirements or resignations. The Turkish confederation of progressive trade unions (DISK), affiliated to the ICFTU, says that it is impossible to lose so many unionised workers in such a short time. Six of the ten unions concerned were affiliated to the DISK and it believes the real reason behind this attack was its opposition to the government's economic and social policies.

Only one union per enterprise is authorised to conduct collective bargaining. The procedure is so long and cumbersome that it is often very difficult to make free use of this right.

### The death of a ship-building union

Following the earthquake on 17 August 1999 that completely destroyed the Pendik (Istanbul) and Alaybey (Izmir) shipyards, the Turkish government approved a decree announcing that the Ministry of Defence was taking them over. The army then informed the workers at the shipyards that their union, Türkiye Dok-Gemi Is could no longer defend their interests, as they would now be represented by the union for State employees, Türk Harbib, whose members are not allowed to strike. This announcement violates the right of workers to join the union of their choice. A labour court in Ankara initially ruled in favour of Dok-Gemi Is, which claimed its right to defend workers in the boat-building sector, but then decided to reject its claim, no doubt under military and political pressure.

Dok-Gemi Is now risks having to cease its activities, as it has lost all its members: the workers at the Gölcük shipyards were dismissed when their workshops were also completely destroyed during the disaster and the government decided to apply the same measures to the Haliç and Camialti shipyards (both in Istanbul).

### Doing anything it takes to destroy the unions

In 2000, the Turkish employers and authorities resorted to every ploy possible to get rid of workers who sought to defend their rights. On 3 and 4 January, the authorities raided the EGITIM SEN premises in Diyarbakir and Agri, without giving any reason. Books, newspapers and other pamphlets were confiscated. In February, 21 TELEKOM trade unionists were transferred to another workplace (including 14 to another town), in a measure clearly aimed at weakening the union at a time when it was fighting against the privatisation of the enterprise. On 27 March, 16 civil servants, all leaders or members of the BTS, were arrested on the sixth day of a march by railway workers. On 1 April, the authorities arrested 50 education workers, including the president of the local Kocaeli branch of EGITIM SEN, preventing them from attending a meeting to demand a welfare state. On 20 April, the president of the Istanbul branch of TÜM YARGI SEN was injured in an attack as he was trying to denounce the mafia organisations rife in the prisons. Then, on 15 May, 15 unionised workers were sacked from Cagdas Printing for having gone on a two-day strike to demand the reinstatement of five trade unionists who had been dismissed. On 8 June, the police again raided the EGITIM SEN premises in Diyarbakir and confiscated all their materials. The leaders were arrested. On 27 June, the General Secretary of KESK, Sevil Erol, was arrested as he returned from a conference on "labour issues and legislation in the process of the European Union". In July, four members of the TUMTIS, a transport workers' union, were detained following their involvement in trade union activities. On 9 September, 35 women affiliated to KESK who wanted to send letters of support to the UN concerning the Women's Global March 2000 were detained and ill-treated. One month later, some women who wanted to begin a march to Ankara were injured by police and arrested in Düzce. On the International Day of Peace, on 1 September, the police had brutally repressed a demonstration in the province

of Mus and arrested 100 people, including leaders of Enerji YAPI YOL SEN and HABER-SEN. Finally, 40 highway officers, members of Enerji YAPI YOL SEN were fined \$70,000 for going on strike in March 1998.

Employers sometimes turn to sub-contracting to avoid trade unions, as in the case of EXSA, a factory belonging to the Sabanci Holding group.

#### Mutiny in the prisons

At the end of the year, riots broke out in the prisons in protest at the government's plans to reform the system and create three-person cells rather than large dormitories. The change could increase prisoner isolation and facilitate bad treatment. Two members of KESK, the public service workers' confederation, joined the hundreds of prisoners who went on hunger strike. The police stormed 20 prisons to stop the strike. At least six inmates and two police officers died during the raids, and dozens of others were injured.

#### Freedom of expression ignored

The freedom of expression is far from being guaranteed in Turkey, as can be seen from the trial of 15 people (writers, intellectuals, artists and trade unionists) following the publication of a book "Freedom of Thought". Three prominent trade union leaders face the possibility of up to 15 years in prison. In another trial, the six trade unionists that had been sacked for writing the invitation to World Teachers' Day on 5 October in Kurdish were acquitted on 12 December and were due to be reinstated.

#### Trade unionist's house searched

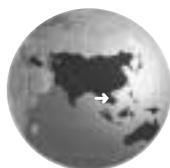
On 23 December, police raided the home of the president of the Turtis union, Sabri Topçu. Although they did not have a warrant they searched the house claiming that someone was hiding there.

#### **Turkish government recognises that trade unionist died as a result of torture**

*On 5 March 1999, Suleyman Yeter, an education expert at the DISK-affiliated dockworkers' union, Limter-Is, was detained while visiting the offices of a workers' newspaper, Dayanisma. The police arrested five people and put them in cells at the Anti-Terror Branch of the Istanbul Police Headquarters. Suleyman Yeter was interrogated throughout the night. He was stripped, severely beaten, and forced to lie on ice. On 7 March his union was told that he had died in custody. The police confirmed that he had died from cardiac arrest, but when the Anti-Torture Committee of the Council of Europe saw the autopsy report revealing that his body had 25 bruises on it, a fracture and a hemorrhage in the neck area, it concluded that he had been killed by strangulation. When ordered to explain, the Turkish government finally recognised, in a reply published on 7 December, that the death had been due to police torture, and promised that the three presumed perpetrators would be prosecuted. One year after the death of Suleyman Yeter, a demonstration was organised in his memory in Istanbul, but the police again reacted violently: 100 people were detained and 10 injured...*

## Vietnam

POPULATION : 77,100,000 / CAPITAL : Hanoi / ILO CORE CONVENTIONS RATIFIED : 100,111,182



**The only authorised trade union is under the control of the political party in power. Numerous restrictions bar legal strikes.**

#### Single trade union centre

The Vietnam General Confederation of Labour (VGCL) is the only legal trade union centre in Vietnam. It maintains very close relations with the political party in power, both by virtue of the law and its articles of association. All trade unions are required to join the VGCL, although there are some "labour associations" in certain sectors that enjoy greater independence. The law stipulates that the authorities must give their approval before a trade union may be created.

#### Restrictions on the right to strike

Although the right to strike exists, it can only be exercised after a tedious pre-strike procedure, which includes such action as recourse to a labour arbitration council. However, not all of the provinces have such a council. The government also prohibits strikes in essential services, the defence sector, or public service utilities. 54 sectors are included in this restriction (post office, public transport, banking, ...). Despite these restrictions, 72 strikes were reported last year. Most of the strikes took place in foreign-owned companies as a result of violations to their work contracts, collective agreements, or the labour code. These strikes generally lasted no more than a day or two. The government tolerated these strikes even though, in most cases, the strikers did not go through all of the steps required to make them legal. In 1999, the official media said that trade unions had failed to defend workers' rights in foreign-invested companies that disregarded labour legislation. In response, the VGCL blamed the authorities, stating that measures to deal with violations of the labour code were inadequate. The VGCL does not call strikes and often intervenes to try and quell them.

**Limited collective bargaining**

The labour code guarantees the right to bargain collectively. Some collective agreements were signed but their scope and content remain limited. Acts of anti-union discrimination are prohibited by the labour code.

***A shoe factory lashes out against 12 female workers***

*Although the shoemaking industry occupies an important position in Vietnamese exports, working conditions in shoe factories are far from ideal. In September and October, various strikes broke out in the Taiwanese-owned factory of Hue Phong located in Ho Chi Minh. This factory employs over 4,500 workers, 90% of whom are women. Tensions began on 12 September: At around 6.00 pm, the workers residing in the factory dormitory were in line for dinner when the Taiwanese manager of the canteen pushed and hit several women who were standing out of line. This aggressive behaviour irritated the other workers, who then attacked the manager. Two factory security guards intervened and started beating the women. A hunger strike ensued, ending the following day after negotiations between the authorities and management. However, worker abuse and humiliation contribute to continuing tensions: there are fines if a worker stays longer than five minutes in the rest room, pregnant women are sacked without redundancy pay, etc.*

*Another strike broke out on 16 October. Over 500 female workers demanded better working conditions, an increase in salary, and a trade union that would truly protect their interests. The workers returned to work following intervention by the local authorities, the official trade union and the police. Notable exceptions were 12 "diehards", who continued their strike all the way to the town hall where they presented their claims to the authorities. They demanded that the management abide by the 28 commitments it had made in the previous month and that it apply more lenient performance-related docks in salary. They also denounced the illegal sacking of 1,500 workers. Apparently, the management had claimed that it no longer needed the workers before turning around and hiring more.*

*The management of Hue Phong responded by taking punitive action against these 12 "troublemakers": they were fired and prevented from returning to their dormitories to pick up their personal belongings. The 12 workers slept on the pavement for two days and then went on a hunger strike in front of the factory entrance. Seven of the women eventually lost consciousness under the combined effect of the sun and hunger...but the management refused to lend factory vehicles to take the women to the hospital. Eventually, the local authorities intervened to do so.*

The transition process remains at vastly disparate stages, ranging from the situation in countries on the first accession list to the European Union, to those in Central Asia which are only just beginning the process. Even so, some factors are common to all countries. The wage gap between an increasingly pauperised majority and a tiny rich elite is widening. In all countries, the public sector is contracting at the bidding of the international financial institutions. Public services are disintegrating. Entire social security and pension systems are in decline. In the Balkans, the grim economic situation has been compounded by the war and ethnic strife.

The emphasis by the international financial institutions on macro-economic stability has not addressed the destruction of domestic production and the consequential high unemployment. More and more people are being forced to survive in the informal or unprotected economy, or to take a second job. In Georgia and Moldova, the informal economy has exceeded the 60% mark. Workers who still have jobs in the formal economy may well not be paid on time, or even at all.

There is a general trend in the region towards amending labour codes which restrict workers' rights - introducing terms such as "workers collectives" in order to undermine trade union rights, and in particular collective bargaining. World Bank policies have targeted public sector wage levels and led to the violation of collective agreements. Croatia is a case in point. In Bosnia-Herzegovina, the World Bank has promoted the introduction of anti-union labour legislation, without consulting the unions. In general the right to strike is

Europe



often restricted or denied to large categories of public sector workers throughout the region, and strike procedures are lengthy and cumbersome.

In the New Independent States, and elsewhere, investors, often joint-stock companies or subcontractors, obtain a special fiscal and social status that enables them to bypass employment legislation. Workers are systematically employed on temporary contracts with the result they can be hired and fired at will. Trade unionism is discouraged by both direct and indirect means. Workers trying to organise unions are subject to harassment, intimidation, bribes and lay-offs.

In Serbia, despite the fact that labour legislation is in the process of reform, Ministerial Regulations issued during the Milosevic regime remain in force. These require enterprise managers to approve requests for trade union registration – thus placing unions at the mercy of managers. A second requirement is approval from the Labour Ministry. Thirdly, the shop steward must open a bank account, which requires proof of payment of income tax – which is never available to employees.

Company unions are being encouraged throughout the region. These “unions” remain separate from the rest of the trade union movement, do not participate in national-level activities to press for trade union and workers rights’, and can be easily manipulated by managers. In Russia, an association of company unions has been established, supported by larger companies and the political powers.

In Belarus, attacks on trade union rights continue unabated. President Lukashenko rules by decree, and the country stands out as the worst violator in the region. Trade union activities are subject to surveillance by the security services.

Requirements for trade union registration are complicated and cumbersome, and subject to the whims of managers and the authorities. Organisations that are not registered are banned and liquidated. The president's office has instructed Ministers and the directors of other government bodies to interfere into union branch elections. Restrictions on the right to strike include the broad discretion of the president to postpone any strike for three months.

In most countries, tripartism amounts at best to consultation machinery, and rarely exists at branch and sectoral level. Genuine negotiating structures between independent social partners have not developed. However, the fact that the European model of social dialogue forms a part of European Union's accession requirements, has meant that Hungary, for example, has been taken to task by the EU for dismantling its tripartite structures.

As usual there has been little change in Western Europe. In the United Kingdom, while legal rights for recognition for collective bargaining were restored in 1999, other longstanding problems remain in the law. Germany still prohibits large categories of civil servants from going on strike. The right to strike continues to be undermined in Belgium.

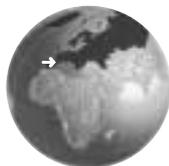
# Europe



# Europe

## Andorra

POPULATION : 66,000 / CAPITAL : Andorra / ILO CORE CONVENTIONS RATIFIED : - - -



**Despite the signing of the European Social Charter in November, workers' rights, particularly trade union rights, are non-existent.**

### Obsolete legislation

The Constitution formally protects the right of association but no legislation has been adopted to apply the relevant international conventions on this, and obsolete, undemocratic laws are still in force in this small country wedged between France and Spain.

The Constitution makes no explicit reference to the right to strike, nor is there any legislation to penalise acts of anti-union discrimination. In the private sector, the employer can dismiss a worker without compensation, with the result that the worker loses all their social security benefits.

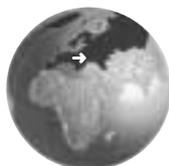
The labour inspectorate does not accept complaints from workers unless they sign them. The name of the complainant is immediately known to the employer who can dismiss them without hesitation as there is no law to protect workers from such reprisals.

### Illegal unions

The only unions that exist are illegal. Only the police union, which is more like an association than a trade union, has been registered since 1983, when many unions sought recognition. Employers' organisations, on the other hand, were duly registered and can therefore unilaterally decide on their employees working conditions.

## Belarus

POPULATION : 9,400,000 / CAPITAL : Minsk / ILO CORE CONVENTIONS RATIFIED : 9,400,000



**President Lukashenko's dictatorial regime has tried by every possible means to take control of and even eliminate the trade unions. The two trade union confederations, the FTUB and the CDTUB, have become the primary targets of this repression.**

### The legal framework

In the space of a few months, the arsenal of legal measures aimed at repressing the trade unions grew considerably:

- Presidential Decree no. 2 of January 1999 regulating the activities of political parties, trade unions and other public organisations obliged all trade unions to register (or re-register). It also set minimum membership levels.
- Presidential Decree no. 29 on "Additional measures to promote labour relations and strengthen working discipline" favours individual contracts to the detriment of collective agreements.
- The Labour Code of 1 January 2000 makes it extremely difficult to exercise the right to strike.
- The trade union act of 14 January 2001 was expected to include a provision banning interference in trade union affairs. Although included in the text adopted by parliament, this measure was vetoed by the President.

### Compulsory registration

The authorities claim this measure is necessary in order to "improve the activity of trade unions and control them more effectively". If a trade union is not registered, union activities are banned and the organisation has to be dissolved. The long and complicated procedures include an obligation on the trade unions to provide the official address of their headquarters. This is often their workplace or the premises of the enterprise. In practice, a letter from the management confirming the address is required. This means that the trade unions are completely dependent on the good will of management. For the new independent trade unions, the task is extremely complicated, if not impossible. In Slonin, at a down factory, for example, a local branch of the Congress of Democratic Trade Unions of Belarus (CDTUB) was created on 20 July. On 25 August, the trade unionists asked their employer to give them a legal address so that they could register the branch. On 6 September, the branch leader was called by the company director who refused to give him the address. He accused the trade unionists of sabotaging work in the factory and threatened reprisals.

