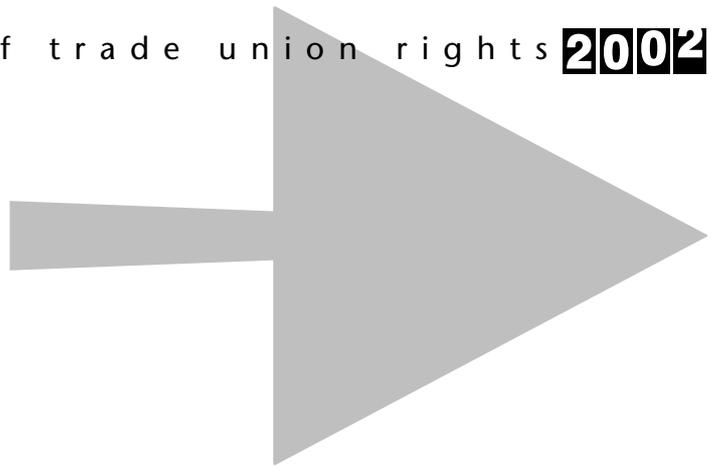


**annual
survey** of violations of trade union rights **2002**



Period under review: January to December 2001.

The survey was written by the ICFTU Trade Union Rights Department.

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Contents

FOREWORD 5

**EIGHT ILO CORE
LABOUR
STANDARDS** 7

AFRICA



| | |
|----|------------------------------|
| 9 | Introduction |
| 12 | Algeria |
| 13 | Angola |
| 14 | Benin |
| 14 | Botswana |
| 15 | Burkina Faso |
| 16 | Cameroon |
| 18 | Central African Republic |
| 19 | Chad |
| 20 | Democratic Republic of Congo |
| 22 | Djibouti |
| 23 | Egypt |
| 24 | Equatorial Guinea |
| 25 | Ethiopia |
| 27 | Ghana |
| 28 | Guinea |
| 28 | Kenya |
| 30 | Lesotho |
| 32 | Libya |
| 32 | Madagascar |
| 34 | Malawi |
| 35 | Mauritania |
| 37 | Mauritius |
| 38 | Morocco |
| 40 | Mozambique |
| 41 | Namibia |
| 42 | Nigeria |
| 43 | Rwanda |
| 44 | Senegal |
| 45 | South Africa |
| 47 | Sudan |
| 48 | Swaziland |
| 49 | Tanzania |
| 50 | Togo |
| 51 | Tunisia |
| 52 | Uganda |
| 53 | Zambia |
| 54 | Zimbabwe |

AMERICAS



| | |
|-----|--------------------------|
| 57 | Introduction |
| 60 | Argentina |
| 63 | Bahamas |
| 64 | Belize |
| 64 | Bolivia |
| 66 | Brazil |
| 69 | Canada |
| 72 | Chile |
| 73 | Colombia |
| 82 | Costa Rica |
| 85 | Cuba |
| 86 | Dominican Republic |
| 87 | Ecuador |
| 89 | El Salvador |
| 91 | Guatemala |
| 96 | Guyana |
| 96 | Haiti |
| 99 | Honduras |
| 100 | Jamaica |
| 100 | Mexico |
| 103 | Nicaragua |
| 104 | Panama |
| 106 | Paraguay |
| 107 | Peru |
| 109 | Trinidad and Tobago |
| 110 | United States of America |
| 114 | Venezuela |

**ASIA AND
THE PACIFIC**



| | |
|-----|--|
| 119 | Introduction |
| 122 | Australia |
| 124 | Azerbaijan |
| 125 | Bangladesh |
| 127 | Brunei |
| 128 | Burma |
| 130 | Cambodia |
| 131 | China |
| 137 | Fiji |
| 139 | Hong Kong SAR China |
| 141 | India |
| 143 | Indonesia |
| 147 | Japan |
| 148 | Kazakhstan |
| 150 | Korea, Democratic People's Republic of |
| 151 | Korea, Republic of |
| 157 | Kyrgyzstan |
| 157 | Laos |
| 158 | Macao SAR China |
| 159 | Malaysia |
| 163 | Maldives |
| 163 | Nepal |
| 164 | Pakistan |
| 168 | Philippines |
| 170 | Singapore |
| 171 | Sri Lanka |
| 173 | Tadjikistan |
| 173 | Taiwan |
| 174 | Thailand |
| 178 | Turkey |
| 182 | Vietnam |

EUROPE



| | |
|-----|--|
| 183 | Introduction |
| 186 | Andorra |
| 186 | Belarus |
| 189 | Belgium |
| 190 | Bosnia |
| 191 | Bulgaria |
| 192 | Croatia |
| 194 | Czech Republic |
| 196 | Georgia |
| 197 | Germany |
| 197 | Hungary |
| 200 | Latvia |
| 201 | Lithuania |
| 202 | Malta |
| 203 | Moldova |
| 204 | Poland |
| 205 | Romania |
| 206 | Russian |
| 209 | Slovak Republic |
| 210 | Spain |
| 211 | Switzerland |
| 211 | United Kingdom |
| 213 | Ukraine |
| 215 | Yugoslavie, Federal Republic of Serbia |

MIDDLE EAST



| | |
|-----|----------------------|
| 217 | Introduction |
| 220 | Bahrain |
| 221 | Cyprus |
| 222 | Iran |
| 224 | Iraq |
| 224 | Israel |
| 226 | Jordan |
| 226 | Kuwait |
| 228 | Lebanon |
| 229 | Oman |
| 229 | Qatar |
| 230 | Saudi Arabia |
| 231 | Syria |
| 232 | United Arab Emirates |
| 233 | West Bank and Gaza |
| 234 | Yemen |

APPENDICES

| | |
|-----|-------------------------|
| 236 | ILO conventions 87 & 98 |
|-----|-------------------------|

Foreword

During the period covered by this Survey, trade unions have been making their presence felt. They have been out in the streets, in the press, in the public eye, speaking out against repression, demanding democratic rights and of course the respect of workers' rights.

Governments know they cannot ignore those demands. Or at least, that they should not be seen to do so. Many of them champion rights and democracy, they agree that respect for certain rights are not negotiable, that certain workers' rights are fundamental. Companies too parade their "corporate social responsibility" to their customers, shareholders, and even to their employees. Yet despite this public recognition, governments and employers are still guilty of violating fundamental workers' rights. This year's survey records continued and widespread harassment of trade unionists, ranging from the simple refusal to recognise or bargain with a union to dismissals, imprisonment and even death, including the horrific death toll of 185 murdered trade unionists in Colombia.

Why does this happen? In some cases, of course, regimes simply fear that democracy will take root, and to counter this, they outlaw, or otherwise block the self-organisation of workers through trade unions. Burma is an obvious example.

Elsewhere, the evidence still points to a direct relationship between attacks on workers' rights and accelerated global liberalisation of trade and investment. The pursuit of wealth and the pressures of competing in a global marketplace encourage employers to cut corners where they can, usually at the expense of the workers. Organised protest is still all too often repressed by persecuting union organisers, putting their names on black lists, intimidating workers into leaving the union and sacking strikers. Such action by employers is often supported, or quietly ignored, by the police forces and justice systems of governments eager for foreign investment. In the Republic of Korea riot police were sent in to violently repress strike action. Over 200 trade unionists were detained for their activities, with more than 50 still in custody at the end of the year. In China, now a member of the WTO, trade union activists can still face 20-year prison terms, or even life imprisonment.

In many countries the violations may not be so dramatic, but the strike-breaking techniques practised in Australia, and the union busting still rife in the United States are nonetheless a denial of fundamental rights, as are the legislative restrictions on the trade union rights of many public service workers around the world.

The ICFTU has been urging the international community to act to put in place regulations that would prevent violations of trade union and other human rights at work being used to gain competitive advantage in the

global market. So far that hasn't happened. So it is all the more important that, wherever there are violations of trade union rights, the international trade union movement is there to support workers. It is there giving practical daily support to trade unions, as well as making representations in key international bodies, notably the UN's International Labour Organisation, and orchestrating protests campaigns, often in a broad coalition with other human rights groups. As the evidence in this Survey show, this can and does make a difference. International trade union solidarity has led to the resolution of disputes, the reinstatement of trade unionists, the recognition of trade unions, and the release of workers' leaders from detention. At a broader level, the shift in perception can be seen even in the notoriously anti-union Gulf States where Saudi Arabia has taken some first, timid steps towards permitting worker representation.

We are making a difference. We will continue to do so.

A handwritten signature in black ink that reads "Guy Ryder". The signature is written in a cursive style with a checkmark-like flourish at the end of each name.

Guy Ryder
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° 111 Discrimination in Employment and Occupation (1958)
- N° 138 Minimum Age for Employment (1973)
- N° 182 Worst Forms of Child Labour Convention (1999)

The mounting unrest, and in some cases open conflict, in many countries in Africa, is partly a consequence of the failure of the governments concerned to uphold democratic principles and the rule of law and respect the fundamental rights of their citizens. Trade union rights are frequently the first victim of this lack of respect. At the same time, in countries such as South Africa and Botswana, genuine efforts are being made to ensure the respect of fundamental rights.

The cumulative effect of the IMF and World Bank-supported structural adjustment programmes continued to have a severe impact on workers, with a steady stream of job losses during the year. In many countries workers were not paid for work undertaken, resulting in wage arrears of many months. Meanwhile, those who find themselves out of work are turning in their millions to the unprotected, informal economy, to eke some sort of a living.

In Ethiopia, there was little change in respect to the teachers' union, which is no longer functional. Its president remained in jail, having been arrested in 1996 and subsequently imprisoned under a questionable judicial process. Many workers were dismissed in the course of strike action.

Several trade union leaders were arrested during the year. In Chad, the president and general secretary of the UST were arrested on May 30. So too was the general secretary of USTC, in the Central African Republic. He was arrested on June 17 when he was returning from a trip outside the country. He was released the following day thanks largely to



pressure orchestrated by the international trade union movement. And in Malawi the General Secretary of the Post and Telecommunications Workers' Unions was arrested, seemingly because of his union activities.

The trade union situation in Malawi deteriorated. Many trade union leaders lost their jobs, in what would appear to be cases of victimisation. In Morocco trade unionists suffered from a similar lack of protection against anti-trade union discrimination. But whereas in Morocco trade unionists are arbitrarily dismissed or discriminated against due to the inadequacy of the law, in Malawi these acts of anti-trade unionism are carried out despite the law. It would seem the state is powerless to intervene.

Developments in Senegal were also a cause for concern. The amendment to the constitution of Senegal which states that strike action "should not jeopardise companies", was the first sign of unwelcome developments to come. Since then, government interference in internal trade affairs has become increasingly evident.

The long-running trial of trade unionists in Swaziland, including the SFTU General Secretary Jan Sithole, continued. The trial was seen by many observers as a form of harassment and intimidation, particularly given that the State seemed unable to produce evidence to substantiate its case.

In Togo, trade unionists have also been facing serious problems, exacerbated by the regime's intolerance of political dissent. One journalist was killed in the course of his work.

Uganda and Zimbabwe again stood out for their severe violations of trade union rights. In Uganda trade unions are kept under firm control. On September 14 the authorities wrote to all unions suspending trade union general meetings, thereby denying trade union members the right to choose their leaders, formulate policies or decide on their activities. In Zimbabwe, trade unions are not only undermined at the organisational level, their leaders face constant threats, harassment and intimidation. Public sector workers, and particularly teachers were yet again singled out for attack. In several instances, workers on strike protesting against the deteriorating social and economic situation were shot at, including an incident in August in which three steelworkers were killed.

Trade unionists face harassment, intimidation, arbitrary arrest, detention, torture and, as indicated above, even death. All too often the perpetrators of these crimes act with impunity and escape scot-free. Thus union leaders work in constant fear for their safety. In many countries, their conditions are a far cry from what is laid down in the statute books. This is particularly the case in Djibouti and Sudan, to name but two. In Libya, independent trade unions are simply banned, and no genuine trade union activity is allowed.

Finally, there was some good news, namely the revival of the Kenya Union of Civil Servants, and the willingness of the South Africa authorities to enter into dialogue with trade unions.

Africa



Africa

Algeria

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



The State of Emergency remained in force, limiting all democratic rights including trade union rights, notably the right to strike. Autonomous unions still face problems in obtaining legal recognition.

Freedom of association – with limitations

Workers have the right to form trade unions, but must have the government's approval before they do so. The law prohibits unions from associating with political parties and from receiving funds from foreign sources. To register, unions must submit a statement announcing their formation to the authorities and receive official acknowledgement within 30 days. A union must represent at least 20% of workers in an enterprise.

The courts are empowered to dissolve unions that engage in illegal activities.

Right to strike restricted

A strike may only be held after a 14-day period of compulsory mediation, conciliation or arbitration. The government can prohibit a strike if it feels it may cause a serious economic crisis. A minimum level of public services must be maintained during public sector service strikes. Under the State of Emergency decreed in 1992, any action taken with the intention of either obstructing the operation of establishments providing a public service or impeding traffic or freedom of movement in public places may be considered a subversive or terrorist act, liable to a penalty of up to 20 years' imprisonment.

Collective bargaining recognised

The right to collective bargaining is recognised in law for all unions, and discrimination by employers against union members is prohibited.

RIGHTS IN PRACTICE

The National Autonomous Union of Public Administration Staff (SNAPAP), reports that its members have regularly faced harassment and persecution ever since the 1992 coup d'état. Two applications to form a national confederation have been rejected by the government. They have also been prevented from setting up branch unions, notably in hospitals. Organising has also been obstructed through the use of sanctions, threats and dismissals in local administrations, in the water sector, public works, customs and in civil defence. Member unions have also frequently been prevented from holding general assemblies.

The authorities have obstructed the registration of other unions, by simply refusing to acknowledge receipt of their application for registration. This was the case of the Algerian Confederation of Autonomous Trade Unions (CASA), which was created in April 2001, representing five national trade union federations. It applied for registration to the Ministry of Labour, but by the end of the year Ministry had still not acknowledged receipt.

The smaller, independent unions face problems because they do not usually represent over 20% of workers in an enterprise.

EVENTS IN 2001

Mounting discontent was reflected in the demonstrations organised in March by the national trade union centre the UGTA against the lack of consultation over the privatisation process, and later in the riots triggered by the killing of a 20-year-old student at a police station in April. The strength of feeling the incident generated reflected the general frustration at deteriorating living standards and the lack of social justice. In some companies workers were facing salary arrears of up to 21 months.

Union meeting banned

When the education workers' union SATEF tried to hold its 3rd national congress at the beginning of April it was banned from doing so by the provincial governor (wali) of Algiers. The reason given was that meetings could not be held in educational institutions. The venue concerned, the El Achour Technical and Management Institute, had already been used for meetings by political parties.

Strike declared illegal

When workers at the SOWIS company went on strike on September 4 in protest at the non-payment of their salaries for 11 months, the court declared the strike illegal. The workers had failed to comply with the complicated legal requirements that have to be met before holding a strike.

Recognition denied

Nine members of the workers' union at the Saâdna-Abdenour university hospital went on hunger strike in September in frustration at the breakdown of negotiations with management. They complained of unfair dismissals, non-recognition of the union, and the padlocking of the union's premises.

Angola

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



The lack of democracy and restrictions on civil liberties mean there is little respect for union rights

THE LEGISLATION

Government approval required

The Constitution provides for the right to form and join trade unions, although government approval is required.

Strike restrictions

The right to strike is recognised, but strictly regulated. Many areas of activity are classified as "essential services". The law does not contain any effective measures to prohibit employer retribution against strikers. Collective bargaining is recognised in law, and discrimination against union members is prohibited.

RIGHTS IN PRACTICE

Rights not respected

In practice the lack of democracy and restrictions on civil liberties make it difficult for unions to enforce their rights. The government dominates the National Union of Angolan Workers (UNTA), which is affiliated to the ruling MPLA party. Two independent organisations, the CGSILA national centre and the SIMA union exist, but are discriminated against. When a group of train drivers from the Luanda Railways Company persuaded colleagues to leave the UNTA and join the CGSILA in November 2000, they were promptly sacked. Collective bargaining is restricted in practice. The government is the country's biggest employer and through the Ministry of Public Administration, Employment and Social Security sets wages and benefits on an annual basis. This involves consultation with the unions, but no negotiation.

EVENTS IN 2001

Union ignored in mass dismissal

The Nova Cimangola cement company dismissed 107 workers in March, . There was no negotiation with the National Trade Union of Building Materials, Wood and Allied Workers (SNIMCMA) and the workers did not receive any severance payment.

Benin

POPULATION : 6,100,000 / CAPITAL : Porto-Novo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138, 182



New legislation relaxed restrictions on the right to strike. Seafarers are still excluded from the labour code.

THE LEGISLATION

Seafarers excluded

The labour code recognises the right to form and join trade unions. However, unions must deposit their statutes with the Ministry of the Interior to obtain legal recognition, under penalty of a fine. Seafarers are excluded from the Labour Code. The law stipulates that they are covered by the Merchant Marine Code, which does not grant the right to organise or the right to strike.

New strike law

The right to strike is recognised in both the public and private sectors. A new strike law was approved in May 2001. While still falling short of international standards, it did go some way to meeting trade unions concerns. It no longer allows the government to prohibit any strike by claiming it threatens the economy or the national interest.

It does not remove the requirement to give advance warning before taking strike action, but does reduce it from five days to three. It still imposes limitations by demanding the continuity of public services, and allows the government to requisition civil servants in the event of a strike.

RIGHTS IN PRACTICE

Striking prevented

Some government departments prevent civil servants from striking by using the leeway given to them in law to draw up long lists of employees who may be requisitioned.

Parallel unions

Company managers seek to discourage trade unions and support parallel unions instead.

EVENTS IN 2001

Trade union leaders sacked

The Brasseries du Benin company (SOBERBA) sacked union leaders Rufin Domingo, Roger Loko and Jean Ahossi, supposedly for embezzlement and the distribution of confidential accounting documents. They were the General Secretary and first and second Assistant General Secretaries respectively of the enterprise branch of the Syndicat National des Ouvriers et Cadres union. There had been no warning that they were suspected of any such offences. The union believes the real reason was simply to remove the leaders, particularly given that the dismissal notices were delivered on the day of the union elections at the company.

Botswana

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



The government still has considerable powers of interference in trade union activities.

THE LEGISLATION

Restrictions on the freedom of association

Workers may form trade unions, with the exception of public servants and teachers, who may only form associations. The government has ratified ILO Convention 151 on the Protection of the Right to Organise in the Public Service, but has been slow to amend its own legislation accordingly.

Trade unions have to be registered, via the Registrar of Trade Unions, with the Minister of Labour. If a trade union is not registered, the members of the union committee do not have protection against acts of anti-union discrimination.

Elected officials of trade unions must be full time employees in the industry or sector that the union represents, severely limiting the degree of professionalism of union officials.

Government's powers of interference

The Minister of Labour has the power to suspend a union if there is not at least one Botswanan national on the union's committee. The Minister can also dissolve the union if he or she suspects that their affairs are not being conducted properly, and can appoint the Commissioner of Labour to run a trade union's affairs for any period he or she deems appropriate. The Minister must give approval for affiliation with international trade unions and for the receipt or transfer of international trade union solidarity funds (although in practice this has never been enforced).

Restrictions on the right to strike

The right to strike is recognised, but workers must first submit their dispute to complex arbitration procedures. Strikes are not allowed in essential services, the list of which exceeds the definition given by the ILO, by including the Bank of Botswana for example.

Collective bargaining limited

Collective bargaining is allowed, provided the union represents at least 25% of the workforce. Workers may not be fired for union-related activities.

Export processing zone

The same labour laws apply to Botswana's export processing zone as to the rest of the country.

RIGHTS IN PRACTICE

There is very little collective bargaining in practice, as few unions meet the 25% representational criteria.

The government has used its strike legislation to order workers back to work, as in the case of employees of the Botswana Agricultural Marketing Board, striking in 2000 over the failure to apply salary adjustments.

EVENTS IN 2001

Union leadership suspended

Seven leaders of the Botswana Telecommunications Employees Union were suspended from employment at the Botswana Telecommunications Corporation on June 5, after attending a press conference organised by management. The seven were: Mr. Lesetse Kofa (vice president), Mrs. Boitumelo Kauta (secretary general, Mr. Motlamedi Kolo (vice secretary general), Mr. Diphetogo Diane (executive treasurer), Mr. Trevor Makunga (organising secretary), Mr. Beauty Molefe (member), Mr. Lemongang Pheto (member). The press conference was intended to appraise the Corporation's "stakeholders of current developments in the Corporation" and the e-mail sent to the union leaders appeared to be seeking the union's support. The union could not understand the reason for the management's action. There was no attempt to use normal consultative procedures to clear up any misunderstanding which may have arisen. The result of the management's action was to effectively dissolve the union at the enterprise, thereby infringing rules governing the protection of the right to organise.

Burkina Faso

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



The restrictions on the right to strike for civil servants remained in place, while magistrates were banned from striking altogether.

THE LEGISLATION

The right to form trade unions is recognised in law, with the exception of those in essential services.

Strike restrictions for public servants

The right to strike is recognised. However, the government has the right to requisition public servants in the event of a strike. This can be applied to all civil servants, not just those who exercise authority in the name of the State or the interruption of whose services would endanger life or safety. Some civil servants are banned from striking, notably labour inspectors and uniformed personnel.

Strike ban for magistrates

At the end of October 2001, the Minister of Justice announced that, under a major reform of the justice system, magistrates would no longer be allowed to go on strike. The ban followed the first strike by magistrates in 41 years, organised in April by the Burkinabé Magistrates' Union (SBM).

Collective bargaining

Unions have the right to bargain for wages and other benefits.

RIGHTS IN PRACTICE

In practice, union members have reported acts of intimidation, including threats and imprisonment. Union marches have been violently dispersed, and union headquarters and workers' schools have been raided by police. Union leaders have been transferred to distance them from their membership base, and union activists have had their meeting places occupied. There have been reports that the authorities have sought to undermine or weaken trade union organisations, especially during strike action. In several cases, the privatisation of state enterprises has been undertaken without adequate consultations with trade unions, if at all, and protest action has all too often resulted in the victimisation, suspension or retrenchment of the workers concerned. Media workers, and especially journalists have also faced a lot of difficulties.

EVENTS IN 2001**Discrimination against union delegates**

When SOSUCO (Comoé) sacked 18 union activists following a strike in September 1999, it was ordered by the Industrial Court to reinstate them. Although some of the workers were finally reinstated, by the end of 2001 none of the union delegates had been taken back by the company.

Cameroon

POPULATION : 14,600,000 / CAPITAL : Yaoundé / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111, 138



The government shows no restraint from interfering in internal trade union affairs. Harassment of the legitimate leadership of the CSTC national centre continued. Its activities were undermined and it was evicted from its premises.

THE LEGISLATION**Government authorisation required**

The 1992 Labour Code allows workers to form and join trade unions, but imposes restrictive conditions on that right. Separate procedures for the public and private sector. Unions in the private sector must apply for registration with the Ministry of Labour. Public sector unions must register with the Ministry of Territorial Administration. It is illegal to form a union that includes both public and private sector workers, and to form a union that includes private sector workers from different sectors, even closely related sectors such as building and wood workers. The law provides for prison sentences and fines for workers who form a trade union and carry out trade union activities without registration.

The law prohibits anti-union discrimination and allows fines to be levied against employers convicted of this, but does not provide for any restitution, in the form of reinstatement or compensation, to the wrongfully dismissed workers concerned.

| | |
|---|---|
| Limitations on the right to strike | The Labour Code recognises the workers' right to strike, but only after mandatory arbitration. However, there is no established procedure for arbitration, and arbitration rulings are not legally enforceable, so they can be overturned or simply ignored by employers. A minimum service has to be provided in certain sectors, including transport, which is not considered an essential service by the ILO. Civil servants do not have the right to strike. |
| Bargaining – enforcement measures weak | The right to collective bargaining is recognised but the legal mechanisms for the application of collective agreements are very weak. |
| Export processing zones | Firms operating in the Export Processing Zones are exempted from certain aspects of the Labour Code, but must comply with internationally-recognised labour standards. An official notice by the National Office for Industrial Free Zones contains a list of "incentives". In addition to tax exemptions and other financial advantages it states that employers enjoy "flexibility in hiring/firing workers". |
| Revision of labour code – further restrictions | The government is reviewing its labour code, and the proposed amendments will further restrict many aspects of workers' freedom of association and right to collective bargaining. Registration procedures will be strengthened. A union will only be legal after it has received a certificate from the Registrar. This is a formality in many countries, but in this case strict representational criteria have to be met. These include requirements concerning sectoral and geographical coverage, making it easier, the unions fear, for the government to discriminate between unions. The new code will also give the registrar broad powers to cancel the certification of trade unions and provides less effective protection for trade union officials. |

RIGHTS IN PRACTICE

| | |
|--|--|
| Government interference | <p>The government interferes in trade union activities in several ways. It favours the workers' organisations it sees as easier to control, or will create them for that purpose. It uses the requirement for a union to be registered to withhold or indefinitely delay recognition from trade unions that it sees as too independent.</p> <p>The government sometimes demands that workers setting up a union produce job descriptions signed by the employer as a precondition for the registration of the union. This makes it impossible for informal workers and independent or self-employed workers to form a union.</p> <p>There have also been reports of independent trade unions being refused access to bargaining processes in favour of pro-government organisations. Only pro-government unions have been allowed to sit on the National Consultative Labour Commission.</p> <p>The government exploited divisions within the Confederation of Cameroon Trade Unions (CSTC) which split into two factions. The government refused to recognise the leadership elected in 1999 at a congress whose legitimacy was upheld in a court of law. Instead the government supported the dissident, non-representative rival faction. It banned the legitimately elected faction, led by Benoit Essiga, from taking part in May Day activities.</p> |
| Collective bargaining almost non-existent | Collective bargaining is almost non-existent in practice. No formal collective bargaining negotiations have taken place since 1996. Some agreements between the government have been shelved or ignored by the government after being negotiated. |

EVENTS IN 2001

| | |
|---------------------------------------|--|
| CSTC activities suspended | <p>Harassment of the legitimately elected faction of the CSTC continued. It faced an intense media campaign against it and in January a court suspended the activities of the Essiga faction, which then filed an appeal against the ruling. The case has been dragging out in the courts.</p> <p>When the Essiga CSTC called a peaceful protest march in Yaoundé for February 16, permission was refused.</p> |
| Police end trade union seminar | In May, a trade union education seminar, organised jointly by the Organisation of African Trade Union Unity, the ICFTU's African Regional Organisation and the Swedish trade union confederations LO and TCO was interrupted by |

police, who ordered the session to end immediately. The event, held in a hotel in the town centre, was hosted by the Essiga-led CSTC. Unknown to the police, the session continued at the CSTC headquarters at the invitation of the Essiga group.

CSTC evicted from headquarters

The CSTC was told back in October 2000 that it would have to leave its headquarters and hand them over to the Ministry of Youth and Sport. After several meetings with the ministry, the CSTC was given notice on July 30 that it had to vacate the building within two weeks or be forcibly evicted. The eviction was carried out on August 8. The dissident wing of the CSTC was then installed in the building, further to renovation work financed by the government. The CSTC said it had been seeking to resolve its divisions at the time, and this further interference by the government undermined that process. Two CSTC officials, Pierre Essindi Minkoulou and Fulgence Elandi, were called in for questioning by the authorities. Others reported receiving serious threats.

Police stop teachers' protest

Police stopped a demonstration by primary and secondary school teachers on September 28, organised by the independent teachers union SNAEF. The teachers were marching to the offices of the Prime Minister, Peter Mafany Musonge to demand recognition of their professional status and improvements in working conditions. The police held them back for five hours before the crowd dispersed without violence.

Collective bargaining refused

The Federation of Building, Public Works and Allied Workers of Cameroon (FTBAC) faced the persistent refusal by the Cameroon Oil Transportation Company (COTCO) to enter into social dialogue. The union wanted to negotiate a collective agreement for workers involved in the Chad-Cameroon Oil Pipeline project, involving COTCO, the Chad Oil Transportation Company (TOTCO), the oil companies Exxon Mobile, Chevron and Petronas, and the World Bank. The Director General of COTCO refused to enter into social dialogue on several occasions. In October 2001, at a seminar organised by the International Federation of Building and Woodworkers (IFBWW) and the Friedrich Ebert Stiftung (FES), workers again complained about working conditions on the pipeline, including low pay, poor accommodation and bad working conditions. COTCO and the World Bank had repeatedly failed to respond to a request for decent wages, the respect of freedom of association, and an end to discrimination between white and black workers. The IFBWW demanded that the oil consortium enter into social dialogue by December 31, 2001 at the latest.

Central African Republic

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



USTC leader Théophile Sony Colé was again the target of harassment.

THE LEGISLATION

Limits on the freedom of association

The labour code allows all workers to join trade unions, without prior authorisation. A person who has lost the status of worker, either because they are unemployed or have retired, cannot in principle belong to a trade union or take part in its leadership or administration. Trade union officers must belong to the occupation their union represents. Both requirements place limits on the skilled personnel that a union could hire.

Complicated strike procedures

The right to strike is recognised in both public and private sectors, but is curtailed by complicated procedures. After a union has presented its demands, and the employer has responded to those demands, there has to be conciliation between labour and management. If no settlement is reached an arbitration council must rule that the union and the employer failed to agree on valid demands before a strike can be declared legal. If a union calls a strike, only its members can join in the action. The government reserves the right to requisition workers if it is in the "general interest". The labour code does not foresee sanctions against employers for acting against strikers.

The Code does not specifically recognise the right to bargain collectively, but does protect workers from employer interference in the administration of a union.

RIGHTS IN PRACTICE

Collective bargaining minimal

In the civil service wages are set by the Ministry of Labour, further to consultation but not negotiation with the unions. In the private sector, collective bargaining has played a role in setting wages, but has been undermined by long term salary arrears.

EVENTS IN 2001

Tense situation

Mounting tension culminated in an unsuccessful coup d'état on May 28 led by former President André Kolingba. There was concern at the strong reaction of President Ange-Félix Patassé, whose troops were accused of a "witch hunt" against the Yakoma ethnic minority, to which André Kolingba belonged. There were many human rights abuses, at least 59 people died in the fighting and thousands fled the country.

Union leader arrested

The General Secretary of one of the CAR's largest national trade union centres, the USTC, was arrested on June 17 at Bangui airport. Théophile Sony Colé was returning from a meeting of the ICFTU's African Regional Organisation (AFRO) in Nairobi. His passport was confiscated and he was held in custody at the premises of the Research and Documentation Inquiry Section (SERD). There was an immediate international response. The ICFTU-AFRO alerted the international and regional institutions to condemn the arrest. This pressure contributed largely to bringing about Mr. Sony Colé's release.

History of repression

It was not the first time Mr. Sony Colé had had problems with the authorities. In January 1999 he was arrested and severely beaten by the presidential Security Unit. In September of the same year, he was prevented from taking part in an OATUU (Organisation of African Trade Union Unity) Congress, and the following month was prevented from leaving the country to take part in an ICFTU-AFRO executive board meeting in Nairobi. In the months leading up to his latest arrest, the USTC together with the four other national trade union centres had been involved in a fierce dispute with the government over salary arrears owed to civil servants.

Released – without passport

Mr. Sony Colé was questioned for two hours and held overnight before being released on June 18, without his passport. He had been suspected of supporting the failed coup conspiracy in March.

The authorities have since returned his passport.

Chad

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



The leader of the UST was arrested during the year. Union rights were not respected on a multinational pipeline project.

THE LEGISLATION

Old legislation still in place

The right to form and join trade unions is recognised in the Constitution and all employees except members of the armed forces are free to do so. However, a 1962 ordinance subjects the establishment of associations to the authorisation of the Ministry of the Interior and confers extensive powers on the authorities to oversee the management of associations.

Strikes restricted in public sector

The Constitution recognises the right to strike, although this is limited in the public sector by a 1994 decree that requires a minimum service to be maintained.

Under the new Labour Code, accounts and supporting documents for the financial transactions of trade unions must be still submitted to the labour inspector upon demand.

Intervention allowed

The Labour Code specifically recognises the right to collective bargaining, but does allow for some government intervention. The Code protects unions against anti-union discrimination, but there is no formal mechanism for resolving complaints.

RIGHTS IN PRACTICE

The government says that the 1962 ordinance is no longer applied to trade unions and trade unions recognise that. It also says that the 1994 decree limiting public sector strikes has never been applied in practice. It is being slow to repeal these laws however.

EVENTS IN 2001**Union leader arrested**

Events in 2001 were dominated by the re-election of Idriss Deby as President on May 27. The opposition protested at the elections, believing they were marred by fraud. The national trade union centre Union des Syndicats du Tchad (UST), along with the opposition, firmly denounced the shortcomings and on May 30 Baukinébé Ngarba, UST president, and Djibrine Assali Hamdallah, UST general secretary, were arrested. They were released the following day after questioning.

Djibrine Assali Hamdallah had been due to go to the ILO conference as a workers' delegate. However, on May 31 his name was removed from the Chad delegation and he was replaced by the leader of the Confédération Libre des Travailleurs du Tchad.

No collective bargaining in pipeline project

In October 2001, representatives of workers on the Chad-Cameroon oil pipeline project from the FENATRABAT union reported the poor working conditions imposed by Tchad-Oil Transportation Company, TOTCO. They were attending a seminar organised by the International Federation of Building and Woodworkers (IFBWW) and the Friedrich Ebert Stiftung (FES), which found that the TOTCO and the Cameroon Oil Transportation Company (COTCO) had failed to respect national and international labour standards. The companies involved in the World Bank co-funded project, which in addition to COTCO and TOTCO involved the oil companies Exxon Mobile, Chevron and Petronas, were not prepared to enter into social dialogue.

Replacement workers

Negotiations between the government and the health workers' unions FESTASST over the government's failure to meet previously negotiated commitments broke down. When the workers' went on strike on October 22 the government declared their action illegal and sent military personnel to the hospital in N'Djamena to replace the strikers.

Democratic Republic of Congo

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

**Rights on paper**

The rights that exist on paper are ignored in practice, a situation partly created and greatly exacerbated by the civil war and the collapse of the economy.

THE LEGISLATION

The legislation grants all categories of workers with the exception of magistrates and military personnel the right to organise. No prior authorisation is required to set up a trade union. The right to strike is recognised, although unions

must have prior consent and adhere to lengthy mandatory arbitration and appeal procedures. The law prohibits employers from retaliating against strikers.

The right to bargain collectively is also recognised. In the public sector however, the government sets wages by decree and the unions act only in an informal advisory capacity.

RIGHTS IN PRACTICE

No respect in practice

In practice, the civil war and the collapse of the formal economy mean that there is very little respect for trade union rights. Employers ignore labour regulations and the government does little to enforce them. Soaring inflation and the constant depreciation of the Congolese franc render any pay rises agreed through collective bargaining meaningless.

Protests by trade unions, usually about low pay or unpaid wages, are firmly repressed.

EVENTS IN 2001

The country's national trade union centres, the CDT, the CSC and the UNTC set up an inter-union group at the beginning of the year to seek a renewal of social dialogue with the newly installed President, Joseph Kabila. His father had not held a single negotiation with the trade unions for the three years he was in power. The new President did meet with the unions and promised that his government would take their concerns into consideration. In reality the continuing political crisis has left little room for meaningful social dialogue.

Unpaid wages continued to be a problem, notably at the state-run Gecamines mining company, where wages were suspended in May. The company's earnings had slumped following years of mismanagement and corruption.

Union members arrested

On July 3, four members of the railway workers' union were detained in Lubumbashi, in the south of the Katanga province. Rene Lokosha, Drs. Wasso, Kasongo Kadibwe and Roger Mateso of the "Solidarité" union were detained by the Agence Nationale de Renseignements (ANR), the government intelligence agency, and subjected to corporal punishment. The incident followed the submission of a letter on June 12 to the head of the national railway authority calling for pay rises to keep up with the cost of living. When a colleague tried to visit the men, he was himself detained for 22 hours. Two members of the Likasi branch of the union were summonsed by the ANR on the same day.

Union members sacked

The Jules Van Lancker agricultural company sacked 46 trade union delegates, members and substitutes on July 20. The sackings followed a strike, begun on July 13, over a pay dispute. The employer replaced the sacked workers with day labourers and threatened arrests.

Agreement flouted

On August 15 the Ministry of Labour authorised the dismissal of 100 employees by the mobile phone company Starcel on the grounds that it was necessary for the survival of the company. At the end of May however, the company had reached an agreement with the union, in negotiations involving the Ministry of Labour, to reduce wages by half to keep the company afloat while also preserving jobs. The request to shed staff came just a few days later, on June 5. The list of names including those of the trade union delegates.

Collective agreements suspended

The rebel "Rassemblement congolais pour la démocratie" (RCD) movement requisitioned the income of all public enterprises for one month and suspended the collective agreements of public employees in the territory under its control. Employees in the town of Kisangani called a strike in protest. In Goma, trade union delegates sought to negotiate with the RCD. When the authorities refused to even meet them, they too called a strike. The authorities then broadcast a message on the local radio informing the strikers that if they did not return to work they could consider themselves dismissed. Four union members were detained by police for several hours on November 30. Finally the authorities agreed to pay basic salaries, and the unions said they would return to work.

Djibouti

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



The government does not respect trade union rights, and will not enter into dialogue with the legitimate leaders of the recognised national centres. The Transport Ministry sacked 16 trade union members and ordered the arrest of one of their leaders.

THE LEGISLATION

Government authorisation required

The law does recognise the right of workers to join trade unions, but with limitations. A union can only be formed with the prior authorisation of the government. In order to hold trade union office, a person must be a Djibouti national.

Strikes in public service limited

Similarly, while the right to strike is recognised, it is curtailed. The authorities have broad powers to requisition public servants who are on strike, and unions planning strike action must contact the Ministry of the Interior 48 hours in advance.

RIGHTS IN PRACTICE

In practice, there is virtually no respect for trade union rights. There has been repeated repression of trade union action ever since the government sacked nine leaders of the the ICFTU-affiliated Djibouti Union of Labour (UDT) and the Djibouti General Workers' Union (UGTD) in 1995 in retaliation for a protest strike against structural adjustment measures. The government then created a completely unrepresentative "trade union collective". Further to ILO pressure and during visits by international trade union delegates, the government has repeatedly promised that the situation would improve, and specifically promised that it would allow the UDT and UGTD to hold a congress. What happened in reality was that in 1999 it organised a sham UDT/UGTD national congress and appointed its own supporters to lead the organisations.

The two organisations have had their dues frozen, their bank accounts blocked and their premises taken away from them, while union leaders have been harassed and protest demonstrations have been met with police violence. The government has rejected repeated proposals for dialogue and conciliation and has consistently reneged on promises to apply ILO recommendations on trade union freedoms.

Teachers' unions have also suffered a history of repression. In 1996 scores of teachers were sacked after striking in protest at salary arrears. In 1997, five officials from the secondary schoolteachers' union SYNESED were dismissed and disqualified from teaching for their part in the salary protests. Solidarity strikes in support of the five sacked officials were put down with force.

EVENTS IN 2001

Minister sacks trade unionists

The Minister of Transport and Equipment sacked 16 workers, all trade union members. The problems began when the ministry laid off 60 workers at the beginning of January "for budgetary reasons". There had been no prior consultation with the union, the SPBTP, which subsequently called for negotiations. When the Minister refused to negotiate, the SPBTP called a strike. This led to an agreement on January 18 on the reinstatement of the staff concerned and negotiations on a retirement package. The Minister soon went back on the agreement however, sacking 16 workers. Those singled out in this way were all SPBTP members. A further 10 were given retirement, and the remaining 34 were reclassified.

Arrest of union leader

The Minister also ordered the arrest of the assistant general secretary of the SPBTP, Ali Mohamed Kamil. He was subjected to several hours of aggressive interrogation by the police before being released.

**Police attack strikers
– 40 arrested**

The SPBTP gave the Minister three days in which to revoke his measures and honour the agreement made, failing which they would call a strike. The Minister did not respond to their demands and the strike went ahead on January 27. The police surrounded the strike picket, and used tear gas. They violently attacked the workers involved, and even beat those who had fallen on the ground after being overcome by the gas. Some 40 strikers were arrested and taken by force to the police station. They included Ali Mohamed Kamil, and the General Secretary of the SPBTP, Abdoukalek Waberi Ouffaneh. They were released on January 29.

May Day arrests

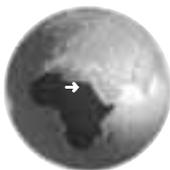
Once again the authorities sought to prevent the unions celebrating May Day. Police occupied the main square of the Gachamaleh quarter of Djibouti where the UDT/UGTD had planned to hold their May Day celebrations. At first they simply tried to prevent the workers from gathering, but as more and more arrived they were given the order to charge the crowd. Dozens of trade unionists were arrested and were transferred to the police detention camp in Nagad, about 10km from the capital. Among those arrested were: Ahmed Djama Egueh, President of the UDT, Ali Mohamed Kamil, Assistant General Secretary of the SPBTP, and Hachem Adaweh Ladieh, former general secretary of the primary school teachers' union SEP.

**No reinstatement for
sacked trade
unionists**

By the end of the year, the nine UDT and UGTD leaders dismissed for strike action in 1995 had still not been reinstated.

Egypt

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



Strong restrictions on union rights remain in place. Increased foreign investment has brought more violations of workers' rights with it in the new "industrial parks".

THE LEGISLATION

Single national centre

Workers may form trade unions provided 50 employees in an enterprise wish to do so. "High administrative officials" in government and public sector enterprises may not join unions. Freedom of association is restricted by the fact that all unions have to belong to the only legally recognised trade union centre, the Egyptian Trade Union Federation (ETUF), which has close relations with the ruling party. The ETUF has the power to control the nomination and election procedures for trade union office. The law also 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. 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 market-oriented labour law

The broad outlines of a new labour law were drafted back in 1995 that would apply to both the public and private sectors. It is hoped that the new bill will bring improvements in consultation and collective bargaining. However it will also make it much easier for employers to dismiss workers, it will not greatly improve the right to strike, and it will maintain the ETUF's trade union monopoly.

The Committee for the Defence of Labour Unions said in a statement that the law would give employers "a unilateral right to terminate a job contract, change job descriptions, cut salaries, (and) assign workers to other posts than those stated in the contract."

RIGHTS IN PRACTICE

There has been an increase in unofficial strike action over the last two years, reflecting the inadequacy of current industrial relations mechanisms to deal with workers' problems.

In the private sector, employers are not interested in bargaining, and do not even respect government requirements on the minimum wage, social security etc.

Refusal to recognise union

When the Titan Cement Company and the French cement group Lafarge jointly acquired the Egyptian company Beni Suef Cement, they refused to recognise the General Trade Union for Building and Wood Industries Workers (GTUB-WIE) and prevented union representatives from carrying out union tasks.

Export processing zones

The private employers in Egypt's "industrial parks" (set up to attract foreign investors) show very little respect for labour rights. A worker at a chemical factory in the "Tenth of Ramadan City" zone says that most business owners force workers to sign letters of resignation before beginning employment so that they can be fired at the employers' convenience. Working conditions are very bad – long hours, low pay, poor safety standards – but it is difficult for labour activists to do anything about it, given the restrictions on collective bargaining and ban on strikes. According to an Egyptian labour rights NGO, "bosses use pay cuts and transfers to remote areas to silence activists or summarily dismiss them on the grounds that they failed to obey instructions". Workers also reported that police hire workers to spy on fellow employees to pre-empt strike attempts.

Equatorial Guinea

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

**Obstacles to the right to organise**

The government has now adopted the core ILO conventions, but in practice continues to deny trade union rights.

THE LEGISLATION

The constitution provides for the right to organise unions. According to the 1992 law on trade unions however, a union must have at least 50 members from the same workplace and the same geographical area in order to register, effectively blocking union organisation.

The right to strike and to bargaining collectively exist, but there are no provisions protecting workers from acts of anti-union discrimination.

The government ratified several ILO core conventions during the year, including conventions 87 and 98, but has not yet adapted its legislation accordingly.

RIGHTS IN PRACTICE

Just as human rights in general are abused in Equatorial Guinea, so are trade union rights.

Union recognition denied Despite its legislation, the government does not recognise trade unions. The authorities have consistently refused to register the Union Sindical de Trabajadores de Guinea Equatorial (UST) which is forced to carry out its activities clandestinely. They have also refused to legalise the public sector union, the Sindicato Independiente de Servicios (SIS). It met all the registration requirements but the government objected to the term "independent".

Workers report that when they try to form trade unions, the police visit their homes and they are intimidated.

There is no collective bargaining in practice. The government and employers set wages, with little or no participation by workers.

Ethiopia

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



There has been no improvement in the respect of trade union rights. Teachers' leader Taye Woldesmiate remains in prison. The unions themselves are becoming more rebellious.

THE LEGISLATION

Freedom of association restricted

Most workers have the right to form and join trade unions under the Constitution, but the 1993 Labour Proclamation specifically excludes teachers and civil servants. There can only be one trade union in an enterprise, and there must be at least 20 workers before a union can be formed. The Ministry of Labour has the power to cancel the registration of a trade union.

Strike procedures cumbersome

The right to strike is recognised, but the procedures to be followed for a strike to be legal are restrictive. Strikes must be supported by a majority of the workers concerned. The government must be given ten days notice and the reason for the action. If the case is already before a labour board, there must be a 30-day warning.

Essential services broadly defined

Strikes are banned in essential services, which are broadly defined to include air transport and railway services, urban and inter-urban bus services, filling stations, banks and postal services.

The Ethiopian government has promised the ILO since 1994 that it would draft new legislation to bring it into line with international standards. So far it has failed to meet those promises.

RIGHTS IN PRACTICE

Government interference

The government's interference in trade union affairs is blatant in all sectors. Many trade union leaders have been removed from their elected posts and/or forced to leave the country. A press release by the Confederation of Ethiopian Trade Unions (CETU) dated November 2 2001 says that trade union leaders are still being sent to prison because they sought the protection of their rights, while many more are sacked simply for forming a trade union.

Ethiopian Teachers' Association

The Ethiopian Teachers' Association (ETA) has been a particular target for harassment and has been persecuted by the government ever since the 1993 Proclamations. The government helped a splinter group form the "New ETA" and awarded the ETA's union dues to it. The president of ETA, Taye Woldesmiate, has been in prison since he was arrested in 1996. He was held for three years before being sentenced to 15 years' imprisonment for conspiracy to overthrow the state after an unfair trial. Two ETA leaders and one ETA supporter died: Kebite Desita, tortured to give evidence against the ETA president, died in prison from his ill

treatment; Shemales Zewide, acting general secretary, died from poor health brought on by imprisonment; Assefa Maru was shot dead by police. Other ETA members are harassed and threatened and live in fear of their lives. Taye Woldesmiate however says his conditions of imprisonment have improved – he is no longer chained 23 hours a day.

The ETA general secretary, meanwhile, continues to live in exile.

EVENTS IN 2001

The government continued with its privatisation programme, which drew strong criticism from the CETU for its failure to protect workers' rights and interests in the process. The discontent this caused made it increasingly difficult for the government to exert its usual control over the unions.

ETA

Persecution of the ETA continued during the year. Dr. Woldesmiate was summonsed to appear in court following his appeal. The police submitted what they claimed to be his signature on a document proving his involvement in an "illegal political group". The court ordered that other documents be retrieved from Addis Ababa University, for Dr. Woldesmiate to verify, to enable police investigators to compare samples of his signature. His last court appearance in the year was on December 24. The hearing was adjourned pending the receipt of the documents.

Two Executive Board members were arrested on December 30 in the administrative capital of Jinka. The ETA was in the process of organising workshops for members on achieving quality in education and on HIV/AIDS prevention when the two men were arrested.

800 Sacked for striking

A lengthy dispute at the MIDROC construction company continued in 2001. After workers took to the streets in October 2000 over a pay dispute and allegations of embezzlement, six leaders of the MIDROC Basic Labour Union (MBLU) were fired "for giving a press conference". At the end of February, a strike was called over the same issues and to demand the reinstatement of the sacked leaders. This time 800 union members were sacked, for what the owners called an "illegal strike". The company hired casual workers to replace them. The Ministry of Labour intervened promising to find a solution to the dispute, and at the beginning of April the 2,000 strikers agreed to return to work. None of the sacked union leaders were reinstated however, and three of the six reported that they had been interrogated by police and warned not to approach the MIDROC premises.

Government fails to address trade union rights issues

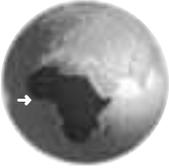
On 4 November 2001, the Federation of Food, Beverage, Tobacco and Allied Trade Unions, staged a demonstration of 7000 workers further to the government's failure to respond to their appeal for negotiations. Towards the end of the year, the federation submitted a letter of notification to the government of its intention to call a general strike. The federation outlined 11 points in support of its case; which included:

- the excessive slowness of the courts in dealing with industrial relations disputes, noting that four people had died while awaiting the judgement;
- violation of freedom of association by employers;
- failure of the government to revise the Labour Laws Proclamation;
- failure of the government to thoroughly assess the privatisation process, and also to follow-up industrial relations cases.

The Confederation of Ethiopian Trade Unions supported these demands.

Ghana

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



The legislative restrictions on the freedom of association remain in place. A construction workers' union won recognition from an employer after seeking international support.

THE LEGISLATION

Limitations on union recognition

The Constitution grants freedom of association, but several pieces of labour legislation effectively limit this freedom. The Industrial Relations Act (IRA) of 1965 and the Trades Union Ordinance (TUO) of 1941 both impose restrictions on the activities of trade unions. The IRA stipulates that the Registrar of trade unions shall not recognise a trade union for any class of worker where a trade union already represents any part of that class. The 1941 Trade Union Ordinance grants the Registrar extensive scope to oppose the registration of a trade union.

The Emergency Powers Act of 1994 restricts freedom of association in areas presently and formerly under a state of emergency. The Act provides for very extensive powers that could be employed to restrict legitimate trade union rights.

Acts of anti-union discrimination are prohibited by law, and employers found guilty of such acts can be required to reinstate workers that have been fired as a result.

Compulsory arbitration

The right to bargain collectively is covered by the IRA, but there are serious restrictions on the free exercise of the right to collective bargaining.

The IRA provides for compulsory arbitration by the Minister to resolve a dispute if one party to the dispute requests it. This makes it possible for employers to renege on their commitment to bargain and call for arbitration instead.

The IRA also grants the Registrar of trade unions wide powers to refuse to recognise a trade union as representative for the purposes of collective bargaining.

Complex strike procedures

The IRA provides for the right to strike, but sets out a strike procedure which is so arduous and complicated that legal strikes become almost impossible. The law protects strikers from retribution, but also provides for severe penalties for illegal strikes, including fines and prison terms.

RIGHTS IN PRACTICE

Anti-union discrimination

In practice, unions report that in many companies there is anti-union discrimination, which the authorities fail to stop. Many employers are particularly resistant to the unionisation of senior staff.

No legal strikes

The authorities have never recognised a strike as legal in Ghana, because all strike action taken has failed to meet the specifications set out in the IRA.

EVENTS IN 2001

Anti-union campaign

In February the Construction and Building Materials Workers' Union (CBMWU) reported anti-union measures against members involved in a public contract project with the Belgian multinational Dredging International, located in Accra, Ghana. The company subcontracted the recruitment of its workforce to Zoe Royal Company Ltd., which tried to prevent workers from joining the union. The union was refused access to its members, some of whom were arbitrarily dismissed.

Recognition

The union gained recognition after it sought support from the international trade union movement. The International Federation of Building and Wood Workers (IFBWW) reported at the beginning of March that the CBMWU had been recognised, finally, as the sole bargaining agent with the Zoe Royal Company Ltd.

Guinea

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



Intimidation and harassment prevent the respect of rights.

THE LEGISLATION

The Labour Code states that all workers, except military and paramilitary personnel have the right to form and join trade unions.

Workers have the right to strike, but must give 10 days notice, and employers can impose binding arbitration.

Strike limitations

Strikes are prohibited in essential services, which are broadly defined to include transport, radio and television.

Collective bargaining is recognised. The law does not contain any measures to prevent anti-union discrimination or to protect trade unions against interference by employers.

RIGHTS IN PRACTICE

Intimidation

Union activities are met with interference and harassment. Strikes are rarely carried out because of the level of intimidation beforehand.

Kenya

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



Kenya's civil servants were hopeful that their trade union rights would finally be restored. Their rights were still denied during the year however. Retrenched civil servants did not receive the full redundancy package promised to them, and the government reneged on a pay deal with teachers.

THE LEGISLATION

Government can deny registration

Workers in enterprises of seven workers or more have the right to form and join trade unions. They must be registered by the Trade Union Registrar which has the right to deny registration.

Restrictions on the right to strike

The law authorises the right to strike, but this right is subject to major restrictions. 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.

Both the Trade Disputes Act and the Industrial Relations Charter authorise collective bargaining. Public employees do not have the right to negotiate collectively their terms and conditions of employment however. It is hoped that the labour law review (see below) will change this.

All labour laws, including the right to organise and bargain collectively apply in the export processing zones.

Labour law review

The Kenyan authorities have spent several months consulting stakeholders in a comprehensive labour law review process. A task force was set up in May 2001 and is due to complete its work by August

2002. It is expected that the review process will be followed by a new draft law, to be the subject of further discussions.

RIGHTS IN PRACTICE

Obstructing the right to strike

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

Rights ignored in EPZs

The EPZ Authority and the government grant many exemptions to labour legislation in the zones. Anti-union discrimination is rampant and in many cases workers have been sacked simply because they participate in trade union activities.

Civil servants denied a union

The Kenya Civil Servants' Union was de-certified in 1980. President Moi annulled this act in 1992, but the decision was never enforced, despite two parliamentary motions (1993 and 1997). The need for a civil servants' union is pressing. An austerity programme launched in 2000, without any consultation with the workers, foresaw 50,000 layoffs by 2002. Some measures have been described by former civil servants as draconian. As a case in point, civil servants who are laid off may never hold a government job again, even though some of them are not even 25 years old.

Ban to be lifted

The Labour Minister, Joseph Ngutu, promised in August that the ban on the civil servants' unions would soon be lifted. He said that plans to legalise the Kenya Civil Servants Union were in their final stages. Technical issues were being addressed by a special task force that was expected to finish its work by the end of the year.

EVENTS IN 2001

Sacked for striking

More than 900 tea pickers at the Kalilana Tea Estate, Limuru, were sacked on March 24 after striking over low wages. The workers had reacted furiously when the company refused to implement a court order granting them a 12% salary increase. The management's response was to sack the workers and order them to vacate their houses within seven hours. The case was taken to the Industrial court, and the company lost, which resulted in the dismissal of the manager.

Collective agreement withdrawn

The assistant general secretary of the Kenya Union of Domestic, Hotels, Educational Institutions, Hospital and Allied workers reported in April that union members were being exploited by school boards following the withdrawal of the collective bargaining agreement. The union reported that it was going to seek President Moi's intervention into the cancellation of the agreement.

Anti-union campaign

Management at J.A.R. Kenya, a clothing manufacturing company in Nairobi associated with Wal-Mart Stores inc. of the USA, embarked on a hostile attack on the Tailors and Textile Workers' Union (TTWU). Active union members were constantly harassed and intimidated. Some were locked up in the factory cell and handed over to the police on fabricated charges. On May 16, three workers were sacked solely for joining the union.

On July 13 three Criminal Investigation Department officers called in the General Secretary of the TTWU for questioning at the CID headquarters. On July 16 the same officers went to the factory and arrested two trade union members. They locked them in the factory cell for eight hours without food then transferred them to several police stations before releasing them two days later. The two workers were dismissed from employment as soon as they were released from police custody.

Civil servants suffer from lack of union

Civil servants still awaiting the recertification of their union felt the effects of the lack of union protection. Public employees laid off under the government's austerity plans announced in September that they were planning to sue the government for unlawful dismissal. Representatives of 11,000 workers who had recently been laid off described their retrenchment as "discriminatory, faulty and illegal" and went on to say that "in the absence of a trade union we were victimised". Although the government had promised them redundancy pay of 240,000 Kenyan shillings, they said that in reality they were only offered Sh40,000 and two months' leave. Some had not been paid at all. They also complained that they had not been given adequate notice.

Broken agreement

The Kenya National Union of Teachers (KNUT) reported that the government had reneged on a pay deal with teachers. The teachers had been awarded a pay rise four years ago, and had agreed to have it paid in phases. The government had failed to implement all the phases of the agreement however.

Intimidation

Francis Muirui Ng'ang'a, General Secretary of the KNUT, reported that he was followed by unknown individuals after arriving in Mombasa on November 23. The KNUT had recently warned that it would call a strike if the government did not honour its pay agreement, and had been outspoken in its criticism of "exorbitant" salary awards to legislators and the legal profession. Mr. Ng'ang'a believed he was being trailed in an attempt to intimidate him, to deter him from speaking out and taking action.

Lesotho

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



Unions in the garment industry again reported poor conditions and anti-union attitudes. Public employees continued to be denied their trade union rights.

THE LEGISLATION

Workers in the private sector have the right to form and join trade unions without prior authorisation. All trade unions must however be registered with the Registrar of Trade Unions.

Public servants denied union rights

Public employees are prohibited from forming and joining trade unions. They can only form or join "associations" that have consultative status.

The right to strike is recognised, but complicated procedures must be followed before strike action is authorised. Civil servants are not allowed to strike.

In law, all legally recognised trade unions enjoy the right to organise and to collective bargaining.

RIGHT IN PRACTICE

Legislation not enforced

Workers are often victims of the non-observance of trade union freedoms. In the private sector the complex procedures and the anti-union attitude of employers makes it very difficult to form a trade union. 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.

Harassment

Employers prevent union organisers from accessing factory premises to organise workers or represent them in disputes. In some cases employers harass union organisers and intimidate members, threatening them with dismissal.

No legal strikes

As a result of the complicated strike procedures there has not been a single official strike in the country since it obtained independence in 1966. Spontaneous protest actions have been erupting regularly over the years, however. Workers risk losing their jobs and being taken to court.

EVENTS IN 2001**Anti-union harassment at clothing factories**

On January 13 workers at Sun Textiles (Pty) Ltd. based in the Tetsane Industrial Area, were dismissed for wearing caps bearing the logo of the Lesotho Clothing and Allied Workers Union (LECAWU). When they tried to find work at other garment factories, they were turned down because they had been blacklisted – the employers had been faxed a list of “troublemakers” names and the names of all the 13 concerned were on it. Some eventually found a job by giving a different name. Their cases were reported to the Labour Commissioner who tried to mediate a solution, but by the end of the year their case had still not been resolved.

Sun Textiles was the subject of a study by a Canadian NGO which published a report on it during the year. It found that the management refused to sign a recognition agreement with the union, and the union was not allowed to be active in the factory. Union members who try to recruit other workers to the union are dismissed. Workers faced long hours, low pay, and there was a high proportion (200 out of a total of 1,000 workers) of temporary contracts.

The study also looked at the Nieng Hsing International garment factory which, amongst other things, produces Cherokee jeans. Shop stewards reported that the management is very anti-union, and victimises workers who join the LECAWU. If they wear union shirts or hats they risk dismissal. The union is not allowed to be active inside the factory and cannot therefore hold general meetings, but it does manage to recruit during the lunch break. Again, workers face long hours, low pay, and are under constant pressure to meet high production targets.

At the Super Knitting factory in Lesotho workers were dismissed after LECAWU called for improved working conditions. The workers had complained of low wages, long hours and poor health and safety standards. On May 2 they arrived at work to find the factory doors locked. They were given their last pay cheque, which had been significantly cut. The LECAWU appealed to the Labour Commission and the Labour Court on the workers’ behalf. A High Court decision on May 15 in the union’s favour was ignored by management, which hired new workers and kept the old workers out with the support of the police and security guards. The LECAWU had protested against the low wages, long hours and poor health and safety conditions in the factory.

The LECAWU later called on the government to tackle the problems of the low wages and poor conditions in the garment industry, as well as the failure to respect trade union rights. The LECAWU also sought international support and the International Textile, Garment and Leather Workers’ Federation (ITGLWF) urged the Prime Minister to initiate meaningful dialogue with the union and ensure the respect of the right to organise and bargain collectively.

Union busting bill

A bill to amend the University Act was described by the three university unions, the Lesotho University Teachers and Researchers Union (LUTARU), the Senior University Staff Union (SUSU) and the Non-Academic Workers’ Union (NAWU), as a union busting bill. It undermined trade union rights and introduced radical changes in the employment contracts of university employees without any proper consultation. In April the three unions alerted the ILO, after the Education Minister refused to hold talks with them. They reported that the bill denied anyone who is a member of a trade union their constitutional right to be appointed to higher positions in the university hierarchy. The University Act allowed the unions to appoint four members to the Lesotho University Council, a right that would be removed if the bill became law.

Libya

POPULATION : 30,000,000 / CAPITAL : Tripoli / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



There was no change in Libya, where basic trade union rights are denied.

Independent trade unions banned

Independent trade unions are banned. The government views them as “unnecessary intermediaries between the revolution and the working forces”. Workers may join the General Federation of Producers/Workers (GUP/N) which is controlled by the government and administered by the “People’s Committees”. Foreign workers may not join the GUP/N.

The right to strike is not recognised. The notion of collective bargaining exists in law but is undermined by the fact that the government must approve all collective agreements to ensure that they are in line with the nation’s economic interests.

RIGHTS IN PRACTICE

No trade union activity

There is no real trade union activity in practice.

Discrimination against migrant workers

Migrant workers make up much of the labour force, but are badly treated. As they are not allowed to form or join trade unions, even the official so-called workers’ organisation, GUP/N, they have no protection from the discrimination they are regularly subjected to.

Madagascar

POPULATION : 15,500,000 / CAPITAL : Antananarivo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,111,138,182



The government continues to interfere in worker representation on tripartite bodies. Anti-union discrimination is still prevalent in the EPZs.

THE LEGISLATION

Restrictions for public servants and seafarers

The Constitution guarantees both public and private sector workers the right to join and form trade unions. However, this right is not extended to workers in so-called essential services. Radio and television broadcasting and banking are included in this classification, exceeding the limits set by the ILO’s accepted definition of “those whose interruption would endanger the life, personal safety or health of the whole or part of the population.” The Labour Code provides for the right to collective bargaining.

Seafarers’ are not covered by the Labour Code. They do have the right, under the Maritime Code, to conclude collective agreements but their right to organise is not specifically recognised in law.

Strike limitations

The right to strike is recognised, although workers first have to exhaust conciliation, mediation and arbitration procedures. The government has the power to require public employees to work in order to end or avert a strike in its broad definition of essential services.

The Labour Code prohibits anti-union discrimination. Labour legislation applies fully in the export processing zones.

RIGHTS IN PRACTICE**Protection not enforced**

The government fails to enforce the law protecting trade unions, and workers remain exposed to acts of anti-union discrimination.

Rights ignored in EPZs

The labour legislation is blatantly violated by the 200 or more firms in Madagascar's export processing zones and the government is either unable, owing to limited resources, or unwilling to inspect these workplaces and investigate reports of anti-union discrimination. As a result, workers have been unable to exercise the right to join or form trade unions. One of the national trade union centres, Fivondronamben'ny Mpiasa Malagasy (FMM), has denounced the deplorable conditions in the zones, where wages are often below the legal minimum, working hours are excessively long and sexual harassment is rife.

No redress for Social Security workers

Another case of blatant rights violations, at the National Social Security Institute, has continued with impunity. It began in 1997 when workers went on strike in protest at a unilateral cut in benefits contained in the collective agreement. The Labour Ministry mediated the dispute and ordered the benefits to be paid and that no sanctions were to be taken against the strikers. In direct contravention of this order, 20 union leaders were subsequently fired. The Director of the Institute refused to pay the benefits, and was taken to court. The judge ordered the workers reinstated and the benefits paid, but the Director again refused and appealed the judgement. Shortly thereafter, many of the higher-level union officials were transferred against their wishes to remote posts several hundred kilometres from the capital city, in an effort to stop their union activities.

Government's unilateral change to tripartite body

In August 1999 the government unilaterally altered the composition of the tri-partite Governing Board of the National Social Security Fund (CnaPS), from four government, eight employer and eight worker representatives to six of each. It also gave itself a turn in the presidency, which it did not have before. The government then failed to respond to a request for social dialogue, although an ad hoc commission was finally set up to discuss the issue in May 2000. The Decree was declared unconstitutional in August by the High Court. In a new draft decree the government proposed to give itself the right to appoint one of the six workers representatives on the board. Five national trade union federations and other Malagasy unions have submitted a complaint to the ILO.

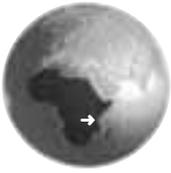
Government interference in trade union affairs

In a Decree issued on May 31 2000, the government required trade unions to provide a list of their members, a copy of their by-laws and the names of their serving officers. The government claims this was merely to establish the representativeness of the trade unions. As the ILO points out, a record of membership dues should be sufficient for this purpose, as a list of names could make members more vulnerable to anti-union discrimination.

The country's trade unions also allege that the Ministry of the Public Service, Labour and Social law interferes in the elections of worker representatives to serve on various tripartite bodies; organises missions involving workers' delegates without the knowledge of their confederations for the purpose of appointing them to regional tripartite bodies; and requests proposals for candidates other than those already put forward by the confederations for membership of these bodies.

Malawi

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



Malawi is another example of a country where law and practice diverge. Rights are recognised in legislation, but employers resist union activity. The water board, railway company, telecommunications company and postal corporation all took anti-union action during the year.

THE LEGISLATION

Rights recognised in theory

Workers have the right to form and join trade unions. This includes civil servants, with the exception of army personnel and the police. Unions must register with the Ministry of Labour, but this is largely a formality.

Registered unions may strike. However strike action can only be taken after all dispute settlement and conciliation procedures have been exhausted. The employer and the Ministry of Labour must be given at least seven days notice. Workers in essential services have a limited right to strike.

The law does not specifically prohibit retaliation against strikers.

Collective bargaining is recognised in law, provided the union represents at least 20% of employees at enterprise level. At sectoral level unions must represent at least 15% of employees.

Labour laws apply in the export processing zones.

RIGHTS IN PRACTICE

Employer resistance

In practice, barely 10% of workers are in formal employment and therefore covered by labour legislation. For that small minority, freedom of association and collective bargaining are limited by the resistance of some employers, including the government as the public sector employer, to respect these rights.

Ineffective legislation

Ambiguities in the application of the law, especially concerning the right to strike, and continuing government interference in trade union activities, reduces the effectiveness of these laws for the protection of workers. The law does not specify exactly which services are essential, enabling the authorities to declare strikes illegal.

Similarly, employers ignore the prohibition on anti-union discrimination. The National Bank of Malawi, for example, unilaterally abrogated an agreement with the Commercial, Industrial and Allied Workers' Union (CIAWU), while District Education Officers have been fired for their membership of the Teachers' Union of Malawi.

Equally, companies in the EPZs are resistant to union activity, and the unions say they have little access to workers in the zones.

Enforcement of legislation by the Ministry of Labour is ineffective.

EVENTS IN 2001

Sacked for striking

The authorities dealt heavy-handedly with workers at the Lilongwe Water Board when they went on strike on May 12 over pay and management corruption. Water is an essential service, and a government can legitimately requisition a core workforce to maintain the service. In this case however, the government declared the whole strike illegal. Rather than seek negotiation, it instructed the Water Board to fire all 350 employees.

No reinstatement for union leaders

The workers were informed that to be reinstated in their jobs they had to sign a statement saying they would not take strike action, and to accept their existing pay and working conditions. The government told the Water Board to deal firmly with the strikers. On August 3 the Malawi Congress of Trade Unions (MTUC) reported that while most employees had been reinstated, all the elected officers of the Water Employees Trade Union of Malawi, the general secretary, vice-president and chairperson of the Women's Committee, and 10 other union

members remained suspended. They had not been paid for four months. The employer also stopped the check-off of the union's dues.

Anti-union discrimination

The president of the Railway Workers' Union of Malawi (RWU) was suspended after speaking up for workers' rights. The RWU and the management of the Central East African Railways Company organised a Workers' Day on July 13. The union president Mr. Chiwambala used this joint activity as an opportunity to call for new working conditions and benefits for staff. He was suspended immediately afterwards, and prohibited from entering the railway headquarters where he worked in the accounts department. He was called back to work on August 7, to find he had been demoted two grades and moved from accounts to the administration department. The free office space provided for the union was withdrawn and the union was requested to seek rented space elsewhere. After MTUC intervention, the employer relented on the question of office space, but harassment of Mr. Chiwambala and the entire union leadership continued.

Harassment

The Malawi Posts and Telecommunications Workers' Union (MPTWU) reported in August that Malawi Telecoms Limited (MTL) continued to victimise trade union members. They had taken action in protest at the failure to respect an agreement, laid down in the Communications Act, which stipulated that all employees of the MTL would enjoy the same benefits and privileges as they did under the former Malawi Posts and Telecommunications Corporation (MPTC). Yet several workers had been transferred to other workplaces in retaliation, for example. Union President Batwell Kulemero received a stern warning from the MTL for signing a union letter.

In the meantime, the MTL did not concede to the MPTWU's request to negotiate and establish a consultative process for dealing with workers' grievances. Six MTL workers who took part in a sit-in to press for their demands were arrested and faced charges of interfering with telecommunications infrastructure. The MTL also brought a court order against all its workers restraining them from holding any further sit-ins as a way of addressing their grievances.

On October 1, the general secretary of the MPTWU, Robert Mkwezalamba, was made redundant by the Malawi Postal Corporation (MPC). When the union protested that no proper procedure had been followed, the employer circulated a letter to staff informing them that it was working on a retrenchment package, the modalities of which would be discussed with the union. Yet this retrenchment, for which there was no negotiation with the union, involved one member of staff who had been promoted just one month beforehand. The union believed he was being victimised for his union activities.

Mauritania

POPULATION : 2,600,000 / CAPITAL : Nouakchott / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



Restrictions on freedom of association

A proposed new labour code will maintain some of the existing restrictions on trade union rights and introduce others. Employers are reluctant to deal with unions and rights are difficult to enforce. Four trade union delegates were sacked for their union activities.

THE LEGISLATION

All workers, except for members of the military and the police, are free to join and form trade unions. However the government has the power to decide whether or not to recognise a trade union, as authorisation must be given by the office of the public prosecutor.

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.

Protection of trade union leaders is not explicitly provided for in the Labour Code, although such protection is conferred upon workers' delegates within companies.

Obstacles to the right to strike

The right to strike is recognised, but the current Labour Code permits the prohibition of strikes in the event of referral to compulsory arbitration. Civil service unions have to give one month's notice before holding a strike while in the private sector they must provide official notification that conciliation procedures have broken down.

General strikes are difficult to organise, since the government generally invokes errors in administrative procedures or the overtly "political" nature of the strike to ban the action.

The government can dissolve any trade union involved in what the government considers to be an "illegal" or "politically-motivated" strike.

Collective bargaining

The right to collective bargaining is recognised.

Reform of the Labour Code – still delayed

A bill to reform the Labour Code was drafted in 1993, but had still not been brought before parliament by the end of the year. It still contains several restrictions on trade union rights.

The creation of a trade union is still subject to prior authorisation from the Office of the Public Prosecutor before legal status can be obtained.

Sanctions can still be taken against a union. The Office of the Public Prosecutor can declare the provisional suspension of a trade union at the simple request of the Ministry of the Interior if it feels the union has not complied with the law, without giving the reasons for the suspension.

Protection for elected trade union officials is not explicitly ensured.

The limitations on the right to strike remain in the new code.

The right to call a general strike is subject to interpretation, as there is a legal void in the existing text, while in the new draft the public authorities have the right to judge the legality or otherwise of a strike, with no right of appeal against this decision by the unions.

Executive and managerial staff are not allowed to strike.

RIGHTS IN PRACTICE

Rights ignored

Unions report that there is virtually no social dialogue, and employers are very reluctant to deal with unions. Social dialogue generally only takes place when workers take industrial action in the event of a labour dispute. In many companies freedom of association is constantly short-circuited as a result of employer interference in union elections. This occurs frequently in the private sector where union delegates are very vulnerable.

Ineffective labour inspection

The enforcement of rights is complicated by the fact that labour inspectors are very poorly paid and corruption is rife. Some have to cover regions that extend over 600,000 km² without a telephone or a vehicle. Even when a dispute breaks out, labour inspections are limited to voluntary conciliation. When a union takes the matter to a higher level, the legal environment is such that court rulings are often contradictory and sometimes completely ignored by companies.

Old attitudes prevail

Although slavery was abolished by law in 1981, there are still pockets where the attitude of master and servant prevails, making it difficult for trade unions to organise.

EVENTS IN 2001

Sacked for being union delegates

The vulnerability of union delegates was demonstrated by an incident at the public works company Razell. Four workers, all CGTM members, contacted the management to convey workers' complaints that they were working too many hours' overtime. They also discussed healthcare problems. In November, the management signed an agreement with these four union delegates, but then fired them for their union activities. The workers had to travel 600 km to find a

labour inspector. A combination of missed appointments and lot of red tape meant that in the end nothing was actually done about their case.

Mauritius

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



The lack of effective protection in law against anti-union discrimination was demonstrated during the year by several cases in which union leaders were sacked. Many of the trade union rights violations in the country occur in the EPZs.

THE LEGISLATION

Strike restrictions

The Constitution protects workers' right to form and join trade unions.

The right to strike is also recognised under the Industrial Relations Act (IRA), but there are limitations. The IRA imposes a 21-day cooling off period before any strike can begin, and the Labour Ministry can order that the case be taken before the industrial court for binding arbitration. The government also has the right to declare illegal any strike deemed to impair the economy.

Inadequate protection

The right to bargain collectively is recognised. However, the law does not provide adequate protection for trade unions from interference by the employer.

Export processing zones

Labour legislation applies in the export processing zones (EPZs), but there are also specific labour laws that undermine some basic protections. These include the provision for 10 hours per week of mandatory, paid overtime.

Proposed reforms

The government has begun a labour law reform project in cooperation with the ILO, but no new legislation has come into force yet.

RIGHTS IN PRACTICE

Hostile employers

Freedom of association is generally respected in practice, although this is not the case in the EPZ's. Unionisation rates are much lower in the EPZ's than in the economy as a whole, and numerous EPZ employers are actively hostile to union organisation among their employees. Union activists are often denied access to the premises of these employers, and workers are harassed or fired for expressing union sympathies or interest in forming a union. In such situations, employer-controlled works councils have been set up by employers in lieu of allowing the workers to choose their own representatives. In many cases, this lack of effective union representation has resulted in health hazards and workplace-related illnesses not being addressed and rectified, often leading to an unhealthy working environment for EPZ employees.

The lack of legislative protection against anti-union discrimination, especially in EPZ's, has caused both the ILO and the national trade union centres, the Mauritius Labour Congress and the Mauritius Trade Union Congress to demand an amendment of the law. The President of the Medical and Health Officers' Association was recently suspended from his job as a general practitioner in the government health services for his views on the health system, expressed in his union capacity.

Union leaders in EPZ's are often refused time off to deal with staff grievances if travel to another workplace is required.

Unions also find it difficult to access and organise migrant workers, particularly those from South East Asia, who tend to work long hours and be cut off from other workers. Similarly, there have been reports of trade unions facing difficulties in organising workers in the growing off-shore business sector.

While the law provides for collective bargaining, many workers remain unable to exercise this right. The government sets wage levels in the public sector, which undermines collective bargaining for a large number of public workers. And in EPZ's, the general anti-union sentiment among employers mean collective bargaining is very rare. As a result, wages are often set by Statutory Wages Commissions.