<b>Growing harassment of independent trade unionists and their members</b>	The CDTUB has recorded many cases of discrimination against its members. In Brest, the trolleybus company refused to negotiate with the CDTUB -affiliated union, claiming that there was already an official trade union in the enterprise. In at least two factories, in Chimvolokno (Grodno) and in Autohidrousilitel (Borisov) the employer refused to transfer union dues to the accounts of the CDTUB -affiliated unions. Several CDTUB trade unionists have been harassed by their employers, threatened or dismissed.
<b>Minimum membership</b>	Decree no.2 states that the creation and functioning of trade unions requires a minimum number of members (500 at the national level representing a majority of administrative or territorial entities, 10% of members at the local level). This requirement makes it virtually impossible to create new trade unions and further weakens the situation of the independent unions. The Federation of Trade Unions of Belarus (FTUB) is convinced that the imposition of registration procedures is part of a strategy to eliminate it.
<b>Interference</b>	On February 11, the presidential administration sent detailed instructions to the government. At the national level, the order was as follows: "Ministers and the chairpersons of government commissions will personally submit to the presidential administration proposals as to the candidates they would recommend and will help get them elected to head sectoral unions at republican congresses". Throughout the year, attempts at interference in the functioning of the trade unions multiplied.
<b>Minister rejected</b>	In the run-up to the 12 July Congress of the Agro-industry Workers' Union (AWU), affiliated to the FTUB, branch unions were "invited" to choose pro-government candidates as delegates. The outgoing president, Alexander Yaroshuk found himself standing for re-election against a surprise challenger: the Minister of Agriculture, Yury Moroz. On the day of the congress, at six in the morning, a delegate was called to a government agency by three civil servants who advised him to think about his children when voting. Despite the government's manoeuvres, Alexander Yaroshuk was re-elected.
<b>"House" unions</b>	Similar attempts failed at the congresses of many FTUB branch unions. But in several enterprises, pressure on branch unions, particularly during preparations for congresses, led to disaffiliation and the creation of "house" unions. This was the case at "Integral", which employs 15,000 workers. In September, the management "convinced" the delegates to vote for disaffiliation from the radio and electronics industry union. The president of this industry federation was not allowed to enter the enterprise to attend the meeting. Trade union leaders opposed to the manoeuvre were kept away from important meetings and there were threats of dismissals.
<b>Severe restrictions on the right to strike</b>	The labour code heavily curtails this right. Firstly, it imposes very complicated conciliation procedures of at least two months. Second, the strike must be held in the three months following the failure of the conciliation procedures. Third, the President may suspend a strike for a period of up to three months or even cancel one, in the interests of national security, public order, public health, or when the rights and freedoms of others are threatened. Moreover, the duration of the strike must be specified and a minimum service must be ensured. This legislation has led to the cancellation of several strikes.
<b>Demonstrations repressed</b>	During the year, there were several protest actions nonetheless. They were all repressed by the police. On 25 March in Minsk, for example, several hundred demonstrators were arrested during a march against the regime. Some 30 journalists covering the event and several trade union leaders were among them. Legal proceedings were then instituted against several of the arrested demonstrators. Some trade unionists were arrested even before the demonstration started and were beaten by police while in detention.
<b>Lukashenko toughens his stand</b>	In May, a complaint was lodged with the ILO by several trade union organisations. A trade union campaign was carried out to alert international public opinion and put pressure on the Belarus government. On 27 July, President Alexander Lukashenko threatened the trade unions with reprisals if they continued to "create problems for him on the international stage". On several occasions, warnings were given to trade unions considered too "political" and not sufficiently "constructive". Twice, on 27 July and 27 September, the bank accounts of the FTUB were frozen by the authorities. FTUB leaders were threatened with prosecution. Investigations were carried out, but with no result. The accounts were then re-opened. The trade unions believe the government's intention was to hinder their preparations for the FTUB congress in October.

# Belgium

POPULATION : 10,200,000 / CAPITAL : Brussels / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



## Employers have repeatedly attacked the right to strike in recent years and have dismissed trade union delegates

### Right to strike undermined

For several years employers have tried to restrict the exercise of the right to strike by treating any such action (for example strike pickets) as "assault" or by getting the courts to ban strikes under threat of fines. At the end of December 1999 and the beginning of 2000 this tactic was used by the national railway company, Société nationale des chemins de fer belges (SNCB) to prevent staff from stopping work and paralysing the trains on the eve of the wedding of the heir to the throne. Almost all the country's jurisdictions (26 in total) ruled in the management's favour. The national trade union centre FGTB/ABVV denounced this increasing interference by judges in industrial disputes. Several of the country's newspapers echoed its views, stating that "it is the first time since the right to strike has existed in Belgium that the courts have quite simply banned workers from going on strike".

### Trade union delegates threatened

The Belgian trade unions have also protested at the ease with which employers are able to dismiss trade union delegates. While the law provides specific protection for union delegates, employers have no qualms about finding different excuses to get rid of them. In November 2000, at the Amigo Hotel in Brussels, the manager dismissed eight employees including five trade union delegates claiming that the people concerned had the "wrong profile" for the future of the enterprise. The Joint Committee condemned the manager's decision as an infringement of the protection enjoyed by trade union representatives. The trade unions believe the situation persists because the penalties for discrimination are not dissuasive enough. Employers prefer to pay compensation to dismissed delegates than to abide by the decision of the courts. The Employment and Labour Minister has asked that the protection of trade union delegates through the establishment of a code of conduct be added to the agenda of the joint committees. On 4 April 2000, a collective agreement including just such a provision was adopted by the joint committee for the inland water transport sector.

# Bosnia

POPULATION : 3,600,000 / CAPITAL : Sarajevo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



## Legislative restrictions and salary arrears continue to embitter the already difficult lives of Bosnian workers

### Legislative restrictions

Although Bosnia has ratified Convention 87 on the freedom of association and protection of the right to organise, as well as Convention 98 on the right to organise and collective bargaining, there are still limitations on the exercise of these rights. In 1999, the workers' association of the Republic of Bosnia-Herzegovina lodged a complaint with the ILO after the government refused to register it. The union explained that it had been created in accordance with the law on associations, but that it had not been able to make one of the changes required by the Justice Ministry in due time, and that it had refused to change its name. The union had been informed by the authorities that if it did not change its name, its application would be rejected, which is what happened one month later. In its report, the ILO noted that while the union had indeed exceeded the legal deadline for the presentation of its application by 20 days, the time limit imposed between the holding of a constituent assembly and the submission of an application for registration was extremely short, as was the legal time limit for correcting a name considered inappropriate. The ILO took the view that there was no other fundamental reason to justify the rejection of the application for registration, and therefore asked the government to enter into discussions with the trade union to finalise the registration procedures as quickly as possible. The ILO also asked the government to bring its legislation (on the registration of trade unions) fully into line with the provisions of Convention 87.

The particularly difficult political and economic situation has resulted in many workers choosing not to exercise their right to strike for fear of losing their job or being made the target of harassment on the pretext that they do not belong

to the ethnic majority of the region where they live. More recently, the Office of the High Representative of the international community (OHR) which has supreme authority in Sarajevo asked parliament to block new labour legislation for the Bosnia Herzegovina Federation.

#### Salary arrears: a recurrent problem

A combination of the pitiful state of Bosnia's economic system and corrupt practices are depriving more and more workers of the payment of their salaries. The 150 workers at a department store in Zivimce, a town near Tuzla, fell victim to this trend having discovered that the bulk of the assets of the company that employs them had disappeared during its privatisation a few months earlier. Despite efforts by the shopworkers' union to oblige the employers to pay the salary arrears owed to them, most of the workers had still not seen the colour of their money by the end of 2000. The workers closed the shop in protest and prevented management from entering the building. In the meantime, the government set up a special commission (composed notably of trade union representatives) to try to shed light on the affair.

Last December, in a State-run bakery in the industrial town of Zenica (central Bosnia) the same sense of desperation led 20 workers to go on hunger strike in an attempt to recover the money their employer had owed them for more than 10 months.

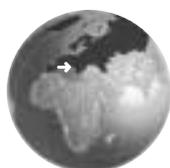
#### Privatisation at the workers' expense

The independent post and telecommunications union (ITU-PTT) is concerned about the government's privatisation of the post and telecommunications service. According to the ITU-PTT, this measure, hastily introduced without any prior consultation with the workers' representatives, infringes the conditions laid down in their collective employment contracts. The postal service managers had decided to replace these with individual employment contracts in anticipation of the changes to come. Such a step is both unacceptable and dangerous for the future of the sector's workers believes the ITU-PTT.

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## Bulgaria

POPULATION : 8,700,000 / CAPITAL : Sofia / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**Employer interference in trade union affairs, threats of dismissals, restrictions on the right to strike, inadequate protection of workers in cases of anti-union discrimination. Trade unions are free to exercise their rights but fall prey to numerous attacks aimed at undermining their influence.**

Within a continually deteriorating socio-economic context, unemployment levels reached 18% in the year 2000 (some estimate 25%, especially among young people), privatisation has moved relentlessly forward and large-sized companies are still laying off workers as part of their "downsizing" programmes. Employers dismiss trade union activists or simple trade union members as a quick way to instil fear and insecurity among the workers, thereby prompting them to shun trade union membership.

#### Illegal dismissals

There were several reports of illegal dismissals of trade union leaders, which led to the disappearance of trade unions or sharp decreases in membership. Employers find this approach very convenient since sanctions for such acts are trivial and compensation claims take a very long time to process in court. Illegal dismissals of this nature have taken place in Air company Balkan AD, Machinostroitel AD, Arma AD and Knauph-Gipsphazer AD. In several cases, trade unions also accused employers of interfering in trade union affairs, acting to undermine their influence by denying them the material means of existence, for instance. In the case of Hraninvest – Hranmashproekt situated in Stara Zagora, the director prohibited the Podkrepa trade union from carrying out any activities, threatening trade union members with dismissals and even physical abuse.

#### Temporary contracts

The increasing use of temporary contracts is another issue of concern for trade unions. More and more workers in both the private and public sectors have been forced to exchange their fixed-term contracts for temporary contracts (one-month or three-month duration). This makes it very easy for employers to refuse to renew the contracts of workers who try to assert their rights.

#### Legislative loopholes

Trade unions complain about the fact that Bulgaria's legal framework for collective bargaining is inadequate. They argue that many employers do not negotiate in good faith and fail to comply with the agreements reached. This is namely the case for small-sized companies, which have become increasingly numerous as large-sized industrial companies decline. The government that carried out a census of trade union members in 2000 to determine representativeness has absolutely no intention to do the same with employers. Suddenly, some employers refuse to apply agreements

signed at the national level on the grounds that they are not members of an employers organisation.

The labour code recognises the right to strike when all other means to settle the dispute have failed. However, "political strikes" are prohibited. Moreover, essential services are defined too broadly and include railway services, among other sectors. The CITUB has formulated a proposal to change the law by reducing the list of sectors defined as essential services.

A 1998 amendment to the 1990 law made district court rulings on the legality of strikes final, thereby taking away a union's right to appeal. After an unsuccessful attempt to challenge these amendments in the Constitutional Court, the unions took their claim to the ILO.

Doctors and dentists have continued to speak out against their professional organisations, which they feel the government had imposed on them in 1998. According to trade unions, such organisations do not really represent the interests of workers but rather serve as agencies to collect membership fees for the government.

**Check-off of union dues** Trade unions complain about the reluctance of authorities to apply check-offs of union dues despite the fact that the law orders them to do so. There have been several cases of wages being withheld without the sums being transferred to trade union bank accounts.

#### Anti-union discrimination

The labour code provides for payment of six-months' salary as compensation in cases of anti-union discrimination. However, the only way to obtain this compensation is for workers to go to court and prove that there has been such discrimination. On several occasions where the courts found employers guilty of anti-union discrimination, the employers appealed the court ruling. This tactic allows them to postpone payment of compensation, sometimes indefinitely.

In Sofia, Mariana Gradska was dismissed despite the immunity granted to her as trade union president. She has been waiting to be reintegrated in the Progress EAD company for a year now. In the meantime, her successor, Petar Spirov has also been dismissed.

#### Swiss investor implicated

Located in Voivondino, the management of the Swiss-owned Houald Industrial System was accused of serious trade union rights violations when it fired all of the workers belonging to its trade union back in June. The management then prohibited the trade union from carrying out any activities without notifying the company first.

#### Street protests

On 22 March, the CITUB held a march to demand salary increases, better protection of trade union rights, more efficient efforts to combat unemployment, and an end to the practice of using temporary contracts. The trade unions also adamantly opposed the bill to "liberalise" labour legislation. On 1 November, 5,000 demonstrators gathered in the streets of Sofia to protest against the new bill, which workers fear will only erode their rights to an even greater extent.

## Croatia

POPULATION : 4,700,000 / CAPITAL : Zagreb / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



**Union activists sacked, a trade union representative harassed, collective agreements ignored... This year, Croatia has once again made life difficult for those trying to defend workers' rights.**

#### Wage arrears: a recurrent problem

As with the previous year, non-payment of wages continues to be one of the major problems faced by workers. Around 100,000 (roughly 10% of the country's labour force) still do not receive their wages on time. During the summer, the government had entered into an agreement with the trade unions whereby all state-run companies would pay their employees within the legal time periods. According to several trade unions, however, the government has failed to keep its promises and wage arrears have caused a large number of civil servants to lose their medical coverage. Nearly all of the strikes that took place in Croatia this year (both in the public and private sectors) were sparked by the issue of unpaid wages. As a case in point, on 8 December, the trade unions in the public sector called a national strike to demand pay increases.

#### Collective agreements ignored

In November 2000 the government decided to impose salary cuts of up to 32% for postal employees and up to 35% for telecommunications employees. This measure is a flagrant violation of the collective agreements signed on 23 September 1998 by the government and the Croatian Trade Union of Post and Telecommunications (HSPT). On a wider level, the trade union criticises the violations of the rights of workers and their representatives as regards wage negotiations. The HSPT has threatened to launch a massive strike campaign if the government does not change its decision.

The same scenario was played out at the MODEA company which had ordered a nine-hour workday instead of an eight-hour one, thereby violating its current collective agreement reached with its employees. Moreover, no agreement has been made regarding overtime pay for the extra hours that the employees are supposed to work.

#### Union activists fired

Throughout the year, pursuing trade union activities has cost several trade union representatives or members their jobs. As a case in point, once the management of ITAS had identified Vladimir Harjac and Dragutin Varga as two particularly zealous union activists within the company, it suspended them until it could receive approval for extraordinary cancellation of employment contracts. The origin of this hostility: a wildcat strike launched back in July 2000 by 140 workers. The case was brought to court but no ruling has been rendered thus far.

At the Magma company, despite promises made by the Minister of the Economy Goranko Fizulic (who, with his wife, is one of the owners of the company), the rights of the newly created trade union have not been respected. The president of the trade union, eight members of the executive board and three other union activists were sacked and the case has been brought to court.

In a similar case, the management of the Pekara bakery in Bjelovar ordered union representative Bozo Lackovic, a member of a UATUC affiliate, to carry out duties that did not correspond to the job description indicated in his contract. Having refused to obey the management's order, he was subsequently fired. This labour dispute has been pending in the court for over a year and a half. As a reminder, the same Zeljko Urh had already demonstrated a certain degree of hostility towards the trade union in the past. Although this trade union tried to negotiate a collective agreement with the company management, in accordance with the law dated 27 April 1999, nothing was achieved by year-end.

In another case, the management of the Digitron company dismissed a trade union representative belonging to the Metalworkers' Trade Union of Croatia (a UATUC affiliate) but the decision was eventually cancelled by a court ruling.