Participation in an illegal strike is considered sufficient grounds for dismissal.

EVENTS IN 2001

Anti-union discrimination at State Bank

The State Bank of Mauritius agreed to pay compensation to Narainja Jassodanand and Vijay Ramnarain, former leaders of the employees union at the Bank, but refused to reinstate them. The Federation of Progressive Unions (FPU) saw this as an admission of unfair dismissal. The two union leaders had been sacked after being accused of acting as press informers, but the newspapers concerned denied this. Meanwhile, the FPU claimed, the Bank continued to harass and discriminate against trade union leaders.

Union leader dismissed at Portland Cement

Portland Cement Ltd. sacked Michael James, president of the Private Enterprises Employees' Union (PEEU). According to the company, they had to get rid of staff owing to falling sales figures. Until that point however they had dealt with it by not replacing staff who left. The union saw this as a clear case of anti-union discrimination, and called a strike in protest. Mr. James was reinstated.

No dialogue with union

In October the Free Democratic Unions Federation reported that the management at International Fashions Limited, in the Floréal EPZ, had refused to have any negotiation with the union for six months. The union was defending workers at the factory in a dispute over low pay and conditions, but the employer had decided to take a hard line and rejected any negotiation.

Unilateral wage cut

The Private Enterprises Employees Union reported that management at United Knitters Ltd. (UKL) in the Plaine-Lauzun EPZ had imposed a unilateral pay cut without negotiation. According to the regulations governing EPZs, where employees work piece rate the amount should be negotiated with them before beginning work on an order. In this case, management had decided unilaterally to pay Rs 20 less than the usual rate on an order from Madagascar. In addition to its failure to consult the workers, management did not announce the new rate of pay until five days after they had begun work on the order. In protest the workers organised two half-day work stoppages. The employer withdrew that particular order from the production line, but maintained a lower rate of pay (Rs 220 instead of Rs 233 per piece) and deducted the amounts for the two half days of the stoppage from the workers' pay packets.

Morocco

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



The authorities still allow employers, notably multinationals, to violate trade union rights. There were several incidents of violent police repression of union action during the year.

THE LEGISLATION

Workers are free to form and join trade unions. No prior authorisation is required. Agricultural workers enjoy fewer rights than others and magistrates are completely barred from carrying out trade union activities.

Restrictions on right to strike

The right to strike is recognised in law, although the law also provides for the compulsory arbitration of disputes. The Moroccan Workers' Union (UMT) has called for the repeal of article 288 of the penal code on "the freedom to strike" which it says gives the employers too many prerogatives and enables them to take strikers to court, where they face fines or prison sentences.

A new strike law has been drafted. The Minister of Employment proposes that the decision to take strike action should be taken either by the union representing the staff or by the majority of employees if they are not represented by the union. The employers would like the limit for approval for strike action to be raised to two thirds of all workers in the enterprise. The current draft also states that the employer should be warned of strike action at least seven days in advance. It would ban strikes in essential services.

There is effective recognition of the right to collective bargaining in law, but inadequate protection of that right.

No progress on new code Discussions on a proposed new labour code continued to drag on and reached a new impasse. If adopted it would bring some improvements, such as the removal of compulsory arbitration. However, the government announced during the year that it wanted to make the code more flexible to make Morocco more attractive to investors. The unions feared some of the government's proposals would undermine existing union rights.

RIGHTS IN PRACTICE

In practice, the wages are often set by the employer, although there is a tradition of collective bargaining in some sectors, such as the industrial sector. Disputes have arisen in some cases as a result of employers failing to implement collective bargaining agreements.

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

Some of the worst offenders are multinational companies, who act with the connivance of the authorities. When a trade union was set up in November 2000, for example, at a subsidiary of the Irish "Fruit of the Loom" group in the town of Salé - a factory employing over 1,200 workers - a whole arsenal of anti-union tactics was unleashed: the recruitment of militiamen to intimidate participants at the union assembly, the dismissal of eight leaders elected by the grass roots, a banner displayed outside the plant by the employer calling for "a union-free factory" and a press campaign. When the Moroccan Labour Union (UMT), an ICFTU affiliate, reported the case to the governor of Salé, he sided with the "Fruit of the Loom" management, stating bluntly that he didn't want any unions in his prefecture.

EVENTS IN 2001

Violent police intervention On May 31, 11 protesters had to be taken to hospital as a result of the violent dispersal by police of a sit-in at the Ministry of Agriculture. The employees of the Ministry's regional offices had staged the peaceful protest in order to demand recognition of their status. The police intervened while the delegates of the three unions representing the workers were in discussions with Ministry officials.

Union leaders facing trial On October 10 the port workers' union USTPM called a protest strike as part of their continuing dispute with the port authorities, ODEP. The dispute began in 2000 over wage increases and other benefits, and continued when the authorities failed to respect the agreement reached. Some of the union leaders were later dismissed and charged with "obstructing the freedom to work" for calling for strike action. Their trial was due to open on October 10, but was postponed. The USTPM called off its action on October 11 when the Ministry of Equipment promised to meet for talks and to consider their demands. A sit-in on one of the boats during the strike was broken up violently by police, and 60 protesters were arrested. The USTPM decided however to stick to its decision to call off the strike and seek a negotiated solution.

Agreement ignored The major teachers' unions went on strike on November 13 and 14, after the government failed to respect a collective agreement on pay negotiated in December 2000. When the government prepared its 2002 budget, it did not include the necessary adjustments to cover the pay agreement. Their strike action involved a sit-in that was met with violent police repression, leaving several teachers injured. The government later promised talks to look at the problem, but had very little new to offer that would satisfy the teachers' demands. A further strike was held in December.

Mozambique

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



Public servants still face limitations on their trade union rights, although the national trade union centre OTM-CS believes this could soon change. A series of anti-union tactics culminated in the sacking of hundreds of striking workers at the Billiton Mozal aluminium plant.

THE LEGISLATION

Freedom of association limited for public officials

The Constitution states that all workers, without exception, have the right to join a trade union. However, public officials are excluded from some elements of the 1998 Labour Law that sets out the rights to freedom of association.

Ineffective protection from discrimination

Anti-union discrimination is also prohibited, the penalties for anti-union discrimination are not sufficiently dissuasive.

Interference in collective bargaining – and abusive definition of essential services

The 1991 Labour Law grants the majority of workers the right to bargain collectively, although again public servants engaged in the administration of the State are excluded from its scope, and are covered by a special statute.

Decree no. 33 of 1990, and Act no. 8/1998, define essential services for which the government reserves the right to interfere in the collective bargaining process by imposing compulsory arbitration in the case of an industrial dispute. Several of the occupational categories listed as essential services, such as combustible asbestos, the loading and unloading of livestock and perishable foodstuffs, and postal and transport services, are not compatible with the ILO's definition of those services "whose interruption would endanger the life, personal safety or health of the whole or part of the population." The OTM-CS has elaborated proposals to be submitted for the revision of the legislation concerned.

Right to strike – not for all

The Constitution guarantees the right to strike, although again this right is not extended to the military, the police, civil servants or workers in the broadly defined essential services. Under the 1991 Labour Law the hiring of substitute workers and lockouts by employers are forbidden, and strikers are protected from retribution.

RIGHTS IN PRACTICE

There have been cases where anti-riot police have responded violently to worker demonstrations, such as in January 1998, when one striker was killed and four others wounded when police fired live ammunition to disperse 250 demonstrators.

Export processing zones

According to the national trade union centre OTM-CS, unionists face discrimination and unfair dismissal, and workers are dismissed for going on strike. It also says that collective agreements are not respected, and that the principal of equal pay for equal work is not respected.

EVENTS IN 2001

The OTM-CS reported that by the end of the year workers in some sectors had not been paid for between six to 20 months. In other cases, social security contributions had been deducted for workers' pay packages but the money had not been paid to the social security institute.

Sacked for striking

On October 3, 2001, over 400 workers at the Billiton Mozal aluminium plant near Maputo were promptly fired by the company when they started strike action and then chased from the premises by police and dogs. The dispute began over the workers' demands for the right to proper collective bargaining, the right to strike, improved working conditions, better wages and an end to discrimination.

Strike-breaking strategies

In an attempt to break the strike, Mozal tried various strategies. On October 2, the company accused the senior shop steward of intimidating workers and then had him arrested and detained by police for four hours. It also recruited 150 white workers in South Africa to be used as substitute labour. The company issued the letters of dismissal without any previous warning.

No negotiation

Previously, the Mozal management had coerced its workers to accept a "no-strike" clause in their collective agreement as a condition for the recognition of their trade union. When SINTIME sought to negotiate an increase in wages and other benefits, the company not only rejected their modest demands, but refused even to discuss them.

On October 19, when the Mozal union committee met with the Minister of Labour and Minister of Industry and Commerce, the trade unionists were told that if the workers wanted to be reemployed at the smelting plant, they would first have to face a disciplinary hearing. Although the SINTIME tried to negotiate against such a procedure and the likelihood of victimisation, the combined intimidation from the company and government resulted in half of the striking workers returning to the plant. During the disciplinary hearings, these workers were being pressured to sign a statement declaring they had "observed an illegal strike".

Namibia

POPULATION : 1,700,000 / CAPITAL : Windhoek / ILO CORE CONVENTIONS RATIFIED : 29,87,98,105,111,138,182



Over 100 workers were dismissed by a supermarket chain for striking. EPZ employers and farmers are still hostile to trade unions. It is hoped that new legislation will help improve the dispute settlement machinery.

THE LEGISLATION

Workers are free to form and join trade unions, and the law provides for collective bargaining.

Right to strike denied to workers in EPZs

The right to strike is recognised, although workers in essential services are excluded. The Export Processing Zones Amendment Act in 1996 also denied this right to all workers in the zones.

Limitations

Strike action can only be used in disputes involving specific workers' interests such as pay rises, and there must be a 48-hour notice period. Disputes over workers' rights, including dismissals, must be referred to the labour court for arbitration. Current arbitration and dispute solving mechanisms are cumbersome, leading to a long backlog of cases.

New labour law

The government has drafted a new Labour Act to replace the 1992 Act. It contains comprehensive amendments to the dispute settlement machinery, and removes some of the existing confusion over the law by removing obscure language.

RIGHTS IN PRACTICE

Hostility – particularly in the EPZs

Recent studies indicate that employers are still 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.

Organising obstructed

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.

EVENTS IN 2001

Dismissed for striking

On November 9, the Woermann and Brock supermarket chain dismissed 105 workers for taking part in a strike on September 21 and 22. The strike took place in protest at the suspension without pay of 17 fellow employees on August 16, after they refused to work a later shift. Management did not tell the workers about the change in shift until they turned up for work on the day. The suspension took immediate effect and the employees were replaced with workers from labour hire companies. When the Namibia Wholesale and Retail Workers' Union announced the protest strike, the company sought and won a court order banning the strike. The company said the strike was therefore illegal, hence the reason for the dismissals.

Nigeria

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



Restrictions on the right to organise and the right to strike remain in place, while union activity is made extremely difficult in the EPZs. The Nigerian Labour Congress reports that there has been an increase in violations in trade union rights. In one incident, tear gas and live bullets were used on protesting civil servants.

THE LEGISLATION

The constitution recognises the right of workers to join or form trade unions, but despite the repeal of some of the anti-labour decrees from the military era, restrictions on that right remain. At least 50 workers are needed to form a trade union, an excessive requirement by international standards. The freedom of choice is restricted by the stipulation in the Trade Unions Act that no trade union can be registered to represent employers where a trade union already exists.

The right to organise is denied to workers in essential services, the list of which exceeds the ILO's definition. It includes employees of the Customs and Excise Department, the Immigration Department, the Prison Service and the Central Bank of Nigeria.

The right to strike is undermined by a section of the Trade Unions (Amendment) Decree of 1996 that makes check-off payments conditional upon the inclusion of a "no strike" clause in collective agreements.

It is also limited by an amendment to the Trade Disputes Act which allows for the possibility of compulsory arbitration, with a penalty or a fine or six months' imprisonment for anyone failing to comply with the award issued by the National Industrial Court.

Export processing zones

Article 4(e) of the 1992 Decree on Export Processing Zones states that "employer-employee" disputes are not matters to be handled by trade unions but rather by the authorities managing these zones. Article 13(1) of the same Decree makes it very difficult for workers to form or join trade unions as it is almost impossible for worker representatives to gain free access to the EPZs. Moreover, the Export Processing Zones Acts prohibits strikes and lockouts for a period of ten years after a company begins its activities in a given EPZ.

RIGHTS IN PRACTICE

Not all the restrictions in law are applied in practice. Workers in Nigeria Telecommunications for example are organised, as are members of the National Union of Postal and Telecommunications Employees (NUPTE). That said, the civil service in general has not shown itself to be particularly pro-union, and leaders claim their members have been targeted in the mass layoffs that have been carried out.

EVENTS IN 2001

- Strikers sacked** All professors at the Ambrose Alli University were sacked on February 14 after going on strike to demand the payment of four months' salary arrears. They were told that they were free to apply for their jobs again, but would have to go through a selection process.
- Union leader arrested** The Chairman of the Council of Industrial Unions (COIU) in Lagos State, Ayodele Akele, was arrested on April 24 and charged with disrupting work at the Lagos State Development and Property Corporation (LSDPC). He had been arrested by police while leading a peaceful protest at the entrance of the corporation. He claimed he was brutalised and manhandled by police before being taken to the Magistrates Court and charged. He was later released on bail.
- Targeted** Ayodele Akele's protest was against the mass lay-offs in the civil service, which he believed were unjustified. He himself had been laid off just a week before, together with 159 other workers. The union believed his activities, including his role in demanding a new minimum wage, had made him a target for redundancy. He had also made himself unpopular with the authorities when he pointed out in an interview with the press about a month before his arrest that workers had backed down on a pay claim in return for assurances from the State governor that there would be no more layoffs.
- Refusal to recognise right to strike** A strike that begun on October 23 by civil servants in the Borno State was declared illegal by the State governor. The workers were facing salary arrears – money owed just to bring their pay levels up to the minimum wage. Civil servants in the higher grades had actually agreed to pay cuts of between 17.5 and 20% the previous year to make payment of the minimum wage possible.
- Violent police repression** A further protest by Borno State workers in response to reductions in their salaries met with violent police repression. On November 16 at least five people sustained serious injuries when police used tear-gas and live bullets to disperse demonstrators. Thirteen workers were arrested.
- Proposed education strike ban** The government announced in December that it was studying the possibility of banning strikes by university teachers. Chronic under-funding in higher education had led to repeated strikes and protests against poor facilities, low pay and pay arrears.

Rwanda

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



Trade unions operate in a climate of fear, facing government interference, anti-union employers and a lack of infrastructure to protect their rights.

THE LEGISLATION

Workers have the right to form trade unions. Union membership is voluntary and open to all salaried workers, including public sector employees. Agricultural workers are excluded from the current 1976 code and are therefore denied protection of their trade union rights. The relevant section of the code has still not been amended, despite repeated reminders from the ILO.

Unions must register with the Ministry of Justice for official recognition, but this is just a formality.

The right to collective bargaining is recognised.

The right to strike is recognised, although all state employees are forbidden from taking part in strikes.

New legislation – pros and cons:
- Act on the status of civil servants

The government says that it is reviewing the act on the status of civil servants, and that under the new draft civil servants will have the same rights and liberties as other citizens. This rather vague stipulation suggests they will be allowed to strike. The same bill undermines civil servants rights as well however, as it prohibits state employees

from publicly expressing their political, philosophical or trade union opinions. The national trade union CESTRAR has pointed out that this is tantamount to a prohibition on organising.

- Draft labour code

A new labour code has been drafted that will bring some improvements, but limitations as well. Currently only nationals may be elected to trade union office. The new draft code provides that foreign workers may be elected to trade union office after a period of residence of at least five years in the country, provided non-nationals do not exceed one third of the union's officers.

The draft code restricts the right to strike in essential services, but the definition of these services is too broad to be compatible with ILO standards. It includes the maintenance of installations and "vital socio-economic sectors"

RIGHTS IN PRACTICE

Institutional vacuum

Rwanda is still recovering from the effects of the 1994 genocide. The General Secretary of CESTRAR points out that although trade union rights legislation looks acceptable on paper, there is an institutional vacuum when it comes to apply and monitoring it. There are still no labour courts for example. The country does not have the resources, as it is still struggling with structural adjustment and much of the population is still living in desperate poverty as a result of the civil war. Similarly, the right to strike is just an illusion, because there is no effective protection for workers against retribution.

A climate of fear still prevails in the country, there have been reports of interference by the authorities in trade union affairs, and employers are rarely sympathetic to their cause. The telephone company forbids staff representatives from attending union meetings, while employers in the sugar and textile industries are clearly anti-union says the CESTRAR.

Senegal

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



The government still retains the right to grant or withhold approval of a trade union, while the new constitution seriously undermines the right to strike. Protesting workers were badly injured when the police arrived to disperse their demonstration.

THE LEGISLATION

Government approval required

The Labour Code recognises the right of workers to form or join trade unions, and any group of workers in a similar trade or the same profession may create a union. But there are limitations. A trade union cannot exist legally without the approval of the Ministry of the Interior, and the public authorities have broad powers to dissolve trade unions by administrative authority.

Strike limitations, particularly in civil service

Similarly the right to strike is recognised but restricted. Private sector unions must give three days notice, and civil service unions must give at least one month's notice. The authorities also have broad powers to requisition workers from private enterprises and public services and establishments for the safety of persons and goods, the maintenance of public order, the continuity of public services or meeting the country's essential needs, a broad definition that is open to abuse. The law also states that workplaces or the immediate surroundings thereof may not be occupied during a strike.

New Constitution a setback

The new Constitution, adopted in January 2001, seriously undermines the right to strike by stipulating that strike action must not infringe upon the freedom to work or jeopardise the enterprise.

The right to collective bargaining is recognised.

RIGHTS IN PRACTICE**Labour code excludes majority**

The majority of workers are excluded from the Labour Code because they are in the agricultural or informal sectors, where the code does not apply.

The national trade union centres were able to bargain successfully with the government during the year, achieving satisfaction on a long standing demand concerning an increase in the retirement age. There were mixed reactions as to how far their targets had been met, and civil service pay rises proved a tougher negotiating issue, but it did represent due respect for the bargaining process.

EVENTS IN 2001**Police injure protesting workers**

Three people were injured, one seriously, and four arrested, when the police brutally dispersed a protest demonstration on April 2 organised by an inter-union group outside the Presidential palace. Workers from the Cap-Vert transport company (Sotraco), made redundant when the company collapsed, were demanding severance pay and for the proper liquidation procedures to be respected. Despite lengthy negotiations with the unions, the agreements were not respected. The workers had been promised that they would be rehired by the new transport company Dakar-dem-dikk, or 3D, but in reality only a very tiny proportion were given jobs.

Government tries to divide union

Towards the end of the year, tensions had arisen within the CNTS. These had clearly been aggravated by government manoeuvres, aimed at undermining the organisation.

South Africa

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



Despite the protection of trade union rights in law, these are often ignored in practice. Foreign employers played on workers' fear of unemployment to prevent union action, threatening to relocate. The privatisation process showed that in the public sector the collective bargaining process was weak in practice.

THE LEGISLATION

The 1995 Labour Relations Act (LRA) recognises the main trade union rights. The act applies to both the public and private sectors, recognises the workers' right to form trade union and protects them against unfair dismissal. Employers can however lay off workers on the grounds of "operational requirements". The right to strike is also recognised for all workers including the public sector, provided they do not work in essential services or the security forces. It is undermined however by a provision in the law that allows employers to hire replacement workers during a strike.

The LRA provides for collective bargaining rights and organisational rights, such as trade union access to work sites and the deduction of trade union dues.

Improvements on their way

Proposed labour law amendments extend trade union rights in key areas, including the right to strike over retrenchment.

RIGHTS IN PRACTICE**Organising obstructed on farms**

Trade union rights are not always respected in practice. In the agricultural sector in particular employers are hostile to unions and organising is made difficult because union organisers are considered trespassers on private property. Workers who try to form or join trade unions face intimidation, violence and dismissal.

- Anti-union textile industry** The Southern African Clothing and Textile Workers' Union (SACTWU), affiliated to the national centre COSATU, reported that Taiwanese textile factory owners in KwaZulu-Natal summarily dismiss workers who dare join it. Workers have become so afraid of losing their jobs that they do not want the union to take up their grievances on their behalf, despite poverty wages and appalling working conditions. Owners of 20 factories in Newcastle threatened to abandon up to 8,000 workers and relocate to Lesotho during the year after being ordered to pay minimum wages and eliminate dangerous working conditions. Labour Department officials finally took a tough line with the textile factory after twins born to a woman worker locked up in the factory died because paramedics could not reach her. SACTWU research showed that many textile factories routinely locked up their workers on nightshift. By the end of the year some of the factories in question had already relocated to Lesotho.
- Weak enforcement** The National Union of Metalworkers South Africa (NUMSA) reported that factories in the Eastern and Northern Cape were being investigated for flouting labour laws. Its view was backed up by the findings of the Eastern Cape Labour Department, which accused most factory employers in the State of disregarding the Basic Conditions of Employment Act and said that small businesses in particular disregarded labour laws and discriminated against workers. Again, workers were intimidated into not letting unions defend their rights by anti-union employers. Many employees were not aware of their labour rights, and there are too few labour inspectors – five for 300 factories – to ensure enforcement.
- Bargaining ineffective in public sector** The restructuring and privatisation of the public sector has shown the collective bargaining process to be generally weak. There has been consultation with the unions, but the government does not need union agreement to go ahead with a decision. COSATU expressed its anger at the privatisation process and its impact on workers and job security in a two-day nationwide general strike.

EVENTS IN 2001

- Agreements ignored** The Agricultural and Rural Development Corporation in the Northern Province made 900 workers redundant without any previous consultation with the Agricultural, Plantation and Allied Workers' Union. It also reneged on agreements signed with the union that included a social plan to assist and support workers affected by job losses by giving them retraining and counselling.
- No reinstatement** On March 7 the Labour Court overturned a ruling by the Commission of Conciliation, Mediation and Arbitration (CCMA) that would have required Volkswagen South Africa to reinstate 1,300 workers that it fired for taking part in an illegal strike in 2000.
- Union leader kidnapped** Senior trade union official Benjamin Cossa was kidnapped on May 24 in Johannesburg. Mr. Cossa was in Johannesburg in his capacity as the International Metalworkers' Federation's (IMF) coordinator of all the African metalworkers' unions. Before working for the IMF he was the General Secretary of the Mozambican Federation of Trade Unions. The IMF did not know who had kidnapped him or why, and was very concerned for the safety of Mr. Cossa, a very prominent and militant defender of trade union rights.
- Bad faith bargaining** South Africa's national power utility Eskom sought to unilaterally impose the amount of a pay rise. When the unions called for bargaining, it sent junior managers to negotiate with officials from the NUMSA and the National Union of Mineworkers (NUM). These managers did not have a mandate to agree to a compromise deal, so no real negotiation was possible. Eskom also sought to take out a court injunction to prevent workers in essential services from taking strike action, but later withdrew it. In frustration at the stalled negotiations, a nationwide strike was launched on July 24, which proved largely peaceful. There was once incident however, in which police tear-gassed demonstrators at a power station in the province of Mpumalanga when Eskom attempted to bring in strike breakers. On July 26 the Labour Court in Johannesburg ruled the company had no right to fix wage increases unilaterally. With the law on their side and solid support for their strike action the unions reached agreement on a revised proposal from Eskom on July 27.

The Automobile Employers Organisation (AMEO), representing BMW, Nissan, Toyota, Delta/General Motors, Ford, DaimlerChrysler and Volkswagen, also arrived at negotiations with no real intention of bargaining, in a dispute in August with the NUMSA. When the CCMA was brought in to conciliate, the union lowered its demands, but the employer refused to revise its offer. The DaimlerChrysler group responded by threatening to withdraw from the country if the workers did not accept its offer and end the strike.

Sudan

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



There were no improvements. Sudanese legislation does not allow for any genuine trade union activity and none is tolerated outside the state-controlled SWTUF. The legitimate trade union has been forced underground and trade unionists live in fear.

THE LEGISLATION

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 non-existent. 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.

New Labour Code

The new labour code went into effect in December 2000. The new Code continues to deny trade union freedoms and reinforces government control over trade unions. The SW(L)TUF lists the principal violations contained in the code as follows:

- The government defines the scope of unions' activity, their organisational structures and alliances – all areas that they should be free to determine themselves.
- Article 5.5 says that the objectives of unions include "cooperation with the government bodies and community forces for the promotion of national independence and security, and the government's international relations". Violation of this provision will obstruct the registration of a union, according to Article 31a.
- Article 12 stipulates that unions shall have a five-year term. The second item of the same article says the "the General Federation in consultation with the General Registrar determines the start and end of the union's term in accordance with a regulation to be issued by the General Registrar". Again such decisions should be the sole responsibility of the union.
- Article 18 regards the funds of the union as public funds.
- Article 22 says that a decision on the full-time release of a unionist from his job "is to be taken by the General Registrar".
- Article 27 states that the General Registrar is nominated by the President on the recommendation of the Justice Minister. This post should be neutral.
- The articles covering the powers and authorities of the General Registrar are deliberately confusing. Article 32a says "The General Registrar may abrogate the procedures of the elections in a union if he is convinced of their shortcomings. In this case he is empowered to order new elections."
- Penalties for the infringement of the trade union law are not itemised, suggesting that a sentence of six months and/or a fine is applicable in all cases.

RIGHTS IN PRACTICE

The situation in Sudan is a matter of serious concern. Human rights activists including trade unionists, and especially journalists have been the subject of harassment, intimidation, arbitrary arrest, detention and torture. Security officers usually act with impunity; while investigating cases, they are allowed to arrest and hold suspects and torture them with no reference to the judicial process. Trade unionists live under constant fear.

EVENTS IN 2001

The regime remained fiercely anti-union, and continued to undermine the SFTU. Six trade union leaders went on trial after organising a stayaway.

Strike declared illegal

The government is intolerant of any genuine trade union activity decided freely by workers, even by members of the government-controlled union. In April the employees of the Islamic bank in Khartoum went on strike after salary negotiations with management broke down to protest against the dismissal of various employees, some of whom were trade union members, because of their union activities. The bank management declared the strike illegal and hired new employees to replace the striking workers.

Swaziland

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



The regime remained fiercely anti-union, and continued to undermine the SFTU. Six trade union leaders went on trial after organising a stayaway.

THE LEGISLATION

State of Emergency still in force

The State of Emergency introduced in 1973 remained in force. Political parties are banned and constitutional freedoms suspended.

New law – many restrictions remain

The government adopted a new Industrial Relations Act in June 2000. It was supposed to bring Swazi law in line with international standards, but in reality still contained some of the old restrictions from the 1996 Act. Threats of losing trading privileges, notably of being withdrawn from the United States' Generalized System of Preferences, led to an amended Act being adopted in November 2000. It allows workers to form trade unions, to draw up their own constitutions, and to negotiate their terms and conditions of employment.

It still contains many discrepancies with ILO conventions however:

- Prison staff do not have the right to form or join a union.
- The procedure for announcing a strike is long and complex. There must be a period of 70 days in total between the time a strike is announced and the date the action takes place, making legal strikes virtually impossible.
- Procedures for taking a vote on strike action are too long and complicated.
- A trade union faces civil liability for damage caused during a strike.
- There is no effective protection for trade unions against employer interference.
- A union must represent at least 50% of workers in a workplace to ensure recognition. If it has under 50% representation, recognition is dependent on the goodwill of the employer.

RIGHTS IN PRACTICE**Attempts to discredit union leader**

In practice, the trade unions, in particular the national centre, the Swaziland Federation of Trade Unions (SFTU) face fierce government attacks. The general secretary of the SFTU Jan Sithole, has become a hate figure for the regime. The authorities organised a smear campaign against him and accused him of embezzlement.

(He was cleared of all charges.) The accusation came from the leader of a political party who wanted him to join the party. When he refused, they organised the campaign against him. Their aim had been to take the SFTU under their control.

Jan Sithole has been imprisoned several times in recent years and he and his family have received death threats.

EVENTS IN 2001**Union leaders on trial**

On January 19, six trade union leaders Jan Sithole, general secretary, SFTU; Elliot Mkhathshwa, vice president, SFTU; Phineas Magagula, president, SNAT; Musa Dlamini, General Secretary, SNAT (teachers); Quinton Dlamini, general secretary, SNACS (civil servants); and Bongi Nhlanhla Gama were charged with contempt of court.

They had organised a stayaway, together with civic organisations, on November 13 and 14, and a march to the Prime Minister's office to present a petition. The authorities had banned their action but the stayaway went ahead. Their trial began in March.

In connection with the same incident, the following public servants were told that they faced the government's internal disciplinary charges, which might result in their dismissal: Masithela Mhlanga, president SNA (nurses); Zweli Nxumelo, vice president SNA; Julia Ziyane, former general secretary SNA; Phenius Magagula, president, SNAT; Musa Dlamini, general secretary, SNAT; Mishek Masuku, former President, SNAT; Elliot Mkhathshwa, vice-president, SFTU and assistant general secretary of SNACS; Quinton Dlamini, general secretary SNACS; and Siphwe Hlophe, national organiser SNACS.

New repressive decree

On June 22 the government codified its repressive legislation in "Decree no.2", which reinstated a law prohibiting bail for certain offences, including public order offences. It would have strengthened the government's repressive powers in other areas, but after much protest was replaced one month later with Decree no. 3, which removed most measures. It retained the denial of bail for certain offences however, giving rise to fears that this will be used against collective trade union action.

Head teachers denied freedom of association

The authorities informed head teachers that they cannot become members of the Swaziland National Union of Teachers.

Tanzania

POPULATION : 34,300,000 / CAPITAL : Dodoma / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



The restrictions on trade union rights introduced in 2000 remained in force. There was little respect for trade union rights in the privatised industries.

THE LEGISLATION

The Trades Union Act, which came into force on July 1 2000 allows workers to form trade unions. At the same time however it dissolved the Tanzania Federation of Free Trade Unions (TFTU). The TFTU was set up in 1995 as an alternative to the government-created Organisation of Tanzanian Trade Unions (OTTU) and although it was not legally registered it was recognised by the workers, employers, international organisations and the government itself

Heavy restrictions

The bill contains several restrictions on trade union rights. The government has 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.

Right to strike and collective bargaining undermined.

Workers can only take strike action after complicated and protracted mediation and conciliation procedures, which can prolong a dispute by months without resolving it. The law does not protect those taking part in legal strikes from retribution.

Collective bargaining is recognised in law but does not apply to the public sector, where the government sets wages. Collective agreements must be submitted to the Industrial Court for approval and may be refused registration if they do not confirm with the government's economic policy.

Zanzibar and Pemba

The Zanzibar government enforces legislation specific to the Zanzibar and Pemba islands. It applies solely to the private sector and does not protect workers' against anti-union discrimination.

RIGHTS IN PRACTICE**Privatisation – workers' rights ignored**

Tanzanian trade union leaders criticised the lack of transparency in the country's privatisation exercise and the failure to consult the trade unions. The privatisation programme began in 1990, and the number of people working in the civil service has been cut from 355,000 workers in 1992 to 170,000 to date. The lack of union involvement in the process has meant that workers' rights have not been taken into consideration. Employees in the privatised industries have been denied the freedom of association and the right to collective bargaining, and face long hours, compulsory night shifts, job insecurity, low pay and forced overtime.

Togo

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



Weaknesses remain both in Togo's labour legislation, and in the enforcement of those rights that are recognised.

THE LEGISLATION**Weak laws**

Workers have the right to join unions and to strike. There is nothing to protect strikers from retaliatory action however. A legal ban on foreign workers acting as trade union officials may soon be repealed.

Nominally the right to collective bargaining exists, but this is limited to a single nationwide agreement that must be negotiated and endorsed by representatives of the government as well as trade unions and employers. The agreement sets nationwide wage standards for all formal sector employees.

Anti-union discrimination is prohibited.

Export processing zones

The law provides exemptions from some provisions of the labour code for companies with export processing zone (EPZ) status, notably the regulations on hiring and firing. Employees of EPZ companies do not enjoy the same protection against anti-union discrimination as other workers.

RIGHTS IN PRACTICE

In practice, collective bargaining is undermined by the economic situation, with salary and pension arrears for public officers running into many months.

The Ministry of Labour fails to enforce the prohibition on anti-union discrimination. This is aggravated by the political situation, as the authorities are intolerant of dissent.

As elsewhere, anti-union attitudes prevail in the EPZs.

EVENTS IN 2001**Union leader's passport removed**

On August 8, a delegate of the transport union the Syndicat des Travailleurs des Compagnies de Navigation Maritimes, Aériennes et de Transit du Togo (STRANAVITTO) was prevented from travelling and his passport was taken from him at Abidjan airport. The union believed that the action was designed to harass Mr. Adote and intimidate the Air Afrique unions during discussions on the future of the airline.

Still no pay for striking teachers

In 1999 the government issued a series of decrees ordering that teachers who had taken part in a strike over non-payment of salaries should not be paid for their period of absence. By the end of 2001, 126 teachers had still not been paid, for periods ranging from 8 to 15 months of salary.

Tunisia

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

**Anti-union activity continues in the private sector.****THE LEGISLATION**

The Labour Code provides for workers to form and join trade unions. A union may only be dissolved by court order.

Strike restrictions

The right to strike is recognised, but strikes are banned in essential services, list of which remains too vague and therefore open to abuse. The law bans anti-union discrimination.

Collective bargaining is recognised in law. Wages and working conditions are set in triennial negotiations between the UGTT member unions and employers after general guidelines are laid out through national tripartite consultations.

RIGHTS IN PRACTICE**Private sector: anti-union**

The UGTT has 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.

EVENTS IN 2001

On May 14 the former General Secretary and the postal and telecommunications workers' union, Jilani Mamami, went on hunger strike. He claimed that he had been sacked in November 1994, first from his trade union post and then from his job. Since that time he has claimed unfair dismissal, and has sought reinstatement and damages. The

hunger strike was in protest at the failure to resolve his case. The UGTT undertook to pursue the matter with the competent authorities. Jilani Mamai then called off his hunger strike, after 48 hours.

Doubts over fairness of trial

The former general secretary of the UGTT national trade union centre, Ismail Sahbani, went on trial on 28 April 2001 on charges of alleged corruption and forgery. The ICFTU urged that he be given a fair trial, given the many precedents of interference by the Tunisian authorities into trade union affairs. It sent an independent lawyer to observe the proceedings, who expressed doubts as to the fairness of certain legal procedures. His lawyers were not given full access to the case file against Sahbani and as a result were unable to cross-examine key witnesses. Sahbani was found guilty and sentenced on 23 June 2001 to a total of seven years. He appealed against the sentence which was subsequently reduced to five years in October 2001 by an Appeal Court. He was finally released on 21 February 2002 on humanitarian grounds, owing to his failing health.

Uganda

POPULATION : 22,600,000 / CAPITAL : Kampala / ILO CORE CONVENTIONS RATIFIED : 29,98,105,182



The government continued to drag its feet over introducing new legislation. There was no improvement in problems over union recognition by employers.

THE LEGISLATION

High hurdles for union recognition

The Constitution provides for freedom of association, and legislation provides for compulsory recognition by an employer of a union. Two of the requirements to forming a trade union are that the workforce represented must be no smaller than 1,000 employees, and the union must represent 51% of the workforce.

Workers in services considered as essential may not form or join trade unions. The list includes prison officers, who are not included in the ILO's definition of such services.

Lengthy pre-strike procedures

The right to strike is also protected by law for the majority of workers. However the regulations governing the right to strike specify that prior to striking, "every effort" for reconciliation be exhausted. The process is long and tedious and requires both parties to agree that a case can be taken to the Industrial Court.

Improvements on their way

Two draft bills that would amend those provisions in the Trade Unions Decree inconsistent with freedom of association principles are to be tabled before the Cabinet in due course, the government says. These bills were drafted with ILO assistance, but the government has been extremely slow in bringing about their application.

RIGHTS IN PRACTICE

Weak enforcement

The application of labour law is weak. Employers often do not observe the requirement to recognise a union, and the government rarely acts in defence of the workers' right to seek such a status. The Industrial Court offers little protection as it is starved of funds and rarely sits. Furthermore, the minimum requirement of 1,000 workers denies many workers in the private sector the right to form a union, and even in bigger workplaces with more than one union, the requirement to represent 51% of the workforce restricts workers and their unions from being recognised.

Recognition denied

The textile and garment sector is a major source of problems with union formation and recognition, and the International Textile, Garment and Leather Workers Federation (ITGLWF) has lodged a complaint with the ILO concerning the government's failure to defend the right of these workers to unionise. Despite having over 2,000 members in 16 factories, the Uganda Textile, Garment, Leather and Allied Workers' Union has only been recognised in one factory, which as a result of the situation in the other factories, has since threatened the union with de-recognition.

The problems in the textile and garment sector, and other sectors regarding union recognition campaigns, highlight the fact that anti-union discrimination is not prohibited by law, and union activists are not sufficiently protected from retribution by employers for union activities.

EVENTS IN 2001

Unions barred at Hotel Equatoria

The management of the Hotel Equatoria came under heavy criticism for failing to respect its workers' rights. It barred its workers from joining trade unions, refused to issue identity cards and carried out summary dismissals.

Union meetings suspended

On September 14, the Commissioner for Labour Employment and Industrial Relations, and Registrar of Trade Unions issued an indefinite suspension of all National, Quinquennial, General and Extraordinary Meetings.

Government removes union leader

On October 22, the general secretary of Uganda Public Employees' Union was removed from his post by the government, allegedly because he had misused union finance. The union's executive committee denied this.

Registration still denied

By the end of the year the government had still not responded to an application for registration from the Uganda Allied Teachers' Union, filed in 1997.