#### Union activists manhandled

During the year 2000, several workers and union activists were subjected to physical abuse. As a case in point, on 24 November, during a meeting with the management of the Tigar-Cikatic company, the owner of the company grabbed the young trade union representative Marino Stojcic by the hair and threw him to the ground, resulting in a head injury. He had demanded overtime and night-time pay for the hours that the employees had worked since June 1999. Curiously enough, none of the 30 security guards present at the meeting (members of an outside security and funds transport firm who had appointed Marino Stojcic for this purpose) dared to lift a finger to help him. The trade union had been formed only 15 days earlier.

## Cyprus

POPULATION : 800,000 / CAPITAL : Nicosia / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### The authorities in the Turkish part of the island harshly repressed a demonstration in which the trade unions took part. One person died.

#### Demonstration repressed

On 24 July, as they marched peacefully outside the parliament of the Turkish Republic of Northern Cyprus to protest at the loss of their savings following the collapse of several banks, demonstrators (notably trade unionists) were attacked by the police. They threw tear gas and fired rubber bullets at the crowd, injuring 19. One of the injured later died of their wounds in hospital. The police also arrested dozens of demonstrators and held them in bad conditions.

#### Restrictions on the right to strike

The ILO has on several occasions criticised the discretionary powers of the Council of Ministers to ban strikes in services it deems essential. Employers are allowed to hire workers to replace striking employees.

#### Other restrictions

In the Turkish part of the island, the unions complain of harassment. Enterprises set up organisations representing their own interests and put pressure on the workers to join these organisations.

# Czech Republic

POPULATION : 10,300,000 / CAPITAL : Prague / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,182



**The labour code reform has opened the way for improvements for workers. However, there are still obstacles hindering the right to strike and the right to bargain collectively, and anti-union practices still exist.**

## Legislative progress

In June 2000, in an effort to conform with European legislation, the Czech Parliament enacted major amendments to the labour code. The most important changes, due to go into effect on 1 January 2001, relate to the workers' right to be informed and consulted as well as their right to be represented. These amendments authorise the creation of workers' councils enabling employees to exercise their rights to be informed and consulted even within companies and institutions that do not have a trade union. These provisions come with guarantees against any forms of harassment against the members of these works councils.

Further progress in the new legislation relates to working time, health and safety, equal treatment of men and women, parental leave and the fight against all forms of discrimination.

Compared to 1999, the problem of non-payment of wages has improved somewhat. The new legislation on insolvency, enacted under union pressure, allows workers of insolvent employers to turn to the Employment Office. Under certain conditions, the Employment Office will pay their wages but only for a three-month period.

## Restrictions on collective bargaining

According to the law, trade unions are the only worker representatives authorised to bargain collectively. The new works councils do not have this right.

Trade unions have criticised the bill on civil servants, calling it discriminatory. Indeed, this bill bars civil servants from collective bargaining under the pretext that some of the provisions of collective agreements could have an impact on the state budget. The only possibility involves agreements signed between trade unions and civil servant representatives on the one hand, and the government or the instances for whom the civil servants work on the other. However, from a legal standpoint, application of these agreements is not guaranteed. Moreover, working conditions, namely with regards to working times, are excluded from the scope of collective bargaining or even consultation. This is an issue that the Czech-Moravian trade union confederation (CMKOS) has brought to the attention of the ILO.

## Restrictions on the right to strike

Strikes are prohibited in certain essential service sectors such as healthcare, nuclear energy, oil and natural gas pipelines, air traffic, fire brigade, and telecommunications.

The law on collective bargaining, which also regulates strikes, requires trade unions to provide employers with a list of the names of strikers at least one day prior to the strike. The CMKOS has spoken out against this provision.

The independent trade union for the Czech broadcasting company called a strike in December. The trade unions notified the government that the use of police forces against strikers would go against the fundamental principles of trade union rights and collective bargaining. The trade unions also asked the authorities to immediately cancel the sanctions applied to strikers. Strikers received support from the CMKOS, a large number of celebrities and a sizeable portion of the population. Under this pressure, the management of the Czech broadcasting company finally accepted to lift sanctions in January.

## Discrimination against trade unionists

Trade unions have reported cases of harassment, threats and dismissals perpetrated against trade unionists. To give a few examples, employers have prevented trade unions from gaining access to their premises, offered money to dissolve company trade unions, threatened employees wishing to create a trade union, prevented any communication between trade union members, sacked trade union leaders without any negotiation with trade unions (despite labour legislation), refused to withhold union dues from salaries (despite previous agreements to do so). Although some of these cases have been brought before the courts, trade unions complain that the court procedure is too slow.

# Estonia

POPULATION : 1,400,000 / CAPITAL : Tallinn / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105



**A new law has put an end to severe restrictions on the formation of trade unions and union organising.**

## New law on trade union rights...

The ILO noted with satisfaction that various measures in the old national legislation (the 1996 law on non-profit-making associations and the 1989 trade union law) that contravened Convention 87 have been repealed. This progress was confirmed with the adoption of a new trade union law adopted on 16 June 2000 and which entered into force on 23 July 2000. It put an end to the particularly strict requirements concerning the registration and functioning of trade unions. It also repeals the measures which imposed long and detailed procedures for the legal registration of trade unions and put an end to the government's powers of interference as regards the supervision of trade union statutes, leadership elections and the management of trade union organisations. Under the new law, the trade unions shall henceforward be considered independent, voluntarily established, workers' organisations.

## ...but the right to strike is still restricted

The ILO had previously criticised the fact that the government restricts the right to strike by invoking the need for certain sectors to maintain a minimum service. The ILO recalls that this should be restricted to operations absolutely necessary for meeting the basic needs of the population or minimum requirements for services, while maintaining an effective means of pressure in the event of a strike.

## Collective agreements virtually non-existent

Although workers do have the right to bargain collectively, in practice this is still in its infancy. According to the national centre (EAKL), there are few examples of collective agreements that have been negotiated between the workers and management of an enterprise. The EAKL has signed framework agreements however with producer associations, which offer workers certain guarantees, such as setting a minimum wage.

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# Georgia

POPULATION : 5,300,000 / CAPITAL : Tbilisi / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**The national trade union centre's second congress of the post-Soviet era highlighted the persistent pressure by the authorities to control the trade union movement.**

## Legal limitations

Although the right to strike and the freedom of association are recognised in law, the unions must give the authorities five days notice of a demonstration or rally. The law bans publicity for these events if their aim is to overthrow the constitutional order, threaten national sovereignty or the country's territorial integrity.

## A turbulent congress

Preparations for the November 2000 congress of the Georgian Trade Unions Amalgamation (GTUA) proved chaotic owing to the various maneuvers to intimidate the trade unionists. The GTUA has no doubt that the ruling party, the Citizens' Union, was responsible, since it wanted its own candidate to be elected as president of the national center. Ten days before the congress, two unidentified individuals physically attacked Eter Matureli, a GTUA official playing a key role in the congress' preparations. She had to be treated for two fractures in her hands and bruising to her head. On 24 November, the day the congress began, special anti-terrorist forces burst into the home of one of the vice-presidents, Londa Kikharulidze, at seven in the morning. Her son was taken away for questioning. Some delegates to the congress were intimidated or offered bribes by state officials.

## Confiscation of trade union assets

In spite of a 1998 ruling by the Constitutional Court, the Palace of Culture in Georgia's capital, Tbilisi, which had been confiscated from its owner, the GTUA, remained under the control of the Defense Ministry. The Court had ruled that a Council of Ministers decision to take the building away from the union was unconstitutional. In 1999, a district court had again deprived the GTUA of the building, which also hosted its affiliated industrial unions as well as other organisations, generating over half of the union's income. Other GTUA assets, including its bank accounts, had also been frozen by the district court. In spite of an appeal by the GTUA, the situation remained unchanged throughout 2000.

# Germany

POPULATION : 82,000,000 / CAPITAL : Berlin / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**For over 40 years, civil servants have been denied the right to strike, a ban that goes against ILO Convention no. 87**

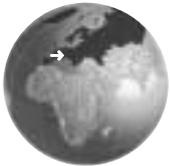
## Discrimination towards civil servants

It is the ILO's view that denying large categories of civil servants the right to strike goes against the provisions of ILO Convention no. 87 and hinders the action of trade unions. Nevertheless, for over 40 years, the government has refused to budge on this issue. The ILO has also criticised Germany for failure to apply the provisions of Convention no. 98, which require the government to ensure that teachers in the public sector have the right to bargain collectively. The German government has failed to comply despite a pilot project launched with trade union participation in 1999, aimed at extending negotiation rights. While awaiting the positive results of this action, the ILO recommends that all measures be taken to protect teachers, postal workers, railway workers and other civil servants who run the risk of sanctions if they make use of their rights by participating in a collective action (strike or other action).

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# Hungary

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



**Trade unions have accused the government of placing the burden of economic transition onto the shoulders of workers. Moreover, with the new legislation, limited consultation and social dialogue and frequent cases of intimidation of trade unionists at the workplace, the authorities have made no effort to hide their anti-union stance.**

Hungary's six confederations have reported that government is only paying lip service as regards bringing Hungarian labour legislation in line with EU legislation. In fact, the current government's policies are moving in exactly the opposite direction to the European social model. The trade unions have also criticised measures aimed at reducing real salaries, thereby placing the burden of economic transition onto the shoulders of workers.

## Legislative amendments restricting workers' rights

Amendments to welfare legislation went into effect on 17 August 1999. These amendments came about without any real consultation with the unions and undermine trade union and workers' rights. This is why the unions chose to file a complaint with the ILO.

The new legislation authorises works councils, under certain conditions, to enter into collective agreements with the management in companies that have no trade unions. This amounts to pulling the carpet out from under previously signed national or industry-wide agreements. Works councils do not have the organised power to back such agreements and have no right to call strikes. Moreover, a new proposed amendment to the labour code has been submitted to the Parliament which would further erode collective bargaining, this time under the pretext of "European harmonisation".

An amendment that has the most serious impact on trade union rights covers reinstatement of illegally dismissed workers. The general rule used to be that employees in such a situation could be reinstated to their original job if they so wished and as long as there was a court order to back them up. The only way to get around this rule was for the employer to offer the employee compensation amounting to twice the severance pay owed to that employee. With the new law, however, the court can decide not to reinstate the employee to his/her original job if this goes against the employer's wishes. The provision requiring compensation in cases of non-reinstatement has been replaced with an alternative provision whereby the court can order the employer to give the employee severance pay amounting to two to 12 months' average salary.

The general rule used to require employers to give a reason for dismissals. Now, a new legal provision allows employers to waive this rule for employees who have reached the official retirement age or who qualify for early retirement or special pensions.

Trade unions also criticise the new provisions on flexible work schedules, which they say has a negative impact on family life.

The legislative reforms have also excluded worker representatives from control over social insurance funds.

The former national system of tripartite conciliation has been replaced by new institutions which seem to match European standards in name but actually do not do so in practice. Apparently, these institutions are more interested in spreading government propaganda than reaching a consensus or agreements. The only real power that the National Works Council had -namely, the power to set the minimum wage- was taken away from it by the government majority in the Parliament in Autumn 2000.

On 11 November, five thousand workers gathered at the national sports arena in Budapest in a demonstration called by six trade union federations to demand that the government and Parliament revoke the recent amendments made to the labour code. During this demonstration, union activists threatened to go on strike to defend their interests. They also accused the government of wanting to set up an "iron curtain" between Hungary and the European Union and condemned its refusal to speak with the unions.

#### Anti-union retaliation and refusal to withhold union dues from salaries.

While Hungarian legislation authorises collective bargaining within both companies and sectors, this is not true in practice. In fact, collective bargaining is frowned upon in this burgeoning private sector.

The reality is much less favourable to workers than what the legislation implies, especially in small-sized companies where the workers become targets of retaliatory measures if they try to join or form a union. The trade unions claim that the government's anti-union stance has had negative effects on labour relations within companies. As a case in point, some employers do not wish to withhold union dues from salaries even when the workers ask them to do so. In some of the large-sized companies -Hungarian Railways, for instance- the management's refusal to withhold union dues falls perfectly in line with the government's wishes.

#### The Supreme Court weakens the right to strike

With the exception of certain public services (armed forces, police, civil service, justice), the right to strike is granted by law. Other sectors such as transport, energy or telecommunications are required to provide minimum service the extent of which must be defined within the framework of a conciliation procedure. If conciliation does not bring about an agreement on this issue, the matter may be brought before the industrial court. Strikes cannot legally take place until an agreement has been reached on this issue.

At the end of the year 2000, the Supreme Court upheld the right of employers to hire strikebreakers to replace strikers for emergency jobs only. The trade unions feel that the Supreme Court ruling goes against the law establishing the right to strike.

In practice, workers in many sectors and most job sites do not go on strike for fear of losing their jobs.

In recent years, most of the strikes have been concentrated in certain sectors such as the railways, the steel industry, the power industry, and public health.

#### Railways refuse to negotiate

The management of Hungarian Railways chose to ignore the proposal made by the trade unions to discuss their demands in the area of collective bargaining and salaries. This refusal prompted the trade unions to go on strike on 23 December 1999. Obtaining no response, they called another strike, this time for 60 hours from 10 to 12 January 2000. On 14 February, after 329 hours of striking, the unions finally reached an agreement with the management of Hungarian Railways. On 22 February, the management signed eight agreements with the trade unions of three representative organisations. These agreements covered improvements on real salaries and a promise of peaceful labour relations for the next three years. The management also decided to cancel the system of deducting union dues at source.

## Latvia

POPULATION : 2,400,000 / CAPITAL : Riga / ILO CORE CONVENTIONS RATIFIED : 87,98,100,105,111



### The right to strike is restricted

Several new labour laws are in the process of adoption. The 1998 law on strikes contains several measures that do not respect the ILO conventions:

- a quorum must be reached when voting on whether to strike
- solidarity strikes are prohibited
- strikers cannot make political demands, even in criticising the government's socio-economic policies.

The legislation on collective bargaining does not set any time limit on the negotiations. The Latvia Confederation of Free Trade Unions (LBAS) has criticised this loophole, which allows employers to deliberately delay reaching agreement, as has been the case for two years now at the Daugava Radisson SAS.

In the autumn, a parliamentary commission rejected the LBAS proposal concerning the right of trade unions to ask the constitutional court to amend laws and regulations that did not respect the constitutional or international standards. The LBAS is also opposed to the ban on organising in the police force.

## Lithuania

POPULATION : 3,600,000 / CAPITAL : Vilnius / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



### Anti-union hospital director

#### The law makes exercising the right to strike virtually impossible

Since its registration in 1997, the workers' union at the Gelezinkelininku has faced constant harassment by the hospital's director who opposes the exercise of trade union rights, notably by refusing to recognise collective bargaining. At the end of 1999, the director sacked 11 members of the union, including the president, and applied to the administrative court of Vilnius for the union to be abolished. The court rejected his application in January 2000. In the same month, the union's members were called in one by one by the management. They were subjected to a barrage of questions about the circumstances of their trade union membership, the collection of affiliation fees, the organisation and content of their meetings, etc.

### Violations of the right to strike

On 15 November, Arunas Visockas, a trade union leader from Vilnius, was savagely attacked. At the end of 2000, the inquiry into the incident was still under way. Arunas Visockas had led a protest movement of Vilnius public transport workers. The workers had been demanding the payment of salary arrears, a pay rise and job security. Their last action dated back to 18 May when the bus and trolleybus drivers stopped work. On the eve of the stoppage a court decided to postpone the strike for a month. Several weeks later, the Vilnius district court declared the strike illegal. In September however, the Court of Appeal overruled this decision.