Zambia

POPULATION : 10,200,000 / CAPITAL : Lusaka / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



Both national civil service and local government unions faced problems during the year. The entire executive of one local government union was sacked.

THE LEGISLATION

Workers have the right to join and form trade unions, although in principle there can only be one union per industry. Workers have the right to strike except those engaged in essential services, which exceeds the ILO definition by including fire fighting and sewerage. Collective bargaining is recognised and in the private sector is carried out through joint councils. Civil servants negotiate directly with the government.

RIGHTS IN PRACTICE

The government has shown itself to be increasingly anti-union. During some of the bitterest disputes in the national strike, such as the hospital workers' action, the Minister refused at one point to even meet the union.

EVENTS IN 2001

Rigorous application of IMF strategies had left many public sector employers out of work further to privatisation. The workers continued to feel the brunt of the country's economic difficulties. Local governments owed salaries to workers in several local councils.

Undermining the civil servants union

Civil servants' unions were highly critical of the government. They believed it was trying to break their national federation, the Civil Servants Union of Zambia by fostering fragmentation and sponsoring what it saw as "yellow" or puppet unions. The government allowed many unions to register, and spent a lot of time "negotiating" with them. Collective negotiations in the civil service, which finally ended with a compromise agreement at the end of June, after a long and bitter national strike, were dragged out for nine months, far exceeding the three-month negotiating period stipulated in law.

Local civil service leaders sacked

There were problems at the local level too. In October the entire executive committee of the Choma branch of the Zambia United Local Authorities Workers' Union (ZULAWU) was sacked by the local authority. The council said they took their decision after the union organised a strike that it considered to be illegal.

Refusal to sign collective agreement

Also in October, the Solwezi local government refused to sign a new collective agreement with the local ZULAWU branch for improved salaries and working conditions. The union believed that an agreement had been reached, and there was strong resentment when the government then backed down from implementing it.

Zimbabwe

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



Long-promised new labour legislation had still not been adopted by the end of the year. ZCTU members continued to be the target of intimidation and harassment. Three striking steelworkers were shot dead by police.

THE LEGISLATION

There is a two-tier system of labour laws in the country. Private sector workers are covered by the Labour Relations Act (LRA) which recognises the right to form and join trade unions, without prior authorisation. Public servants are covered by the Public Servants Act and a series of public service regulations and directives. Technically they cannot form their own trade unions, only associations, but these associations have been able to join the national trade union centre, the ZCTU.

The 1985 Labour Relations Act provided for workers' committees to be set up at each workplace, and to negotiate with management on a wide range of plant-level matters, excluding wages. The committees are independent of trade unions and exist in parallel to them, weakening the influence of unions in the conduct of industrial relations at the workplace.

The 1992 Amendment to the Labour Relations Act provided for collective bargaining but the role and status of trade unions were further diminished by the greater emphasis on workers' committees. Works Councils, composed of management and workers' committees, were given powers to negotiate collective agreements or employment codes. These can override industry-wide agreements reached by employment councils, made up of unions and employers. The government can veto agreements, which it believes are harmful to the economy.

The 1992 Act also provided a broad definition of managerial employees, which included workers such as foremen and supervisors, and excluded them from union membership.

Long and extremely cumbersome procedures must be followed before workers can go on strike, which makes legal strikes extremely difficult to organise. The law gives a wide definition of essential services in which strikes are banned. The Minister of Labour can at any time designate any service or occupation as essential. Almost all strikes are declared illegal. Labour law bans union dues from being used for political purposes. The Minister of Labour has wide powers of control over union finances and can even set the level of union dues.

Zones exempted from labour regulations

Export processing zones (EPZs) were exempted from labour law regulations under the 1995 Export Processing Zone Act. In 1996 the government introduced special regulations which govern the terms and conditions of employment in the EPZs. Strikes are banned, workers are denied legal representation in disputes with employers, and workers can be fired at will. Workers' Committees have limited powers.

New harmonised labour bill

At the beginning of 1999, the government produced the fifth draft, since 1993, of the harmonised labour bill, which was expected to apply to both private and public sector employees. It had still not been adopted by the end of the year.

- The bill allows public servants, teachers and nurses to belong to unions, bargain collectively and have limited strike rights, although it proposes that membership of the Bargaining Council would be at the discretion of the Minister of Labour. Currently, these workers cannot join trade unions, and the government determines their conditions of employment. They are allowed to join associations, which cannot bargain collectively or strike.
- The bill narrows the definition of managerial employees. It maintains the provision that the Minister of Labour could refuse to register collective agreements on unspecified grounds. It also reproduces strike provisions in the previous law making legal strikes virtually impossible. The ZCTU said that scope for conciliation, mediation and arbitration was limited in the new bill, and questioned the purpose of the proposed Labour Advisory Board.
- In 1996 the ZCTU reported that the principle of getting rid of the workers' committees and replacing them with trade union committees had been agreed in tripartite discussions and was expected to be incorporated into a new harmonised labour law. The ZCTU said that members of the committees must also be active trade union members.
- Restrictions on the right to strike are maintained in the draft.

RIGHTS IN PRACTICE

In practice unions face harassment and intimidation from government forces and it is extremely difficult for them to carry out any trade union activities.

EVENTS IN 2001

The economic crisis, brought about largely by mismanagement and corruption, continued, with record unemployment, mass poverty and inflation. Meanwhile, in addition to their well-publicised farm invasions, the self-styled war veterans also invaded factories, beating and humiliating managers and extorting money. Members of the ZCTU were primary targets for harassment during the year, as the national centre is seen as a strong supporter of the popular pro-democracy movement struggling for meaningful change in Zimbabwe, and therefore as a threat to Mugabe's hold on power.

Strikers intimidated

In January striking civil servants complained of government intimidation. The Public Service Association reported that staff were being told they would be sacked if they joined the strike over a pay dispute. Three striking teachers in the Masvingo province were beaten up by war veterans, "arrested" and taken to the police station. The police released them.

May Day rally disrupted

A May Day rally staged by the Zimbabwe Congress of Trade Unions was taken over by President Mugabe's war veterans. After ZCTU leaders addressed the crowd several hundred veterans took to the stage and vowed to renew their attacks on leading businesses. The leader of the factory invasions, Joseph Chinotimba (who in April had proclaimed himself "ZCTU President"), arrived in a government vehicle driven by a police officer and was protected from the crowd by riot police. ZCTU members left.

Proposed strike ban

Later in May the government announced a bill banning trade unions from striking. ZCTU president Lovemore Matombo threatened to call a national strike if the legislation were to be adopted.

Intimidation

When the ZCTU organised a peaceful 'stayaway' protest on July 3 and 4 in protest at 70% fuel price rises, the government declared it illegal and ZCTU members were harassed and intimidated. The action was called after the government had ignored mounting pressure from the ZCTU to review the price rises.

A week later ZCTU General Secretary Wellington Chibebe was taken to a police station and questioned for about two hours, in connection with the stayaways.

Standard Chartered Bank

In August the government reported that further to negotiations, a settlement agreement had been reached between the Standard Chartered Bank and its workers' representatives. The bank had sacked 365 of its staff, represented by the Zimbabwe Banks and Allied Workers Union (ZIBAWU), for striking in 1997. At the beginning of the year 170

of the workers were still unemployed, 30 were in casual employment, and the government and the Bank were under heavy pressure to settle the four-year old dispute. The international trade union movement had mounted a campaign that included a demonstration in February outside the bank's London head office. In the final agreement the remaining dismissed workers were given their severance pay, but were not taken back into employment.

Strikers shot dead by police

Three workers died and at least six were injured during a sit in at the Zimbabwe Iron and Steel Company (ZISCO) in August. The dispute began in July when collective bargaining negotiations between management and the Iron and Steel Workers' Union over pay and benefits ended in deadlock. The union gave the 14-days notice as required by law. Then on August 8, the second day of the sit-in riot police arrived and chased thousands of striking workers from the premises with tear gas and the army began shooting at them. Samuel Masivatsa and Never Daniels were shot dead on the spot, and the third, J.Zimba, died later. It was thought that the heavy-handed approach was due to the fact that the government has an 89% share in the company.

Strikers suspended

The engineering company Craster International (Pvt) Ltd suspended 450 workers, and later sought to have them dismissed, for taking part in a strike in August. The strike had been called by the National Engineering Workers' Union (NEWU) over a pay dispute. Agreement was reached after the strike, and so the workers' returned to work on August 22. On August 23 however they found the company gates locked and manned by security guards with batons, vicious dogs and firearms.

On October, about 200 cleaners at the Harare Central Hospital were suspended pending dismissal. They had been on strike since September 24 in protest at being paid less than half they monthly salary they were contracted to have. The workers, members of the Commercial Workers' Union of Zimbabwe, had served the statutory two weeks' strike notice, but their letters of dismissal said that the strike was illegal. During their action they had been beaten up by riot police and chased from the hospital grounds. The cleaning company that employed them, Willsend Pvt Limited, hired 120 new workers to replace them.

It was a sombre start to the 21st century and the second millennium for many countries on the American continent. The disparities between rich and poor became more acute. Torn between opposing models, neo-liberalism and the far left, Latin America has witnessed the disastrous effects of its economic policies on the most vulnerable members of its population. Every day more and more people join the informal economy. Over 95% of the new jobs created were in informal employment.

After its eagerness to meet the demands of the international financial institutions, Argentina became mired in the worst economic crisis of its history. The public authorities privatised virtually all the public services, introduced labour legislation to allow greater flexibility on the labour market and dismissed tens of thousands of workers. None of these measures sufficed to avoid the collapse of the economy, and all contributed to making the situation of Argentinians more precarious. In protest at the disastrous economic and social situation, strikes and demonstrations multiplied, causing many clashes between the demonstrators and police.

Workers in many other parts of the region also felt the negative impact of structural adjustment measures. In Bolivia, peasants set up road blocks in protest at the neo-liberal policies of both the Hugo Banzer and Jorge Quiroga governments. The only response was police repression.

Latin America is still the most dangerous region in the world to be a trade unionist. Harassment, dismissals, attacks, even abduction and murder are part of their daily lot. Colombia as usual stands out for its brutality against trade unionists. Nearly 200 trade unionists lost their lives or were reported missing



during the year. The government tries to deny all responsibility for this, claiming the deaths are due to the armed conflict within its borders. Yet the great majority of these assassinations are carried out by paramilitary groups which enjoy the tacit complicity of the security forces.

In Guatemala, freedom of association is virtually non-existent. Employers on the banana plantations, in the textile factories or the big multinationals refuse to recognise trade unions, systematically intimidating their members, and threatening to close down and relocate if they suddenly find local conditions are not to their liking. The legal system has proved ineffective in guaranteeing justice for unfairly dismissed trade unionists.

Hostility towards trade unions is still a recurrent problem in Costa Rica. In the private sector workers are systematically dismissed by their employers as soon as they try to form a trade union instead of one of the many "solidarismo" associations. These offer workers certain advantages, provided that they agree not to join or form a trade union and to preserve industrial peace. The most blatant anti-union employers are to be found on the banana plantations.

The export processing zones of Central America are virtually rights-free zones. In urgent need of investment, governments set up these zones where production costs are kept to an absolute minimum. Trade union rights are almost non-existent and the working conditions are deplorable. The situation in the Mexican maquiladoras is just as bad, if not worse.

There was some good news in the sub-region, such as a union finally winning recognition in a maquila in El Salvador. International trade union solidarity played an important part in this. Similarly, international pressure ensured that eviction orders against four trade unionists from a banana plantation in Belize were revoked.

In Venezuela, president Hugo Chavez Frias stepped up his interference in order to bring the trade unions under his command. Trade union elections imposed by the government finally resulted in October in victory for trade unionists opposed to his control. The government refused to recognise this leadership, preventing new collective bargaining rounds from taking place, notably in the public sector.

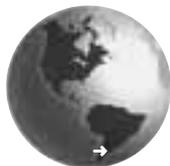
The United States and Canada are not beyond reproach when it comes to the respect of trade union rights. In the United States over 40% of public sector workers cannot bargain collectively. In the private sector, it is estimated that 80% of employers engage consultants to assist in anti-union campaigning. In February the Bush administration issued several executive orders that undermined workers' rights, including one that rescinded an earlier order by the Clinton administration protecting the rights and conditions of contract workers on construction projects. In Canada, public employees face many restrictions on their organising and bargaining rights. Two new pieces of legislation introduced by the provincial government of British Columbia made it virtually impossible for nurses and education workers to take legal strike action.



Americas

Argentina

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



Events during the year were overshadowed by the economic crisis, social unrest and the eventual collapse of the government. Unions and their members suffered heavily from job losses, pay cuts and unpaid salaries. Some protests met with heavy police repression.

THE LEGISLATION

The Constitution provides for the right to form "free and democratic labour unions, recognised by simple inscription in a special register". With the exception of military personnel, all workers are free to form unions.

There are certain legislative restrictions on the freedom of association, however, notably the requirement that only one union per industrial sector and within a given geographical area is allowed to negotiate salaries, collect dues or call a strike. As it stands the law makes it very difficult for new unions to contest the "trade union status" (personería gremial) of existing unions, but new draft legislation seeks to relax some of the requirements regarding membership size.

Some improvements

There was a slight improvement during the year when the National Executive Authority issued Decree no. 757/2001 providing that trade union associations which have merely been registered are entitled to defend and represent the individual interests of their members before the state, employers and the Sub-Secretariat of Labour Relations. Previously this was the exclusive right of organisations which had "trade union status" for which in addition to being registered they had to have been acting for at least six months, and cover not less than 20% of the workers they intended to represent.

Collective bargaining had been restricted by the requirement, in a 1998 law, that only the most representative trade union could engage in collective bargaining on behalf of the workers. The law also provided for unions to delegate that power to a higher level. These provisions were repealed by a new Act in May 2000 which provides for the possibility of bargaining at all levels and grants representation of workers in negotiation of enterprise collective agreements by the union which actually represents them.

However the stipulation that collective agreements which go beyond enterprise level must be submitted for approval to the Ministry of Labour remains. The Ministry can take into account not only whether clauses violate public order standards but also whether they meet criteria such as productivity and investment.

Strike restrictions have been relaxed, thanks to a new decree on essential services, introduced in 2000, which permits strikes in essential services.

The law prohibits anti-union practices.

Flexibility measures

Labour legislation reforms introduced in May 2000 introduced greater flexibility into the labour market. They ended the practice whereby existing labour contracts could be renewed if the parties could not come to terms on a new agreement. Job stability was weakened with the extension of the trial period for new employees from 30 to 90 days in large enterprises and six months in small companies for example.

The same labour laws apply in export processing zones as in the rest of the country.

RIGHTS IN PRACTICE

The economic crisis has had a negative impact, notably undermining collective bargaining through the imposition of wage cuts. Furthermore, the National Executive Authority asked for the National Congress to grant it extraordinary powers, empowering it to repeal virtually all labour and social security legislation, leaving workers and their trade unions vulnerable to the wishes of the government of the day.

There has been a marked trend of protest action by unemployed workers' associations, which are not strictly recognised as trade union organisations. They have been instrumental, with other groups, in the "piqueteros" movement, who demonstrate their discontent by setting up road blocks, an increasingly common form of popular protest in Argentina. There have been some very angry incidents which the police have responded to with strong repression, including arrests.

When 10,000 unemployed workers marched through the streets of Buenos Aires in February in protest at the government's labour policies, Labour Minister Patricia Bullrich refused to meet them.

EVENTS IN 2001

Economic crisis

Events during the year took place against a background of economic crisis which by December had spiralled out of control. Many workers, including teachers, doctors and policemen remained unpaid for months, banks stopped providing loans and social security benefits for the elderly dried up. Social unrest mounted as unemployment rose to 18.3% per cent and living standards plummeted, leading to general strikes, riots and looting. Finally, the economy collapsed completely, bringing the government down with it.

In January 2001 the Governor of the Province of Buenos Aires issued a decree that restricted the collective bargaining rights of public officials by vetoing the provincial Act explicitly providing for those rights.

The beginning of the year also saw the coming into effect of the decree deregulating the nation's union-run health care system, the "obras sociales". It gave workers the choice of opting for privately-run schemes instead. This was a heavy blow to union finances, already hard hit as a result of rising unemployment and the consequent fall in paying members, as the system had been an important source of income for them.

Union leader dismissed

On April 6 the General Secretary of the Aviation Technical Personnel Association (Asociación del Personal Técnico Aeronáutico APTA), Ricardo Cirieli was informed that he had been dismissed. He had been hired as an aeronautical technician but was not working in that capacity owing to his union duties. His dismissal followed the submission of a complaint to the ILO by the APTA, together with the CGT national centre and the National Civil Servants' union regarding collective bargaining rights. The authorities failed to take any action to enforce the regulations protecting him from dismissal as a union leader.

In the same month, the Ministry of Labour ordered APTA to renegotiate its collective agreements with Aerolíneas Argentinas and Austral Líneas-Cielos del Sur S.A. to take into account restructuring plans which aimed at laying off 1,200 staff. Strikes and protests followed. In April salaries were withheld because of the company's financial difficulties. By May a total of 500 workers had been dismissed. The airline was eventually purchased by a consortium of Spanish firms, but the future of the workers remained unclear owing to the situation prevailing in Argentina at the end of the year.

Deepening crisis

The country's crisis grew steadily more acute. When the unions called their fifth general strike against the economic policies of the De la Rúa government on June 8, Labour Minister Patricia Bullrich claimed the unions were abusing the right to strike for political purposes.

Civil service wage cut

On July 11, as part of its zero deficit policy, the government announced it was cutting state salaries and pensions by 13% across the board as part of its economic adjustment plan. This was followed by a government decree limiting all salaries for high ranking civil servants in the Executive and Legislative authorities to 5,000 pesos. Initial plans to include the Judiciary in this measure were dropped following fierce opposition.

Government threats

When the three national trade union centres announced another general strike on July 19 in support of the civil servants and in opposition to the government's adjustment policies, the government announced it was considering sedition charges against trade union leader Hugo Moyano .

On July 31 tens of thousands of workers took to the streets in protest at public salary and pension cuts, and the proposal by the Buenos Aires provincial government to pay a proportion of wages in bonds redeemable at certain utility and food companies. When further protests were announced for the following week, Labour Minister Patricia Bullrich threatened to withdraw the legal status of the CTA (Central de los Trabajadores Argentinos) if they supported the strike.

Unpaid wages

In addition to wage cuts, unpaid wages became an increasingly common problem.

Workers at the Buenos Aires metro staged a half day protest in July at not having received their wages or half-year bonus in June.

Police repress protests

On July 30, a protest by the Luz y Fuerza (Light and Power) union in protest at plans to privatise the local energy company in Córdoba turned violent when police were sent in and three people were detained. The confrontation occurred when the police cordoned off the street where some 200 workers had just left a union assembly.

On August 13, five hospital workers protesting against the 13% salary cut imposed on state employees were wounded as police fired rubber bullets to disperse protesters who took control of a hospital outside of Buenos Aires.

Three more people were injured when police violently repressed a demonstration on August 25 by teachers and civil servants' unions in San Juan using rubber bullets and tear gas. The state authorities denied giving orders to repress the demonstration.

Union leaders arrested

Two leaders of the airline staff union APA, General Secretary Ariel Basteiro and his deputy, Edgardo Llanos, were detained by airport police in Ezeiza on September 27 after delaying an Iberia flight for an hour in a protest to demand the payment of salary arrears. Workers had not been paid for 57 days. In clashes with the police, one demonstrator, Ricardo Pérez, was injured and had to be hospitalised. A judge met with Basteiro during the protest. He gave the demonstrators two options – to disperse within 15 minutes or wait for a mediator from the Ministry of Labour. They opted for a mediator. It was after his meetings with the union that the judge ordered the police to arrest the two union leaders. They were released later the same day.

Salary arrears

Unpaid wages continued to be a problem. In the province of San Juan for example, the financial crisis meant that salary payments had ceased in the province's local services and the whole commercial sector by September. In November, unions representing state employees and teachers in San Juan organised a demonstration to demand the two months' salary owed to them.

More clashes with police

On December 13, the unions called Argentina's eighth general strike in two years, protesting at the government's short-sighted economic and social policies and demanding the payment of salary arrears. The strike closed down offices, factories and public transport across the country. In the provincial city of Neuquén, hundreds of state workers clashed with riot police amid flying rocks and tear gas.

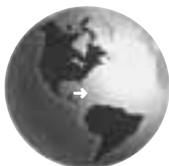
On December 19, after a wave of civil unrest and looting, which was met with violent repression, President De la Rúa decreed a 30-day state of emergency. He then appealed to the opposition Peronists to join him in forming a government of national unity. They refused and on December 20 he resigned. The country was declared bankrupt. Nationwide, 27 people had lost their lives in the rioting.

After three caretaker presidents in rapid success, a new interim government was sworn in on 1 January 2002.

The only encouraging news for unions after a disastrous year was that the new government was making efforts to include the trade unions in the debate over future economic policies.

Bahamas

POPULATION : 300,000 / CAPITAL : Nassau / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100, 105, 111, 138, 182



The air traffic controllers dispute has yet to be resolved. Some of the workers involved have been sanctioned. New draft legislation could make workers involved in industrial disputes vulnerable to prosecution.

063

THE LEGISLATION

Ratification

Private sector and most public sector workers may form or join unions without prior approval. Members of the police force, defence force, fire brigade and prison guards may not organise or join a union. The right to strike and collective bargaining are recognised. The Bahamas ratified Convention 87 in 2001.

Threat of prosecution for trade union action

Bills tabled in 2000 by the government would allow trade unionists to be prosecuted for acts resulting from their trade union activities. They would also undermine other rights, by repealing the right to strike in support of an industrial dispute as well as the right to hold wildcat strikes. The government has since revised some of these proposals, but the final outcome remains to be seen.

RIGHTS IN PRACTICE

Failure to honour agreements

While unions do exercise their rights widely, there have been cases over the years of the government frustrating unions, notably by failing to honour industrial agreements.

Employers discourage unions in the Freeport export processing zone.

EVENTS IN 2001

Bad faith bargaining

The air traffic controllers dispute continued. Negotiations between the Department of Civil Aviation and the Bahamas Air Traffic Controllers' Union (BATCU) to reach a collective agreement resumed but the Department repeatedly failed to respond to some of the issues raised, breached some points on which agreement had been reached, and BATCU members were harassed at security check-points.

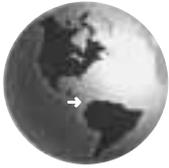
Union leaders suspended and threatened with dismissal

Frustrated BATCU leaders called a work to rule. The Department's response was to suspend the union's leadership, including the president, general secretary, assistant general secretary and treasurer, while 27 air traffic controllers were placed on "administrative leave". All but two non-managerial members of BATCU were either escorted from the premises or were not allowed access to the premises. On April 18, a Supreme Court Judge ruled that the government's actions were excessive and the controllers should be allowed to return to work. As the ILO points out, while air traffic control is an essential service in which strikes can be restricted or prohibited, the authorities have a duty to ensure impartial and speedy conciliation and arbitration proceedings, which they failed to do.

When the controllers presented themselves for work, they were advised by the manager responsible for air traffic services that he could not authorise their return. On April 19, the Civil Aviation Department issued 27 new letters continuing their "leave", which amounted to a lock-out. On May 5, the government issued letters threatening seven union members with dismissal. By that time many of the air traffic controllers had lost their certification because of the length of time they had not been working. Finally, six officers were placed on half pay, while 13 controllers were reassigned to other duties. By the end of the year the Privy Council had not made a final judgement in the matter.

Belize

POPULATION : 249,200 / CAPITAL : Belmopan / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



Despite new pro-union legislation, trade unions activists were sacked by a banana company and deported by the authorities.

THE LEGISLATION

By law workers are free to establish and join trade unions, and members are free to elect officers from the membership at large. Unions do have the right to strike but this is limited for public sector workers in areas designated as "essential services". The Essential Service Act empowers the authorities to refer a dispute to compulsory arbitration to prohibit or terminate a strike. Such services are broadly defined, extending to postal, monetary and transport services and even services in which petroleum products are sold.

The law provides for collective bargaining, but does not require employers to recognise a union as a bargaining agent.

The Labour Code applies in the country's export processing zones (EPZs).

Rights in practice

In practice, some employers block union activity by dismissing union activists. New legislation should make it easier for sacked workers to seek redress, but the fines imposed on employers in cases of anti-union discrimination have proved too low to be dissuasive.

Employers in the EPZs do not recognise any unions.

EVENTS IN 2001

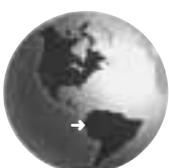
Unionists deported

At the beginning of September, the Minister for Immigration issued expulsion orders against five trade unionists. They had all recently been dismissed by the banana company Mayan King Ltd for their trade union activities, and had brought a suit for wrongful dismissal against their employer. Four of the men, Oscar Maradiaga and Rigoberto Maldonado, both Belizean nationals, and Cornelio Rubio Gutierrez and Julio Carceres Hernandez, both permanent residents, were held in police custody from September 4 and deported early on the morning of September 6. They were taken to Honduras, where they were held by immigration officers because the police in Belize had confiscated their passports and residency permits.

Further to international pressure, the Prime Minister stepped in and revoked the expulsion order and sent a boat to bring them back on September 8. In the meantime, Mayan King Ltd had bulldozed down the house of Oscar Maradiaga.

Bolivia

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



There have been no improvements to Bolivia's repressive labour legislation. In a year marked by increasing social unrest, at least four protesters died in clashes with police. Another was shot at point blank range by a soldier.

THE LEGISLATION

Many restrictions

Workers may form and join organisations of their choosing and bargain collectively. The law contains many restrictions on these rights however. The General Labour Act, dating back to 1942, requires prior government authorisation

to establish a union and permits only one union per enterprise. It denies public servants the right to organise, with the exception of workers in the health, education and oil sectors. Farm workers are also excluded from this right. Where workers can organise, 50% of employees in an enterprise must give their agreement. The authorities have wide powers to supervise union affairs and can dissolve trade unions by administrative order. Members of trade union executive boards have to be of Bolivian nationality and trade union leaders must work for the company concerned. A decree on the application of the Labour Act also enables the government to dissolve a union by administrative decree.

The right to strike is subject to strict conditions. In order for a strike to be declared legal within a company, the strike must be supported by three-quarters of the workers. General 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.

There are no measures to protect unions from acts of interference by employers.

Despite repeated criticism from the ILO, the government has persistently delayed the modernisation of its labour legislation.

RIGHTS IN PRACTICE

In practice, strikes have taken place in recent years. The government has used the law to declare strikes illegal and crack down on them with undue force.

Where cases of discrimination against union members and organisers are taken to the National Labour Court, it can often take over a year for it to reach a ruling, a delay which frequently renders the verdict irrelevant.

Peasant farmers have formed their own associations, although these are not recognised in law as trade unions, to protect their interests, particularly given the crackdown on coca leaf production, their only form of livelihood. Union action and peasant farmers' protests are often closely linked. The national trade union centre Central Obrera Boliviana includes coca growers' unions among its members.

EVENTS IN 2001

Social unrest continued in Bolivia, with marches, demonstrations and roadblocks in protest against the neo-liberal policies of the Hugo Banzer government – a wave of dismissals pushed unemployment up above 33% - and the effects on peasant farmers of the US-backed "war on drugs". Banzer resigned in August for health reasons and was replaced by President Jorge Quiroga, whose government has proved equally repressive.

Union leader arrested as police repress march

On April 12, Oscar Olivera, executive secretary of the Cochabamba Federation of Factory Workers and leader of the anti-privatisation Coalition in Defence of Water and Life, was arrested and charged with subversion for calling for the resignation of President Banzer. He was also charged with attempted murder following a scuffle with police officers, although eye witnesses say he only intervened to put a stop to it. At the time of his arrest, he was taking part in a march from Cochabamba to La Paz to protest against the government's economic policies. It was the fourth day of the march and it had reached the highland village of Pongo when the Bolivian government sent in the security forces who tear-gassed and beat the protestors. At least 60 of the 600 other marchers were also detained, but were released the following day without charge. The charges against Olivera were later dropped.

On April 22, protesters taking part in a march led by the Coca Growers' Federations and the Cochabamba Campesino Federation were beaten by police officers and taken away in trucks. They were later released, but police violence continued. On April 26, six truck loads of police were sent to intervene in the march, and many protesters were injured as a result.

Striker dies

Riot police attacked demonstrators during a one-day national strike by transport workers on April 24 in El Alto. One striker, Daniel Vela Cuba, died from head wounds after being hit by a tear gas canister thrown by police.

More police repression

In a climate of mounting social tension, the national trade union centre, Central Obrera Boliviana, called a general strike beginning May 1, after negotiations with the government had broken down. The government had refused its demands, which included an increase in the national minimum wage, an end to the privatisation process, and the reinstatement of dismissed workers. There was police repression, although less severe than in April.

Violent clashes took place between the police and Bolivian miners when they marched on the capital on June 7 to demand investment to reactive the mining sector. The police used tear gas, rubber bullets and batons. Five people were seriously injured. The dispute finally ended on June 11 with the signing of an agreement with the government foreseeing a 32 million dollar investment in the sector.

Three peasant farmers died between June 27 and July 1 when 4,000 police officers and soldiers were sent in to break up roadblocks organised by the peasant farmers' unions. Another protest on July 17 in response to those deaths also led to ugly clashes with the police. About 100 protesters were arrested. One was reportedly seriously injured after being shot with live rounds, although the government claims only rubber bullets were used.

Army called in

More than 2,000 soldiers were sent in to break up a roadblock by peasant farmers' unions calling for an end to the elimination of coca leaf plantations on November 14.

Olivera arrested again

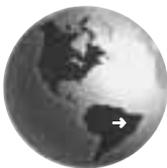
On November 27, Oscar Olivera was again arrested and charged with sedition. The charge related his anti-privatisation campaigning. Further to widespread protests in support of Olivera, the government later agreed to drop the charges.

Soldiers kill union leader

A coca farmers' union leader was shot and killed and another seriously wounded on December 6 during what had been a peaceful protest at the lack of markets for alternative development. Members of the security forces warned the campesinos that they would disperse the crowd in five minutes. As people fled, the crowd was tear gassed. Soldiers followed some coca producers into the Chimore Special Colonizer's Federation office. Eye witnesses report that they shot the leader of the federation, Casimiro Huanca Colque twice at close range. He died. They also detained Fructuoso Herbas Rivas, forced him to lie on the ground, and shot him in the leg at point blank range.

Brazil

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



Violence in the rural areas continued. Five leaders of rural workers' unions were assassinated while others narrowly escaped death. There was strong employer repression of protests in the industrial areas too. The government has still not reformed its labour laws.

THE LEGISLATION

Brazil is currently reviewing its outdated labour legislation.

Unicidade

The Constitution and the Labour Code provide for the union representation of all workers, with the exception of the military, uniformed police and firemen. However, the "unicidade" system, which has not yet been repealed despite promises of change, stipulates that there can only be one trade union per economic or occupational category in each territorial area. At the national level, only one trade union centre, the CGT (Confederação Geral dos Trabalhadores), is officially recognised. The law prevents the creation of trade unions at enterprise level. A compulsory trade union tax is levied on each worker by the Labour Ministry which distributes the funds to the national trade union federa-

tions according to their number of members. This tax coupled with the "unicidade" (one-per-city) system accentuates competition between the unions.

Collective bargaining is only allowed on a limited range of issues, owing to highly detailed provisions in the Labour Code. In a move that would further undermine labour rights, a bill was put forward that would allow enterprises to negotiate conditions below standards set by law, by giving collective agreements precedence over labour legislation. It was approved by the Chamber of Deputies on December 4. A final decision has yet to be taken by the Senate.

To be binding, all collective bargaining agreements must be reported to the Labour Ministry within eight days of their conclusion.

The right to strike is recognised in the Constitution but enabling legislation passed in 1989 stipulates that essential services must remain in operation during a strike and that workers must notify employers at least 48 hours before beginning a walkout.

Labour law applies equally in the Export Processing Zones, although enforcement is weak.

RIGHTS IN PRACTICE

In practice, some of the legal limitations are ignored. At the same time however, employers blatantly violate union rights.

Both the Força Sindical (FS) and the Central Unica dos Trabalhadores (CUT) are recognised in practice, and take part in tri-partite bodies. They want to see the law changed to bring it in line with reality. As it stands, the government could technically remove them from tri-partite discussions.

Workers do organise at enterprise level. The national trade union centres have asked for the law to be brought up to date by formally recognising the right to union representation at shop floor level.

Despite legal restrictions, collective bargaining is widespread in the formal sector, although unicidade and the inability of new unions to compete with existing unions limit the effectiveness of negotiations. The DIEESE reports that only half the collective bargaining agreements it tracked in 1999 contained wage increases that kept pace with inflation. Currently the law does not allow industry-wide collective agreements, and there are wide disparities in wages across the country for workers in the same jobs. The national trade union centres are asking for this to be changed.

The authorities have proved incapable of applying the anti-union discrimination laws. Trade unionists are frequently dismissed in total violation of their trade union immunity. The courts operate very slowly, and are unable to deal with the two million or more complaints filed every year. Union officials estimate that 95% of such cases take five to ten years to resolve, and a huge backlog has built up.

EVENTS IN 2001

Economic problems

Workers felt the impact of Brazil's economic problems, facing job cuts and unpaid wages. The year began with strikes in January by stevedores to demand back pay. Workers at Transbrasil also faced problems of unpaid wages in September. By December the company had started laying off workers – by telephone.

The energy rationing plan also brought job losses. The Osram company for example sacked 54 workers at its Sao Paulo factory in May in anticipation of falling demand for its light bulbs. Workers in many other companies faced similar problems. Employees at the VW plant in São Paulo reluctantly accepted an agreement in December which cut pay and benefits, but preserved jobs. For chemical workers at the Rhodia Acetow company, the year ended with 169 job losses.

Rural violence

Violent repression in the rural areas continued, against trade unions and organisations such as the MST (Movimento dos Trabalhadores Rurais Sem Terra) landless rural workers' movement, whose actions are often supported by the trade unions. In the first six months of the year 205 landless peasants were arrested during land occupations and protests. 119 of those took place in the Para state alone. Others were killed. By the end of the year, 24 rural work-

Assassinations and death threats

ers had been killed. Another 73 faced death threats. State authorities often fail to take action to stop these crimes or bring those responsible to justice.

On July 9, José Pinheiro de Lima, a leader of the Marabá Rural Workers' Union was assassinated, together with his wife and son. The killers were acting on behalf of the owner of the São Raimundo hacienda where José Pinheiro had actively supported and organised the 120 families occupying the land.

In August, another rural workers' leader, José Soares de Brito, president of the Rondo do Pará rural workers' union, had to seek legal protection after receiving death threats. His predecessor, José Dutra da Costa, had been shot dead the year before.

Later that month, on the morning of August 25, Ademir Alfeu Fericci was shot and killed at his home. He was a trade union leader who coordinated the Movement for the Development of the Trans-Amazonian and Xingu region, grouping rural and urban unions, community associations and church representatives in the south of the Pará state. The police claim his death was the result of an assault during a theft. The trade union and environmental associations he represented demanded a more thorough investigation into his death however, believing the real motive to be Fericci's disclosure of embezzlement and theft by employers in the region.

The assassinations continued. The President of the Ipaú rural workers' association, also in the Para state, was shot dead at his home on September 1 by two unidentified gunmen. He had been very active in his support for the landless families in the region, and had incurred the wrath of the landowners with his campaigning. The Pastoral Land Commission claims that police investigations into crimes of this nature leave much to be desired.

The ineffectiveness of official investigations into such crimes allows them to continue with impunity. Carlos Alberto Santos Oliveira, President of the Sergipe Citrus Fruit Workers' Union, became yet another victim. On September 22, five gunmen fired eight bullets at him at point-blank range. Carlos "Gato" Alberto Santos was a dedicated campaigner for the promotion of rural workers' right and the fight against child labour. He was well known in UNICEF and the ILO for his work for the abolition of child labour. It is strongly presumed that his death was related to his condemnation of the wealthy landowners who exploit children and rural workers on their plantations.

Union assembly blocked

Workers in the industrial sectors also had their problems, particularly when the country's economic difficulties were compounded by the after-effects of the September 11 attacks in the United States. Military police were sent in on October 2 when workers at Brazil's aeronautical company Embraer (Empresa Brasileira de Aeronáutica) protested at the announcement of 1,800 dismissals. The employer also prevented workers from taking part in a union assembly by preventing the buses transporting them from reaching the place where the meeting was to be held. One member of the São José dos Campos metalworkers' union, José Donizetti Almeida, was arrested after clashes with the police on the picket line.

Union leader dismissed

On October 5, Ailton Ledesma Marques was dismissed by the Paulista iron and steel company, Cosipa, on grounds of low productivity. His dismissal came shortly after he became leader of the Baixada Santista Metalworkers' Union. Until then, there had been no complaints about his productivity.

Union leader assassinated

Aldanir Carlos do Santos, president of the national electricity workers' union Sintergia and a member of the CUT's national executive, as well as its leading anti-racist campaigner, was shot dead on November 24 in Rio de Janeiro. He was on his way home when he was stopped and attacked in his car by armed men. He was the eighth trade union leader to have died in Rio de Janeiro in ten years.

Assassination attempts

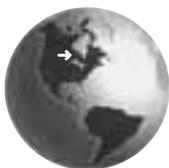
On November 30, Rita da Cruz Santos, president of the Curral de Dentro Rural Workers' Union, in the Minas Gerais state, was attacked at night in her home. Her attacker threatened to kill her, but ran away when a friend and family members came to her rescue.

André Behle, a candidate for the presidency of the Porto Alegre Municipal Workers' Union, narrowly escaped death when he was shot by three masked men as he left his home on the morning of December 4. He received bullet wounds to the leg and chest. His attackers sped away in a car.