The decision of 17 May to postpone the strike, and other similar decisions in preceding months, were based on a 1992 law on dispute settlements which makes the organisation of legal strikes virtually impossible. Article 12 of this law stipulates that strikes in public transport companies must guarantee a minimum service "to meet society's vital needs". In 1999, the authorities invoked this article to demand that 70% of transport services be ensured. Furthermore, article 13 of this law authorises the authorities to postpone strikes for one month "for important reasons".

## Malta

POPULATION : 400,000 / CAPITAL : Valetta / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### Strikers "pardoned"

#### The right to strike remains heavily restricted for Maltese workers, under pressure from the government's austerity measures.

At the end of March, seven months after the incidents that arose during a strike at Malta international airport, the president of the Republic put an end to the prosecution of several members the General Workers' Union (GWU) by granting them a pardon. The GWU however let it be known that it was asking quite simply for the charges to be withdrawn, not a pardon, because the trade unionists concerned were innocent of the accusations against them. The dispute with the airport management (which was what caused the strike and which concerned the recognition of the GWU as the most representative union) was resolved immediately after this. The airport management, the GWU and the Haddiema Maqhdudin (UHM) union signed an agreement which, essentially, confirmed what the GWU had been fighting for: that the workers would be allowed to opt for the union of their choice to represent them.

It was on 20 August 1999 that a strike at the airport was violently dispersed by the police and the army. Afterwards, 45 airport workers and trade unionists (including all the GWU leaders) were prosecuted, mainly for acts of vandalism and assaulting police officers. Further to a complaint lodged with the ILO by the ICFTU and the International Federation of Transport Workers (ITF), the ILO recommended that the government amend its legislation to remove the

ban on strikes in disputes concerning trade union recognition, which is contrary to the principles of the freedom of association.

#### Immunity under threat

The protest action foreseen by the GWU against the government's severe austerity measures led to a hardening of its position again. On its instructions, nine semi-public enterprises instituted legal proceedings to make the unions responsible for any damage that they might incur during the protest. Such a measure would be contrary to the law that provides for immunity in the event of a strike.

#### Repeated criticism by the ILO

For over 20 years, the ILO has been asking the government to amend its industrial relations legislation, which gives the Labour Minister discretionary powers to impose compulsory arbitration to put an end to the strike.

## Moldova

POPULATION : 4,300,000 / CAPITAL : Kishinev / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**The right to strike is still heavily restricted. Several trade union leaders and organisations have faced discrimination.**

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#### Limitations on the right to strike

The country's labour legislation (which dates back to the Soviet era) imposes a number of restrictions, including on the right to strike. Several categories of workers, such as government personnel or employees in essential services (which is very broadly defined to cover sectors such as health care and energy) are excluded. In other sectors, the law requires a vote in favour of strike action from two thirds of workers before it can be declared legal. According to ILO standards, only the majority of workers present need to vote in favour for a strike to be legal.

#### Discrimination against trade unionists

The Confederation of Trade Unions of the Republic of Moldova (CSRM), Petru Covali, president of the trade union organisation at the "Automobilist" joint-stock company in Balti, and Dumitru Tiaca, a member of the trade union committee, were mistreated after standing up to the management when it violated labour legislation and the law on joint-stock companies. Similarly, in blatant violation of articles 31 and 33 of the trade union law, the presidents of the trade union committees at the joint-stock companies "Marculesti Combi" in Floresti, "Fermenttutun" in Drochia, "Aviola Rosa SL Floreni" in Anenii-Noi and Polenia in Riscani were removed from their posts by the administration without the agreement of their sectoral union.

#### Employers hold on to union dues

About 50% of unions in the agricultural and food industries cannot fulfil their role properly owing to a lack of funds (particularly for the defence of union members' rights and interests). The reason is that employers hold on to the union dues paid by workers. This type of violation is common practice in all the departments of the Republic. In half of all enterprises, employers do not respect the law on transferring the union dues paid by members to the trade union organisation's bank account. In the Balti department, employers deducted the dues paid by union members for six to eight months then offered to pay the unions "in agricultural produce". The total amount withheld by employers in the agriculture and food sectors amounts to over 600,000 lei, about US\$ 47,000.

#### Unions banned

In the Balti and Lapusna departments and the autonomous Gagauzia region, some owners of private enterprises in the same sector have banned all union activity in their enterprises. In the Chisinau, Lapusna, Tighina departments and Gagauzia, employers avoid reaching any collective agreements and refuse to recognise the trade unions as workers' representatives.

# Norway

POPULATION : 4,400,000 / CAPITALE : Oslo / CONVENTIONS DE L'OIT RATIFIEES : 29,87,98,100,105,111,138,182



**Pending new legislation, compulsory arbitration is still the norm in the so-called "essential" sectors.**

The country's labour legislation allows the government to impose compulsory arbitration and to ban strikes in the excessive number of services it has classified as essential. This is notably the case for the oil industry. In June, the government imposed arbitration on social workers on strike for over a month.

The ILO has repeatedly criticised the legal provision that allows the government to intervene in sectors which cannot, says the organisation, be considered as essential services in the strict sense of the term. Reform of the legislation on collective bargaining and industrial disputes is underway.

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# Poland

POPULATION : 38,600,000 / CAPITAL : Warsaw / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



**Restrictions on the freedom of association, the right to strike and collective bargaining remain. Some employers have been guilty of anti-union discrimination in their enterprises.**

## Restrictions on trade union rights

The current law does not give trade unions the freedom to exercise their right to organise all workers. Workers on individual contracts, for example, cannot form or join a trade union. In state-owned enterprises such as in the health sector, water and forestry, many workers have had their normal employment contract terminated and replaced by an individual contract which takes away the social rights they used to enjoy as permanent employees.

In the public sector, employees have the right to bargain collectively or to conclude collective agreements. However, at the national and local administration level, employees belonging to a specific category, who have obtained their job by means of appointment or election, are denied this right.

Trade unions do have the right to go on strike, except in "essential services", in military services and in local and national administration, but the procedure for settling disputes as set down by the 1991 law on the settlement of collective disputes is too lengthy to be applied in practice. Many strikes are therefore carried out illegally, which means that strikers risk losing their social benefits and union organisations risk having to pay for any damage caused.

There have been more and more cases of employers discriminating against workers who try to organise or join a union, particularly in the private sector. The 1999 trade union law should give all civilian workers the right to form and join a trade union, but legal sanctions against violations of this right are ineffective, say the union, mainly owing to the weak financial penalties.

## Trade union discrimination at Flair Poland

As in the past, Flair Poland adopted a policy of undermining the influence of the trade unions. Back in 1997, the management of this furniture company abandoned the system of deducting employees social security contributions at source. In 1998, the management tried to sack the union president, but failed owing to union pressure. More recently, the management adopted a policy of further weakening workers' rights. Employees are on fixed-term contracts and social benefits are usually only given to non-unionised workers. The management is also planning to introduce a piece-rate system shortly.

As the parent company, Schieder Europa Holding GmbH, has always had a good relationship with the Polish trade unions, the union decided to inform the group's general manager of the problems at Flair Poland and asked him to intervene to find a solution.

## Nurses' strike

The police resorted to violence in mid-December to clear one of Warsaw's main roads, blocked by striking nurses. Two of the demonstrators were injured. With strikes in the hospitals, demonstrations in the streets of Warsaw, hunger strikes, the occupation of the Labour Ministry, and the obstruction of the Berlin-Moscow railway line, as well as roads on the Polish-Czech border, the nurses and midwives had made themselves heard loud and clear by the end of the year.

Their battle began in November when they asked the authorities for a pay rise and better working conditions in the health sector. The average wage in Poland is about 2,000 zlotys and the nurses were asking, with strong public backing, for an increase of 500 zlotys a month, given that the average wage in their profession is about 800 zlotys. The government however only offered a 12% rise for 2001, a proposal rejected by the nurses. Their struggle continued in December and no solution had been reached by the end of the year.

## Romania

POPULATION : 22,500,000 / CAPITAL : Bucharest / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### Legislative restrictions

**Despite the strengthening of the democratic institutions and progress in the respect of human and trade union rights, government intervention in industrial relations persists. The trade unions say that although the law guarantees trade union rights, in reality there is little freedom of association or collective bargaining.**

With the exception of public sector employees, the freedom of association is guaranteed for all workers. During the negotiations to elaborate a new bill to amend the 1991 legislation, the unions called for the removal of clauses that obstructed the freedom of association and proposed:

- To give workers in all enterprises the right to form a trade union, thereby enabling employees in small and medium-sized enterprises to organise
- To give the trade unions full freedom to choose their leaders, without the requirement that the person be an employee of the enterprise or a Romanian citizen
- To enable workers who do not have an individual agreement and who work in accordance with a "provision of services agreement", workers undergoing training, self-employed workers and cooperative members to form or join a trade union
- To increase protection for trade union leaders.

The Romanian government introduced a new law on industrial disputes that made all strike action illegal, except during collective bargaining, in violation of its obligations as a member of the ILO.

### Violations of collective agreements

The majority of employers violate collective agreements, try to get rid of trade union delegates and ignore trade union demands.

During the year, the government was responsible for widespread violations of trade union rights and the non-respect of collective agreements. It adopted and imposed new legislation which had the effect of suspending collective agreements in 130 publicly owned companies. The government also planned future mass dismissals in the public services, the defence sector and national security. The national trade union centre BSN warned that the country would be facing an uncontrollable social crisis if these dismissals went ahead with no compensation for the unemployed and no initiatives to stimulate the private sector.

In February, thousands of workers in the defence industry, dismissed because of falling orders, protested in the streets of Bucharest.

### Trade unionist assassinated

On 7 September, Virgil Sahleanu, a trade union leader from the north-eastern town of Iasi was stabbed to death by two unknown attackers outside his apartment. His death was attributed to influential people opposed to trade union activities. The rumour quickly spread that his murder was related to a lengthy industrial dispute in which he was involved.

Sahleanu was the trade union leader at the Tepro steel pipe factory, which had had a turbulent history. In 1998, Tepro was sold to the Czech company Zelezarni Veseli AS, who promised to invest 4.9 million dollars in it by the end of August 2000. It also promised there would be no dismissals. The new management did not keep to its promises however. It dismissed half the workforce and made no new investment. The company began to make losses and beginning in March 1999 the workers went on strike several times.

The trade unions are in no doubt that this assassination was "socially" motivated. Some 1,500 workers marched through the streets of Iasi to condemn the murder. Trade union leader Pavel Todoran had no hesitation in asserting a "solid link" between the privatisation of Tepro and the killing of Sahleanu. He even suggested that it could be a "terrorist act" against the trade union movement, adding that there had been recent attempts to intimidate the trade unions through verbal and physical attacks. With the parliamentary and presidential elections approaching in

November, the murder quickly became the focus of political debate. After this assassination and that of a businessman shot dead in Bucarest on 31 October in a gangland-style killing, Prime Minister Mugur Isarescu publicly declared that he was "extremely concerned" about this violence and called on the police to solve the cases as quickly as possible.

### Physical attack on woman trade unionist

In another violent incident, Sabina Nicolescu, a trade union leader at the "Industri Lanii" wool company affiliated to the Cartel Alfa trade union confederation, was attacked near her home by an unidentified individual on her way to work at about five o'clock in the morning. She was punched hard in the face and lost several teeth. She had earlier been threatened by the owner of the company, Niculina Caraseg and there were rumours of embezzlement surrounding the privatisation of the enterprise, as the buyer was heavily in debt. Further to the attack, the majority of workers met in the factory yard to demand the management's resignation. They also demanded that three of the company's body guards be sacked after preventing trade union leaders from entering the premises on several occasions.

### Blatant anti-union practices

Familia Construct, the branch of the Premeco Pitesti company that produces and transports gravel, sand, plaster and concrete for building sites was bought at the beginning of the year by Holderbank Breitenburger. Despite Premeco's promises that there would be no dismissals or changes in the enterprise's activities for two years, the workforce was cut by half, and a further 50 dismissals were announced. Furthermore, when management and the unions wanted to negotiate the conditions of these redundancies, the enterprise threatened the trade union leaders and other delegates. As a result, the negotiations broke down and no collective agreement was reached.

### Right to strike complaint submitted to ILO

The ILO has criticised the government of Romania for interfering and violating the right to strike in an industrial dispute involving the governmental authorities and the underground railway company, Metrorex de Bucarest. On behalf of its metro workers' affiliate, USLM, the national centre Bloc sindical national (BNS) lodged a complaint with the ILO accusing the Transport Ministry of illegally interfering through its attempt to intimidate the trade union into calling off a strike. When the trade union issued a strike call in 1999, the ministry had published a statement threatening to dismiss the strikers. Its attitude led to a complete breakdown in collective bargaining.

#### *Trade unionist in the henhouse*

*Laurentiu Cozma, a warehouseman and trade unionist from Dorohoi (in the north east of the country) had a surprise when he returned to his job at the end of October following a court decision ordering his boss to reinstate him after his unfair dismissal. He was stationed in the henhouse.*

*The director of the small Romano-Italian furniture factory "SC indor", Adrian Timofte, further insisted that his 36-year-old warehouseman must not leave his post, namely the henhouse, except for the 30-minute lunch break, during the eight hour working day. He was banned from any activity. The employer's excuse for this was that after a four-month absence the trade unionist was no longer able to keep up with the pace of work.*

*Laurentiu Cozma had been dismissed in June with five other trade unionists for instigating a strike. In September, a court in Botosani (north east) ruled the dismissal illegal and order the employer to reinstate him. The warehouseman submitted a new complaint to the courts, accusing his employer of "deprivation of freedom and psychological harassment".*

## Russia

POPULATION : 146,200,000 / CAPITAL : Moscow / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



### Contents of the government's reform bill

**Trade unions are still critical of proposed labour code reforms which they describe as neo-liberal and anti-trade union. Anti-unionism is present in all its forms in everyday life, from refusal to negotiate to physical violence.**

In addition to the general deterioration in workers' rights (an increase in the legal working day to 16 hours, drastic reductions in maternity rights, the legalisation of individual fixed-term contracts, a considerable relaxation of the limitations on night work, etc.), the government bill restricts trade union rights. If the text were to be adopted, trade unions could no longer:

- put pressure on employers to sanction managers who violate the rights of workers and union delegates
- keep a check on the decisions taken by employers regarding trade union delegates
- demand from employers the material means needed to maintain trade union activities in an enterprise
- agree with the administration on working hours, training programmes, bonus payments, revision of working conditions and health and safety rules.

There have been several mass protest actions against this bill. On 17 May, 300,000 people stopped work in several industrial centres in the country. By December the movement had swollen in size, as could be seen during a "week of action" from 14 to 19 December to demonstrate the workers' determined opposition just a few days before the bill was to be submitted to the Duma, the lower house of the parliament. In addition to the government's bill, members of the parliament were to examine three more alternative bills at the same time, one of which came from trade unions. In the end, however, on 19 December, the Duma decided to delay discussions on labour legislation for several months and create a commission to choose one out of the four texts as a working document.

#### Constant violations of labour legislation

According to its supporters, the new bill simply reflects the reality of current worker/employer relations. Its adoption and application will greatly improve Russia's economic performance, they say. Judging by a report by the labour inspectorate made public in November, the first claim is unfortunately true: in the first nine months of the year, labour inspectors recorded more than one million violations of workers' rights, including 25,000 violations of collective agreements and contract procedures: 63,000 violations of working hours regulations and 148,000 contraventions of pay legislation. As regards the second claim, the trade unions stress, that this bill if adopted will only benefit employers and will lead to a deterioration in workers' socio-economic conditions and the industrial relations climate in general.

#### Deduction of dues

While workers and trade unions often win their case in court, there is no guarantee, that the ruling will be honoured. Since 1995, despite demands by the ZASHCHITA union, the Murommashzavod mechanical construction company deducted trade union dues from its employees' salaries, but did not then pay the corresponding amount into the trade union's account. In 1999, a court ruled in the union's favour and ordered the company to pay it everything that it had owed, but the company has still not done so. In 2000, further to a complaint on this matter, the ILO deplored the government's failure to act and urged it to take all necessary measures to rectify this denial of justice.

#### Refusal to negotiate

In the current economic transition period, trade unions are continually ill-treated by both foreign investors (see box on McDonald's) and the State which, as an employer, seems determined to give the unions a hard time. Those unions created in recent years are experiencing the most difficulties in securing the respect of their and their members' rights. The Russian radio and television agency has repeatedly refused to enter into collective bargaining with its workers' union (SVGTRK). Since its creation in 1992 the Russian railways workers' union RPLBZH has not been able to negotiate with its employer. Five strikes have been carried out by this union, and all have been declared illegal. In Asktrakhan, according to the ZASHCHITA union, the tram drivers who recently joined its ranks have been the target of constant harassment by management: threats, black lists and dismissals have become frequent.

#### Criminality and corruption

Anti-unionism is becoming increasingly violent. On 4 April, the Duma examined this problem at a working session on "violence against workers in disputes arising from the transformation of enterprises", at the end of which it was decided to set up a commission of inquiry. Industrial disputes multiplied, and workers and trade unionists found themselves victims of violence. Privatisation has often been the cause of such clashes. In State enterprises, workers retain some form of control. In privatised companies new owners usually give themselves full rights over everything. "Transition" is proving a bad experience for workers. This is particularly the case when they are convinced their new bosses have close links with the criminal world. At the end of 1999, workers at the Vyborg paper factory occupied the factory for this reason, before finally being dislodged by police officers who fired at the workers, injuring several of them. On April, the day after the session in the Duma, Aleksei Rybalko, a leader of the "Workers' Defence and Resistance" in Bashkortostan, a member of the parliament in the city of Ufa and a turner of a factory in the same city, was attacked in the middle of the street by uniformed men and forced into a vehicle before being beaten up.

#### Restrictions on the right to strike

The ILO has criticised some areas of the bill concerning the settlement of industrial disputes. It has asked the government to remove the requirement to specify the duration and to simplify strike procedures.

##### **McDonald's targeted**

*In 1998 the international financial crisis led to a sharp devaluation of the rouble and deterioration in working conditions. At McDonald's Moscow factory, wages fell by half. The employer only guaranteed 25 hours of work per week, instead of the previous 40. For Natalia Gratchova, a McDonald's employee for ten years, it was time to react. She decided to create a union.*

*Relations with management quickly turned sour. The woman who worked as a supervisor herself was in turn watched over. The employer refused to recognise the new organisation and encouraged the creation of a house union. Only a minority of workers dared join Natalia in her fight. Pressure mounted and there were barely disguised threats of dismissal. But Natalia stood her ground. The Russian press began to talk about the dispute. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) supported its young affiliate. Little by little, the*

company was forced to make concessions. It agreed to recognise the union and negotiate with it. In June Natalia received an anonymous phone call: she and her daughter were threatened with death. Other members of the union complained of harassment by the management, such as Yevgeny Druzhinin, a lorry driver for the company, who had disciplinary measures taken against him for "breaking material". On 16 October, a court ruled in his favour: the punishment was considered unjustified and contrary to labour legislation. For many, the real guilty party was the company which was in the habit of asking its staff to perform tasks they were not used to and for which they were not trained, which could prove dangerous for them. At the end of October, the Duma's labour and social policy committee made several recommendations to McDonald's. An audit was to be carried out at all the multinational's sites in Russia to check, that the company's practices were in line with national labour legislation and international labour standards.

## Serbia

POPULATION : 9,900,000 / CAPITAL : Belgrade / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,111,138



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### Persecutions under Milosevic

**October 2000 witnessed the fall of Slobodan Milosevic and the end of his dictatorship. Labour legislation under his regime had favoured the official trade union and heavily restricted the right to strike. However, violations of trade union rights of independent unions continue.**

The presidential elections held at the end of September ousted Milosevic, who attempted to organise a second round of votes. This was met with hostile reactions from the opposition parties who had won the elections. For 10 days, public demonstrations were held to demand that the election results be respected.

Prior to these elections, President Milosevic's repressive machinery had already been set in motion. The independent union Nezavisnost, while continuing to affirm its independence from all political parties, allied itself with the democratic opposition movement "Partnership", spearheading the campaign for trade union rights. Nezavisnost's computers and files were confiscated and President Milosevic's campaign supporters plastered its offices with NATO posters. The police brought "Partnership" members in for questioning and told them to resign from their positions at the University of Belgrade, which they refused to do.

Earlier, on 19 May, the police had barred access to the offices of the Association of Free and Independent Trade Unions (AFITU), directly linked to the political opposition, and seized its working documents. Shortly afterwards, the police arrested several trade unionists, including AFITU vice president Branislav Djuric, member Djordje Pasagic and activist Dragan Veselinovic. The union's president was also summoned to appear in court after having tried in vain to recover trade union property.

On 4 October, following the elections, the police intervened to quell a strike at the Kolubara coalmine in the south of Belgrade, where strikers called for the departure of Milosevic. Riot police ordered workers to leave the premises. Indeed, the Kolubara mine supplies lignite to the Obrenovac thermal station which in turn provides electricity to Belgrade and most of Serbia. Several strikers were arrested. Strikers in power stations –another strategic sector- were repressed and arrested as well. On 3 October, the police stopped EPS trade union leaders from attending a scheduled executive board meeting, effectively preventing this meeting from taking place. On 4 October, the head of the Belgrade Public Transport Union was arrested for having organised a strike. At the same time, nine members of the AFITU were sentenced to 15 days in prison. Although loyal to the former government, the Serbian Trade Union Confederation (SSS) threatened to call a general strike if the truth regarding the results of the presidential election was not made public.

Milosevic resigned from office on 5 October, opening the way for democracy in Serbia and ending Serbia's economic and political isolation from the international scene. The independent trade unions (Nezavisnost in particular), having participated in the movement in favour of democracy and having withstood the brunt of repression under the former regime, hoped that trade union rights would now be respected. This did not prove to be the case...

### Few changes with the new government

Despite the expectations of independent trade unions, violations did not cease after 5 October. Harassment, transfers and dismissals of trade unionists did not decrease. In the Matroz newspaper factory in Mitrovica, for instance, trade unionists were harassed and suspended. The management of Hemofarm, a pharmaceutical factory in Vrsac, suspended all of the leaders of its trade union and refused to provide facilities to the trade union, despite the fact that this had been stipulated in a clause of their collective agreement. A trade union delegate was suspended and harassed in another pharmaceutical factory situated in Zemun. The Dijana carpet factory in Stara Pazova not only suspended the trade union delegate but also prevented Nezavisnost president from gaining access to the premises. This occurred at a time when the workers were denouncing fraud within the company.

**Ministerial regulations regarding trade union registration**

Although there have been minor changes to regulations on trade union registration, practically speaking, nothing has changed. Registration is still subject to approval from the Ministry of Labour (whose new titular Minister is actually the former President of AFITU), and requires a certificate to be issued proving that the trade union delegate is a full-time employee of the company where the trade union has been created. The only difference between the pre- and post-Milosevic reality is the person who signs the certificate. Under the Milosevic regime, the certificate was only valid if signed by the general manager of the company. Under the new regime, the certificate must be signed by an "authorised person" who is very often under management control.

Invoking the provisions of this law, company managers hinder or flatly prohibit local Nezavisnost trade union structures from being set up. This was namely the case in the "Jelen do" limestone factory in Pozega where trade union members and activists are regularly exposed to harassment, ranging from simple intimidation to physical brutality and dismissals.

Once a registration request has been approved, the trade union delegate must then open a bank account to receive union dues. However, this is only possible if the trade union delegate can provide a document proving that he has paid his taxes. This is an impossible requirement to fulfil since taxes are paid directly from automatic salary withholdings.

So far, the legal time periods for registration processing have already elapsed for at least 200 of the 300 currently pending registration requests filed by Nezavisnost-backed trade unions. The government has arbitrarily turned down some of these requests because the address appearing on the request forms mentioned the Ministry of Labour under its previous name (Milosevic regime). Any trade union that has not obtained registration in compliance with this legislation is automatically barred from collective bargaining.

Particularly affected by this legislation, Nezavisnost has filed a complaint with the Constitutional Court to have the legislation repealed by the new authorities. So far, no response has been given to this request.

The Ministry of Labour has also refused to register several trade unions without giving any reasons to justify its decision. This was namely the case for the unemployed workers union and the Uzice police union. For police officers, the confusion is even greater since the Constitution of the Federal Republic of Yugoslavia does not grant freedom of association to police officers whereas the Constitution of Serbia does.

**Right to strike ignored**

The Law on Strikes restricts the right to strike for essential service productive enterprises. The list of essential services is excessive, to the extent that restrictions on the right to strike affect over 60% of the total number of employees.

To this the traditional persecutions inflicted upon strikers, who are regularly viewed as troublemakers, can be added: Strikes bans, suspension of strikers, access to company premises being barred to strike committees, to give but a few examples. As a case in point, the Nis Express Transport Company suspended and later dismissed 12 trade union members, including its president, for having held a strike in December.

**A single trade union system**

The Labour Relations and Collective Bargaining Law introduces a new category of trade unions called "majority trade unions". This category is defined as including all trade unions that represent a majority of workers within a company, a specific sector of activity or at the national level. Majority trade unions have exclusive rights to enter into collective bargaining agreements. Although this law requires majority trade unions to consult minority trade unions when elaborating new collective agreements, this is rarely done in practice.

This provision, which goes against ILO conventions on freedom of association, has been reinforced with the SSS being designated by the state as being the majority trade union.

Nezavisnost opposes this regulation and has called for the introduction of true trade union pluralism and the principle of trade unions' representative character.

**Discrimination against migrant workers**

Although legislation enacted under the Milosevic regime does not restrict freedom of association of migrant workers, it nevertheless places certain limits on the right of citizenship for refugees from the former Yugoslavian republics. In reality, these refugees encounter discrimination whenever they attempt to claim their social rights. It has been reported that the new authorities are currently working on democratising this legislation.

**Other discrimination**

As a result of the worsening economic situation, many workers earn very low wages (average monthly earnings in Serbia amount to 50 Euro). This in itself constitutes a flagrant violation of the right to a decent standard of living from the fruit of one's labour. Moreover, wages are often paid several months late (in many companies, wage arrears can exceed six months).

The introduction of what is called an "involuntary leave of absence" in Serbia is another violation of trade union rights. According to certain estimates, 800,000 people find themselves in this situation and many for a period of over five years. The law provides them with a pension, medical cover and a monthly allowance of 5.11 Euro.

# Slovakia

POPULATION : 5,400,000 / CAPITAL : Bratislava / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



## The right to strike is still severely restricted

The law on collective bargaining which governs the right to strike contains several measures that severely restrict this right. Strikes can only be organised with the agreement of more than half the workers concerned. In the major industrial sectors, this condition is a serious obstacle, as it is very difficult to get a vote from all the workers sufficiently quickly.

In the event of a strike, the trade unions have to submit a list of all the workers involved to the management. This obligation makes organising a strike more difficult, because workers fear reprisals. However, trade unions expect this provision to be changed in 2001. In July the railway workers' union lodged a complaint with the ILO about this restriction on the right to strike. Although draft amendments were prepared by the Labour Ministry following intensive discussions with the social partners, the law had still not been amended by the end of 2000.

The same law bans solidarity strikes to support pay demands by a union in another occupational sector. Army personnel, police officers, fire fighters, public prosecutors, air traffic controllers and the staff of oil and gas transport and distribution companies may not strike.

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# Spain

POPULATION : 39,900,000 / CAPITAL : Madrid / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



## Restrictions on freedom of association persist

### Limitations on the freedom of association

Unions complain of the obligation imposed by the government to maintain a minimum service, which they deem excessive, in sectors of activity "of general interest". Strikes for any reason other than the protection of the workers' professional interests are considered illegal, thereby restricting solidarity strikes and prohibiting political strikes. Strikes are also illegal if their aim is to amend a clause in a collective agreement while it is still in force.

There are limitations on the validity and scope of collective agreements, particularly if they could jeopardise the country's economic interests.

The trade unions also regret the tendency among employers not to renew the contracts of temporary workers who are union members (temporary workers represent one third of the Spanish workforce).

### Discrimination against foreigners

The organic law of 22 December on the rights and freedoms of foreigners in Spain and their social integration restricts the fundamental rights and freedoms of foreigners, particularly non-resident foreigners, by imposing conditions on their right to join a professional organisation. Under this law, this right can only be exercised by those with a residence permit in Spain. The trade unions believe this provision is contrary to the Conventions that Spain has ratified, notably the 1950 European Human Rights Convention and the 1966 International Covenant on Civil and Political Rights, which state that all foreigners should enjoy this right regardless of their administrative situation. (A law on foreigners adopted in January 2001 strengthens this provision).

### Violence

Very violent clashes took place between police and demonstrators at the Gijon shipyards at the beginning of March. The demonstrators were protesting at the management's plans to hire temporary workers to reduce labour costs. At least seven police officers were hurt in the confrontations, and 40 demonstrators, including one grievously. Another demonstrator was arrested.

### Virtual discrimination

A new form of anti-union discrimination emerged at the BBVA, the country's leading bank, when the management installed a computer programme aimed at preventing the CCOO-affiliated Comfia union from communicating with its members or the rest of the staff by e-mail. The ICFTU publicly supported the union when the case went to court on 10 October. The bank was summoned to justify this anti-union practice which was seen as particularly inconsistent given

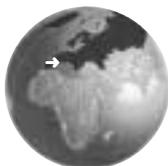
that the management was at the same time encouraging the use of e-mail among employees when contacting clients in order to reduce costs.

#### Trade union victory at Telefónica

At the beginning of the year, UNI (Union Network International) and Telefónica, known for its many acts of hostility towards the unions, signed an agreement in which the enterprise's managing directors agreed to recognise the unions and negotiate with them. The agreement covers 12,000 workers worldwide.

## Switzerland

POPULATION : 7,200,000 / CAPITAL : Bern / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### A new law puts an end to restrictions on the right to strike that applied to certain categories of civil servants.

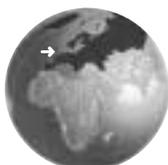
#### Legislative reform

Several recent legislative changes will improve trade union rights. First of all, a new article entitled "Freedom of Association" was added to the Constitution. As of 1 January 2000, this article recognises the right of workers, employers and their organisations to form trade unions. This article stipulates that they may create associations and recognises the legality of strikes and lockouts. A more important development has been the recent revision of the federal law dated 30 June 1927, which prohibited civil servants and employees of state-run bodies such as the post office and railways from going on strike. Once the new legislation goes into effect, which should be no later than 1 July 2002, government authorities will only be allowed to restrict or ban the right to strike for certain categories of employees (state security, foreign policy, supply of essential goods and services).

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## United Kingdom

POPULATION : 60,600,000 / CAPITAL : London / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



### The gradual return of basic trade union rights, which had not been fully respected in the 80s and early 90s, continues.