Zito Augusto Correia, also known as 'Zitinho', was attacked on December 12, at his home in Canãa dos Carajás, Pará state. Zito Augusto is a leader of the Pará state Teachers' Union (SINTEPP). He was shot in the chest, piercing his lung and liver, in the arm and in the leg. The attack is believed to be the work of a hired gunman. It is feared that further attempts will be made to kill him or other members of the union who worked alongside him investigating and publicising local political corruption.

Canada

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



Provincial legislation containing restrictions on trade union rights remained in place and employers continued to take advantage of this. In British Columbia, the provincial government introduced new limitations affecting health and education workers.

THE LEGISLATION

Workers in both the public and private sectors have the right to associate freely. Trade union rights are officially guaranteed in federal legislation, although each province also has its own legislation, setting limitations on these rights. All workers have the right to strike, except for those in the public sector who provide essential services. Public and private sector workers have the right to organise and bargain collectively. The law protects collective bargaining but again there are limitations which vary from province to province. The law prohibits anti-union discrimination.

Alberta: exclusion and denial of the right to strike

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 say which staff members may or may not form a trade union.

The 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.

The law authorises extensive 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.

British Columbia: new limitations

Nurses lost their right to strike when the provincial government passed the Health Care Services Continuation Act on June 19 2001. The Act ordered an end to the limited industrial action being taken by nurses over a collective bargaining dispute and allowed the government to impose a "cooling off" period of up to 60 days during which strike action by nurses and other health care workers was illegal.

On August 9, the provincial government passed the Health Care Services Collective Agreement Act, directly imposing a collective agreement on the negotiating parties without the agreement of the workers or their representatives. It included terms proposed by the employers that had been overwhelmingly rejected by the nurses. The imposition of the new "agreement" put an end to the nurses' already limited right to strike, as strikes during the term of a collective agreement are illegal in British Columbia.

Education was designated an "essential service" under the "Skills Development and Labour Statutes Amendment Act" passed on August 16. This made union organising among teachers and education support workers much more difficult and gave the authorities the power to deny them the right to strike.

Ontario: many restrictions

Ontario's labour legislation excludes agricultural and horticultural workers, as well as domestic workers, architects, dentists, land surveyors, lawyers and doctors. People taking part in community activities are also prevented by law from joining a trade union. A ruling by the Supreme Court of Canada in December 2001 declared the Ontario law prohibiting the unionisation of agricultural workers as unconstitutional.

Collective bargaining rights are 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 Ontario Education Act also establishes a de facto trade union monopoly, by designating the trade union recognised as the bargaining agent by name. If a dispute leads to strike action, arbitration can be imposed after three weeks.

A recent act actively discourages collective bargaining. The Labour Relations Amendment Act 2000, which became law on December 31 2000, requires employers to post and distribute in the workplace documents prepared by the Minister of Labour, setting out the process to terminate trade union bargaining rights. The Ontario Federation of Labour points out that as a signatory to Convention 87, the government should promote and protect the right of employees to collective bargaining, whereas this act does the exact opposite.

New Brunswick: certain categories of workers excluded

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.

Quebec: limitations on the right to strike

The right to strike is limited by two acts which give a very broad a definition of essential services.

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.

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 if a dispute lasts more than 90 days.

Prince Edward Island and Nova Scotia

Like Ontario, the law effectively imposes a trade union monopoly by naming a bargaining agent in the Civil Service Act in the case of Prince Edward Island, and in the Education Act in the case of Nova Scotia.

A bill went before the Nova Scotia legislature in 2001 that if adopted would abolish free collective bargaining for workers in the health sector and deny them the right to strike.

Newfoundland

The Public Service Act confers broad powers on the employer with regard to the procedure for the designation of "essential employees".

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

RIGHTS IN PRACTICE

While the law is widely respected in practice, the many limitations it provides are taken advantage of by both private sector employers and public authorities.

Provincial governments have used the law to order strikers back to work, while private employers have brought in temporary workers to replace strikers.

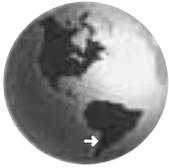
EVENTS IN 2001

Unemployment rose in Canada during the year, reaching 7.5% at the end of the year. The automobile and airline industries, for example, both saw heavy job losses. In addition to demanding job-creating measures, the unions expressed concern at restrictions on eligibility to employment insurance which left two thirds of jobless workers without unemployment benefit.

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|---|---|
| Collective bargaining obstructed | <p>At the beginning of the year, members of the Canadian Auto Workers' union were locked out of their plant by Star Metal Manufacturing in Windsor, Ontario. They had been trying to negotiate a collective agreement and the lock-out came without warning. The company issued an ultimatum then brought in replacement labour in the guise of security guards. Management refused to negotiate with the union.</p> <p>Also in January, non-union workers were used to cross picket lines in the port of Vancouver in the course of a long-term strike by the International Longshore and Warehouse Union over the re-allocation of testing and sampling work, which had historically been part of the port workers' tasks. The employer obtained an injunction against the union after industrial action had shut down the terminal. The President of the local branch union was subsequently arrested and faced trial.</p> <p>In February, the Co-Steel company in Whitby, Ontario, locked out its employees in a dispute with the United Steelworkers' union over the renewal of their collective agreement and openly advertised for replacement labour.</p> |
| Strike declared illegal | <p>At the beginning of June, the Alberta Labour Relations board declared a strike over a wage dispute by paramedics and medical technicians from the Canadian Union of Public Employees (CUPE) illegal, making the union liable to heavy fines.</p> |
| Intimidation of strikers | <p>In July, Petro Canada sought to intimidate strikers at its Ontario refinery, using a motor cycle gang to escort strike-breakers across the picket line. Union members said they had also received death threats. The Communications, Energy and Paperworkers (CEP) union called the strike in dispute over a collective bargaining agreement. Petro-Canada had refused to apply the same conditions at its Ontario site that it had applied to settle disputes elsewhere.</p> |
| Health workers denied right to strike in BC | <p>Further to the new prohibition on strikes by healthworkers, the Labour Relations Board of British Columbia banned a strike by members of the Health Sciences Association, called after lengthy contract negotiations with the Health Employers' Association broke down. The strike went ahead regardless, on July 23, although it only lasted two days, for fear of being held in contempt of court and facing heavy fines. In August the provincial government brought in legislation imposing new contracts on almost 40,000 health care workers and preventing them from taking strike action until 2004.</p> |
| Striker arrested | <p>A striker was arrested at the beginning of September while picketing the Revenue Canada office in Cape Breton, Nova Scotia. The Public Service Alliance of Canada (PSAC) had called a strike following a breakdown in negotiations over a pay demand. The arrest took place when two dozen police officers moved in to clear the entrance to the offices, blocked by the strikers.</p> |
| Air Canada seeks to remove collective agreement rights | <p>On October 2, Air Canada filed an application with the Canadian Industrial Relations Board to nullify the CUPE's existing collective agreement protections against layoffs. The union was representing flight attendants facing mass layoffs in the industry, and was seeking to negotiate severance packages. CUPE had been seeking to ensure that collective agreement rights be respected in those negotiations.</p> |
| No bargaining | <p>The Kirkland Lake Association for Community Living responded to a strike by care workers by bringing in replacement labour from a union-busting company and refusing to negotiate with the union. The strikers were all members of CUPE and were taking the action further to a dispute over job security and wages.</p> |

Chile

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



The government finally brought in new labour legislation, although the powerful employers' lobby succeeded in weakening some of the initial proposals to strengthen trade union rights.

THE LEGISLATION

The repressive legislation inherited from the Pinochet era, which contained heavy restrictions on organising and bargaining rights, was finally replaced when a new trade union rights bill was adopted by the Senate on September 11. It came into force in December, nearly two years after socialist President Ricardo Lagos came to power. The final bill was a compromise solution, watering down the initial measures to strengthen trade union rights in the face of strong employer-led right wing pressure. Rather than introduce compulsory national collective bargaining as promised, it provides for 'voluntary' collective bargaining, meaning that trade unions can negotiate national deals, outside of a particular plant or factory, only if the employer agrees. Instead of outlawing the practice of sacking strikers, the new law makes it 'prohibitively expensive' to lay off workers who have been involved in industrial action. Nor does it ban companies from employing workers to break picket lines during an industrial dispute, one of the main union demands. Employers also succeeded in getting the inclusion of "flexibilisation" measures such as the introduction of short-term contracts and looser regulations for employing young workers.

Reforms

Improvements

The new law does strengthen workers' rights in some ways however, notably:

- An employee has the right to sue for unfair dismissal within 60 days. If he or she is found to have been unfairly dismissed, a 30% surcharge will be added to the redundancy package
- If a judge finds that a worker has been dismissed for trade union activities, he or she has the right to return to work or receive compensation. Some categories of workers are excluded from this clause.
- Companies may be penalised for breaking labour laws
- Every six months, the government will publish a list of companies that have breached labour laws.

RIGHTS IN PRACTICE

It is too early to say how effectively the new labour law will be implemented. The employers' fierce lobbying to weaken union protection measures and their past history of antagonism towards unions is not a promising start.

During the year, the government was instrumental in bringing the employers' federation, the Confederación de la Producción y del Comercio (CPC) and the national trade union centre, Central Unitaria de Trabajadores, together for their first formal talks since 1993.

EVENTS IN 2001

Economic problems

As in other countries in the region, events during the year took place against a background of economic difficulties. Workers faced lay-offs and wage cuts, as in the case of Ambrosoli, and a freeze in the minimum wage in April.

Striker killed

One striking worker, Luis Lagos Barra, died and Donald Zamora was gravely injured on May 3 when a bus carrying company management and replacement personnel forced its way through a picket line at the front entrance of the Bianchi bicycle factory, "FABISA", in Santiago. The workers and their trade union, Constramet, were demanding an increase in pay. The driver claimed he lost control of the vehicle, but several eye witnesses stated that he had been urged to keep driving by the factory manager, ignoring police orders to park the bus. Proceedings have been filed against the driver for homicide, and the court is examining the responsibility of the factory manager.

After the strike was over, 18 of the workers involved were dismissed. Further to a complaint to the Regional Labour Directorate, it was agreed their case would be reviewed. In the meantime however, a further five have been dismissed.

Government interference in trade union activities

In August, in the course of a long-term dispute over labour reform, the Chilean government subjected the Federación de Sindicatos de Trabajadores Portuarios del Puerto de Iquique to considerable intimidation. Union leaders were placed under permanent surveillance and received telephone threats. Police were also instructed to provide an intimidating presence at public events.

Unionised pilots dismissed

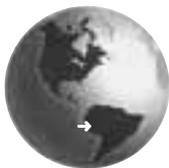
In September, the Lan Chile airline dismissed 73 pilots, one fifth of its unionised pilots, for causing "irreparable harm" to the airline by taking "go-slow" action. A further 40 had been transferred to other units of the company that were not unionised or had smaller, less powerful unions. The pilots' union and the company had been in talks aimed to renew their contract, due to expire in November.

Mass dismissals

The end of November saw a wave of dismissals, as companies sacked 5,000 workers in advance of the new legislation in December, in order to side-step the stricter requirements for firing employees and higher severance payments.

Colombia

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



Killings of trade union activists reached dramatic new heights in 2001, with 185 individuals losing their lives as a result of their commitment to union activities. This marks an increase of 27%.

THE LEGISLATION

Limited right to strike

The Colombian Constitution recognises freedom of association and the right to strike for all workers, except for members of the armed forces, the police and workers providing essential services as defined by law. Nonetheless, via its Committee of Experts the ILO has criticised the fact that too many workers are being deprived of their legitimate right to strike.

Furthermore, the law prohibits federations and confederations from calling strikes, and the Ministry of Labour can still impose mandatory arbitration on a conflict when the strike goes on for more than 60 days.

In February 2000 the government drafted several bills designed to change these restrictions, but by the end of 2001 these bills had still not been passed following the failure of talks between the social partners.

Collective bargaining

Although the Colombian government recently signed ILO Convention 151 which provides for the right to collective bargaining with a few exceptions, and which includes the provisions of Convention 98 on the right to collective bargaining, public-sector workers are still being deprived of their right to engage in collective bargaining.

RIGHTS IN PRACTICE

Unions threatened with extinction

The violence perpetrated against trade union activists is preventing any effective exercise of freedom of association in Colombia. As a result, for several years now the number of unionised workers in Colombia has been declining and freedom of association is being further undermined by the apparent impunity enjoyed by most of those who orchestrate murders and attacks. These two elements have made Colombia the most dangerous place in the world to be a trade union activist.

In its report published in March 2002, the main complaints of the ILO's Committee of Freedom of Association were that the government had not responded to any of the allegations concerning the murders of trade union

activists and threats which occurred in 2001 and that only sketchy information was provided about murders and threats in previous years.

According to the government, the violations of trade union activists' rights are a direct consequence of the armed conflict ravaging the country, and only 5 to 10% of the murders actually resulted from union activities. This warped view of the situation was challenged by an ILO mission which visited Colombia in February 2000, concluding that "even if most murders are committed in regions where the conflict is intense, (...) that in itself could not be regarded as a general indication that the killings have nothing to do with the fact that the victims are union leaders or involved in union activities...". Furthermore, there is no denying the fact that the paramilitaries (whom the Colombian government itself describes as extreme right-wing) are hostile towards the unions. Indeed, the activities with which drug traffickers are associated are incompatible with trade unionism. In cases where the motive is unclear, the reasons behind the violence could only emerge if the guilty parties were identified and brought to justice. Yet here again, the Colombian authorities only very occasionally get to the bottom of killings, especially since in some instances government agents are among the accomplices. Reports published by the UN High Commissioner for Human Rights have demonstrated that despite numerous complaints, there is still flagrant collusion between the paramilitary groups and the authorities.

Lack of protection from the Colombian authorities

In 2001 a fresh wave of killings of trade unionists contrasted with efforts made by the ILO to combat the country's various paramilitary organisations, the main perpetrators of these crimes. Nonetheless, many unionists are complaining about the inadequacy of the protection programmes set up in 1999 to put an end to this scourge. Many individuals who received threats were killed or narrowly escaped with their lives after the authorities refused to apply the measures provided for under such programmes. By the end of the year, 2,300 requests for protection had been made, but only 1,033 trade union activists were actually in the programme.

Statistics and trends in 2001

Context

For several years now, Colombia has been rated the world's most dangerous country. The entire country is in a state of civil war, with government forces, guerrillas and paramilitaries constantly clashing. This infernal triangle, comprising the guerrillas - Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) – on one side, the paramilitaries - the United Self-Defence Forces of Colombia (AUC) – on the second, and the government on the third is affecting all sectors of civil society, which is already hard-hit by poverty and destitution. Caught in the middle, unionists are often wrongly labelled as guerrillas by paramilitaries.

A wave of privatisations, as a consequence of IMF policies, has impacted on the education and health sectors, especially with the adoption in December 2000 of law 617 on the fiscal readjustment of territorial entities. According to the National Trade Union College, an NGO based in Medellín (Antioquia), the enforcement of this law has gone hand in hand with extremely serious violations of trade union rights, in particular death threats, killings and the forced displacement of unionised workers, especially in the administrative department of Antioquia. The law in question was initially intended to cut the operational costs incurred by municipalities and departments, but its enforcement coincided with the loss of numerous rights and conquests involving workers in territorial bodies.

The US administration, which finds it hard to conceal its desire to put an end to drug trafficking (another evil plaguing Colombia), duly adopted its 'Plan Colombia', designed to shore up democracy by offering the Colombian authorities significant military aid. However, this has often had harmful repercussions on the population in terms of human rights, with people regularly being forcibly uprooted and falling victim to the rising tide of violence.

Commission of Inquiry refused again

In spite of extensive evidence of the fact that trade union activists are being systematically eliminated and even though workers' representatives have for years been endeavouring to appoint a Commission of Inquiry to throw some light on the situation, its creation was once again delayed due to cynical machinations by the Colombian government. Meanwhile, that same government has been suggesting to the international community that the Colombian authorities are not directly responsible for such violent behaviour by virtue of the fact that the armed conflict in the country

has robbed it of its ability control and regulate social life. The Colombian government also cites this lack of control as the main reason for the killings. This claim can be refuted, however, for in 2001 nearly 80% of the trade union activists assassinated were killed directly because of their trade union activities, while only 10% were killed as a result of the conflict.

An overview of the situation

In 2001, a total of 185 trade union activists, leaders or affiliates were murdered. Nearly 2,000 other trade union activists have received death threats in the last four years, including 203 in 2001. In addition, 12 activists 'disappeared' and another 37 were kidnapped; 23 were the targets of personal attacks and 12 more were harassed. Moreover, 56 were forced to move. Finally, four bomb attacks were carried out against trade union headquarters.

Who? By whom? Where?

Human rights violations perpetrated against trade union activists became more selective in 2001, focusing more on those leaders and activists who cut more ice with the general public or enjoyed greater political clout. Of the 184 active trade union affiliates who were murdered, 63 were trade union leaders. 161 received death threats, and 21 had to go into exile abroad and relinquish their positions of responsibility within their union.

The vast majority of human rights violations committed against trade union activists are blamed on paramilitaries (89% of violations on the rights to life, freedom and integrity).

The entire country has been swept by this anti-union violence, even though – once again – most incidents have occurred in the department of Antioquia (near Medellín), but the number of killings also went up in the administrative departments of Valle del Cauca, Cesar, Meta, Nariño and Santander, where the level of unionisation is higher than the national average. Yet again, activists in public service trade unions were the most frequent targets (nearly 65% of all incidents), primarily because of their recalcitrance in debates about the country's fiscal readjustment policies and privatisations.

EVENTS IN 2001

Incidents to which the ICFTU was alerted

January

The year 2001 began with the murder in Montería (Cordoba) on January 5 of Francisco José Gomez Ayazo, a member of the University Workers' Union of Colombia (SINTRAUNICOL). On January 11, a bomb exploded in Yumbo (Valle del Cauca) at the home of Ezequiel Antonio Palma Jimenez, a former leader of the workers' union of the municipality of Yumbo, causing extensive damage. The next day, Ricardo Navarro Bruges, SINTRAUNICOL's section president for Santa Marta (Magdalena), was forced to leave his post for his own safety following an attempt on his life in Santa Marta.

On January 15, Gustavo Alejandro Castro Londoño, a member of the Executive Committee of the United Confederation of Workers (CUT) in the department of Meta and a health union activist, was very seriously injured in an attack carried out in Villavicencio (Meta). On January 17, Aldona Tello Barragan, the vice president of the Union of Lottery Ticket Sellers in the department of Magdalena, was killed in Santa Marta. The same day, Miguel Antonio Median Bohorquez of the education workers' union SINTRENAL was assassinated in Altagracia in the Pereira region (Risaralda). Two days later, on January 19, Arturo Alarcón, a member of the Colombian Federation of Educators (FECODE) and CUT activist, was killed in Piendamó (Cauca), and on January 21 Jair Cubides, a member of the union of workers of the department of Valle del Cauca, was also killed in Cali.

On January 24 the president of the Cienaga section of the agricultural workers' union SINTRAINAGRO, José Luis Guette, was killed by hired assassins on the payroll of the paramilitaries. He had already received numerous death threats and had asked the authorities to provide him with protection, which they had refused to do. On January 26, Walter Edwin Perea, a delegate from the Antioquia Teachers' Union (ADIDA), was summarily executed in front of his family after paramilitaries forced their way into his home. On the same date, Carlos Humberto Trujillo, a member of the Association of Judicial Workers, ASONAL JUDI-

- CIAL, was also shot dead in Buga (Valle del Cauca). On January 28, Elsa Clarena Guerrero and Carolina Santiago Navarro, both members of FECODE, were killed at a paramilitary roadblock between Ocaña and Convención in the department of Northern Santander.
- February**
- On February 8, Alfonso Alejandro Naar Hernandez, a member of FECODE, was shot dead on a motorway near Arauca (Arauca). On February 12, Nilson Martinez Peña and Raúl Gil Ariza, both members of the Union of Workers in Oil Palm and Similar Companies (SINTRAPALMA) and CUT activists, were assassinated by members of the AUC in Puerto Wilches (Santander). Four days later, paramilitaries also killed the vice-president of the San Alberto section of the National Union of Oil Producing Workers (SINTRAPROACEITES) in San Alberto (Cesar). On February 24, Gerzain Hernandez, a member of the Colombian electricity workers' union (SINTRAELECOL) was kidnapped. A few hours later he was released.
- March**
- On March 1 the leader of the Málaga section of SINTRAELECOL was killed in Málaga (Santander) by paramilitaries who had been holding him captive for several days. On March 24, the president of the Capitanejo section (Santander) of the union of tobacco sector workers (SINTRATABACO), Ciro Arias, was killed by the AUC in Capitanejo. The union's headquarters had already been invaded by the AUC on several occasions, and each time they had threatened to do away with the union.
- Again, on March 24, Jaime Duque, president of the United Trade Union of Workers of Construction Materials (SUTIMAC), Santa Barbara section (Antioquia), and a CUT leader in the department of Antioquia, was hauled off by men from the AUC in the middle of a football match organised by the union and subjected to a beating in full view of everyone. That abduction occurred after the AUC had carried out a survey on the relations between the union and employers in the company Cementos El Cairo SA.
- On March 27, the female president of the National Health and Social Security Union (SINDESS), Dagua section (Valle Del Cauca), was attacked on her way to work at around 5 a.m.. After the attack, she applied for protection under the government programme and safe passage out of the country, but was given nothing.
- April**
- On April 2, the vice president of the national hospital workers' union (ANTHOC) was assassinated in Barranquilla by paramilitaries who had made several previous threats on his life. After these death threats he had asked the Colombian authorities to offer him protection, but his request was turned down. On April 11, Saulo Guzman Cruz, the president of the health workers' union in the department of Cesar, was shot dead in Aguachica (Cesar) by members of the AUC. On April 19, Eumelia Aristizabal, a member of ADIDA, was abducted by an armed group in Cócoma (Antioquia). Another member of ADIDA, Frank Elías Perez Martinez, also became a victim of the paramilitaries when he was forced off the bus in which he was travelling from Santa Ana to Granada (Antioquia). His corpse was found the following day.
- May**
- On May 2, Dario de Jesus Silva, a member of ADIDA, was killed in Sabaneta (Antioquia). One week later, on May 9, another member of ADIDA, Juan Carlos Castro Zapata, was killed in Copacabana (Antioquia).
- Also on May 9, several leaders of ANTHOC in Honda (Tolima) received telephone calls ordering them to leave town. A few days before that, one of the union's leaders, Hector Manuel Vargas, had been accosted by an unidentified individual and given a list of seven trade union activists who had to report to the AUC, on pain of death.
- On May 10, in Codazzi (Cesar) the paramilitaries killed the president of the national union of aqueduct, sewer and public works employees (SINTRACUEMPONAL). Four days later, Julio Alberto Otero, a member of the association of university professors (ASPU), was shot down in the street when he was out for a walk with his wife and son in Santa Marta. That same day in Bogota, an attempt was made to kidnap Rosa Cecilia Lemus Abril, a member of CUT's National Executive Committee and a member of FECODE, when she was on her way to CUT headquarters. Her organisation had just called a 48-hour strike.
- On May 24, Martín Agudelo, president of the Bugalagrande section (Valle del Cauca) of the National Food Workers'

Union (SINALTRAINAL), was attacked and forced to leave the region. That particular attack came after the local authorities had described the union's members as guerrillas. On May 29, Nelson Narvaez, a member of SINTRAUNICOL, was killed near his home in Montería (Córdoba).

June

The director of CUT's Human Rights Department, Domingo Tovar Arrieta, received several death threats by phone on the eve of a strike scheduled for June 7 in protest against a law undermining the health and teaching sectors.

When Edgar Thomas Angarita Mora, a member of the Association of Educators of Arauca, returned home after taking part in a blockade to protest against a law attacking teachers, he was shot and killed in Saravona (Arauca) on June 12. In Hondo (Tolima) during the evening of June 13, Maria Emma Gomez de Perdomo was attacked and shot four times by members of the AUC after members of ANTHOC had convened a meeting about accusations of corruption at the San Juan de Dios hospital. On June 21, Oscar Dario Soto Polo, the president of the National Union of Drinks Industry Workers in Colombia (SINALTRAINBEC) and a member of the union's Executive Committee, was killed in broad daylight in Montería while he was on his way home. He had just picked up his eight-year-old daughter from school. On June 27, Cristobal Uribe Beltran, an ANTHOC activist, was kidnapped. The following day his body was found in Tibu, riddled with bullets.

July

On July 1, Cristina Echeverri Pérez, a member of United Educators of Caldas (EDUCAL), was kidnapped by FARC guerrillas. On July 6, German Carvajal Ruiz, a member of FECODE, was assassinated in Obando (Valle del Cauca) as he left work. The killing, which occurred in Florencia (Caquetá), came after he had been forced to flee the region from which he originated, having been declared a 'prime target' by the paramilitaries.

On July 7, José Rodrigo Orozco, a member of CUT's Executive Committee in the department of Cauca, received several death threats by telephone at his union's headquarters in Popayan (Cauca). On July 8, Isabel Pérez Guzmán of the union of national registration workers (SITRARENAL), was shot twice in the head and killed by two unidentified assailants who broke into her office in Morroa (Sucre). The next day, Hugo Cabezas, a member of the Nariño Teachers' Union (SIMANA), was killed by paramilitaries in Barbacoas (Nariño). At the time, the entire Executive Committee of the Union of Children's Home Workers of Colombia (SINTRAHOINCOL) received a communal death threat in the middle of a meeting being held in Barranquilla (Atlántico).

On July 10, Jairo Dominguez of the union SUTIMAC was found dead, with three bullet wounds in his head, on the road between his workplace and the municipality of Montebello (Antioquia) after having disappeared one week previously. On July 11, hit men shot and killed Miguel Ignacio Lora Ramirez and wounded Clemencia del Carmen Burgos in an attack that took place in Montería (Córdoba). Both victims were members of the union ASONAL JUDICIAL. The following day, James Urbano, a leading member of the General Confederation of Democratic Workers (CGTD) from the department of Valle del Cauca, was killed in Jamundí (Valle del Cauca).

On July 13, Saul Alberto Colpas Castro, the former president of the farm workers' union in the department of Atlántico (SINTRAGRICOLAS), who had also been a CUT secretary of rural affairs, was shot six times and killed in Ponedera (Atlántico). Three days later, on July 16, Lucila Rincón, a leading member of ANTHOC, and several members of her family were killed by paramilitaries on the road between Mariquita and Fresno (Tolima). On July 22, Obdulia Martinez, a member of the Association of Educators of the department of Cesar (ADUCESAR), was shot in the head twice and killed in her home in Chiriguana (Cesar). On July 24, Silvia Rosa Alvarez Zapata, a member of ADIDA, was killed as she was accompanying her six children to the rural school of El Viento, in Barbosa (Antioquia). That same day, another member of ADIDA, Ruben Dario Orozco Grajales, was killed as he was leaving Palenque rural school in Buriquita (Antioquia).

On July 28, Maria Helena Ortiz, of the union ASONAL JUDICIAL, was shot in the head six times in front of her son, who was also seriously wounded in the attack, as they were leaving a clinic in Cucunuba (Cundinamarca). Another member of ASONAL, Maria del Rosario Silva Rios, was killed the same day in Cúcuta (Northern Santander). The next day, in the department of Sucre, Jairo Tovar Diaz, a member of the Association of Educators of the Department of Sucre (ADEM), was abducted by persons unknown in Galeras (Sucre).

August

In an ultimatum issued in early August, the paramilitaries demanded that all the workers affiliated to SINTRAOFAM leave the union and relinquish their collective agreement, on pain of death. On August 9, the treasurer of the United Education Workers' Union of Quindío, John Jairo Ocampo Franco, was seriously wounded in the face in an attack that took place in Armenia (Quindío). The following day, on August 10, Julio Carrascal, CUT's Director of international relations, was kidnapped by ELN guerrillas in Maria La Baja (Bolívar), triggering a wave of indignation in the trade union world until he was released ten days later.

On August 13, the general secretary of the union of workers of the municipality of Dagua (Valle del Cauca), Segundo Florentino Chavez, was shot several times on his way to work, where he died. Chavez had been in the midst of collective bargaining with the authorities, and had already had to go and live in Bogotá owing to the frequent death threats he had received and a general lack of security.

On August 16, Manuel Pajaro Peinado, the treasurer of the Baranquilla District Public Services Union (SINDIBA), was killed by persons unknown. A few days previously, he had applied for protection after receiving numerous death threats ever since the union had started protesting against a law providing for mass redundancies, which would have meant the end of the union. That same day, Miryan de Jesús Rios Martínez, a member of ADIDA and the mother of three children, was murdered in San Rafael (Antioquia). Two days later, the handcuffed corpse of another ADIDA union activist, and father of three children, Hector Eduardo Cortez Arroyabe, was found in Barbosa (Antioquia). He had been missing since August 16.

Fernando Euclides Serna Velásquez, a member of CUT's security staff in Bogotá, was kidnapped during the evening of August 18. His body was found the next day. On August 22, Evert Encizo, a member of the Association of Educators of Meta (ADEM), was killed by paramilitaries in Villavicencio (Meta). He had often come to the aid of people who had been forcibly displaced. On August 24, several executive members of the national union of the department of Nariño were pursued by persons unknown riding unmarked motorbikes. They subsequently received written death threats signed by the paramilitaries. On August 28, Jorge Freito Romero, of the Association of Pensioners from the University of Atlántico (ASOJUA), was killed on the road between Ciénaga and Barranquilla (Atlántico) after having been abducted the previous day by persons unknown. The following day, Yolanda Paternina Negrete, a member of ASONAL JUDICIAL, was killed near her home in Sincelejo (Sucre). On August 30, ANTHOC leader Miguel Chavez was murdered in Tambo (Cauca).

September

On September 2, members of the AUC killed Carmen Pungo along with her cousin, who was with her at the time. This ANTHOC activist had been kidnapped together with her brother in late July, only to be released later on. On that occasion, the paramilitaries had threatened to kill and torture members of her family. On September 7, an activist from the Union of Workers of the Municipality of Cartago (Valle del Cauca) received a threatening letter warning him that he had less than a month to live. He had been protesting primarily against the improper dismissal of 84 trade union activists by the local authorities. On September 8, Laiton Cortes was kidnapped, threatened and then released almost immediately by some heavily armed men driving around in a taxi.

In mid-September, Over Dorado Cardona, a leading member of ADIDA, which represents - among others - teachers under threat before the Special Committee of Threatened Teachers of the Education Secretariat of Antioquia, received a death threat via his wife, who was manhandled and then given a letter threatening to kill him. Over Dorado Cardona's main grievance concerned the privatisation of the education sector.

On September 13, the paramilitaries once again made a show of their hostility towards trade union activities by issuing death threats to several leaders and activists from ANTHOC in the department of Meta after forcing their way into a meeting that was intended to discuss the conflict that had taken place in the university hospital of San José in Popayán (Meta). On September 20, a member of ASONAL JUDICIAL, Juan David Corzo, was killed in Cúcuta (Northern Santander) in front of his mother, who was seriously wounded in the attack, and his son.

On September 25, Antonio Mesa, a leader of the Barranquilla section of SINTRAUNICOL, was killed at his home in Barranquilla by unidentified individuals on motorbike. On September 26, Manuel Ruiz, a leader of the Córdoba

Teachers' Association (ADEMACOR) was shot and killed by paid assassins as they were leaving the union's headquarters in Montería. The same day, a member of ANTHOC, José Ernesto Ricuarte, was abducted in Prado (Tolima). Again, towards the end of the month, the president of SINTRAPROACEITES had to leave the region of Bucaramanga (Santander) where he worked for Indupalma, a company which had refused to offer him any protection despite the regular threats he had received. A conflict between the union and its management was just about to be considered by a court of arbitration. At the end of September, members of the army and secret police also searched the house of the director of ANEBRE, the National Association of Employees of the Bank of the Republic, Wilmar Jiménez Rosado, and seized confidential trade union and personal documents without offering any explanation as to why.

October

On October 10, Jorge Ivan Rivera Manrique, a member of the Risaralda Teachers' Union, was killed in Pereira (Risaralda), and Jairo Valbuena, an activist affiliated to SITRAEMSDES, died in Buga (Valle del Cauca) in an attack during which a fellow worker accompanying him was also seriously injured. Two more trade union activists were killed the same day, making October 10 one of the bloodiest days of 2001 for trade union activists in Colombia.

On October 15, Ernesto Ceballos Guzmán, a member of ADIDA, was kidnapped in San Rafael (Antioquia). On October 16, the San Silvestre Drivers' and Transport Workers' Union (SINCOTRAINER) lost two of its main leaders, namely the president of the organisation, Luis López, and the treasurer, Luis Amaya, both of whom were killed by unknown assassins as they were leaving home in Barrancabermeja. On October 20, Gustavo Fuentes Castellón, a member of the Barrancabermeja Union of Family Compensation Fund Workers, was shot dead by paramilitaries. The same day, Jesús Agreda Zambrano, SIMANA's municipal delegate for Sandoná (Nariño), was also assassinated by paramilitaries. At the beginning of the month, several members of the union had received threatening letters signed by the paramilitaries explaining that their names were on a hit list, thereby forcing several of them to leave the region for their own safety.

On October 22, Luis José Mendoza Manjares, a member of the Executive Committee of the University Professors' Union (ASPU), was shot dead in front of the entrance to Cesar Popular University in Valledupar (Cesar). On October 23, Martín Contreras Quintero, the founder and leader of SINTRAEECOL, was also killed by paramilitaries in Sampues (Sucre). On October 26, Ana Rubiela Villada, a member of the Valle del Cauca United Teachers' Union (SUTEV), was found dead. She had disappeared a month previously, after unknown individuals kidnapped her on her way to work in Sevilla (Valle Del Cauca). On October 29, all the members of the Executive Committee of the Trade Union of Glass and Allied Workers of Colombia (SINTRAVIDRICOL) received a message containing a death threat. At 9.15 a.m. the following day, Sandro Antonio Rios Rendón, an activist with SINTRAEMSDES, was killed at work in Pereira.

November

On the first day of the month, Carlos Arturo Pinto of the National Association of Officers and Employees of the Justice Branch (ASONAL), was assassinated in Cúcuta. Pinto had taken over the duties of another trade union activist who had been killed on July 28 (see July). The next day, Jorge Eliecer Londoño, a member of SINTRAEMSDES, received a letter sent to his home address announcing that he did not have long to live. At the same time, the police found the body of Cesar Bedoya Ortiz, a member of ASPU, in Montería. Ortiz had disappeared at the end of August and according to the police he had been killed between August 17 and 28.

On November 3, unknown individuals kidnapped Jorge Enrique Posada, a member of ASONAL JUDICIAL, on the road between Medellín and Caldas. On November 5, Carlina Ballesteros Garcia, a member of SUDEB, was in turn abducted as she was heading for the municipality of Magangue (Bolívar). On November 9, a trade union activist with SIMANA, Pedro Cordero, was shot and killed in the municipal park in Tuquerres (Nariño). On November 10, Luis Alberto Delgado, another SIMANA activist, died from his wounds after being attacked the previous day in the same town. November 10 was also the last day for Edgar Sierra Parra, an activist with ANTHOC, who was first tortured, then killed in Puerto Rondon (Arauca).

On November 12, the body of Hoover de Jesús de Galeano, a member of SINTRAEMSDES, was found in Pereira. The same day, Tirso Reyes, a member of the United Education Workers' Union from the department of Bolivar (SUNEB), was found murdered after being abducted in Santa Rosa (Bolívar) the previous day. In the evening of November 14, another member of SINTRAEMSDES, Diego de Jesús Botero Salazar, was shot down in a hail of bullets while on his way home. Hit by four bullets, he died in Cartago on the way to hospital. On November 16, an attempt was made on the life of Heberth Cuadros at his home in Cali (Valle del Cauca), but he managed to escape unscathed. Carlos Arturo Mejía Polanco, a member of Yumbo section of the union SUTIMAC, was less fortunate. He was attacked by a man who shot him three times, wounding him seriously. Nonetheless, he too escaped with his life. On November 24, the president of the United Security Guards Union of Colombia (SINUVICOL) was assassinated in Cali. The day after, paramilitaries kidnapped Jorge Eliécer González, the president of ANTHOC's Nataigama (Tolima) section, from his home. His corpse was found the following day and it was clear that he had been tortured before being killed. On November 26, John Jairo Jaimes Salas Cardona, an ADIDA delegate, was also abducted from his home in Abriaquí (Antioquia).

December

On December 3, the treasurer of the Santa Marta section of the union ASONAL, Javier Cote, was murdered. Two days later, another member of ASONAL, Magnolia Plaza Cardenas, was killed upon leaving work in Puerto Rico (Caqueta). On December 14, members of a paramilitary group forced their way into the factory of Cerámica Continental, which had only recently been taken over by the Union of the Ceramics Industry, gathered together the workers and accused them of collaborating with the guerrillas. The paramilitaries took Raúl Orozco, a leading member of the union, and executed him with a single shot to the head in front of the workforce. They then ordered the workers to leave the region and issued further death threats against them. On September 11, Juan Diego Londoño Restrepo, the union's secretary, had been executed by the same paramilitaries while on his way to the factory.

On December 16, paramilitaries forcibly gathered together all the members of the Executive Committee of the Andes (Antioquia) section of the Union of Official Workers and Public-Sector Employees of Antioquia and interrogated each one about the duties of the union's members. Once they had concluded their enquiries, the paramilitaries singled out Francisco Eladio Sierra Vasquez, after identifying him as the union's president and executed him in front of all the other members of the Executive Committee, shooting him seven times. These killings came after the paramilitaries had enjoined the members of the union to leave it on several occasions. On another occasion, the paramilitaries took action to dissolve the union. A meeting of the Executive Committee of the Amaga (Antioquia) section of the municipal workers' union of the department of Antioquia (SINTRASEMA) was forcibly convened by the paramilitaries, who then forced the union's leaders to resign from their posts, effectively disbanding the organisation.

An in-depth look at three cases

SINTRAEMCALI

The members of the union of municipal company workers' in Cali (SINTRAEMCALI) have for several years been the target of human rights violations. For several years now, the union has been striving to fight corruption as well as the programmes to privatise the companies in question.

On January 14, one of the union's activists, German Medina Gaviria, was abducted as he left home in the part of Cali known as Porvenir. On March 15, three more members of the same union - Luis Carlos Tafur, Omar Ospina and Hoover Yasnot - were detained, accused of terrorism, then cleared and freed on June 13. Whilst they were being held, persons unknown lobbed grenades into their cell.

But the families of trade union activists have also been the targets of intimidation. On April 18, the daughter of Edinson Gomez, a union activist who had regularly received threatening letters and anonymous phone calls, was kidnapped on her way to university, tortured and then released six days later following the intervention of several NGOs and the Ministry of the Interior's Protection Committee. After his daughter's abduction, Edinson Gomez, who had called for preventive measures to be taken by the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS), had to leave the Cali region.

On May 19, Juan Esteban Tenorio Araujo, a union member, was killed. On May 21, Eliecer Prado, one of the

union's activists, was shot 11 times and killed by hit men when arriving at work. Just four days later, unidentified individuals on a motorbike and in a car shot and killed another of the union's activists, Henry Jimenez Rodriguez, as he arrived at work.

The level of intimidation went up a notch in late May and early June. On several occasions, the family of trade union leader Domingo Tovar was harassed by persons unknown and their house was watched. On June, 10 to coincide with trade union activists' presentation of a proposal aimed at preventing the privatisation of certain services, four individuals surrounded the building where they and some executives were meeting and started shooting blindly into its interior. Although the police were called immediately, they only arrived 40 minutes later. One of the unidentified individuals tried to abduct the daughter of a trade union activist, but was prevented from doing so by the bodyguards.

The action taken by the police was again called into question on December 15, when an individual claiming to be a paramilitary was questioned by one of the bodyguards of the two trade union leaders he was keeping tabs on. The man was handed over to the police, but the authorities released him that same evening.

SINTRAMIENERGETICA

Trade union activists affiliated to the Union of Workers of the Mining and Energy Industry of Colombia and working at mines run by the US multinational Drummond have been particularly severely affected by the violence that occurred throughout 2001.

On February 12, the president and vice president of the Cesar section of the union, Valmore Locarno and Victor Orcasitas respectively, were shot dead by members of the AUC. Paramilitaries had forced them to leave the bus in which they were travelling and they were then executed in front of all the passengers. On June 11, another member of SINTRAMIENERGETICA working for Drummond was shot in similar circumstances in Soledad (Atlántico).

On October 6, Gustavo Soler was killed in La Jagua de Ibirico (Cesar) by paramilitaries. He too had worked for Drummond, replacing Valmore Locarno as president of the Cesar section.

USO

The affiliates of the Workers' Union (USO) of Colombia include members employed in the oil sector. Falsely accused of helping guerrillas sabotage oil installations and blow up oil pipelines, they regularly fall prey to both the paramilitaries, who harass them incessantly, and the authorities.

On March 18, Rafael Atencia Miranda, a member of the Workers' Union (USO), was kidnapped by paramilitaries from his home in Barrancabermeja (Santander). He was tortured and killed. Another member of the union, Luis Pedraza Lozada, was also murdered by paramilitaries on March 24 in Arauca (Arauca). On May 29, William Wallens Villafañe, one of the organisation's activists, was killed by paramilitaries who caught up with him in Tibu when he was on his way home. Five more USO activists were kidnapped in late May.

The last quarter of the year saw a fresh resurgence of violence against USO affiliates. In late August, two of the union's leading members in Bogota, Edgar Mojica Vanegas and Daniel Rico Serpa, each received several anonymous telephone calls from people threatening to kill them unless they put an end to their trade union activities.

On September 20, the day before a strike called by the union in Barrancabermeja in protest against the prevailing working conditions, several trade union activists received telephone calls ordering them to abandon the strike or be assassinated. In spite of these threats the strike went ahead, with a very high level of security.

On October 10, Servando Lerma, another member of the organisation, was killed in Barrancabermeja. Just a few days previously, another member of USO, Arturo Escalante Moro, had been kidnapped by paramilitaries in the same town. His body was found on October 16. On October 18, the paramilitaries declared the entire union in Yondó (Santander) a military target. In protest, USO decided to hold a strike the next day, but the local authorities immediately issued warrants for the arrest of the organisation's six leaders, including Vanegas. According to the public prosecutor, their arrests followed five years of enquiry into its activities aimed at fomenting rebellion.

On November 13, another member and ex-leader of USO, Emiro Enrique Pava de la Ossa, was assassinated in the region of Puerto Perales (Antioquia).

On December 5, the corpses of Aury Sará Marrugo, one of the organisation's leaders, and his bodyguard, Enrique Arellano, were found in Maríalabaja (Bolívar). Members of the AUC had kidnapped them on November 30 and tortured them under the false pretext that the leader of USO was a commander of the guerrilla movement ELN.

Finally, on December 23, Eduardo Alfonso Suarez Diaz, one of the union's activists, was killed by persons unknown in Barrancabermeja.

A rowdy May 1

During the various protests that took place on May 1, the police beat several demonstrators, including Carlos Gonzalez, president of the Union of Workers at Del Valle University, Freddy Ocoro, the president of Bugalagrande Municipal Workers' Union, and Jesús Antonio Gonzalez, a coordinator working for the CUT's Human Rights Department.

Crackdown on strikes

On March 9, the police raided the premises of Plásticos y Varios à Itaguí (Antioquia), where workers were protesting against the non-payment of financial claims to which they were entitled. They then interrogated the workers about other trade union activists from a completely different company.

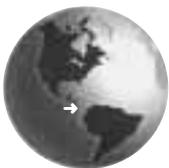
In August, several dozen bus drivers were injured in clashes with law enforcement agents during protests against traffic restrictions imposed on vehicles used for public transport.

Anti-union attitude in the beverages sector

The National Union of Bavaria S.A. Workers (SINALTRABAVARIA) has on several occasions complained about the company's attitude towards its members. After refusing to engage in collective bargaining, for no reason whatsoever the company also opposed the holding of elections for its Executive Committee. It also drew up a blacklist and proceeded to fire several workers who had taken part in a stoppage.

Costa Rica

POPULATION : 3,900,000 / CAPITAL : San José / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138, 182



Costa Rica continues to be one of the most anti-union countries in the hemisphere. The dismissal of trade unionists continues with impunity and there were further attacks on bargaining rights during the year.

THE LEGISLATION

The law specifies the right of workers to join unions of their choosing without prior authorisation.

Only a very limited group of trade union representatives are protected from dismissal. There is no legal obligation on an employer to prove grounds for the dismissal of workers covered by trade union immunity.

The law sets out complicated administrative procedures for the reinstatement of a trade unionist who claims unfair dismissal. The national labour inspectorate (DNIT) has to examine the case and certify a violation. If the violation is not certified, a preliminary hearing has to take place before the case can go to the judicial authorities. The labour inspectorate certifies the wrongdoing and brings charges. There are no guarantees of reparation for any damages caused, and there is no legal mechanism to oblige an employer to comply with a court order to reinstate a worker.

Foreign nationals are prohibited from holding office or exercising authority in trade unions.

Agricultural and stock-raising enterprises which employ no more than five workers on permanent contracts are excluded from the scope of the Labour Code.

Unions may form federations and confederations and affiliate internationally.

Strikes are permitted in the private sector, provided that strict requirements are met. 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, lengthy legal procedures must be followed. Strikes are banned in railway, maritime and air transport as well as in animal husbandry and forestry.

Strikes restricted in public sector

The Constitution and the Labour Code restrict the right of public sector workers to strike. In March 2000, the Constitutional Chamber of the Supreme Court ruled that public sector strikes may be allowed only if a judge approves them beforehand and finds that "services necessary to the well-being of the public" are not jeopardised.

Collective bargaining is also restricted in the public sector. A Constitutional Court ruling of May 2000 declared 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.

RIGHTS IN PRACTICE

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.

Given the complex procedures involved, seeking the reinstatement of workers who have been unfairly dismissed takes an average of three years, long enough to remove a trade union. The DNIT usually takes longer than the maximum two month period foreseen by the Constitutional Court to certify a violation. When a trial eventually takes place, it can be several years before a verdict is reached. Miguel Angel Rodríguez, who was dismissed in 2000 by Frutas Tropicales Venecia S.A. for founding a union, SITRAFRUT, at the company, was still out of work at the end of 2001, while waiting for the judicial authorities to deal with his case.

Collective agreements in the public sector

Some collective agreements are tolerated and considered constitutional, but there are cases where 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, SITRAPEQUIA. The court ruled on August 30 2000 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. Similarly, articles from the collective agreement covering workers at the National Bank were withdrawn. The unions have pointed out that this decision set a dangerous precedent which could be applied to other existing collective agreements in the public sector, further weakening collective bargaining rights.

Solidarist associations

One of the biggest obstacles to the free exercise of trade union rights is the culture of "solidarismo" which is deeply embedded. 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 solidarist 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 solidarist associations to counter them.

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

In the private sector, collective bargaining has been reduced to a bare minimum. The low level of union membership in the wake of employer repression is partly responsible for this, compounded by the employers' preference for negotiating with solidarist associations. A 1993 law was supposed to have limited the ability of solidarist associations to undermine unions' bargaining rights, but it does not go far enough. The courts can be very slow when dealing with the cancellation or non-respect of collective agreements.

Instead of collective agreements there are many 'direct arrangements' with non-unionised workers who are grouped together in "permanent workers' committees". The legislation allows for the creation of such committees provided there is a minimum of three workers, whereas for a union to be recognised as a bargaining unit it must have a minimum of 12 workers. The unions have been critical of the fact that in most cases these 'direct arrangements' are favoured by employers as a means of avoiding the creation of trade unions and promoting solidarismo.

Banana industry

The banana industry is one of the worst violators of trade union rights. In recent years there have been many cases in which falling prices on the banana market have been used as a pretext for the widespread dismissal of unionised workers, who have been harassed and blacklisted.

Export processing zones

Unionised workers in export processing zones also face harassment and unfair dismissal. The ratio of one labour inspector to 30,000 workers in 1999 has improved to one for every 9,000 today, but that is still insufficient to tackle the number of unfair dismissal cases.

Strikes

The courts have only approved two strikes as legal in the last 50 years.

EVENTS IN 2001

The year began with the government reneging on a commitment it made in 2000 to approve a draft bill on the freedom of association. It decided instead to simply withdraw the bill. The government has offered to present the bill to parliament again, before the end of the current presidential mandate in May 2002. However the unions have criticised the bill for containing reforms on which there was no tripartite consensus. Furthermore it introduces the issue of labour "flexibility", which had not yet been discussed and was not part of the bill agreed in 2000.

Systematic dismissals of trade unionists

On January 16, five workers joined the union at APROVECO S.A., a Costa Rican company producing ecologically grown bananas. They were promptly dismissed, and given severance pay. The same thing happened to another five workers on March 12, and a further four on May 10. A complaint was sent to the Ministry of Labour, but the matter had not been resolved by the end of the year.

In February there were mass dismissals at the AGROPECUARIA MARTINA S.A. banana plantation, owned by the former Costa Rican Ambassador to the United Kingdom. Almost all the workers were rehired, on less favourable conditions than before. The 18 members of the SITRAP union, including one member of the union's national leadership, were not rehired. The Labour Ministry sent its inspectors who verified the incident in June, but by the end of the year the case had still not been submitted to the labour courts.

Collective bargaining rights ignored

In May, the Costa Rican government in conjunction with private financial interests started the privatisation process of the Juan Santamaria International Airport. The trade union representing the airport workers (the Unión Nacional de Trabajadores de Obras Públicas y Transportes – UNATROPYT) was not consulted or involved in the negotiations. Workers' terms and conditions suffered as a result. Some of the airport staff signed individual four-month contracts with the new company. Others, who were union members, were transferred with all their rights and their "public servant" status intact, to other airports in the country.

Employer interference in union activities

Workers employed in the 'Diplomatic lounge' suffered the most serious violations of their rights. The government, at the request of the company, ignored a court ruling that employees working in the 'Diplomatic lounge' should retain their "public servant" status, and tried to hand over its operation to the private company. The company coerced

other workers not to support this dispute, promising to make the temporary four-month contracts permanent, on condition that the workers did not get involved in the union.

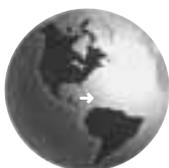
Post office dismisses 78 workers

Costa Rica's state-owned post office dismissed 78 workers on November 11. The union had been in dispute with the post office for two years, after it refused to negotiate on the union's demands. Finally, the union took the dispute to court. The dismissals followed.

In a similar incident, six workers were dismissed at the Mercedes Benz assembly plant, during a dispute with the union.

Cuba

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



There was no change in Cuba as the government continued its persecution of independent trade unionists. The long promised reform of the island's labour legislation has still not materialised.

THE LEGISLATION

No freedom of association

The Cuban authorities only recognise a single national trade union centre, the Confederación de Trabajadores Cubanos (CTC), heavily controlled by the State and the Communist Party which appoints its leaders. Membership is compulsory for all workers. Before a worker can be hired they have to sign a contract in which they promise to support the Communist Party and all it represents. The government explicitly prohibits independent trade unions.

No collective bargaining

Collective bargaining does not exist. The State controls the employment market and decides on pay and working conditions in the state sector. In the private sector, the 1995 Foreign Investment Law requires foreign investors to contract workers through state employment agencies. The investors pay the agencies in dollars, but the agencies pay the workers the equivalent figure in pesos, pocketing up to 95% of their salaries. Workers have to undergo a political investigation by the State before they can be hired.

The right to strike is not authorised by law and is totally non-existent.

The government has still failed to act on promises to reform the labour code.

RIGHTS IN PRACTICE

Several independent trade unions do exist in practice, in a very hostile environment. The government actively harasses these unions, which it sees as dissident organisations. Workers who seek to join them are persecuted and can lose their jobs. Workers are required to keep an eye on their colleagues and report any "dissident" activity.

EVENTS IN 2001

The year began against a background of escalating arrests and harassment of those engaged in 'counter-revolutionary' activities, including trade union activists. Many independent trade unionists were subjected to physical attacks, dismissals, arrests and even imprisonment.

Threats

On January 26, Lazaro Estanislao Ramos, a delegate for the Pinar del Rio branch of the independent union Confederación Obrera Nacional Independiente de Cuba (CONIC) was threatened at his home by a State Security officer, Captain Rene Godoy. The officer warned him that his confederation had no future in Pinar del Rio and that sanctions against the opposition would get worse, culminating if necessary in the disappearance of dissidents.

Independent union meetings obstructed

The authorities went to considerable lengths to disrupt the CONIC's first national congress, held on September 3. Aleida Godínez Soler, General Secretary of the CONIC, and Alicia Zamora Labrada, were questioned on August 9 by officials from the State Security Department (DSE). They were subjected to verbal harassment for two hours, and warned against holding their congress, as the DSE would not tolerate any "counter-revolutionary" meetings. On the day of the congress, the CONIC building was surrounded by security police, who checked the identities of everyone entering the building. The delegates from Guantánamo, Granma and Las Tunas were turned away, as was Víctor Rolando Arroy, a member of the CONIC executive. The Guantánamo representative was a substitute for Jorge Dante Abad Herrera, the local CONIC leader, who had been ordered to report to the DSE that day.

Leaders of the CUTC suffered similar harassment when they sought to organise a meeting. Juan Carlos Martínez Rodríguez, organising secretary, and Mateo Romeu Ramos, the Pinar del Río regional secretary, were detained by DSE agents from August 10 to 11, while others faced warnings and threats, all aimed at preventing the CUTC from holding a conference.

Continued persecution

Another independent unionist, Manuel Lantigua of the Consejo Unitario de Trabajadores de Cuba (CUTC) was stoned and beaten at the entrance of his home on July 9 by members of the paramilitary "Rapid Response Brigades".

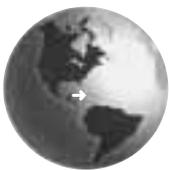
Independent labour activists Cecilia Chavez and Jordanis Rivas, who have been detained by security forces on several occasions, had their home searched and publications confiscated on December 14. They had previously been threatened with imprisonment if they continued their pro-labour activities.

Ill-treatment in prison

There were also several reports during the year of the ill-treatment of trade unionists serving prison sentences. These included a brutal physical attack on April 12 by prison guards on Lázaro García Farah, a member of the CONIC. Another independent trade unionist, Georgis Pileta Laurencio, was also beaten by guards, after being sent to a punishment cell, on April 27.

Dominican Republic

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



There were no improvements in the situation of trade union rights in the export processing zones or on the sugar plantations. In a year of increasing social unrest, trade unions played an active part in the broad-based protest movement that was met with heavy repression.

THE LEGISLATION

All workers are free to organise. The Labour Code calls for automatic recognition of a union if the government has not acted on its application within 30 days. There are restrictions however. Civil servants can only form a union if at least 60% of the employees of a given governmental body agree to join. Employees of independent and municipal state bodies are also excluded from the Labour Code. The laws and regulations governing these bodies contain no provision on trade union freedoms. In order to form a confederation, trade unions must obtain a two-thirds majority from their members.

Strike restrictions

Strikes can only be called if a majority of employees, trade union members or not, vote in favour of action. There must have been a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labour and a 10-day waiting period following notification before going ahead with the strike.

The labour code applies in the export processing zones (EPZs).

RIGHTS IN PRACTICE

While the government does not place any obstacles to union registration, the enforcement of labour law is sometimes unreliable, and penalties are insufficient to deter employers from violating workers' rights.

Export processing zones

No real effort has been made by the government to ensure that labour legislation is enforced in the EPZs. Employers refuse to recognise trade unions and in some cases, such as the Santiago EPZ, distribute blacklists of union activists to prevent them finding a job. Workers are often reluctant to form trade unions for fear of physical harassment and dismissal. 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.

Deplorable conditions in the sugar plantations

The privatisation of former state-run sugar companies has heavily undermined trade union rights, as private employers are usually reluctant to recognise unions, and there have been cases in the past of union leaders being unfairly dismissed. Working conditions are often appalling, with low pay, long hours and deplorable sanitary conditions.

Haitian workers

Many workers in the sugar cane fields and elsewhere are Haitians. They are often in the country illegally, and therefore cannot join unions. This cheap source of labour is exploited by employers in conditions of near slavery.

EVENTS IN 2001

Intimidation

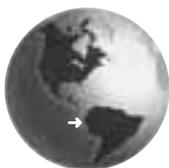
When the Union of Cane Cutters of Ingenio Barahona (SIPICAIBA) called a meeting on July 21 to vote on strike action, management at the Barahona Refinery put pressure on workers not to attend the meeting. Those who did attend voted overwhelmingly in favour of a strike to demand better pay and proper health care. Three hours after the meeting, an army patrol arrived. Although the patrol did not take any action, its presence alone was seen as intimidation.

Police repression of popular protest movement

Trade union leaders and members were very active in the Coordinadora de Organizaciones Populares, Sindicales y Choferiles, the protest movement opposed to the Mejía government's neo-liberal policies, which met with heavy repression. There were several violent clashes with police, in which protesters were injured, and in some cases killed. Incidents included one in April, when three people were killed by the police during a protest in Santo Domingo, and another in May when a further two deaths were reported.

Ecuador

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



The government responded to protests at its economic measures by arresting demonstrators including trade union leaders, and calling a state of emergency. By the end of the year it had still not ratified promised amendments to the country's labour legislation.

THE LEGISLATION

The Constitution and Labour Code provide most workers with the right to form trade unions, with the exception of the police and public sector employees in non-revenue producing entities.

Obstacles to forming a trade union

Workers in State institutions can only be represented by a single trade union organisation. 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.

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.

RIGHTS IN PRACTICE

The national trade union centre CEOSL reports that 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.

EVENTS IN 2001

Events during the year took place against a background of economic crisis, with an inflation rate of 91% and a huge foreign debt. There was mounting discontent at the Noboa government's economic policies, uncertainty owing to the recent political instability and anxiety at the presence of Colombian guerrillas in the border regions, giving rise to fears that the conflict may spill over into Ecuador.

Union leaders arrested

On January 30, Mario Morales Parra, Vice-President of the CEOSL, was arrested together with several others, including Luis Villacís, a member of the Frente Unitario de Trabajadores (FUT) national trade union centre and head of the Frente Popular and Antonio Vargas, president of the national confederation of indigenous peoples, CONAIE. They had been taking part in a demonstration in Quito in protest at the government's economic policies, which was heavily repressed by police who used teargas to disperse the crowd. The demonstration was part of a wave of protests that began in early January in response to rises in fuel prices and the cost of public transport.

State of emergency- freedom of association suspended

Antonio Vargas and Luis Villacís were released on February 1 after their lawyers filed a habeus corpus petition.

Protests continued, and on February 3 the government declared a State of Emergency, reminiscent of the methods used by the Latin American dictators of the past. The measure meant that freedom of association was suspended and citizens could be detained without warning. It was brought in response to a renewed indigenous uprising, including a march on the capital, and the occupation of the International Monetary Fund's offices in Quito.

Union leaders dismissed

On June 7, eight workers, all trade union members, were dismissed by the Nestlé company in the city of Cayambe. One of those dismissed was the general secretary of the union at the plant, Diego Hidalgo. The company claimed the dismissals were necessary as part of a restructuring programme but it also cited the union's "obsession" with remaining members of the CEOSL. Over the previous year, the company had been systematically dismissing members of the union, and blocked negotiations for a collective agreement.

Bomb attack

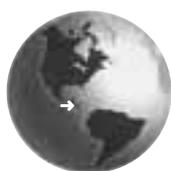
Luis Villacís of the FUT was attacked on September 1 when unknown assailants threw a bomb into his house. He escaped without injury, although he was at home with his family at the time of the blast. The bombing came shortly after he announced his participation in another protest against the government's economic policies.

Threats

In November the CEOSL's Ecuadorian human and trade union rights network REDHS-CEOSL reported that it had been receiving e-mail threats against the trade union leaders and human rights activists from a group calling itself the Legion Blanca, which first appeared in July. The government's only response was to order a police investigation which resulted in an unsatisfactory report that included criticisms of the victims. The threats did stop for a while, but by October had resumed again.

El Salvador

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



Workers in the export processing zones continue to face rights abuses, as a damning report made public in May showed all too clearly. There were also blatant abuses of trade union rights following the militarisation of the national airport in September.

THE LEGISLATION

By law, only private sector workers and some employees of autonomous public agencies have the right to form unions. The government still refuses to ratify Convention 87. It claims that by granting civil servants the right to form trade unions the Convention is in breach of the Constitution of El Salvador which excludes them from that right on the grounds that they provide essential services.

To be legally registered, trade unions must follow complex procedures, including the need to obtain prior authorisation to form a workers' organisation. They must have a minimum of 35 members in the workplace. Members of unions' leadership bodies must be Salvadorian by birth. Trade unions cannot take part in political activities.

There are 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.

The ban on civil servants forming unions also prevents them from bargaining collectively.

RIGHTS IN PRACTICE

The ban on public sector unions was used to prevent the registration of the Education Ministry workers' union (ATRAMEC) in May 2000. In the same month, the food workers' federation (FESTSA) was also refused registration on the grounds that it had failed to comply with all the complex procedures. The federation had not been told in advance there had been any gaps in the steps they needed to complete.

Export processing zones

The lack of trade union rights and bad working conditions in the country's export processing zones have been repeatedly criticised in this survey. A report carried out by the Labour Ministry itself, suppressed for many months by the government but made public in May 2001 by an American labour rights NGO, called the National Labour Committee (NLC), makes many of the same criticisms. The report, carried out in El Salvador's four largest export processing zones, San Marcos, San Bartolo, American Park and el Pedregal, found that there was a clear anti-union policy in the maquilas, whereby any attempt at organising was repressed. Union leaders interviewed said it was very common for supervisors to threaten workers with dismissal if they joined or attempted to form a union. The report further noted that none of the 229 maquiladora factories had a union contract (a union has since been recognised at the Tainan maquila –see below) . Many of the workers interviewed told Labour Ministry officials that the union supporters were black-listed to ensure they did not get jobs.

The NLC also carried out its own in-depth investigation into 11 factories, namely Hermosa, Chi Fung, Exmodica, Formosa, Leader Garments, Han Chang, New Tex, Quality Factory, Apple Tree, Tainan and Doall. They all produce for well-known fashion and sportswear brands such as Liz Claiborne, Gap, Nike and Adidas. The same sort of abuses were listed every time: mandatory pregnancy tests, compulsory overtime, below-sub-sistence wages, unrealistic production quotas, monitored toilet visits, and poor health and safety conditions such as excessive heat and dirty drinking water. At the Doall factory, for example, women workers were subjected to body searches by male guards every time they entered or left the factory, and they had to work 11 or 12 hour shifts.

Another abuse common to all the factory studies was the lack of freedom of association. Every attempt to organise in the maquilas was met with mass illegal dismissals.

EVENTS IN 2001

The year began with the devastating January 13 earthquake in which hundreds of people died, many were injured and thousands lost their homes. Economically, workers continued to face a difficult situation, with tight public spending controls at the instigation of the IMF and World Bank, more privatisation and job losses.

Recognition for SUTTEL

There was some good news. On April 6, after a three-year battle to win recognition, the telecom workers' union, SUTTEL, signed an agreement with CTE-Telecom, a subsidiary of France Telecom. The union had faced mass dismissals and lengthy legal proceedings before reaching this stage, which also saw the reinstatement of two SUTTEL officials who had been fired in November.

Dismissals for SITIASA

On June 9, workers at the AMITEX S.A. company set up the Amitex workers' union, SITIASA. On June 12, the union submitted documents for its legal registration. The company responded by sacking 87 unionised workers. When the Labour Ministry was asked to intervene, it converted the dismissals to suspensions.

Union recognition in Taiwanese maquila

On July 12, at their second attempt and after an extensive lobbying campaign, workers at the Taiwanese textile factory Tainan El Salvador S.A. won recognition for their union, the Sindicato de Trabajadores de Industrias Textiles (STIT). Their initial application was turned down on a point of detail. Legalisation came after contacts were made with the Taiwanese embassy, journalists and international trade union organisations and solidarity groups.

Union leaders sacked

Thirty trade union leaders from the healthworkers' union STISS were sacked on September 23 without the proper legal procedures being followed. Shortly before that the STISS had protested at plans to privatise ancillary services

at the Roma and de la Unión hospitals, recalling that similar privatisations had caused conflict and proved harmful to patients, and urging the government to hold discussions with the unions to find alternative solutions.

Trade unionists expelled from airport

Mass union dismissals took place when El Salvador's International airport was militarised on September 23. The government sent army officers and anti-riot police to expel workers and security staff using water cannon and excessive force. The following day they prevented cargo and maintenance staff from taking up their duties. The staff concerned were all members of the El Salvador International Airport Workers' Union SITEAIES. On September 25, the military personnel in charge only allowed maintenance workers to enter, and informed the remainder, 154 cargo and support workers, that they were dismissed. They were told to collect their severance pay.

Security or reprisals?

The government claimed the measures were in response to the need to step up airport security following the September 11 attacks in the United States. The United States government however, while confirming that it did call for greater security, states that it did not specify the nature of the measures to be taken and did not intend such steps to deny workers' their rights. SITEAIES points out that it had been publicly campaigning against the government's plans to privatise the airport, and protesting at the lack of tripartite consultation. The union believes that was the government's real motivation for its action.

Intimidation

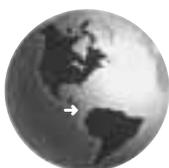
During this time the union reported intimidation of their members, the blocking of access to trade union premises and threats by military personnel against trade union leaders, complaints later upheld by the labour inspectors. On October 12, anti-riot police and soldiers in full combat dress sought to prevent the holding of a SITEAIES ordinary general assembly. The meeting was finally held on alternative premises.

Reinstatement refused

SITEAIES sought the reinstatement of its members in talks with the airport authorities, the Comisión Ejecutiva Portuaria Autónoma, CEPA. Talks broke down after CEPA refused to move from its original position of offering compensation only. Threats against union leaders continued during that time. Later, 48 workers agreed to accept compensation, and that was paid. The remaining 106 continued to fight for reinstatement. At the end of the year, SITEAIES was awaiting the ruling of the human rights ombudsman on the violation of its members' trade union rights.

Guatemala

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



There were some improvements to Guatemala's labour legislation in 2001, introduced largely as a result of threats by the United States that the country would be withdrawn from its Generalized System of Preference if it failed to comply with ILO standards. The reforms did meet some of the concerns expressed by the ILO, which sent a direct contacts mission to Guatemala in April, but fell far short of trade union proposals, including those agreed in advance with the Ministry of Labour. In practice, many serious problems remain. The situation in the country in general became increasingly tense as military control, and paramilitary violence, escalated. In December, a trade union leader was assassinated.

THE LEGISLATION

The Constitution and the Labour Code recognise workers' freedom of association and all workers have the right to form and join trade unions, including public sector employees, with the exception of members of the security forces. The law provides for a system of labour and social welfare courts to rule on violations of the Labour Code. Workers have the right to strike. This has been restricted by cumbersome procedures in the Labour Code, some of which were repealed in 2001. Workers have the right to organise and bargain collectively. Again there were many legal restrictions of this, some of which were repealed in the 2001 reforms.

Reforms

The partial reforms to the labour code were adopted on April 25 and May 14. The following provisions remove some of the legal restrictions on rights:

- the strict supervision of trade unions by the Executive Authorities has been abolished.
- the requirement that a prospective member of a trade union executive body have no criminal record and be able to read and write is abolished .
- the requirement to obtain a two-thirds majority of the union membership for a strike to be called within a union has been abolished and replaced with a provision that for a strike to be approved one half of the quorum of the respective assembly plus one member must vote in favour
- the requirement that at least two-thirds of workers at an enterprise must vote in favour for strike action to be legal is abolished. The new requirement is for one half of the votes of the workers at the enterprise plus one vote.
- The prohibition of strikes or stoppages during harvests and strikes by workers in enterprises or services whose interruption would in the government's view seriously affect the national economy was repealed. The President can only suspend a strike if it seriously affects essential public services.
- The provision allowing the arrest and trial of persons publicly inciting others to illegal strikes or stoppages is repealed.
- In the case of illegal strikes or stoppages, there is no longer an obligation for courts to order the National Police to ensure the continuity of work

Other restrictions still remain however:

- the requirement to be of Guatemalan origin and to be actively employed by a company in order to be elected to union office
- the sanction of one to five years' imprisonment for persons carrying out acts aimed at paralysing or disrupting enterprises that contribute to the country's economic development
- the requirement for compulsory arbitration without the possibility of recourse to strike action in the public services which are not essential in the strict sense, such as health, the public transport services and services related to fuel, and the prohibition of solidarity strikes
- the absence of a consultation procedure to allow trade unions to express their view to the financial authorities when drawing up the budget

The labour code applies to the export processing zones.

RIGHTS IN PRACTICE

No significant changes have yet been observed following the labour legislation reforms. So far, the exercise of trade union rights remains severely hampered by hostility towards the trade unions and the failings of the legal system.

Employer intimidation against trade unionists is common, and usually goes unpunished. Even where employers recognise the union and agree to bargaining, there is a tendency to ignore collective agreements. The Ministry of Labour itself has a poor record, having refused, in 2000, to negotiate a new collective agreement with its own workers' union, the SIGEMITRAB. When the union went to court, the Ministry transferred and dismissed union members, and promoted the creation of an alternative trade union, the SITRAMITRAPS.

Unions also have to compete with the "solidarismo" associations set up by employers as a more compliant alternative to trade unions. In the export processing zones, labour law enforcement is particularly weak, and there are still no collective bargaining agreements in Guatemala's maquiladoras.

Anti-union discrimination takes different forms. In addition to the extremes of assassination, attempted assassination and imprisonment, it includes dismissals of workers attempting to set up unions, bargain collectively or carry out trade union actions; circulation of blacklists of union leaders and members and temporary plant closures. The fiercest anti-union practices take place in the banana plantations.

Failings of justice system

Although the legislation provides protection against acts of anti-union discrimination, it is ineffective because of the glaring weaknesses of the justice system. The labour courts are overrun with applications for the reinstatement of

workers, and cases can drag on for up to five years. The majority of dismissals are groundless, which is why judges order reinstatement. Employers tend to ignore court rulings, however, and the courts do nothing to make sure that their own decisions are respected.

The national trade union centre UNSITRAGUA points to the recent example of a judge authorising the dismissal of trade union leaders Héctor Noé Campos Soto, Isidro Victoriano Raxón Ramos, Paulino Juan Macario López and Carlos Cruz Sotoj by the Comité Prociegos y Sordos de Guatemala (Committee for the Blind and Deaf), even though they had been found not guilty of the charges their employer brought against them.

When municipal workers in El Tumbador tried to negotiate a collective agreement several, including the union's general secretary, were promptly dismissed. When the court ordered the reinstatement of the workers, the mayor refused to comply. The court did nothing. Later, when the labour inspector of Quetzaltenango was brought in, he backed the mayor's request to dissolve the union.

UNSATRAGUA complains that the labour inspectors, far from ensuring the respect of workers' rights, are often more likely to persuade workers to renounce their rights. In some cases, when workers request the inspection of a workplace, the inspectors telephone the employers in advance to warn them of their visit.

Employers are clearly confident of the anti-union stance of labour inspectors, as was illustrated by the case of Industrias Acrílicas de Centro América S.A. which, in 2000, hired a former labour inspector, Edwin Germán Galindo Mayen, as industrial relations manager. His principal task seems to have been to destroy the union. Union leaders were regularly suspended for a week without pay, a measure which affected all members of the union executive and the more active ordinary members. They were also denied some of the financial advantages provided for in their collective agreement, salaries were withheld, and union dues, although deducted from salaries, were not passed on to the union. Edwin German Galindo even went so far as to physically attack the General Secretary of the union, Amparo Sicajá Castillo de Pérez.

During its visit, the ILO direct contacts mission expressed its concern at the weakness of the justice system in dealing with offences against trade unions and recommended that a special unit dedicated to the investigation of such offences be set up in the Prosecutor General's Office. The government later reported that this special investigation unit (Fiscalía Especial) had begun work on June 8. Just how effective it will be remains to be seen.

EVENTS IN 2001

The incidents at Industrias Acrílicas de Centro America S.A. described above, which began in 2000, continued in 2001. The union took their case to court, but procedures have been so slow that at the time of writing no decision had been made on the 70 incidents of anti-union reprisals. Mr. Edwin German Galindo has admitted that the company offered him a bonus for every member of the union that he persuaded to disaffiliate, and that he used his influence as a former labour inspector to ensure that labour inspectors did not deal properly with the union's complaints.

Another incident of union-busting tactics took place at the beginning of the year at the La Torre coffee and rubber plantations. On January 3, the company manager offered all the union members money to leave, or a small parcel of land if they did not want the money. He said that "all trade unionists are guerrillas" and that he did not want to work with guerrillas. Only four accepted, and were only given 25% of the severance pay they were supposed to receive. The manager continued to harass other union members, seeking to weaken and destroy the union, and took to hiring temporary workers. On May 16, the employer suspended all union members. The case was reported to the labour inspectorate.

Unpaid wages

The owner of the La Torre plantations, José Francisco Alvarado Macdonald, has already been taken to court for non-payment of wages. The first case has been pending since 1993 and there have been repeated incidents of non-payment since then. Given the cost and the delays involved the union has decided not to bring any new cases.

Harassment in the export processing zones (EPZs)

The 'maquila' export processing companies also continue to take anti-union action with impunity. When workers at the maquila Tanport S.A. decided to form a union to protect themselves against poor working conditions, they found themselves subject to a series of anti-union tactics by management. Three union leaders dismissed last year were reinstated in 2001, although it is not yet clear under what conditions. Meanwhile, harassment continued. On February 26, workers turned up to work to find the gates locked and a notice informing them that the company had moved premises. When union leaders went to the address of the new premises indicated on the notice, they found the entrance chained and locked. The security guard said he could not let them in. The Labour Ministry inspectors failed to take action.

Investigations into similar trade union discrimination and intimidation at another maquila, Ace International S.A., dating back to 1999, have not resulted in any improvement in the situation of the union members who lost their jobs. The government said that all administrative proceedings had been exhausted and that judicial proceedings had been initiated.

Union members sacked

Local companies behave little better. On February 2 2001 the farming company Agrícola Industrial Cecilia S.A. sacked 43 members of the Finca Santa Cecilia workers' union after the union had called in the labour inspector. The union had asked the inspector to intervene because the employer had refused to pay its workers the new minimum wage. The sacked workers were not given redundancy notices, the employer had simply ceased to pay them or give them any work. When the union took the case to court, members found themselves the target of intimidation by employees close to the employer who threatened that if they did not accept redundancy, they could find their homes mown down by tractors.

Union official attacked

Just a few days before the first court hearing, the union's Finance Secretary was attacked. He had just been to collect the cheque for the union dues collected by the employer. He was robbed, but the only thing taken from him was the union seal, despite the fact that he was carrying cash. The incident was reported to the Public Ministry, but at the time of writing no action has been taken.

The judge in the case ignored proof that the proper dismissal procedures had not been adhered to, and ruled in the employer's favour, finding that the workers had been duly dismissed.

SITRABI

March 2001 saw the trial of those accused of the 1999 attack on SITRABI (Sindicato de Trabajadores Bananeros de Izabal) union leaders. In September 1999, the Del Monte subsidiary Bandegua had announced the illegal dismissal of more than 900 workers in three banana plantations in the Morales district. On the night of October 13-14, on the eve of a planned union demonstration in protest at the dismissals, SITRABI members were violently attacked by 200 armed men. Agreement was reached between the International Union of Foodworkers and Del Monte in March 2000 that laid the basis for the re-employment of the dismissed workers. Implementation of this agreement was extremely slow. By the end of 2001 not all those who wished to return had been allowed to do so.