#### New recognition procedure for trade unions

In the wake of enactment of the Industrial Relations Act in July 1999, a new statutory procedure for trade union recognition went into effect on 6 June 2000. This procedure constitutes a major step forward in terms of recognition of the basic rights of workers, after so many years in which such rights had been denied. The procedure makes it possible to grant (or withdraw) recognition to a trade union so that it may take part in collective bargaining whenever it is clearly shown that this falls in line with the workers' wishes. In cases where a dispute arises with the employer in relation to a recognition request and where this dispute cannot be settled bilaterally, the trade unions may contact the Central Arbitration Committee.

Whenever a trade union represents more than 50% of the members of a bargaining unit, it is automatically granted recognition. Otherwise, a union has to show that it represents at least 10% of the members of the bargaining unit in order to trigger a ballot. It then has to obtain a majority vote in the ballot, provided that 40 % of those eligible to vote have voted in favour of the trade union.

However, any company with fewer than 21 employees is exempt from this legislation.

Among the other regulations issued in application of the Industrial Relations Act over the course of the year 2000, employees now have the right to be accompanied by a trade union representative in disciplinary or grievance procedures, even if there is no trade union at the company where the employees work.

#### Trade unions defend e-mail at work

Under the terms of the new Regulation of Investigatory Powers Act passed in October, employers are now authorised to read their employees' e-mail. Trade unions oppose this new legal provision because it confers greater investigatory powers upon employers than those granted to employers in other western countries and because it goes against the

new British Human Rights Act. Trade unions have suggested to employers that they consult their employees in order to define codes of conduct that will protect and guarantee the interests of all the parties concerned. As the Trades Union Congress sees it, "reasonable use" of personal e-mail should be authorised as long as it does not affect the employee's performance on the job.

### Lagging behind the European Union

The British government is against the idea of granting new rights to trade unions or of extending their authority, as proposed by the EU charter of fundamental rights. This charter, which was signed in Nice in December, is aimed at defining the EU's policies on the issue. Its publication coincided with the entry in force of the new British Human Rights Act, which incorporates the provisions of the Council of Europe's European Convention on Human Rights. On the issue of defending workers' rights, the EU Charter of Fundamental Rights, which is not yet binding on the individual member states, makes mention of the right to fair and equitable working conditions, the right to collective bargaining and the right to strike.

Trade unions have also asked the British government to change its stance against a European directive that would give all employees of European companies with over 50 employees the right to be consulted in the event of any major changes, such as mergers or layoffs. The TUC mentioned cases where employees were only aware that they had lost their jobs when they heard about it on the radio or when they received a text message on their cell phones.

The British TUC has also pointed out that British workers have the longest work weeks in Europe. According to a survey commissioned by the TUC, 4 million British workers regularly work more than five unpaid overtime hours per week, generally on days when they would normally be off work. British employees work a total of 32.5 billion dollars worth of unpaid overtime per year.

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## Ukraine

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



### Law on trade unions

### A restrictive law preventing many trade unions from registering has been declared unconstitutional

The "Law on Trade Unions, their Rights and Safeguards of Activities" went into effect on 5 October 1999, sparking strong criticism from the entire trade union movement. The Ukrainian trade unions filed a complaint with the ILO with the support of the ICFTU and the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM). The ILO's Committee on Freedom of Association concluded that two articles (11 & 16) of this law violated ILO Convention 87. Article 11 places excessively high representative criteria at all territorial levels. In order for a trade union to receive recognition, it must either: gather more than half of the workers of the same trade or profession; have offices in most of the administrative territorial units of the same district; or have offices in most of the administrative territorial units of Ukraine. Article 16 requires trade unions to register with the Ministry of Justice and its subdivisions, which check to make sure that the by-laws of the trade union comply with the requirements of Article 11.

### Effects of the law

This law has had dramatic consequences for some trade unions. Several organisations have been unable to obtain registration. Tax offices have removed unregistered trade unions from their list of non-profit organisations, rendering their activities subject to taxation. Local authorities have allocated their premises to registered organisations. Finally, these organisations can no longer participate in collective bargaining.

On 27 January, a newly formed trade union within the Volynoblenergo company informed the management of its intention to initiate collective bargaining on a certain number of issues regarding the socio-economic rights of employees. The management responded on 22 February by refusing to recognise the trade union on the grounds that it was affiliated with the Ukrainian trade union of the capital and the regions, whose registration has not yet been confirmed. The management then asked the public ministry to take action against the trade union leaders for carrying out trade union activities without legal recognition. In April, Mr. Jura, the leader of the trade union in question was informed that his work contract had been terminated. In the face of attacks and intimidations, several members of the trade union have chosen to cancel membership.

A similar situation exists in the Lutsk Bearing Plant. Trade union leaders and activists are in court because the organisation is not allowed access to the company premises. The police prevent them from doing so. Moreover, trade unionists have reported that the police have actively lent their support to company management in the creation of an anti-union group. Semion Verenitsin, president of the NADIA dockers union, went on a hunger strike on 26 April for identical reasons, chaining himself to a tree in front of the City Justice Administration building in Ylichovsk, Odessa district.

When the authorities do not flatly prevent trade unions from registering, their intentions are hostile at best. On 9 February, they cancelled the registration of the pan-Ukrainian trade union "Solidarnost" and ordered the Ukrainian National Bank to close all of its accounts on the grounds that the documents provided by the trade union were not in order. However, these same authorities had approved the registration request without any objections at the end of December 1999. The ILO has drawn attention to the lack of effort and collaboration on the part of authorities.

**Law declared  
unconstitutional**

Only a year after enactment of the law on trade unions, the Constitutional Court declared several provisions to be unconstitutional. This ruling was based on the premise that ILO Conventions take precedence over national legislation. Trade unions responded favourably to this ruling and applauded the government's decision to request technical assistance from the ILO to amend its legislation to bring it in line with ILO conventions. Nevertheless, by year end, trade unions still complained about failure on the part of companies to respect trade union rights and about the gap between legislation and practical reality.

**Increased tension in  
Crimea**

In the Port of Illichevsk, where a strike had been declared illegal in 1998, the trade union has been harassed by the employer and judicial authorities. Union activists are being pressured to leave their organisation. Legal action has been taken against the president of the trade union. Alongside the trade union, a workers' committee has been formed with the financial backing of the employer who claims that the aim of this association is "to organise sports activities, excursions and other leisure activities."

The Middle East still stands out as the region where the right to organise trade unions freely is very much the exception. Undemocratic regimes simply outlaw any form of trade union activity. They argue that trade unionism is inappropriate to their societies. In most countries where unions do exist they are under close government control. The result is that workers are not protected.

There are no signs of change in the region. While several countries have been telling the ILO for a number of years that they are in the process of reforming labour legislation to bring it into line with ILO Conventions, these promises have come to precisely nothing.

In the Gulf countries of Oman, Qatar, Saudi Arabia and the United Arab Emirates there are no unions, and no collective bargaining. Kuwait has a single trade union system, although there are two unions that are permitted to exist outside this structure, and trade union activity is severely restricted. The labour law discriminates against foreign workers, requiring them to have lived in Kuwait for five years before they can join a trade union. Even then they cannot participate fully in union activities. In Bahrain, joint labour-management consultative councils exist, co-ordinated by the General Committee of Bahraini Workers, which the government set up in 1973 to co-ordinate and oversee the joint councils. In recent years the GCBW has been asking the government to change the law to allow trade unions to exist, but it had not received a positive response during the period under review.



All the Gulf countries have a large migrant workforce, amounting to between 50-90%, although there is a general trend to replace migrants in many jobs with their own nationals.

Most migrants are dependent on their employers for residency rights and permits. While in general, labour laws apply to migrants, domestic workers are excluded. These workers, usually women, are often abused. Their movements are restricted, sometimes they are locked up, not fed, and subjected to physical and sexual assault. Employers frequently refuse to pay their wages. In Bahrain, between 30 to 40 percent of suicide cases handled in public psychiatric hospitals are foreign maids. In Kuwait, large numbers of domestic workers flee to their country's embassy for refuge. In 1998, Bangladesh banned its nationals from taking up domestic posts in Kuwait. In 2000 the Indian government reinforced its ban on Indian domestic workers being employed in Kuwait.

Iraq maintains its single trade union structure, which is linked to the ruling party, and remains under strict government control. There is no collective bargaining, and wages are set by the state. Syria still has a single trade union system, also closely linked to the ruling party. The national trade union centre is part of government's bureaucratic structure, and there are many restrictions on trade union rights.

In the Occupied Arab Territories of West Bank and Gaza, the territories again remained without a new labour code, and

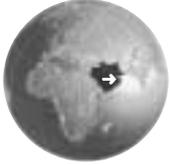
hence subject to labour laws derived from Ottoman, British Mandate, Jordanian and Egyptian sources. However, it was expected that a new labour code would finally come into force in 2001. The Palestinian General Federation of Trade Unions has welcomed this, but has said that the new code will not provide sufficient benefits to workers.



Middle East

## Bahrain

POPULATION : 600,000 / CAPITAL : Manama / ILO CORE CONVENTIONS RATIFIED : 29,105,111,182



### Joint Consultative Councils

**Trade unions are banned. Only government-controlled Joint Consultative Councils are authorized.**

The partially suspended 1973 Constitution, recognises the right to organise, but the 1981 Ministerial Orders make no reference to this right and only authorise the establishment of Joint Consultative Councils (JCCs) . After suspending the 1957 Trade Union Act, the Labour Code of 1976 states that consultative councils composed of workers' and employers' representatives may be formed in all private and public companies that employ more than 200 people.

However, the government must give prior approval before a JCC can be created. In practice, JCCs have been set up in 20 large companies. Consultative councils were created in the textile sector for the first time in 1999, unlike in 1997 when the government rejected the application.

The workers' representatives on these councils (four workers' representatives for four employer's representatives) are elected, but the elections are organised by company management. The Labour Ministry reserves the right to prohibit any worker from standing in the elections to the joint consultative councils.

The JCCs represent the interests of the workers in talks with management, in particular with regard to wages, but their role is solely advisory and they have no real bargaining power.

### General Committee of Bahraini Workers

Created in 1983 to co-ordinate and supervise the JCCs , the General Committee of Bahraini Workers (GCBW) has 11 executive members elected by secret ballot of the workforce. This committee is controlled by the government and cannot recruit members or charge membership fees. Its rules of procedure have to be approved by the Labour Ministry and it has no administrative autonomy or freedom to engage in political activity. The government requires that a Ministry representative attends and supervises the GCBW's general assemblies.

In recent years the GCBW has asked the government to reform the legislation to authorise trade union freedom. However, all such requests have been dismissed out of hand by the Labour Ministry which warned of "serious consequences" if these requests continued to be made.

### Strike action prohibited

The right to strike is not mentioned as such in the legislation, but the 1974 Security Act bans any action that could undermine existing relations between employers and employees or that could damage the country's economic well-being. This ban is backed up by penalties of up to 10 years imprisonment. There have been no major strikes in recent years but it has proven possible in the past to stage various forms of action, including wildcat strikes, without the government intervening and these have had the required effect for the workers concerned.

### Prison or exile

One method that is often used by the authorities to prevent independent trade union action has been to imprison or remove trade unionists either by banishing them or stripping them of their nationality. This is what happened to Mohamed Al-Murbati, one of the exiled leaders of the Bahraini Workers' Union. He and his family were stripped of their Bahraini nationality and, despite government reassurances to the ILO that he would be allowed to request naturalization and re-enter the country, there had still been no progress made on this by the end of 2000.

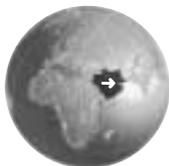
### Migrant workers

Foreign labour accounts for 63% of the workforce. These workers, both men and women, most of whom are from India, Pakistan and the Philippines, are underrepresented on the JCCs, although they can and do participate. They can also complain directly to the GCBW, which can help them take their complaints to the courts or to the Labour Ministry. However, as there is an official government policy to replace this underpaid Asian workforce with Bahraini nationals in all sectors of activity, the political climate is not exactly conducive to any action to assist migrant workers.

Discrimination against migrant workers in terms of employment and dismissal is rife. Since Bahraini labour law does not apply to domestic staff, these individuals are particularly vulnerable.

# Iran

POPULATION : 69,200,000 / CAPITAL : Teheran / ILO CORE CONVENTIONS RATIFIED : 29,100,105,111



## New law reduces acquired social benefits as social unrest grows.

### New restrictive law

On 27 February, the Iranian parliament adopted a law exempting companies employing no more than five people from having to respect labour legislation for a period of six years. The move was prompted by conservative leaders keen to revise the social legislation introduced after the Islamic revolution of 1979, believing that as it stood it would not encourage investment. Only last year they attempted to push a similar bill through parliament, but the advocates of economic liberalisation were forced to back-pedal in the face of popular discontent.

Among other things, this new law, which will affect 3 million workers, makes it easier to hire and fire.

### Increasing protest demonstrations

Even though there is no official right to strike and all workers can do is down tools, a number of demonstrations have been organized in protest against this new law: for example, people took to the streets of Tehran and other major cities on 28 February, 8 March and 30 April.

According to official figures, 16% of workers are unemployed and no fewer than 70% of people live below the poverty line. Iranian workers have been up in arms to complain about unpaid wages, setting up road-blocks and staging sit-down protests and all-out strikes. At least 400,000 workers from some 500 companies are suffering from wage arrears stretching back between 3 and 24 months.

### Trade unionist arrested and sentenced

On 24 August, Mahmoud Salehi, the president of the bakers' union in the town of Saqqez (Iranian Kurdistan), was arrested and given a sentence of 10 months imprisonment. He has already been detained on five previous occasions, with health problems as a result. He had still not been released by the end of the year and was about to lose his second kidney. His crime was to have spoken publicly on 1 May. While some meetings are allowed on that date in Iran, workers are not allowed to stage their own May Day demonstrations.

### Only the official union is tolerated

While, theoretically at least, the government does allow trade unions, only the Workers' House, whose authority extends to the various Islamic works councils, is actually tolerated as a national trade union organisation.

The rules on Islamic works council operation, statutes and elections are drafted by the Ministries of the Interior and Social Affairs, as well as by the Islamic information organisation. The Council of Ministers then has to approve these rules.

All collective agreements have to be submitted to the Labour Ministry for examination and approval; the government maintains that this is to prevent these agreements from undermining the minimum rights established by law.

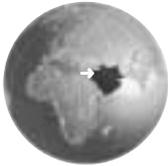
The law does not give workers the right to strike, but they can down tools as long as they remain at the work place, or operate a go-slow. In the past, the government has called in the forces of law and order to break up strike action. A 1993 law prohibits public sector strikes and any contact between civil servants and foreign nationals.

Social legislation does not apply in the export processing zones.

In large companies, especially in the oil and metal working sectors, there have been reports of workers managing to elect their own representatives and, in recent years, going on strike to demand bargaining rights.

# Iraq

POPULATION : 23,100,000 / CAPITAL : Baghdad / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



## The single trade union is under the government's control.

### Single trade union structure

The only authorised trade union federation in Iraq is the General Federation of Trade Unions (GFTU), created by the law of 1987. Although free union elections are held, the role of the GFTU, which operates under state control, is to promote the Ba'ath party policy and spread its propaganda among the workers. Public sector workers have very limited rights when it comes to trade union membership.

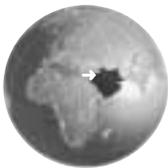
### Restrictive labour legislation

While there is a consultation mechanism for setting the minimum wage, wages are nevertheless fixed unilaterally. There is no law guaranteeing civil servants' collective bargaining rights. The ILO has consistently condemned these collective bargaining mechanisms. For many years it has also criticised the fact that the labour code does not protect workers from acts of trade union discrimination.