The trial of the attackers finally took place from March 13 to 22, largely because the government feared losing US trade benefits. Throughout the trial, armed men waited outside the courthouse as people left court, intimidating witnesses and workers. The top five union officials were under government protection. Only 22 of the 200 participants in this attack were convicted, none received a sentence of more than three years, and all sentences were commuted, so that no perpetrator spent a single day in jail. It was nonetheless the first trial in Guatemala's modern day history of perpetrators of violence against workers seeking to exercise their basic rights.

Death threats

The problems of the SITRABI leaders were not over, however. Gumercindo Magaña Flores and José Rigoberto Alvayeros Hernandez, who were witnesses at the trial, continued to receive death threats. On May 2, heavily armed individuals arrived at their homes. They failed to find either of the men, but warned that they would kill them on sight.

The death threats continued, usually in the form of anonymous telephone calls in the early hours of the morning. On the night of October 4 to 5 alone, 11 anonymous calls were made.

Also on October 5, Bandegua announced it would start dismissing workers. Over the next two weeks, 25 union members had been dismissed from five farms. The company also continued to threaten to withdraw from the country if SITRABI did not agree to reduced conditions of employment, inferior to those established by their collective agreement.

This was not the only case of death threats during the year. In another incident, in April, death threats were made against members of the Colonia La Florida vendors union (Sindicato Gremial de Vendedores). They included Karina Magali Renoj Moreas and Marcos Velásquez Carrillo, both of whom had complained of intimidation for several years, ever since the union was formed.

Threats were also made against the national trade union centre UNSITRAGUA. Two anonymous phone calls to its offices on July 6 warned that the "sons of bitches" would die in a bomb attack if the union pursued its complaints against the government. Six days later, more calls were received, this time asking for one of the union officials by name. She was warned that her life was in danger and that she would be called again in a week's time.

More intimidation in the EPZs

In the same month, in a case reminiscent of events at SITRABI, unions at two sister plants of Korean-based company called Choi & Shin, Choishin and Cimatixtiles, which both produce for Liz Claiborne, found themselves the target of a fierce anti-union campaign after making their presence public. Union supporters began to face death threats, threats to close the factory and blackmail. The employers also used divide-and-rule tactics, telling non-union workers that the factory would close and they would be blacklisted if they didn't get rid of the union. On July 18, a group of non-union workers at Choisin surrounded union leaders, insulted them verbally and threatened to lynch them. They then began to throw food, bottles and rocks at them. Similar incidents were repeated the following day, and even COVERCO independent monitors brought in by Liz Claiborne were attacked. By July 20 ten union leaders had been forced to resign.

The Guatemalan government stepped in giving legal recognition to the unions at both factories, informing management that its export licence would be suspended, and warning it to take steps to ensure the safety of its workers. The Labour Minister facilitated negotiations between the unions and the company, resulting in an agreement between the two unions, SITRACHOI and SITRACIMA, the factory management, MINUGUA (the United Nations body overseeing the peace process) and the Minister. Liz Claiborne sent a letter to the union stating that the company supported the workers' right to join a union.

However, both Liz Claiborne and the government both failed to take disciplinary action. The company did not dismiss the perpetrators of the violent attacks on their co-workers, and the special prosecutor's office at the Labour Ministry did not investigate the charges the union filed against the attackers. Anti-union activity continued after the signing of the agreement. Union leaders continued to receive death threats, union members were pressured to leave the union, they were given older machines that didn't work properly and management continued to warn non-union workers that if they chose to join the union, the factory would close.

Management also threatened to file criminal charges against union activists, without specifying the nature of those charges. Those threats were carried out. On September 10, two union leaders were interrogated by Public Ministry investigators, for alleged "robbery of cloth" on July 13.

At the end of the year, workers were still reporting physical and sexual assault, threats of blacklisting, and the closure of the factory.

Assassination

A grim reminder that death threats are to be taken seriously in Guatemala came on December 21, when Baudillo Amado Cermeño, organising secretary of the Luz y Fuerza electricity workers' union, was assassinated in Guatemala city. The union had been aware it was under threat for some time, although it did not know from whom or why. Earlier in the year, on September 12, the union's premises had been raided by armed men who destroyed union archives and furniture. They also damaged essential equipment such as the fax machine and telephone switchboard, and removed a computer and other objects. The authorities did nothing about it.

Guyana

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



Guyana has still not amended its strike legislation, or improved protection from discrimination against trade union activists.

THE LEGISLATION

The Constitution recognises workers' rights to form and belong to trade unions, but there is no law prohibiting anti-union discrimination. The right to strike is recognised. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labour and leave a skeleton staff in place. However, all strikes in the public utilities are subject to binding arbitration. Both public and private sector employees can bargain collectively.

RIGHTS IN PRACTICE

The law on trade union recognition has not proved effective in practice, and employers take advantage of the lack of a law against anti-union discrimination. The Forestry Commission is a case in point, having fired workers on at least two occasions in recent years, in response to action by Guyana Public Service Union (GPSU). The government is being slow to amend its legislation to remove the requirement for binding arbitration in the event of a strike in non-essential services.

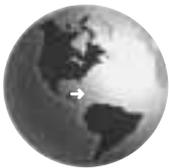
EVENTS IN 2001

Payment of union dues hampered

Relations between the Guyana Public Services Union (GPSU) and the government became increasingly strained. A long-running dispute continued over the government's decision to rescind an agreement to deduct union dues from all public servants and remit them to the GPSU. The union had to ask individual members to resubmit authorisation for the deduction of union dues in favour of the union, an expensive and time-consuming process. The GPSU was also seeking severance pay, due for many months, for 40 employees fired by Mahaica Mahaicony Abary, an agency of the Ministry of Agriculture.

Haiti

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



The climate of growing insecurity has aided the erosion of trade union rights. Employers can act with complete impunity and groups acting on behalf of the ruling party have repeatedly attacked trade unionists.

THE LEGISLATION

Despite the fact that the Constitution proclaimed in 1987, after the fall of the Duvalier regime, recognises freedom of association in all sectors and the right to strike, the Labour Code dates back to the former dictatorship. Just 10 members are needed to form a union, however the Penal Code requires prior authorisation by the government for any association of over 20 people to be founded, if the latter is to enjoy the relevant tax benefits and obtain government recognition.

Prior authorisation

No protection

The law does not protect unions and their members against anti-union discrimination in recruitment procedures and does not provide for the reinstatement of unfairly-dismissed union members.

RIGHTS IN PRACTICE

Weak enforcement The enforcement of labour legislation is very weak, if not totally ineffective. Despite a provision in the Labour Code, the government has never fined an employer for interference in a union's internal affairs. As a result of the political chaos, the climate of violence and a record unemployment rate, employers are enjoying absolute freedom and union rights, like collective bargaining, are in practice non-existent. The unions have complained of a slow and inefficient procedure when bringing disputes before industrial tribunals.

Intimidation and impunity Those trying to organise workers in a union are subjected to constant threats. The perpetrators of the many violent acts throughout 2001 have enjoyed impunity if close to those in power or where the victim is viewed as an opponent of the government.

EVENTS IN 2001

Political situation and economic problems The numerous cases of intimidation and manipulation by the public authorities led to a visible political deadlock after the presidential elections in January, when Bertrand Aristide was the victor but the opposition parties formed their own government. The paralysis of Haiti's economy has compounded this political breakdown and hit the labour market hard. 70% of the working population are unemployed and hundreds of thousands of people have been thrown into poverty. The so-called "Chimères" - a kind of "Tontons Macoutes" in the pay of the ruling Fanmi Lavalas party - are terrorising all critics of the policies of President Aristide. They have politicians in their ranks, but also journalists and trade unionists. In December an attempted coup d'état - the authors of which are unknown - heightened this climate of political tension and violence.

Political violence against trade unionists On April 9 a small group linked to the Fanmi Lavalas party assaulted some trade unionists from the CATH in the middle of a meeting in the commune of Gros-Morne. Ten members of the Gros-Morne Agricultural Workers' Federation and the Democratic Association of Haitian Women Workers, have remained in hiding since that incident. On April 24, members of Fanmi Lavalas attacked members of the "Organisation for new wood", affiliated to the CATH, in the "Cité-Soleil" district. Since then five of their members have been living "underground".

On April 14, five members of the "Workers' Organisation for the recovery of Anse-à-Foleur" (OTRA) were briefly detained, after police had opened fire on demonstrators demanding the installation of the coalition elected in the commune in the local government elections of May 2000.

On June 2, unidentified people fired shots from an automatic weapon at the house of Jacques Pierre, President of the Konfederasyon Travayè Aysyen (KOTA). He had earlier been trailed by strangers in May, on his way to a union meeting.

After the coup of December 17 2001, groups linked to Fanmi Lavalas set the office of the Confédération des Travailleurs haïtiens (CTH) in Jérémie on fire.

Fifteen journalists had to flee the country after taking refuge in foreign embassies; they included the General Secretary of the Syndicat national des travailleurs de la presse (national journalists' federation), Gary Bélizaire.

Sacked teachers Despite the agreements of February and May 1997 on wage adjustments between the government and teachers' unions (CNEH, CONEH and UNNOH), the teachers' demands have not been met. The teachers who have been arbitrarily dismissed from their posts since the year 2000 have not been reinstated, and teachers are continuing to suffer from intimidation.

Unexplained murder The enquiry into the murder of Elison Merzilus, killed in Gros-Morne at the end of September 2000 and a member of a union affiliated to CATH, has so far revealed nothing.

**Death threats at
"Electricité d'Haïti"**

Just before the presidential elections in January, the General Secretary of the Haiti Trade Union Collective (COSYNHA), Jean Mabou, and the leader of the Federation of Electrical Workers Unions (FESTREDH), Jean-Harry Clerveau, were threatened with death owing to their disagreement over changes in the management of the state enterprise Electricité d'Haïti. On January 14, another member of FESTREDH, Jean Belec Matthieu, was arrested in Hinche shortly before a COSYNHA meeting.

**Persecution of trade
unionists at the National
Port Authority**

On October 30, security guards at the National Port Authority disrupted the general assembly of the employees' trade union (SEAPN), held on the eve of an announced work stoppage aimed at demanding the wage increases which the management had been promising for over four months. On returning home, union members were beaten up by these same guards, in some cases in the presence of the police. The members of the union's executive committee received death threats and some were forced into hiding.

**The bitter taste of oranges
at the Guacimal company –
anti-union discrimination**

Anti-union discrimination has continued in the plantation and factory of the Guacimal company, which produces bitter oranges for Cointreau.

In February, the mayor of Saint Raphaël, in the north of the country, decided to stop a strike by unionised workers at the plantation, which had been going on for ten weeks. The supervisor ordered the guards at the plantation not to include trade union members when distributing the strips of land traditionally allocated to workers between seasons to help them survive.

In June, a few days after the union members occupied the plantation's office to protest again against acts of anti-union discrimination, the police searched the houses of several members of the executive committee of the Saint Raphaël plantation's union and arrested them on false charges of theft, thereby forcing several workers to live "underground".

On November 24, a group of 14 people, including security guards, broke up a union meeting and decided to ban any access to the plantation for members of the Batay Ouvriye union, to which the plantation's union is affiliated. A few hours later the group went to the home of one of the union members, threatening to set fire to his house if the Batay Ouvriye trade unionists returned.

At the end of the year there were still no negotiations under way, despite the authorities' recognition of the union.

**Sacking and replacement
of trade union members**

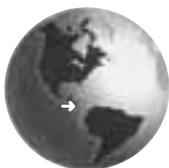
On June 20, all the unionised workers at the Habitation Desglereaux plantation were sacked, after the newly-formed union had called a work stoppage to ask the company for negotiations. When the management tried to replace the workers they protested and the plantation controller threatened them with a firearm before the police proceeded to arrest one of them.

One week later the same controller turned up with a lorry full of men to stop the demonstration of the workers, who were meeting in front of the company's office as a sign of protest against their dismissal.

On October 8, members of the union of packers for the World Food Programme in Cap-Haïtien, Northern Haiti, had their contracts rescinded after complaining at their low wages. Two days later, the Departmental Unit for Maintenance of Order evicted the 24 sacked workers to make way for the arrival of new ones.

Honduras

POPULATION : 6,300,000 / CAPITAL : Tegucigalpa / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138, 182



The considerable legislative restrictions on trade union rights remained in place. Hospital workers faced anti-union attitudes by the government.

099

THE LEGISLATION

The law recognises the right to form and join labour unions, but imposes restrictions on this. At least 30 workers are needed to form a trade union, and there cannot be more than one trade union in an enterprise or institution. At least 90% of the union's members must be Honduran nationals and foreigners cannot become trade union officials.

The right to strike is also recognised but limited. Federations and confederations may not call a strike. A two-thirds majority of the votes of the total union membership is required to call a strike. Civil servants may not strike.

Employees of state-owned enterprises must give six months' notice and have the government's approval before striking.

The right to collective bargaining is protected in law, and retribution by employers for trade union activity is prohibited.

RIGHTS IN PRACTICE

In practice, workers do get harassed and even sacked for trade union activities, and some unionised workers are black-listed in the export processing zones.

Some companies have set up solidarismo-style organisations as a compliant alternative to trade unions, notably in the export processing zones.

The government says it does want to improve the enforcement of internationally recognised trade union rights, and there has been some, albeit slow, improvement in the export processing zones.

EVENTS IN 2001

This is still the least developed country of Central America. Severe economic disparities persist, and there is still widespread crime and violence. Right wing paramilitary groups are thought to be behind crimes such as the murder of Carlos Roberto Flores, environmentalist and community leader, on June 30, after he led protests against the construction of a hydro-electric dam.

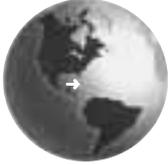
Salary negotiations blocked

The government blocked salary negotiations by the hospital workers' union SITRAMEDHYS. It failed to respond to initial demands presented in June, then in July militarised the hospital school. In September the Health Ministry promised the union that the government would make a counter proposal, to be presented by the Finance Ministry. However, the Finance Ministry denied any knowledge of this. On September 14 the Council of Ministers issued a decree undermining the union's demands and threatening its existence. It claimed that SITRAMEDHYS and other unions had suspended all health services, putting lives at risk. SITRAMEDHYS insisted that its members had continued to ensure that all major services were still provided.

Collective bargaining rights were also trampled on at the Yoo Yang company in the La Lima export processing zone. The Yoo Yang Workers' Union (STEVY), which finally gained recognition in 2000, began salary negotiations in February 2001. By November, little progress had been made. The company failed to deliver a counter offer, as promised, on November 3 in advance of negotiations scheduled for November 5. It did not show up at the meeting and did not give any explanation for its absence. The incident was one in a long line of delaying tactics, including an earlier request by the company for a one-month extension to prepare its offer. Instead it used that time to intimidate union members, by carrying out unfair dismissals or sending them to work in a warehouse with no air-conditioning, toilets or water. There had been no settlement by the end of the year.

Jamaica

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



Many public servants continue to be denied the right to strike, while collective bargaining restrictions remained.

THE LEGISLATION

The Labor Relations and Industrial Disputes Act (LRIDA) provides for freedom of association and collective bargaining and applies to most workers. Collective bargaining is denied in a bargaining unit if no single union represents at least 40% of the workers or when the union seeking recognition for collective bargaining does not obtain 50% of the votes of the total number of workers.

The LRIDA prohibits anti-union discrimination such that employees may not be fired solely for trade union membership.

Extensive list of essential services

The right to strike is neither protected nor prohibited in law, except for workers in essential services who are banned from striking. The list of essential services is extensive, covering sectors that would not endanger the life, health and safety of the people in the event of interruption. The Ministry of Labour has wide-ranging powers to intervene in labour disputes.

The law applies to export processing zones.

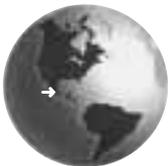
RIGHTS IN PRACTICE

The government has at times designated certain areas as "essential" in order to end strikes, such as the bauxite mines.

The multinationals are hostile to trade unions, and so far none have been formed in the export processing zones.

Mexico

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



There was victory for union rights in the maquilas, when the independent union at Kuk Dong, or Mex Mode as it became, finally won recognition. In general, however, the maquilas remain hostile to the unions. The law still contains restrictions on trade union rights, notably in the public sector.

THE LEGISLATION

No prior authorisation is required to create a trade union. To obtain legal status, however, the unions must be registered by Conciliation and Arbitration Boards (CABs). These are tri-partite committees composed of representatives of the government, employers and workers. An unregistered union cannot call a strike or participate in collective agreements, and is excluded from all tri-partite committees.

Foreigners may not become members of trade union executive bodies.

Restrictions in the public sector

The law imposes a trade union monopoly on state employees, prohibiting the coexistence of two or more unions in the same state body. State employees may not leave the union of which he or she has become a member. Public sector trade union officials may not stand for re-election.

A trade union monopoly is also imposed by law on bank workers, who can only belong to the National Federation of Banking Unions.

Limitations on the right to strike

The right to strike is recognised in law. Six to ten days advance notice must be given however, and the CABs have discretionary powers to declare a strike illegal. If they do so, workers must resume work within 24 hours or face dismissal.

Employees in the public service may only call a strike in the event of the general and systematic violation of their rights set out in the Constitution. They must have the support of two-thirds of workers in the public body concerned. The law also enables the government to requisition workers in a national emergency, including when this is caused by an industrial dispute.

RIGHTS IN PRACTICE

Supreme Court rules against union monopoly

The days of the trade union monopoly are coming to an end. The Supreme Court of Justice ruled in 1999 that the imposition of a trade union monopoly in the public sector was a violation of the freedom of association as set out in the Constitution. The government has yet to bring the law into line with this ruling however.

Another very important Supreme Court ruling was made in April 2001, declaring the so-called "cláusula de exclusión" illegal. This clause has been used since 1934 to ensure that only the members of the existing union at the workplace could be hired by the public or private enterprise concerned, and allowed for a clause to be included in collective agreements obliging employers to dismiss employees who left or were expelled from that union. This ruling needs to be transposed into federal labour law.

The Academic Workers' Union at the National College of Technical Occupational Education (SINTACONALEP) has been denied registration since its establishment in 1997. The teaching staff are governed by contracts for professional services, and the college and the government says that under these contracts the teachers have the right to set up a civil association. However, such associations cannot exercise the right to strike or conclude collective agreements. The government has still not take steps to ensure that the teaching staff at CONALEP can legally establish a trade union.

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.

Maquiladoras

There are frequent abuses in the country's 4000 or so maquiladoras. 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. According to a study by a Mexican NGO, 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.

EVENTS IN 2001

Mexico is undergoing political change. The year began with a new President, Vicente Fox of the National Action Party (PAN), representing the Alliance for Change, finally ending the PRI's 60-year grip on power, already heavily

weakened by its defeat in the 1997 legislative elections. Changes were also afoot in the union movement, with the gradual emergence of more independent unions. At the same time, the unions faced threats to their rights following World Bank proposals in May that Mexican labour policy should be made more "flexible". The proposals include the elimination of current regulations on, for example, collective bargaining, severance pay and company payments to social security.

Kuk Dong - protesters sacked

On January 9, 800 workers at the Korean-owned Kuk Dong clothing factory went on strike to protest at the dismissal of five colleagues sacked after complaining about poor wages and conditions, and calling for the right to form an independent union. The workers, some as young as 15, worked 50 hours for 30\$ a week. They were prohibited from leaving the factory during their lunch breaks, and many had fallen ill after eating the food in the plant's cafeteria.

The workers occupied the factory for three days. Then on January 11, the 300 workers that had remained overnight at the factory were attacked by State police in full riot gear. The workers, who were unarmed, put up no resistance, but the police beat them with truncheons, so severely that 15 workers had to be taken to hospital for treatment.

Two days later, an agreement was reached which enabled the strikers to return to work without reprisals, and the company agreed to distribute copies of the agreement to all the workers. The management then went back on that agreement, and forced some 300 workers to "resign". Under Mexican labour law, a "voluntary" resignation means no severance pay. The company's security guards forced the workers to hand back their copy of the agreement.

A widespread pressure campaign led to a second agreement on January 25 stating that the strikers could return to work without reprisals. The reinstatement process proved to be very slow however.

Kuk Dong produces sportswear for companies such as Nike, which has a company code of conduct. Pressure from Nike, anxious about its public image, helped in bringing about the management agreement. Nike's intervention did not go so far as to secure secret ballots for union elections however.

Duro Bag keeps up the pressure on the independent union

The independent union at the Rio Bravo Duro Bag factory, owned by the Duro Bag Manufacturing Co., based in Kentucky, US, continued to face pressure. Despite winning legal recognition in August 2000, the Duro Bag Workers' Union had to appear before the federal CAB in Mexico City on January 31, 2001, which was to rule whether the union was entitled to run in a union representation election. The CAB did give the go-ahead, but this was seen as yet another delaying tactic.

A few days earlier, on January 26, Duro management fired 20 workers for organising and giving information about the situation inside the plant to their union. On February 6, another ten workers who backed the independent union were fired. On the same day, the house of one of its leaders, Pedro Lopez, was ransacked by police who confiscated documents and flyers. The following day police threatened workers occupying an encampment in Rio Bravo's town plaza, sending in six pick-up trucks full of officers to look for them. Later, on February 10, Pedro Lopez's car was run off the road. When he reported the incident to the police, they ignored the complaint, investigated him, and only released him 12 hours later.

Unfair elections

The election for which union would represent workers at Duro was finally held on March 2. Each worker was forced, one by one, to declare in front of management who they were voting for. Mexican law does not require a secret ballot, although the former Labour Secretary, Mariano Palacios, had signed a letter with US and Canadian labour officials the previous year promising to implement secret balloting in union elections. International observers and the media were kept outside the plant during the election. The independent union lost the vote. Only three workers had dared declare their support for it.

Kuk Dong – independent union established

The fight for an independent union at Kuk Dong continued. On March 18, independent union supporters met to adopt statutes and elected a leadership. They called their new union the Independent Unions of Workers at Kuk Dong International of Mexico, SITEKIM, and filed for legal registration.

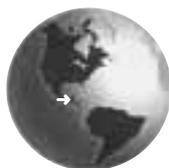
After much delay, the union was finally recognised in September. The company had in the meantime changed its name to Mex Mode and the independent union had accordingly changed its name to SITEMEX. A new collective agreement was signed by the company and the union on September 21. On the same day, the contract was filed with the Puebla CAB, and the union was granted its legal registration.

VW sought to have strike declared illegal

Management at Mexico's Volkswagen production plant in Puebla sought to get a strike by workers declared illegal by the CAB. The plant employed some 20,000 workers, either directly or indirectly. The action by the independent SITIAVW union was called after pay negotiations broke down. The union was asking for a pay rise in line with the profits earned by the plant, the only one to still manufacture the popular VW beetle. The company rejected the SITIAVW's proposal and tried to impose a lower amount without any negotiation with the union, apparently with the support of the CAB. The strike went ahead on August 18. One year earlier, the CAB had declared the strike null and void following a similar request from VW. Agreement was finally reached on an increase that was acceptable to the union, which succeeded in preserving its collective agreement.

Nicaragua

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



Sacked union leaders won an important victory at a maquila when a court ordered their reinstatement, but in general trade union rights are still suppressed in export processing zones. In the public sector, a union leader at the transport ministry was sacked for denouncing corruption.

THE LEGISLATION

The 1996 labour code removed many of the old restrictions on trade union rights, but not all. All public and private sector workers, except those in the military and the police, may form and join unions of their own choosing. To become a union, at least 20 people must petition the Ministry of Labour for legal status and the right to engage in collective bargaining. There are limitations on the number of foreign nationals who can be appointed to trade union office. Union leaders have protected status, but this is limited to nine executive members per union and three branch members. The Labour Code allows enterprises to dismiss any employee, including union organisers, provided they have the permission of the Ministry of Labour and pay double the usual severance pay. Federations and confederations may only provide moral or economic support in the event of a dispute.

The right to strike is recognised, with limitations. A majority of all workers in the enterprise must vote in favour of the strike. The union must receive approval from the Ministry of Labour before taking strike action, and to do so must prove that it has conducted good faith negotiations with management. Once a strike has been declared legal, the authorities reserve the right to submit the dispute to compulsory arbitration after 30 days.

The right to collective bargaining is recognised in the Labour Code, which stipulates that companies engaged in disputes with employees must negotiate with the union where there is one.

RIGHTS IN PRACTICE

The Labour Ministry recognises that it would take about six months for a union to go through the entire process to be permitted to hold a legal strike. As a result, only one strike has been declared legal since the 1996 Labour Code came into effect.

The worst violations occur, as is often the case, in the export processing zones (EPZs). There are 23 EPZ companies, or maquilas. Seven of them have unions and collective agreements, but only 3% of the workforce is unionised, largely due to the employers' hostility towards unions. Workers are not represented on the EPZ national committee.

In many cases, prevailing conditions are close to 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 toilets. 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.

EVENTS IN 2001

The Labour Ministry recognises that it would take about six months for a union to go through the entire process to be permitted to hold a legal strike. As a result, only one strike has been declared legal since the 1996 Labour Code came into effect.

Chentex – union leaders reinstated

May 10 saw the signing of an agreement that put an end to a year-long dispute at the Chentex maquila. Chentex is a factory in the Las Mercedes export processing zone just outside of Managua. It is owned by a Taiwanese business consortium named Nien Hsing and produces jeans for stores in the United States. In April 2000, the company dismissed nine leaders of the "José Benito Escobar" garment workers' federation and 400 members for going on strike in protest at intimidation and bad-faith bargaining. By the end of May a total of 700 union members had been fired.

The Managua Appeals Court ruled in April that the nine union officers should be reinstated. Aware that this could lead to further reprisals and delaying tactics from management however, the union decided to continue the long drawn out negotiations on a broader-based agreement. This resulted in the May agreement whereby four union officers and an additional 17 members would be reinstated. All the union leaders received 12 months back pay, and those not reinstated received double severance pay. Chentex agreed to drop its criminal charges against the union officers and its suit demanding the dissolution of the union.

Compensation for sacked strikers

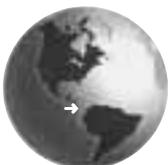
At the beginning of November the Inter-American Court of Human Rights ruled that the Nicaraguan government had to compensate 142 customs officials who were sacked for going on strike in 1993. The pay-out included nine years of back-dated pay and benefits.

Union leader sacked

On November 20, Miriam Reyes Mercado, general secretary of the "Héroes y Mártires" union at the Ministry of Transport and Infrastructure was sacked. The Ministry also accused her of slander. Miriam Reyes had been subjected to threats and abusive behaviour since she denounced corrupt practices in the Ministry in October. She had publicly announced that her union had documentary proof that money had been diverted from the Ministry's budget to fund the electoral campaign of the Constitutional Liberal Party (PLC). Miriam Reyes had also been prominent in criticising public spending cuts and plans to cut staff numbers.

Panama

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



Limitations on organising...

Restrictions on trade union rights in the public sector remained in force. Banana workers faced retaliation for trade union action.

THE LEGISLATION

Private sector workers have the right to form and join unions of their choice. There are limitations however. Only a single trade union is authorised per establishment, trade unions may only open one branch office per province and a minimum of 40 members are required to set up a branch union. All members of a trade union executive must be Panamanian.

...and the right to strike For a strike to be legal, an absolute majority of workers in the enterprise concerned must vote in favour. Strikes can only be called to demand an improvement in working conditions, in relation to a collective agreement or to protest at the repeated violation of legal rights. Strikes cannot be called to protest at government policy, to demand an increase in the minimum wage or to demand union recognition. Federations, confederations and national centres may not call a strike.

The 1994 Civil Service Act grants civil servants the right to organise and bargain collectively. The government may put an end to strikes in the public sector, including services that are not considered strictly essential (such as transport) by imposing compulsory arbitration. It requires state employees to provide a minimum service, and can requisition at least 50% of employees for this purpose.

No public sector unions Public sector workers do not have the right to form unions or to strike. They may form "associations", but only if they have a minimum of 50 members, and can only form one association per institution.

The law governing the autonomous Panama Canal Authority prohibits the right to strike for its employees, but does allow unions to organise and bargain collectively.

EPZs In the export processing zones, all labour disputes are subject compulsory arbitration. A strike is only considered legal after 36 working days of conciliation are exhausted. If this requirement is not met, striking workers may be fined or dismissed.

RIGHTS IN PRACTICE

The Civil Service Act provides little protection, given that in practice only about 10,000 people have civil service status. The remaining 140,000 public sector workers are effectively denied the right to organise, bargaining collectively or strike.

In the private sector, employers often hire workers on temporary contracts to avoid labour code requirements.

By-passing the unions Employers are being allowed to draw up collective agreements with non-organised groups of workers, thanks to the interpretation of the law by the administrative authorities and the courts. This happens, say the unions, even where a union exists, and even where a collective agreement already exists.

The administrative procedures that must be followed before a strike can take place are used to declare strikes illegal. A list of demands may for example be considered unacceptable if it involves changes to an existing collective agreement. The national trade union centres are seeking a simplification of conciliation procedures.

A 1998 decree concerning workers at sea and on navigable waterways makes collective agreements optional, rather than imposing an obligation, as is the case for other workers under the labour code. The national trade union confederations claim that this loophole is being used to deny workers in the sector the right to bargain collectively or strike in order to demand a collective agreement.

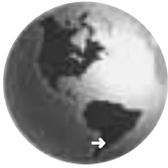
EVENTS IN 2001

The government continued to deny the public servants' association FENASEP the right to join the national trade union centre Convergencia Sindical. The Labour Ministry appeared at one point to give into pressure and agree to affiliation, but promptly changed its mind.

Retaliation for trade union action In September, Chiquita Brands International Inc. responded to a dispute with the SITRACHILCO, the Chiriquí Land Company Workers' Union, by laying off 400 workers at its banana plantations in western Panama.

Paraguay

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



Strong restrictions

The government continued to drag its feet over amendments to its restrictive labour legislation. Trade union rights, notably the right to strike and collective bargaining, were consistently trampled on.

THE LEGISLATION

The Constitution allows both private and public sector workers to form and join unions.

There are strong restrictions however. A minimum of 300 workers is required before a union can be established.

Workers may not be a member of more than one union. Candidates for trade union office must work in the enterprise and be an active member of the union. All unions must be registered with the Ministry of Justice and Labour, and the procedures are cumbersome. Employers can file a writ opposing the registration of a union.

Trade unions must comply with all requests for consultations or reports from the labour authorities.

The law provides for collective bargaining, and prohibits anti-union discrimination. There are few real sanctions to dissuade discrimination however, and labour courts are not obliged to reinstate unfairly dismissed trade unionists. Collective disputes must be submitted to compulsory arbitration.

The Constitution provides for the right to strike, but strikes can only be called for the sole purpose of the direct and exclusive protection of workers' occupational interests. A minimum service must be ensured in the event of a strike in essential public services.

New bill

A new bill was prepared in 2000 to amend legal provisions not in compliance with the conventions on the freedom of association and collective bargaining, but it has yet to be made law. It would reduce the minimum membership requirement to 50 and allow workers engaged in more than one occupation to join more than one union. Trade union statutes would be able to specify less stringent requirements for candidates for union office, while requests from the labour authorities would be limited to annual financial statements and complaints of violations of trade union law or union statutes. The definition of the right to strike would be relaxed, while specifying that trade unions are prohibited from being involved in matters relating purely to party politics.

EVENTS IN 2001

The year began with an unemployment level of 14.2% and was marked by mounting discontent and social unrest.

There were many strikes to demand higher pay or protest at unpaid wages and cuts in benefits affecting, notably, teachers, hospital staff, transport workers and civil servants. Peasant farmers staged demonstrations to demand land reform, often with the support of the unions. Privatisation also led to long and bitter disputes and the year ended with plans for more company sell-offs threatening 10,000 jobs.

Total disregard for collective bargaining

The steel company ACEPAR suspended collective bargaining with the metalworkers' union FETRAMPAR in March, and dismissed more than 20 workers without justification after they demanded the payment of their salaries. The company had consistently refused to respect previously negotiated agreements, affecting workers' salaries, job security and working conditions.

Union leaders dismissed

Four trade union leaders were dismissed in May by the Paraguayan cane company CAPASA despite being protected from dismissal by law. The dismissals came after the two unions at the company, SITRACAPASA and SEOCAPASA, denounced the embezzlement of funds. A court ordered the reinstatement of two of the, SEOCAPASA leaders general secretary Gustavo Acosta and fellow leader María García. The company took them back on, but not in their old jobs as instructed. The company also sought to dissolve the two unions, both legally registered and recognised by the Labour Ministry. A long and difficult dispute ensued in which the company supervisor persistently ignored court

orders and refused to sign an agreement drawn up at the Labour Ministry in the presence of a representative of President González Machi. A strike to demand the reinstatement of the remaining two union leaders, Francisco Benítez and Fidelina Martínez, lasted 90 days. An agreement was finally signed on 29 August.

Strikers' sacked

The Deputy Minister of Labour sought to stop a strike at the Itaipú bi-national (Brazil-Paraguay) hydro-electric power plant by declaring it illegal. The strike was called by the Sindicato de Trabajadores de la Empresa Itaipú Binacional (STEIBI) following a dispute over their collective agreement. The strike went ahead on July 17 and continued until August 7. On the last day the government sent in the army, supposedly to protect the premises. Both the strike and the army were called off when an agreement was reached. Reprisals followed. Itaipú dismissed 23 employees in September. The company claimed it was because of falling orders, but most of those singled out for dismissal had been active in the strike, including several of the strike leaders.

Union leader suspended

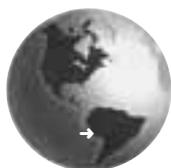
The general secretary of the civil servants' union Sindicato de Funcionarios Civiles del Palacio de Gobierno Cañete was suspended from his post at Government House at the beginning of August. No reason was given. In a similar incident in June, trade unionists at the Ministry of Justice and Labour were transferred after a protest over their collective agreement and delays in the payment of their medical insurance.

Collective agreement ignored in ANTELCO privatisation

At the end of November, the national telecommunications company ANTELCO was privatised. The unions, represented by the Coordinadora de Trabajadores de la Antelco, and the government finally reached agreement on a compensation deal after a long and bitter dispute over the authorities' failure to respect earlier agreements and a lack of transparency. After three general strikes and difficult negotiations, agreement was finally reached on two months' salary per year worked. This fell far short of their collective agreement, according to which they should have been paid four months salary per year worked.

Peru

POPULATION : 25,200,000 / CAPITAL : Lima / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,182



Peru continued its move back towards democracy with the election on June 3 of Alejandro Toledo as President, in elections judged by the international community to be free and fair. Bills to reform the many shortcomings in the country's labour legislation had not been approved by the end of the year however.

THE LEGISLATION

Restrictions

The Constitution provides for the freedom of association, and recognises the right of public and private sector workers to organise and bargain collectively. Many restrictions on these rights, inherited from the repressive Fujimori, regime remain in force. The law:

- Does not provide adequate protection from dismissal for union activity.
- Requires a minimum of 100 workers to form a professionally or occupationally based union.
- Restricts workers' eligibility for union membership, by prohibiting staff on probation periods from joining unions.
- Prohibits unions from taking part in political activities.
- Bans public servants' federations or confederations from joining organisations representing other categories of workers.
- Restricts who may run for election to union office, by requiring that in order to be eligible workers must be active members of the union and employed in the enterprise for at least one year.
- Requires a majority of all workers in the workplace to vote in favour of a strike (rather than all workers taking part in a ballot, as considered acceptable in international labour standards), and a full list of workers' names that attended the meeting to be submitted to management. This creates an atmosphere of intimidation that renders

legal strikes particularly hard because many temporary workers are reluctant to participate even in secret ballots, due to fear of employer retaliation.

■ Bans strikes over general economic and social policy issues.

■ Contains an excessively broad definition of "essential" services, where arbitration is compulsory and strikes are virtually impossible.

Positive moves

A bill introduced in July 2000 sought to amend some of these limitations, notably by reducing the number of workers required to form a branch union from 100 to 50 and lifting the ban on workers during their trial period. It still failed to address many issues however, particularly limitations on the right to strike. The anti-discrimination act of May 2000 did go some way to reinforcing protection against acts of anti-union discrimination, but there is an urgent need to address the inadequate protection against interference in trade union affairs and restrictions on collective bargaining in both the private and public sectors.

In January 2001 President Valentín Paniagua's transitional government set up a tripartite consultative committee, enabling all the social partners to examine a draft amendment to the Industrial Relations Act. In March the new law on labour inspection (Ley General de la Inspección del Trabajo y defensa del Trabajador) was approved, to come into force on June 1. This law restored the right of labour inspectors to visit enterprises and apply fines where employers failed to meet their commitments. It remains to be seen just how effective it will be. Later in June it was reported that three bills to amend the Industrial Relations Act were before Congress, but no further changes to the legislation had been adopted by the end of the year.

RIGHTS IN PRACTICE

History of serious violations

There have been general, chronic and systematic violations of trade union rights over the last ten years.

Under Fujimori's deregulated system, employers found it increasingly easy to fire workers involved in union activities, and many were reluctant to organise for fear of dismissal. Privatisation became an effective tool in anti-union discrimination, with privatised companies taking on the former employees on different conditions of employment, with lower pay and no union representation. Problems were exacerbated by the failings of the judicial system. Court procedures for reinstating workers sacked for union activities have been very slow and employers often ignore rulings in favour of workers. There have also been many cases in recent years of excessive use of force by the police and armed forces against workers engaged in legitimate trade union activity.

Social dialogue

Union representatives note that there have been major changes in the country with the return to democracy. The interim transitional government played an important role, particularly in restoring tripartite relations and convening the National Labour Council to develop social dialogue and consultation.

There is still much to be done. Collective bargaining has fallen one quarter over the last ten years and in sectors such as civil engineering, banking and mining, inter alia, there have been no collective agreements for over six years.