The right to strike is also limited, with any striking worker facing imprisonment or detention in a labour camp. Workers may only strike if the employer fails to respect a labour court's ruling in the workers' favour.

# Israel

POPULATION : 5,900,000 / CAPITAL : Jerusalem / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



## Several cases of anti-union harassment were reported. Palestinian workers from the West Bank and Gaza Strip are penalised by limited trade union rights and very difficult access to their workplaces.

### Discrimination against Palestinian workers

Palestinians from the West Bank and Gaza Strip who work in Israel are not permitted to join Israeli trade unions or organise their own unions in Israel. Along similar lines, Palestinian trade unions in the West Bank and Gaza Strip are not permitted to carry out trade union activities in Israel. However, Palestinian workers are afforded protection under Israeli collective bargaining agreements negotiated by the national trade union centre Histadrut in exchange for paying one per cent of their wages to the Histadrut. In 1995, the Palestinian General Federation of Trade Unions (PGFTU) and the Histadrut signed an agreement whereby the Histadrut would transfer half of these funds to the PGFTU.

Daily border crossings between the West Bank and Gaza Strip and Israel are quite tedious for Palestinian workers. In addition to the lost time caused by long trips, Palestinian workers crossing the border are frequently subjected to harassment and humiliation by border guards. Moreover, following the crisis that ensued from the renewed intifada, the occupied territories have been sealed off on countless occasions and for extended periods of time by the Israeli authorities. This has prevented a very large number of Palestinian workers from earning the stable income they need to maintain their families.

### Restriction on the right to strike

Israeli legislation allows the government or authorised Ministers to pass emergency measures to "defend the country", ensure public safety and guarantee the supply of "essential services". Such measures, which can remain in force for up to three months, allow the government to issue back-to-work orders to strikers and impose severe penalties for failure to comply.

### Courts rule against employers

In early August, the national labour court rejected an appeal filed by the bus company Horen & Leibowitz, thereby upholding the decision made by the Tel Aviv regional labour court ordering Horen & Leibowitz to reinstate 33 drivers who had been fired after going on strike. These bus drivers, it may be recalled, had tried to form a trade union last year. In response, the management had sacked three union committee members. The Histadrut sees this court decision as an important historical victory since it is the first time that the court has recognised the illegality of firing someone for trying to form a trade union.

There have been additional cases where courts have ordered employers to reinstate workers who were sacked under similar circumstances. This was namely the case for Crystal Ltd, Maasef Plastics Ltd, and Ortal Pressure Castings Ltd. The latter

company is a state-run enterprise in the metal sector that operates out of the Nave Or Kibboutz. The management of Ortal Pressure Castings Ltd had threatened to fire 200 workers, including 120 new immigrants (mostly Russian speakers), shut down the company, and replace them with temporary workers if they tried to form a trade union. With the help of the Histadrut, some of the workers nevertheless persevered in their wish to form a trade union. This led to the dismissal of one of the workers, Frumkin, under the pretext of restructuring. Following this dismissal, the workers were personally asked by the management to sign a declaration whereby they renounced their affiliation with the Histadrut, which some of the workers did. However, the labour court of Nazareth ruled in favour of the dismissed worker.

#### Anti-union harassment in the press

At the beginning of June, while 700 company workers were on strike, the management of the daily newspaper "Yediot Aharonoth" surrounded the building with barbed wire and sent thugs to beat up the strikers who tried to enter the building. Result: three injured workers and one arrest. The strikers were protesting against the company's stated aim of introducing new technology as a justification for replacing long-term workers with temporary workers. They pointed out that the newly hired temporary workers are employed on the basis of individual contracts, earn less than the legal minimum salary, and are denied the social benefits such as pensions enjoyed by previously hired employees.

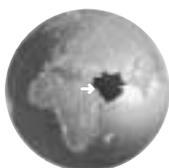
To counter the strike, the newspaper hired Palestinian and foreign workers to replace the Israeli workers. It also unsuccessfully attempted to bribe trade union leaders by promising them various benefits. The trade union has even accused the management of having hired an individual specialised in destroying trade unions, since the same individual had previously been hired by the daily newspaper Ha'aretz for this purpose.

#### New law on employment agencies

On 19 July, acting on a proposal from the Histadrut, the Knesset enacted a law on employment agencies. Between 120,000 and 200,000 Israeli workers are currently employed by private temporary employment agencies to work on temporary assignments. Under the terms of the new law, which will go into effect in January 2001, workers employed by employment agencies will be considered as permanent employees nine months after they have been hired. In addition, when workers hired by such agencies are sent to work for a company that has a collective agreement, these temporary workers will enjoy the same rights as their fellow workers for the duration of their assignment.

## Jordan

POPULATION : 4,800,000 / CAPITAL : Amman / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



#### Legislative restrictions

### There are many obstacles to the freedom of association.

Workers employed in private corporations and in some public corporations have the right to form trade unions. However, there are many obstacles to the freedom of association. Trade unions must obtain approval from the Ministry of Labour in order to become officially registered. Registration is directly linked to 17 professions and sectors in which trade unions already exist, making trade union pluralism effectively impossible. In April, the government turned down an application for trade union registration submitted by 200 employees working for the recently privatised Jordanian telecommunications company. The government explained that, according to law, post office and telecommunications employees must be represented by the general trade union of civil servants.

Although trade unions are not obliged to affiliate to the GFJTU, all of them affiliate to it.

The right to strike is considerably limited by the fact that permission must be obtained from the government before a strike can take place. The government can also impose cumbersome arbitration or call for independent court proceedings, during which strikes are prohibited.

Civil servants, domestic staff, gardeners, cooks and agricultural workers are not covered by the labour code. Moreover, the over one million foreigners working in Jordan are barred from trade union membership, collective bargaining, and strikes.

The labour code does not confer any real protection against anti-trade union discrimination.

#### 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 less than half of the companies complied with the new legislation. According to that same report, employees working for sub-minimum wages were mostly women who did not speak out for fear of losing their jobs on the spot.

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.

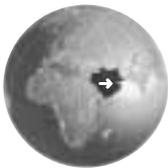
**Illegal sackings**

In August 1999, the Jordan Cable and Wire Company illegally fired 20 employees. Five months later, a court ruling forced the company to reinstate them. This did not prevent the company from firing them again, this time permanently.

In 1999, the Pepsi-Cola company sacked 225 employees for going on strike illegally. The Ministry of Labour intervened and managed to get the 115 employees reinstated that same year. However, despite further efforts by the Ministry of Labour and the food workers union in 2000, barely 10% of the remaining fired workers were permitted to return to their jobs.

# Kuwait

POPULATION : 1,800,000 / CAPITAL : Kuwait City / ILO CORE CONVENTIONS RATIFIED : 29,87,105,111,138,182



## The highly restrictive labour legislation has not been reformed despite the government's promises.

**Limited freedom of association**

At least 100 workers are required in order to organise a trade union. The founding members must include at least 15 workers of Kuwaiti nationality, making it impossible to establish trade unions in sectors employing only a few Kuwaiti nationals or none at all. This is the case in the building industry and the domestic employment sector. In addition, if a trade union is to be officially recognised, the Ministry of the Interior must deliver a statement certifying its approval of the list of founding members.

Since the 1980s, the Ministry has rejected several workers' applications to set up trade unions, including from government employees and workers in the oil industry. The Ministry falsely alleged that the law forbids the setting up of trade unions in the public sector, contradicting existing legislation and ignoring the fact that an officially recognised trade union federation already exists, with member unions in nine ministries.

Government authorities have wide powers of supervision over trade union finances and records. If a union is dissolved, its assets are turned over to the Ministry of Labour and Social Affairs. Trade unions may not engage in political or religious activity and the courts can dissolve any union which violates the labour laws or threatens public order and morality. Although no trade union has been disbanded thus far, this means that a union's right to exist is at the mercy of the State.

Domestic workers and maritime workers are excluded from the field of application of the law and are not permitted to either found or belong to a trade union.

Foreign workers, who make up about 80% of the workforce, must have resided in Kuwait for at least five years and must obtain a certificate of good conduct and morality before they are allowed to join a trade union as non-voting members. They are not permitted to run for any trade union post. In practice, reports indicate that foreign workers have joined a trade union before the period of five years has expired, and that, in fact, these workers make up one third of the registered members.

**Single trade union system and strike restrictions**

The Law provides for a single trade union system. Only one general confederation is allowed for each sector of activity and only one union is allowed per establishment. Nevertheless, two trade unions exist outside of a confederation, namely the Bank Workers' Union and the Kuwait Airways Workers' Union.

Trade unions are only allowed to create a federation if they represent workers of the same trade or sector who produce the same goods or provide similar services.

The law limits the right to strike and imposes compulsory arbitration if the workers and employers are unable to resolve a conflict.

**A new labour code?**

In line with ILO requests, the government has announced that it has drawn up a bill to change the labour code. This would make it possible to annul the provision which excludes certain categories of workers from the field of application of the labour code and also to remove the obligation for each founding member to obtain a certificate of good conduct from the Ministry of the Interior, as well as the current provision transferring a union's assets to the Ministry of Labour and Social Affairs in the event of its dissolution.

**Exploitation of migrant workers**

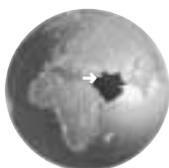
Despite a law encouraging Kuwaiti citizens to work in the private sector, close to 80% of the work force continues to be made up of migrant workers. They are often exploited despite the fact that the government has improved their legal protection over the past few years.

It is often the case that after being recruited from their home countries, migrants arrive in Kuwait to find themselves without a job or without a proper salary. Domestic servants are particularly vulnerable. Subject to prosecution if they leave their employer, who very often has confiscated their passports (more often in the case of women servants than in the case of men) they are frequently victims of physical and sexual abuse.

Although the Office for the Employment of Foreign Workers has promised to watch over the well-being of women workers more closely, complaints continue to pour in. In June 1999, the Government of India, some 100,000 of whose nationals are employed as domestic servants in Kuwait, banned its workers from accepting any new offers of domestic employment in Kuwait because of the abuses committed and the excessively low wages paid in that country. In March 2000, after new abuses had been denounced, New Delhi gave notice of its determination to reinforce this ban and to make sure that it would not be by-passed.

## Lebanon

POPULATION : 3,400,000 / CAPITAL : Beirut / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111



**The government continues to interfere in trade union affairs.**

### Legislative restrictions

The law confers broad powers on the Ministry of Labour, whose authorisation is required prior to the setting up of a trade union of any kind and which, moreover, controls all trade union elections, including the date of the election, the procedure to be followed and the ratification of the results. The law also permits the administrative dissolution of the unions and forbids them to engage in any political activity. The approximately 150,000 government employees are forbidden to set up or belong to trade unions. Nevertheless, teachers in schools and universities have established unofficial unions which are not authorised to enter into collective bargaining. Furthermore, the labour code excludes from its field of application domestic workers, day workers and temporary workers in the public services as well as some categories of agricultural workers.

A minimum of 60% of the workers must agree before a union can engage in collective bargaining and collective agreements must be ratified by two-thirds of the union members at a general assembly.

The right to strike is limited and the law does not adequately protect workers against anti-union discrimination.

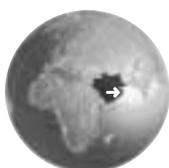
Freedom to demonstrate is limited by the obligation to establish the number of participants in advance as well as the requirement that 5% of the union's members be assigned to maintain order and that the organisers must sign a document whereby they assume full responsibility for all damages occurring during the demonstration.

### Government interference

Over and above the legislative restrictions, the greatest interference in the proper exercise of trade union rights comes from the government. It has repeatedly instigated or aggravated conflicts among trade unions, such as during the CGTL elections in 1997, to the detriment of the outgoing Secretary General, Elias Abu Rizk, although he has been reinstated since then.

## Oman

POPULATION : 2,500,000 / CAPITAL : Muscat / ILO CORE CONVENTIONS RATIFIED : 29,182



**Trade union rights do not exist in Oman, and there is still no sign of the promised new labour code.**

### Joint consultative committees

Neither trade unions nor collective bargaining are authorised under the law. Salaries and wages, working hours and other working conditions are generally defined by the law or by individual contracts in accordance with government directives. Temporary workers are not covered by the law.

Enterprises with more than 50 employees must also set up grievance procedures. The Labour Welfare Board acts as mediator in cases where these procedures fail to resolve the individual grievances of Omani and foreign workers. If this

fails, a report is sent to the Director of the Labour Department, who imposes binding arbitration.

#### Strikes are forbidden

A 1973 decree states "it is absolutely forbidden to provoke a strike for any reason whatsoever." Workers can be dismissed for striking or for inciting others to strike. Work stoppages are rare, even non-existent.

#### A new labour code?

Upon joining the ILO in 1994, the government had announced a new labour code. From the proposed amendments made public in 1996, there was reason to hope that improvements would be introduced to bring the country more in line with international labour standards. By the end of 2000, however, there was still no change.

#### Migrant workers

One-half of the country's workers are foreigners, often from southern Asia (Bangladesh, India, Pakistan and Sri Lanka), who have a particularly strong presence in the construction sector. Like most of the Gulf countries, the Sultanate of Oman wishes to create more jobs for its own nationals, particularly in the private sector, where at present there are more than 10 foreign workers to each worker of Omani nationality. Last year, this policy was reflected mainly in the prohibition on employing foreigners in libraries and car-rental agencies.

## Qatar

POPULATION : 600,000 / CAPITAL : Doha / ILO CORE CONVENTIONS RATIFIED : 29, 111, 182



### Trade unions are illegal, collective bargaining is prohibited.

#### Consultative committees

Trade unions do not exist in Qatar. The law provides for joint worker and employer consultative committees to be set up for the purpose of discussing working conditions. The government intervenes in these consultative committees by requiring prior approval by the Ministry of all committee members and by appointing a government delegate to observe meetings. Collective bargaining is prohibited and wages are generally set by the employers.

#### Severe limitations on the right to strike

The government recognises the right to strike but places severe limitations on it. As a case in point, civil servants and domestic workers are denied this right. In the private sector, although most workers have the right to strike, they may only do so after a conciliation board has ruled on the dispute, which effectively neutralises the purpose of the strike in the first place. In contrast, under the same conditions, employers are authorised to lock out or sack workers.

Strikes organised by expatriate workers are quite rare but have been known to happen.

#### Migrant workers

Three-quarters of the workforce is composed of migrant workers. Most work in the private and semi-private sectors, where they often fall victim to abuse from their employers. Migrants can do nothing since they depend on their employers for their work permits.

## Saudi Arabia

POPULATION : 19,600,000 / CAPITAL : Riyadh / ILO CORE CONVENTIONS RATIFIED : 29,100,105,111



### Trade union rights do not exist in Saudi Arabia. Migrant workers, particularly women, are victims of frequent abuse.

#### Trade unions and strikes prohibited

The Sharia, the Islamic Law used as the Constitution, is the only legal text protecting workers. There is practically no other mechanism to promote the aims set out in the Sharia, however. More specifically, trade unions do not exist and whoever tries to form one can be fired, imprisoned or (in the case of migrant workers) deported.

Strikes are banned by royal decree. It is nearly impossible to organise even a march since freedom of assembly is very strictly limited. Public demonstrations of a political nature are prohibited, and all public meetings are subject to a strict segregation of sexes. Foreign residents seeking to hold mixed meetings run the risk of being arrested and deported.

**No collective bargaining**

Collective bargaining is also non-existent. The government justifies the absence of worker protection by arguing that the labour force is of a "specific nature" (i.e. mainly foreign). In the event of a dispute, the only legal recourse is to contact the labour inspector. As for salaries, they are determined by the employers and vary according to the nature of the work and the nationality of the workers. There is no minimum wage.

**Migrant workers exploited**

Foreigners constitute anywhere between 60% to 80% of the labour force in Saudi Arabia, working primarily in the private sector. Under its "Saudiisation" policy, the government currently discourages employment of migrants in both the public and private sectors. It also plans to replace 60% of the existing foreign labour force with Saudi nationals. This is a policy that does little to protect the interests of foreign workers.

Abuse of migrant workers, particularly women, is widespread. This includes restrictions on free movement, forced confinement, not being fed, as well as physical and sexual assault. It is not unusual for employers to refuse to pay wages and other entitlements owed to their employees. There have been numerous reports of particularly serious cases of abuse towards domestic migrant workers. Some have even been killed for trivial motives. For this reason, some countries prohibit their citizens from accepting work in Saudi Arabia.

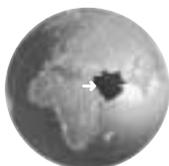
In theory, migrant workers (with the exception of domestic workers, who are not covered by legislation) may take their claims to the Saudi Arabian industrial courts. In reality, they do so only rarely. With freedom of association non-existent in the country, their situation is particularly precarious. Whenever they try to express their discontent, they run the risk of being deported.

**Egyptian workers deported**

As a case in point, at least 20 Egyptian bus drivers, hired by the Al Jazeera Transport Company to transport pilgrims to Mecca, were forced to return to their country of origin after having blocked the road in a dispute with the management. Later on, several hundred other bus drivers participated in a sit-in directed against their employer. The Saudi police intervened and the sit-in was dispersed.

## Syria

POPULATION : 15,800,000 / CAPITAL : Damascus / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



### Syria has a single trade union system. Trade union rights are seriously restricted.

**Single-union system**

Free trade unions are outlawed because the law states that all workers' organisations must be affiliated with the country's sole official trade union federation. This General Federation of Trade Unions (GFTU) is strictly controlled by the ruling Ba'ath party. Acting simply as a cog in the political machine used to control workers, the GFTU controls most aspects of union activity and determines which sectors or areas of activity can have a union or a federation. It has the power to disband the executive committee of any union and maintains strict control over the finances of all trade union organizations.

This single union system also applies to associations of craftsmen and peasants' cooperatives.

Workers must have been trade union members for at least six months before they can stand for a union post. Only Arabs can stand for election. Foreign workers can only join a union if there is a reciprocal agreement between their country of origin and Syria.

**Restrictions on collective bargaining**

The right to collective bargaining is meaningless, especially insofar as the Labour and Social Affairs Ministry can veto ratification of any private sector collective agreement in the name of national economic interests. For several years now the government has been assuring the ILO that four draft decrees will amend certain sections of the labour code, and this veto clause in particular. However, by the end of 2000 there were still no new laws passed to this end.

**Heavy fines for striking workers**

The law only expressly forbids strike action in the agricultural sector. However, in reality the right to strike is severely restricted by the threat of punishment, fines and jail terms of up to one year. Memories of severe crackdowns on striking workers in the past, most notably in 1980, certainly act as a deterrent.

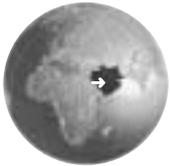
Strikes involving more than 20 workers in certain sectors and any strike action which takes place on the public highways or in public places, or that involves the occupation of premises, are punishable by fines and prison sentences. Civil servants who disrupt the operation of public services risk losing their civil rights. Generally speaking, anyone who

“jeopardises the general production plan” runs the risk of a stint of forced labour.

There are no trade unions in the seven export processing zones and employers there are not subject to any legislation on hiring or firing workers.

## United Arab Emirates

POPULATION : 2,600,000 / CAPITAL : Abu Dhabi / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111



### Trade unions and strikes prohibited

#### Trade union rights are non-existent.

The law does not recognise the freedom of association, the right to collective bargaining and the right to strike. Wages are fixed in individual contracts that are reviewed by the Labour Ministry or, for domestic staff, most of whom are foreign nationals, by the Immigration Ministry.

Individual workers' claims can be taken to the conciliation boards controlled by the Labour Ministry or to specially designated courts.

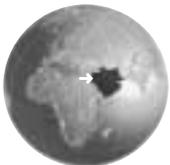
Labour legislation does not cover public service workers, domestics or anyone working in the agricultural sector. Employees in the latter two sectors are particularly exposed in the event of dispute with their employers.

### Migrant workers exploited

Migrants account for 85-90 % of the workforce and risk expulsion if they try to organise trade unions or take strike action. Generally hired for three to five-year periods, they often work in very harsh conditions.

Domestic employees, especially women, are often mistreated. Theoretically they can turn to the courts, but more often than not legal fees and the fear of reprisals or even expulsion deter them from taking any official action.

## West Bank and Gaza



#### The new labour code for the Territories passed its third reading in the Palestinian Legislative Council and looked set for adoption in 2001.

A new labour code has been under discussion since the Palestinian Authority took charge of labour affairs in September 1995. Until a new code for the Territories is adopted, the West Bank and Gaza are subject to various different remnants of labour laws derived from Ottoman, British Mandate, Jordanian and Egyptian sources.

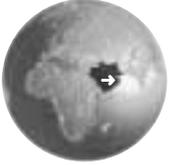
The lack of a legal and institutional framework for industrial relations had meant that social dialogue, and tripartite activities and consultations have been sporadic.

The draft code passed its third reading in the Palestinian Legislative Council during 2000, where it was adopted. It was expected to be promulgated in 2001. It will allow public sector employees to organise and to bargain collectively at sectoral level. Only one union per industry will be registered. The draft code has been the subject of extensive tripartite consultations, and the PGFTU trade union centre reports that some 70% of its concerns have been taken into account.

Trade union activities in the territories remain seriously restricted because of lengthy closures arising from the tense political and security situation.

# Yemen

POPULATION : 17,600,000 / CAPITAL : Sana'a / ILO CORE CONVENTIONS RATIFIED : 229,87,98,100,105,111,138,182



## Numerous legislative restrictions affect trade union freedoms.

### Legislative restrictions

Civil servants and some agricultural workers are not permitted to join trade unions. Foreign workers, domestic staff and casual workers, for their part, are not entirely covered by the provisions of the labour code.

The authorities enjoy wide powers of intervention in the internal affairs of trade unions, especially in financial matters.

All collective bargaining must be approved by the authorities beforehand, in order to make sure that the action falls in line with the "economic interests" of the country.

In principle, strikes are authorised as long as negotiation and arbitration procedures have first been tried and have failed. In practice, however, numerous restrictions discourage workers from going on strike.

The ILO has long spoken out against the lack, or non-existence, of dissuasive measures against acts of anti-union discrimination and acts of employer interference in trade union activities.

# Appendix

Survey of complaints submitted by the ICFTU, national affiliates and International Trade Secretariats under consideration by the ILO Committee on Freedom of Association (2000).

## Africa

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
1.	CAMEROON	2074	ICFTU/CSTC	- Discrimination against a trade union - Arbitrary detention of trade union officers (Complaint January 2000)	Definitive Report November 2000
		1995	CSTC	- Dismissal of a staff delegate (Complaint October 1998)	Interim report March 2000
2.	DJIBOUTI	1851	ICFTU	- Dismissals, suspensions and removal of trade unionists following strike action	Report in which the Committee requests to be kept informed of developments March 2001
		1922	UDT	- Confiscation of trade union archives - Obstruction of May Day demonstrations	
		2042	EI	- Interference in a trade union general meeting (Complaint September 1995, April 1997/May 1998/July 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)	3rd Interim Report June 2000  4th Interim Report November 2000
4.	GABON	2028	CGSL	- Arrest and detention of a trade union member (Complaint May 1999)	Report in which the Committee requests to be kept informed of developments November 2000
5.	MOROCCO	2048	ICFTU/UMT	- Arrest of trade union officers and members following strikes (Complaint September 1999)	Report in which the Committee requests to be kept informed of developments November 2000
6.	SWAZILAND	2019	SFTU	- Violations of the right to bargain collectively - Persistent violation of trade union rights through unamended labour legislation and the introduction of new restrictive bills (Complaint March 1999)	Report in which the Committee requests to be kept informed of developments June 2000

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
7.	ZIMBABWE	2081	ZCTU	Government interference in internal trade union affairs (Complaint March 2000)	Report in which the Committee requests to be kept informed of developments November 2000

## Americas

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
1.	BRAZIL	1992	CUT	- Dismissals following a strike and other acts of anti-union discrimination (Complaint August 1998)	Report in which the Committee requests to be kept informed of developments March 2000
2.	CANADA (Ontario)	1975	CLC	- Denial of the right to organize (Complaint July 2000)	Report in which the Committee requests to be kept informed of developments June 2000
	(New Brunswick)	2083	ICFTU/CTC	- Violation of the right to bargain collectively of certain public sector employees (Complaint April 2000)	Report in which the Committee requests to be kept informed of developments March 2001
3.	COLOMBIA	1787	ICFTU/CTC	- Murder and other acts of violence against trade union officials and members and anti-union dismissals (Complaint June /October/ November 1994/October/November 1995/May /July 1996, February / April /May /June /July / October/ November 1997, January / March / June /October /November 1998)	3rd Interim Report June 2000  4th Interim Report March 2001
3.	COSTA RICA	1984	IUF	Acts of anti-union discrimination and intimidation in plantations (Complaint September 1998)	Report in which the Committee requests to be kept informed of developments March 2001
		2084	CTRN	Temporary suspension of duties on trade union grounds (Complaint May 2001)	Report in which the Committee requests to be kept informed of developments March 2001

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
5.	ECUADOR	2010	ICFTU	<ul style="list-style-type: none"> <li>- Murder of a trade union official</li> <li>- Threats against another trade union official</li> <li>- Deaths during demonstrations (Complaint February 1999)</li> </ul>	Report in which the Committee requests to be kept informed of developments March 2001
6.	EL SALVADOR	2077	ICFTU	<ul style="list-style-type: none"> <li>- Mass unfair dismissals following strike action</li> <li>- Violence against demonstrators (Complaint January 2000)</li> </ul>	Definitive Report March 2001
7.	GUATEMALA	1960	ICFTU	<ul style="list-style-type: none"> <li>- Mass dismissals in violation of a collective agreement</li> <li>- Acts of violence and threats against trade unionists</li> <li>- Trade unionists prevented from accessing banana plantations (Complaint April/ July 1998)</li> </ul>	Report in which the Committee requests to be kept informed of developments November 2000
		1970	ICFTU	<ul style="list-style-type: none"> <li>- Murders, physical assaults, death threats, raids on the home and attempted abduction of trade union officers and members</li> <li>- Anti-union dismissals</li> <li>- Obstruction of collective bargaining, requirement of approval of collective agreements on working conditions (Complaint July 1999)</li> </ul>	Report in which the Committee requests to be kept informed of developments November 2000
		2017 2050	ICFTU	<ul style="list-style-type: none"> <li>- Acts of anti-union discrimination and intimidation</li> <li>- Acts of violence against trade unionists</li> <li>- Violation of a collective agreement (Complaint September 1999/ March 2000)</li> </ul>	1st Interim Report November 2000
8.	HAÏTI	2052	ICFTU	<ul style="list-style-type: none"> <li>- Attempted murder of trade union officials</li> <li>- Detention of and physical assaults against trade unionists</li> <li>- Dismissals of trade union leaders and members (Complaint September 1999)</li> </ul>	1st Interim Report June 2000

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
9.	NICARAGUA	2072	EI	- Anti-union discrimination - Disciplinary measures following a strike (Complaint December 1999)	Report in which the Committee requests to be kept informed of developments March 2001
		2092 2101	ITGLWF	- Employer's interference in internal affairs of trade union - Wrongful dismissal of its officials and intimidation - Refusal to bargain in good faith with the union (Complaint July 2000)	1st Interim Report March 2001
		2034	IUF	- Unjustified dismissals of trade union officials (Complaint June 1999)	Report in which the Committee requests to be kept informed of developments November 2000
10.	PANAMA	1965	ICFTU	- Arrests and ill treatment of trade unionists (Complaint May 1998)	2nd Interim Report June 2000  Report in which the Committee requests to be kept informed of developments March 2001
11.	PARAGUAY	2036	PSI	- Dismissals and transfers of trade union officials - Non-compliance with a collective agreement - Refusal to deduct trade union dues (Complaint June 1999)	1st Interim Report March 2001
12.	VENEZUELA	2067	ICFTU/CTV	- Anti-union legislation - Suspension of collective bargaining following a decision by the authorities - Convening of a national referendum to replace the trade union movement by an organization allied to the Government (Complaint February 2000)	1st Interim Report March 2001

## Asia & Pacific

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
1.	CHINA	2031	ICFTU	- Physical assaults and detention of labour activists - Imprisonment for attempts to establish independent trade union organizations or to carry out activities for the defence of workers' interests (Complaint June 1999)	Report in which the Committee requests to be kept informed of developments June 2000
2.	PAKISTAN	2006	APFTU	- 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)	Report in which the Committee requests to be kept informed of developments November 2000
3.	KOREA, REPUBLIC OF	1865	ICFTU KCTU	- Arrest and detention of trade union leaders and members - Government refusal to register newly established organizations - Adoption of labour law amendments contrary to freedom of association (Complaint December 1995/ September /December 1996/ January /May 1997, August /September 1998)	4th Interim Report March 2001
		2093	IUF	- Refusal to negotiate successor agreement - Violence against, and arrest of, trade unionists during a labour dispute (Complaint July 2000)	Definitive Report March 2001

# Europe

	COUNTRY	CASE N°	COMPLAINANT(S)	REASONS FOR COMPLAINT	ACTION OF COMMITTEE ON FREEDOM OF ASSOCIATION
1.	BELARUS	2090	ICFTU/IUF	<ul style="list-style-type: none"> <li>- Denial of trade union registration</li> <li>- Government interference in trade union activities and elections</li> <li>- Dismissal of trade unionists and freezing of trade union bank accounts (Complaint June/July/September 2000)</li> </ul>	<p>1st Interim Report March 2001</p> <p>Contact Mission October 2000</p>
2.	ESTONIA	2011	EAKL	<ul style="list-style-type: none"> <li>- Government interference in the establishment and internal functioning of trade union organizations (Complaint February 1999)</li> </ul>	<p>1st Interim Report June 2000</p>
3.	MALTA	2066	ICFTU/ITF/IMF	<ul style="list-style-type: none"> <li>- Violations of the right to strike and detention of trade unionists (Complaint January 2000)</li> </ul>	<p>Definitive Report June 2000</p>
4.	ROMANIA	2091	BNS	<ul style="list-style-type: none"> <li>- Acts of interference by an employer in a trade union's management and activities</li> <li>- Sanctioning of trade union leaders (Complaint June 2000)</li> </ul>	<p>Report in which the Committee requests to be kept informed of developments March 2001</p>

# Appendix

## ILO CONVENTIONS ON FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE, 1948 (N° 87)

- Article 1** Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.
- Article 2** Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.
- Article 3**
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 the lawful exercise thereof.
- Article 4** Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.
- Article 5** Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.
- Article 6** The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.
- Article 7** The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.
- Article 8**
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 RIGHTS TO ORGANISE AND COLLECTIVE BARGAINING, 1949 (N° 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 any way.