Added to that, the simple fact that about half the country's working age population is in the informal sector means that many workers fall outside the scope of any protection provided for workers in law.

EVENTS IN 2001

Union-busting tactics

The new democratic climate in Peru does not seem to have influenced the view of the Iscaycruz S.A. zinc mining company, a subsidiary of the Swiss Glencore group. After its workers formed a union on May 20, it unleashed a systematic anti union campaign, seeking to reduce the number of union members to below the legal minimum required in Peruvian law (currently still 100 – see above) for a union to be recognised. Members of the union, the Sindicato de Trabajadores Mineros y Metalúrgicos de Empresa Minera Iscaycruz, were called by management and warned that they would lose their jobs if they did not leave the union.

Union leaders dismissed Two trade union leaders, Tomás Castro Oré, organising secretary, and Edwin Espinoza Melendez, environmental affairs secretary, were dismissed, supposedly for serious misconduct charges which the union challenged. A further four workers, Nicolás Cano Richard Arturo, Jesús Vásquez Ampuero, Rafael Prado Velarde and Melgar Trinidad Marcos were dismissed, without cause. In their letters of dismissal, they were told they would receive the compensation foreseen in law for “arbitrary” dismissal – a very convenient legal loophole for the employers.

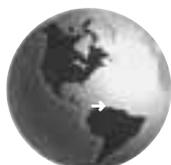
The dismissals coincided with the union’s presentation of its draft collective agreement for negotiation. The employer returned the draft to the union and systematically blocked any negotiation.

On August 16, Iscaycruz-Glencore requested the Ministry of Labour to cancel the registration of the union on the grounds that it no longer had the requisite number of members for legal recognition. It presented the letters of disaffiliation from the union as proof. All the letters followed an identical format. Several of the people who had supposedly signed the letters reconfirmed their continued membership of the union in writing. The Labour Ministry did not proceed with the deregistration of the union, declaring the employer’s case inadmissible.

No reforms yet Meanwhile, unions continued to wait for the hoped-for improvements to the labour legislation. On December 13, the national trade union centre Confederación General de Trabajadores del Peru called a national strike in protest at the government’s failure to restore basic labour rights.

Trinidad and Tobago

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



There has been no improvement in the limitations on collective bargaining, or the right to strike on the public sector.

THE LEGISLATION

Essential services too broadly defined

The 1972 Industrial Relations Act allows all workers to form or join unions of their own choosing and establishes the right of collective bargaining. It also imposes limitations however. Strikes are banned in essential services which are broadly defined to include sectors such as teachers and bank workers. Strikes that are not declared by a majority union can also be prohibited.

Bargaining restricted

Collective bargaining is restricted by the requirement that to obtain bargaining rights a union must have the support of an absolute majority of workers.

The same labour laws apply in the export processing zones as in the rest of the country.

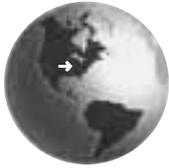
RIGHTS IN PRACTICE

In practice bargaining can prove difficult, since while a union may be the most representative within an enterprise, it does not necessarily represent more than 50% of workers.

The government has in the recent past proved unwilling to negotiate with public sector unions. It has consistently refused to amend its legislation on essential services and collective bargaining to bring them in line with ILO Conventions.

United States of America

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



Legislative restrictions on trade union rights remained in place, while the President issued new executive orders further undermining those rights. There were fierce anti-union campaigns by private sector employers.

THE LEGISLATION

Many workers excluded

Federal and state laws guarantee the right to the freedom of association, the right to join trade unions and participate in collective bargaining. At the same time however, they impose many restrictions on those rights. National labour legislation does not cover agricultural or domestic workers, or certain categories 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.

Public sector – collective bargaining limited

In the public sector, approximately 40% of all workers are still denied basic collective bargaining rights. At the national level only postal workers enjoy such rights. 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 extensive management rights further limiting the scope of collective bargaining.

At the state level, while the situation varies from one state to the next, in general public sector workers are prohibited from taking strike action. Thirteen states only allow collective bargaining for certain public employees and 14 states do not allow it at all.

Private sector – restrictions on organising

In the private sector, the law requires proof of majority status in order to establish a trade union. This is usually obtained through an election in which more than 50% of workers in any bargaining unit must vote in favour of forming a union in order for it to be recognised for the purposes of collective bargaining. Employers may not, by law, actively campaign against union representation, but the penalties for breaking the law are limited and ineffective.

Restrictions on workers' activity – freedom for employers

The law, and various administrative and judicial decisions, place limitations 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.

At the same time, 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.

The National Labor Relations Act requires the National Labor Relations Board 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 unfair labour practices

The law allows employers to hire replacement workers during an economic strike. Permanent replacement workers can vote in a de-certification election to eliminate union recognition.

RIGHTS IN PRACTICE

Sacking of union supporters commonplace

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 % of all union-organising campaigns. Last year, the National Labor Relations Board (NLRB) was 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

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 % 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, union representatives are often threatened with arrest and expulsion from the employer's property. 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 % actually return to work and only 20 % 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.

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 % of all campaigns. Where collective agreements are negotiated for the first time 18 % of employers threaten to close their facilities and 12 % of the employers actually follow through with their threats.

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. 40 % 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.

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 US Government. Since the 1980's the US 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.

More protection needed A survey commissioned by the national trade union centre AFL-CIO carried out in July 2001 found that more than two thirds of working Americans believe that workplace rights need more protection. There was widespread dissatisfaction with employer behaviour, with the majority of employees saying they do not trust employers to treat workers fairly.

EVENTS IN 2001

Background The year was one of record job losses, that accelerated after the events of September 11. Figures from the US Labor Department's Bureau of Statistics show that the unemployment rate rose from 4.2% in January to 5.8% in December. The airline sector was badly affected of course, as were workers in the manufacturing industries and dot com companies.

Job cuts target union members On January 28 the online retail giant Amazon.com announced 1,300 job losses, supposedly as part of a restructuring plan. The largest group to be affected, some 850 workers, were from Seattle where union activity had been at its most intense. Union organisers at the Seattle customer service centre, belonging to the Washington Alliance of Technological Workers, reported that management had subjected them to intimidation and heavy propaganda since the union's recruitment drive began the previous November. Supervisors called meetings with staff to discuss the downsides of unionisation, and an e-mail to management instructed them to "Inform reps of the disadvantages of joining a union, including the possibility of strikes, fines and dues".

Anti-union decrees In February the Bush administration issued several Executive Orders that undermined worker's rights and arrangements for effective working relationships between labour and management. The first, on union dues and fees, required government contractors to post notices stating that employees cannot be required to become union members, and that those who do not join the union must be allowed the opportunity to pay a dues equivalent that only covers expenses related to collective bargaining. The second, on Project Labour Agreements (PLAs), rescinded an Executive Order issued by President Clinton that authorised the use of PLAs in appropriate circumstances on federal construction projects, and actually prohibited their use. PLAs had been used to set the terms and conditions on employment on complex projects and guarantee the orderly resolution of any labour dispute. Both of these Executive Orders have been overturned by federal courts and are being appealed by the US government.

Another decree rescinded a 1993 Clinton Administration executive order that required federal agencies to establish labour-management partnerships with the unions representing their employees in order to confer over issues such as staffing levels. A fourth executive order rescinded an Executive Order issued by President Clinton that required, with respect to public buildings, that successive contractors offer a right of first refusal of employment to employees of the first contractor. In addition, President Bush issued an Executive Order that rescinded an interpretation by the Clinton Administration of a provision of the Labour Management Reporting and Disclosure Act that would have imposed stricter reporting requirements on "management consultants" hired by employers to assist in defeating union organising drives.

In March, President Bush issued an order blocking a strike by the Airline Mechanics Fraternal Association over a pay dispute. He further announced that he wanted to take all necessary steps to prevent any other airline strikes from taking place during the year.

- Union-busting at Trico Marine** In a company hand-out, the Trico Marine company, which supplies shipping to the oil industry, boasts that it is a "non-union company". It clearly states that any trade union would be bad for the company and for the industry. Officials from the Offshore Mariners United (OMU) union reported that the company had interfered with organisational efforts by threatening and intimidating employees because of their union views. When a Norwegian trade union delegation (the company also operates in Norway) visited Louisiana in June to investigate, it confirmed that the company was engaged in "very serious union busting". Trico had sacked activists from the Offshore Mariners United (OMU) union, consistently refused to meet with OMU representatives, refused the union reasonable access to its employees and had union representatives illegally barred from an annual shareholders' meeting. The company had also regularly used uniformed police operating on a private basis to keep unions out of its premises. The Norwegians themselves were prevented from entering the relevant sites and were repeatedly harassed.
- In August, OMU representatives went to Washington to meet, inter alia, staff members from the House of Representatives to discuss the right to organise and possible hearings on Trico's anti-union campaign.
- No collective bargaining at airline** In July, the Costa Rican airline LACSA attempted to impose an agreement on 80 employees stationed in Miami, New Orleans, New York and Los Angeles. The company proposed greatly reduced terms and conditions, including a 45% pay cut and the elimination of health coverage. For seven years the LACSA had avoided negotiating with the employees' trade union, the International Brotherhood of Teamsters, and continued to refuse to do so in this case.
- Collective agreement "opt-out"** In September it was reported that the Nissui Shipping Corporation had decided to opt out of the collective agreement negotiated with the International Longshore (ILWU) and Warehouse Union in Alsaska. The union was also concerned at plans by the company to use the non-union company Pacific Stevedoring in place of workers represented by the ILWU.
- Strike breakers** September 26 saw the end of a bitter 40-month dispute that began in May 1998 when Titan Tire Corporation and the United Steelworkers of America finally reached an agreement. During the dispute at the Des Moines plant the company replaced over 400 striking union members with other workers and was cited for numerous unfair labour practices by the federal National Labor Relations Board. Problems included excessive mandatory overtime and a two-tier wage system.
- Nissan anti-union campaign** When the United Auto Workers (UAW) sought to hold a ballot at the Nissan plant in Smyrna, Tennessee, on whether to unionise the workers there, it found itself up against a fierce anti-union campaign. The workers were threatened that if they voted for the union, the plant would close and move to Mexico. In an in-plant video the manager told employees they should not even talk to UAW supporters. The company also conducted extensive illegal surveillance of Nissan workers who were engaged in leafleting and similar activities around the plant. Nissan workers who were perceived by the company as undecided were forced to attend compulsory meetings where they were barraged with misinformation about the UAW. On October 3 the workers voted not to join the union.
- Strike-breakers at Campbell Soup** When the United Food and Commercial Workers (UFCW) union called a strike on October 4 over pay negotiations with the Campbell Soup company at its Paris, Texas, plant, the company promptly hired replacement workers. Campbell refused a return-to-work offer by the UFCW and set up barricades at entrances around the plant.
- No bargaining** At the Ecusta paper mill in Brevard, North Carolina the Purica company tried to force a new contract on its workers which included a 20% wage cut, the end of retiree health insurance and paid holidays and a major cut in Sunday premium pay. It refused to bargain with the workers' union, the Paper, Allied-Industrial, Chemical and Energy Workers International Union (PACE), which called a strike on October 15. The company's approach was to tell the union that it could either agree to the proposals or it would close the plant.

Union-busting at Brylance

Finally, after international pressure was brought to bear, the company agreed to continue with the previous collective agreement while entering into negotiations for a new one.

Brylance, a subsidiary of the French retailer PinaultPrintempsRedoute (PPR) launched a fierce union-busting campaign at two of its US distribution centres. Over 50% of the 1,000 workers at the warehouses in Indianapolis and Plainfield had signed up to join the Union of Needletrades, Industrial and Textile Employees (UNITE), largely over concerns about poor health and safety conditions, and low pay. In response the company hired union-busting consultants and pressurised individual staff into leaving the union. Management also organised compulsory meetings at which it informed workers they would be obliged to go on strike and risk losing their jobs if they joined the union. Immigrant workers were singled out and threatened with deportation. The campaign for union recognition was continuing at the end of the year.

Striking teachers jailed

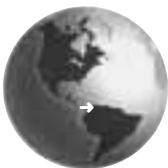
A total of 228 teachers and other school staff were sent to jail for defying a back-to-work order in Middletown, New Jersey. On November 29, 1,000 teachers went on strike after reaching deadlock in negotiations over their health insurance payments. The local school board immediately obtained the back-to-work order from the Superior Court Judge. The strike was lifted on December 7 after agreement was reached.

President blocks strike

In mid-December, President Bush remained true to his word and stopped a strike in the airline industry. He issued an executive order barring United Airlines' mechanics from going on strike for at least two months. The mechanics, members of the International Association of Machinists and Aerospace Workers (IAM) had not had a pay rise for seven years. They had voted by 99% to walk out after the compulsory "cooling off" period had expired. Under the executive order a Presidential Emergency Board was given 30 days to come up with a suggested settlement and the airline and the union were given another 30 to consider the proposal. Failing an agreement after that time, Congress could impose one.

Venezuela

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



The government's desire to control the trade union movement has led to continuous intervention by the public authorities in the unions' internal affairs and generated disturbing social and political tensions within the country.

THE LEGISLATION

Restriction of freedom of association in the LOT

The Constitution of 1999 and the "loi organique du travail" (LOT, employment law) of 1990, promote freedom of association for all workers, apart from members of the armed forces. However certain legislative measures contradict the stated desire to respect trade union freedom.

For example, Article 404 of the LOT imposes a ten-year transitional period on foreign workers before they are entitled to stand for leadership of a union. Article 118 sets too high a threshold for the number of workers required to form a union of independent workers. The LOT also presumes, quite unacceptably, to list the tasks and aims of workers' organisations.

The electoral commission charged with harmonising labour legislation in line with the new Constitution of 1999 has advised legal reforms which would make wholesale changes to the law. However by the end of 2001 no decision had yet been taken by the National Assembly, which the government says will probably open up the procedure for amending the legislation to nationwide consultations.

Interference in union affairs allowed by the Constitution

While the Constitution contains some innovative clauses on human rights, it also contains some contradictory provisions. For example, whilst purporting to safeguard political rights, such as voting rights, some provisions undermine in effect the freedom of association guaranteed in ILO conventions 87 and 98. Article 95 of the Constitution requires that trade union constitutions provide for their leaders' mandates to be non-renewable and submitted to a universal, direct and secret ballot, thereby constituting a clear interference in internal union affairs. The 8th provision of Article 293 compounds this interference by delegating the organisation and supervision of trade union elections to a national electoral council (CNE), until such time as new electoral laws contained in the Constitution are introduced. In addition, a resolution by the Controller-General of the Republic requires trade union leaders to submit a sworn statement of union assets at the start and end of their terms of office.

Restriction on collective bargaining

According to paragraph 2 of Article 473 of the LOT, unions must represent the absolute majority of the workforce in order to be recognised as representative for collective bargaining purposes. The ILO has criticised this provision, on the grounds that it prevents minority organisations from carrying out joint bargaining where no single union organisation represents the absolute majority.

RIGHTS IN PRACTICE**Political context**

The coming to power of President Hugo Chavez Frías in 1998 coincided with a public desire for a thoroughgoing reform of the country's institutions, symbolised by the adoption, in a referendum in December 1999, of the new Constitution. A climate of permanent hostility and political conflict characterised the first years of the Chavez government. Many analysts agree that the constitutional improvements have contrasted with the concentration of power in the hands of the President who, until the end of October 2001, governed by decree. The trade unions, which had previously managed to escape his control, have become the butt of his attacks over the last two years.

The government's policies on freedom of association and collective bargaining have provoked a resurgence of social conflicts. The repeated attacks by the authorities on unions opposing the interventionist policies of President Chavez have, in practice, undermined trade union rights throughout the year, in stark contrast to the government's proud claims regarding respect for human rights. For example, the authorities have reneged on agreements negotiated with workers, particularly in the public sector.

State interference: a brief look back to the year 2000

In March 2000 the government interfered in trade union affairs through issuing various decrees and, in particular, by setting up a national trade union electoral commission charged with calling a referendum in which workers would give their views on the issue of trade union unity. This measure received international criticism from union organisations and the ILO, as well as from many sectors of civil society in Venezuela, since ILO Convention 87 states that trade union unity must reflect the will of affiliated workers and cannot, therefore, be imposed by an administrative decree. Despite these numerous protests, the referendum was held in December 2000. The main results were the immediate dismissal of all existing union leaders and the calling of new elections, to be held within six months, aimed at renewing all the unions' leadership bodies. Whilst not recognising the legitimacy of the referendum but wanting to demonstrate their willingness to help democratise the Venezuelan trade union movement, the Executive Committee of the Venezuelan Confederation of Workers (CTV) resigned and a provisional committee was nominated to cover the transitional period. The committee's main task was to organise the elections based on the existing constitution of the Confederation.

EVENTS IN 2001**More government interference in 2001**

Following the results of the referendum of December 2000, the CNE established a special statute for the renewal of trade union leadership bodies, which was again criticised by the ILO as a new example of interference in union affairs. According to the unions, especially the CTV, the statute contains unduly petty and detailed provisions on the electoral process and proposes the creation by the CNE of an updated list of mem-

bers of union organisations. Such lists would be risky to the unions as they could be used to draw up black-lists, since any interested parties could consult them.

Some 3,600 unions held elections to renew their leadership bodies between July and September 2001. However, at the end of September the process of registering candidates for the post of President of the country's main confederation had only just begun. Six candidates wanted to be considered for the post of President of the CTV.

Intervening once again in the unions' internal affairs, President Chavez led a media campaign aimed at imposing his preferred candidate, Aristobulo Isturiz, a member of the FBT union which Chavez himself had founded in 2000. The President of the FEDEUNEP (national federation of public employees), Freddy Piccio, went as far as denouncing the government's manoeuvres. These had required him, just before the CTV elections, to affiliate seven new unions, including yellow ones, thereby improving the chances of the official candidate in the vote.

CTV elections disrupted

After several delays, the CTV elections were finally held on October 25. Over one million workers throughout the country were required to vote, in an unparalleled procedure resembling a presidential election. However the arrangements were not always adequate for such a huge event and despite the presence of several observers many irregularities were noted in both camps: many ballot boxes disappeared, voting slips were burned or documents were delivered too late. The Union of Employees of Caracas City Hall had all their ballot boxes ransacked by workers acting under the direct orders of the Mayor Freddy Bernal, a member of the ruling MVR (Fifth Republic Movement) party. The elections had to be called off in several states, including Bolivar and Zulia, both of which had large numbers of unionised workers. When the elections were held in Zulia, the CTV's electoral commission declared the victor to be Carlos Ortega, the former leader of the Oil Workers Federation (FEDEPETROL) and a candidate from the United Workers Front (FUT), with 57% of the votes cast.

Although all the sectors recognised the victory of Carlos Ortega, the government obstinately refused to recognise the new leadership and threatened to bring a case in the High Court (Tribunal supremo de justicia) if the CNE did not declare the union elections illegal. However the CNE had still not issued such a statement by the end of 2001. Such a decision by the CNE would in any case be illegal, since ILO Convention 87 states that union elections must be supervised by union members and no governmental body may intervene in the procedure.

The authoritarianism and virulent statements by President Chavez intensified up to the end of the year, severely increasing tension between various sectors of civil society and the public authorities. On December 10 there was a general strike called by the employers' federation, FEDECAMARAS, which was also joined by the CTV. The latter was protesting at the adoption, on the last day of the period during which Chavez was exercising special powers, of a whole package of 49 laws, some of which affected the autonomy of the oil workers. Confronted by this general strike, the first since the fall of the dictator Perez Jimenez, the President threatened the participating organisations, thus widening the rift between union organisations and the public authorities.

Bars to union membership

The government has sporadically imposed bars to union membership in certain companies. Many employees of Corporación Inlaca, in the state of Carabobo, were sacked, with the complicity of a female labour inspector, after they had set up a union, despite their immunity as union delegates. In June the sacked workers appealed to the Ministry of Labour, which decided in September against their plea.

The Eastern Firemen's Union (Sindicato de los Bomberos del Este) complained to the ILO at the merger of their association with another institution, as part of the restructuring of the municipal administration of the Federal District, without there having been any recognition of their right to belong to a union.

Collective bargaining rights trampled on and strikes declared illegal

According to the Venezuelan human rights action-training programme (PROVEA), 22 peaceful demonstrators organised by workers faced repression at the hands of the security forces.

On the strength of the outcome of the December 2000 referendum, the authorities made the continuation or resumption of collective bargaining conditional upon the renewal of trade union leadership bodies. The announcement triggered numerous protest strikes, which were promptly declared illegal by the authorities. The process of electing a new

leadership took up to eight months or more in some cases and paralysed collective bargaining with many unions, principally in the public sector.

On February 1, primary and secondary school teachers launched a 24-hour strike organised by their seven trade union federations in protest at the government's refusal to negotiate. The authorities immediately declared the strike illegal, refusing to recognise the strike leaders on the pretext that they would not cooperate with the government.

In May the Single Union of Workers in the Iron, Steel and Allied Industries (SUTISS) was compelled to call a strike following the refusal of the management at the SIDOR company to negotiate. A court in the city of Guayana (Bolívar) authorised the use of force to break the strike, but there were no confrontations and the SUTISS won satisfaction of its demands after 15 days of striking.

On July 31, court workers began a strike that lasted a month, in protest at the failure of the judicial authorities to respect the clauses of a collective agreement, a measure condemned in June by the ILO at its International Labour Conference.

Insults by the authorities President Chavez's frequently insulting remarks against striking trade union leaders made during his televised speeches further heightened tensions between these leaders and the Head of State.

At the end of March, workers at the State oil company Petroleos de Venezuela S.A. (PDVSA), went on a 48-hour strike in protest at the management's refusal to grant the pay rise negotiated between the unions and management a few months earlier. The workers were insulted, called traitors and saboteurs, the national guard was sent in, and finally the strike was declared illegal. Over 100 workers were arbitrarily arrested, according to a trade union leader. In the end, the workers did get their pay rise.

Frequent favouritism Since its creation in 2000, the FBT has been used by Chavez in his attempts to control the Venezuelan trade union movement, and impose the Bolivarian revolution on the workers. The government negotiates principally with its own union, despite its lack of legitimacy, notably after the last elections.

There are several examples in which the government has favoured the official trade union in collective bargaining, such as at the Tablazo and de Moron (Carabobo) factories of the Pequiven company, a subsidiary of PDVSA, where the workers went on strike in June for over two weeks in protest at a collective agreement signed by the Ministry of Labour and the FBT that was against their interests. The Defence Minister, José Vicente Rangel, promptly declared the strike illegal and threatened to send in the troops and the national guard. The dispute ended in victory for the protestors.

In July, members of the FBT, supported by the police, attacked members of the Táchira State building workers' union as they were on their way to work in Coloncito (Táchira). They shot and killed Wilmer Velasquez, who was hit by three bullets in the stomach and one in the back, and injured 30 others.

Little has improved since last year when it was reported that respect for trade union rights in the Asia and Pacific region had been strongly affected during the year 2000 by globalisation and the slowdown of the US economy. Australia, Burma, China, Fiji, Indonesia, the Republic of Korea, Pakistan, New Zealand and Thailand were singled out. All these countries still feature in this year's issue, with the exception of New Zealand, where trade union rights are once again fully respected, owing to the reversal of former policies by the new labour government, elected with strong support from the trade union movement.

Working conditions in most Asian countries are bad. Workers are severely exploited and their right to organise freely to defend their interests, notably through collective bargaining, is often violated, in varying degrees. In the worst case, trade unionists have been assassinated, like Iqbal Majumder, General Secretary of the Bangladesh Jatiyo Sramik (workers' trade union) Federation. A pioneer of the Bangladeshi trade union movement and prominent anti-privatisation activist, he was shot dead as he left his office, on August 2.

In some countries employers have no qualms hiring thugs to coerce or attack workers, especially when they are on strike or occupying their workplaces. It usually happens with at least tacit complicity from the government or local authorities. Serving or retired military personnel is also often involved. We report such incidents in China, South Korea and Indonesia, among others, and resemblance between the cases is striking. In May, the deputy manager of a car upholstery plant in East Jakarta was arrested after paying nearly US\$3,000 to a gang of thugs to break a strike by 400 workers in March. They came with knives, metal rods and even guns. Two workers were killed and a further ten seriously injured.

Similarly the Hyosung Corp. in Korea hired over 700 security guards to crush a strike at a nylon plant in May. Then in June the strikers were attacked by 3,600 police officers, complete with bulldozers and gas-spraying helicopters. Over 40 workers were injured and 200

Asia and the Pacific



detained for questioning. Photographic evidence exists showing police officers in full riot gear jumping on the heads of unionists lying on the ground and kicking them.

Trade unionists don't necessarily have to go on strike to be attacked. In Turkey the public sector confederation KESK and its members faced persistent attacks during the year, including raids on their homes and offices and numerous arrests.

The region accounts for the highest number of detentions and prison sentences reported in the Survey. Over 200 trade union leaders were sentenced to prison terms and heavy fines in South Korea, and 50 remained in jail at year's end. Sentences are harshest in China, where all attempts to form independent trade unions are repressed and the organisers handed heavy prison terms. Life imprisonment or 20-year sentences are not unheard of. Prison conditions are appalling and detained trade union activists singled out for torture and arbitrary extensions of sentence. In some cases, the victim literally goes insane, like Yao Guisheng, sentenced on trumped-up charges to 15 years' forced labour and repeatedly shackled and beaten. A ray of hope came last year when we learned, from sources close to foreign governments' "human rights' dialogue" with China, that our complaints to the ILO had repeatedly resulted in reductions of sentences. Several such cases are reported in this issue.

Independent trade unions are strictly forbidden in all single-party states, including China, North Korea, Vietnam, Laos, and Burma. In North Korea, failing to fulfil your tasks can be punished by death. In Burma, any democratic activity, still leads to jail. Workers afraid to send representatives to negotiate wage increases with management, especially if requested to do so. When workers led a protest at a state-owned car tyre factory in Karen State, in March, several were arrested. In the Maldives, no trade unions at all are allowed.

Employers still try to pressure workers into accepting individual, rather than collectively-bargained contracts. In Australia, the year brought mixed results. In January, the Federal Court upheld the right of BHP Billiton to offer workers at its Pilbara plant individual non-union contracts. But in September, the telecommunications company Telstra was fined a record Aus.\$ 75,000 for sending an e-mail to managers urging them to give preference to individual employment contracts.

Strike breaking and union busting remained rife throughout the region. In Hong Kong, union organisers at the Pricerite chain were transferred, dismissed or forced to resign. In Fiji, where all airports are government-owned, management launched a fierce union-busting campaign, coercing workers into signing individual contracts and threatening or dismissing those who refused. In Pakistan, anti-union attacks take place in all sectors. Union leaders at the Water and Power Development Authority were arrested on several occasions.

The situation in export processing zones (EPZ) did not improve. In the Philippines, EPZ employers continued to block union organising and offered financial incentives to dissuade workers from joining unions. In Sri Lanka the government's Board of Investors discourages union activity. Several cases were reported during the year of EPZs refusing to recognise unions, leading to reprisals, including the closing down of factories.

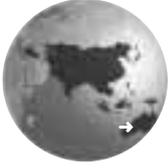
Amongst positive developments in the region, Thailand saw a major union victory when a bitter dispute at Almond was finally settled with the help of international union solidarity campaigns. Sacked trade unionists were reinstated and the union recognised with full bargaining rights.

Asia and the Pacific



Asia and the Australia

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



Anti-union activities continued, the favourite tactics being the use and training of strike-breakers and pressure to sign individual non-union contracts. There was good news at the BHP Billiton mining company when union members who had rejected individual contracts were awarded a pay rise.

THE LEGISLATION

The law establishes freedom of association for workers, including in the public sector, and the right to bargain collectively.

Collective bargaining undermined

The 1996 Workplace Relations Act contains curbs on trade unions and restrictions on strikes. It provides for enforceable individual agreements, called Australian Workplace Agreements (AWAs). The content of AWAs are confidential, so they cannot be checked for breaches of minimum wages and employment conditions. AWAs have primacy over federal and state awards or agreements and over certified collective agreements unless the agreement is already in force. Once an AWA is in force it cannot be displaced by a certified agreement. It is easier to make an AWA legally enforceable than a collective agreement.

The Act places union and non-union collective agreements on the same footing and gives preference to workplace- or enterprise-level bargaining over other levels. It directs the Industrial Relations Commission to encourage enterprise-level agreements over multi-business or sectoral agreements, and says that multi-business agreements can only be certified if they are in the "public interest".

The Act narrows the scope for legal strikes and increases the penalties for breaking the law. Strikers covered by multi-business collective agreements are not protected against dismissal or other sanctions. The restrictions on strikes include heavy fines for industrial action during the life of a collective agreement and tough secondary-boycott provisions. Strike pay cannot be a subject for negotiation and a majority of the whole workforce must approve a collective agreement. The Act makes it much harder for union organisers to get into workplaces.

The Act establishes a new unfair-dismissal system which further limits redress and compensation claims. The AWAs are also subject to far fewer government regulations than has been the case with collective agreements. The Act appears to allow an employer opening a new enterprise to choose which union to negotiate with before staff are employed.

Restrictions are also to be found in the jurisdiction of individual states. In Western Australia, the law on labour relations contains no provisions guaranteeing the protection of workers against anti-union discrimination. 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.

RIGHTS IN PRACTICE

Employers use the legislation on workplace agreements to undermine collective bargaining and promote individual agreements. Australian Bureau of Statistics figures show that most workers on AWAs are paid between \$100 to \$193 less a week than workers doing similar work under collective union agreements.

The Howard government, re-elected on November 10, has shown itself to be consistently anti-union, and refuses to bring its legislation, notably on strike action and workplace agreements, into line with ILO conventions. It has even 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.

EVENTS IN 2001

Background

It was a year of heavy job losses, with the collapse of several companies, such as the airline Ansett and the One.Tel telecom company, and cuts in the public sector. The ACTU put total job losses at 50,000. New jobs were also created, but the great majority were part-time.

Blow to collective bargaining rights in BHP ruling

In a major challenge to collective bargaining rights, on January 10 a Federal Court judge upheld the right of the mining and steel corporation BHP (Broken Hill Proprietary) Billiton to offer individual non-union contracts to workers at its iron ore operations in the Pilbara region of Western Australia. The company began its strategy of negotiating with individual workers in November 1999. More than half the BHP Billiton workers who signed such contracts had received generous pay rises, while those who remained faithful to their union had received nothing. The case was brought under the terms of the Workplace Relations Act and set a worrying precedent for other employers seeking to marginalise unions.

Union-busting tactics at Mirotone

A bitter dispute between the LHMU (Liquor, Hospitality and Miscellaneous Workers' Union) and the Mirotone paint company led to a lock-out on February 22 that carried on into March. The company was seeking to impose individual AWA contracts and end the 35-hour week, and the extended lock-out was seen as means of starving the workers into submission. After two weeks, the company gave workers the choice between a contract or redundancy, and sent individual contracts to their homes by courier. The contracts contained a \$2000 inducement to leave the union. On March 13, just before a meeting between the union and management, the senior union delegate at Mirotone was given the sack after rejecting a non-union position. Agreement was finally reached on March 30. The LHMU kept its members and the 35-hour week.

Qantas admits training strike-breakers

In an incident reminiscent of the tactics used by the Patrick stevedoring company, the Qantas airline admitted at the end of May to sending Qantas management staff to Manila airport in the Philippines to train in ground service work in order to replace strikers in the event of industrial action by the union. The news came as the company was in the middle of negotiations on a new enterprise agreement with the Transport Workers' Union, although the company denied any significance in the timing. More staff were sent over to Manila in June.

Bad-faith bargaining at Taubmans

LHMU union members at the Taubmans paint company in Sydney went on strike in mid-August in their frustration over the employers' intransigence over the negotiation of a new enterprise agreement. The union claimed the company, owned by South African multinational Barloworlds, refused to sit down and negotiate properly. After the workers went on strike, strike-breakers were brought in on three occasions to secrete paint out of the warehouse. The company then sought to have the legal bargaining period terminated, thereby making the strike illegal. Injunctions were granted against the union and its members. Agreement was finally reached on September 25 after the intervention of the Australian Industrial Relations Commission. The LHMU believed the long dispute had been made worse by the harsh anti-union laws of the federal government which made it difficult to negotiate in a civilised way and harder for the industrial relations commission to play a pro-active role.

Protesters threatened with arrest and dismissal

When cleaners at the Sydney theme park Wonderland decided to take industrial action on August 26 after failing to reach agreement at the end of six months of negotiations, the Malaysian-owned company threatened to sue "to recoup any loss caused by the action". On the day of the protest, staged outside the park gates, Wonderland management called in the police to remove the LHMU members for trespass. When the police refused to make any arrests, given that they were not trespassing, management called in their own security guards. The day after the protest, the cleaners were told that if they took any further action they would be dismissed.

Fine for anti-union discrimination

The telecommunications company Telstra was fined a record Aus.\$75,000 in September for sending an e-mail that discriminated against employees on union-negotiated agreements. Telstra's former employee relations manager, Rob Cartwright, had sent an e-mail, in 2000, to 275 managers urging them to support the company's policy of giving preference to individual employment contracts. Mr. Cartwright's approach had clearly been to the liking of the Federal Government however, as in December 2000 it appointed him as senior deputy president of the Australian Industrial Relations Commission.

Collective bargaining – victory at BHP

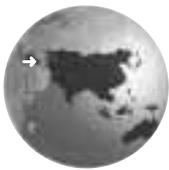
In a major reversal of fortunes, after the Federal Court ruling in January, the Western Australian Industrial Relations Commission awarded a pay rise on November 2 to union members at BHP Billiton Pilbara who had refused to sign individual contracts. It marked the end of a two year struggle which began when the company decreed that the workers would only receive pay rises if they accepted non-union arrangements. Under the decision almost half of the BHP Iron Ore's workforce who refused to sign individual contracts were granted a 20% pay rise, in line with individual contract workers. The decision requires BHP to recognise and respect the union rights of workers and give all new starters a genuine choice between signing an individual contract or enjoying the new higher rates of pay under the award.

Allegations of government phone tapping

Private telephone conversations between the global union federation International Transport Federation (ITF), the Maritime Union of Australia and the crew of the Norwegian ship MV Tampa may have been listened into by the government's Defence Signals Directorate using illegal spying techniques. The incident occurred during the refugee stand-off in August, after the MV Tampa rescued 438 boat people from their sinking craft. The ITF had publicly warned the Australian Government that its actions in turning away the Tampa from Australian shores were illegal under international treaties, and that sending Australian troops abroad was dangerously irresponsible. A full investigation has been called for by the unions.

Azerbaijan

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



Limitations on the right to strike in public transport remain, as does the prohibition on political activities by the trade unions. There is still little respect for collective bargaining.

THE LEGISLATION

The constitution provides for freedom of association, including the right to form trade unions. A 1996 law provides for collective bargaining agreements to set wages in state enterprises.

Public transport strikes still banned

The constitution also provides for the right to strike, but there are limitations. Article 188-3 of the penal code bans collective action aimed at disrupting public transport, and failure to respect the ban carries a penalty of up to three years' imprisonment. The government says it is revising its legislation and will take ILO comments into account.

Restriction on union activities

The state prohibits unions from exercising any political activities, from being associated with political parties, from carrying out joint activities with them, or receiving or providing them with any financial aid.

RIGHTS IN PRACTICE

Collective bargaining not respected

Most industries are still state-owned and are run by government appointed boards and directors who set wages. Despite the law, an effective system of collective bargaining between unions and enterprise manage-

ment has yet to be established. Unions rarely participate in determining wage levels. Where collective agreements exist they are not always respected. The Confederation of Azerbaijani Trade Unions (AHIK) has recorded cases of ten factories that violate clauses in the collective agreements they signed.

Dues not transferred to union

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.

EVENTS IN 2001

Anti-union campaign

After the Karasu oil company was taken over by the US-owned company Moncriff, the new management began an anti-union campaign in response to the union's opposition to redundancy plans. The management refused to transfer the union members' dues to the union bank account, forcing the union representatives to collect dues manually. The union representatives collected statements from 400 workers officially requesting the management to transfer the dues to the bank account.

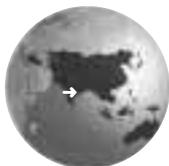
Interference in trade union affairs

The management then declared that since the enterprise had been reorganised there had to be new elections for a shop steward. A general assembly was called at which the same shop steward was re-elected, despite attempts by management to bribe some of the members to vote against him. Management then started threatening to sack anybody who was in contact with the union representative.

At the Solyan oil company the trade union office was closed upon management orders and the shop steward was prohibited from entering the company's head office. All the workers were threatened with dismissal if they contacted the union representatives.

Bangladesh

POPULATION : 134,600,000 / CAPITAL : Dacca / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,182



The many legislative restrictions on trade union rights remained in place. In August a trade union leader was assassinated.

THE LEGISLATION

Many restrictions

The Constitution provides for the right to form or join unions. There are many restrictions however. Before a union can be registered, 30% of workers in an enterprise have to be members. The union can be dissolved if membership falls below this level. No trade union action can be taken prior to registration. Managerial and administrative employees are excluded from the right of association under the Industrial Relations Ordinance.

Candidates for union office have to be current or former employees of an establishment or group of establishments. The Registrar of Trade Unions has wide powers to interfere into internal union affairs. He can enter union premises and inspect documents.

No unions in public sector

Workers in the public sector and State enterprises may not belong to a trade union, with the exception of railway, postal and telecommunications workers.

No teachers may form trade unions, in either the public or private sector.

Right to strike not recognised

The right to strike is not recognised specifically in law. Three quarters of union members must agree to a strike before it can go ahead. The government can ban any strike if it is considered a threat to national interest or involves a public service covered by the Essential Services Ordinance. Sentences of up to 14 years' forced labour can be passed for offences such as "obstruction of transport".

Collective bargaining limited

Only registered unions can engage in collective bargaining, and each union must nominate representatives to a Collective Bargaining Authority (CBA) committee, subject to approval by the Registrar of Trade Unions. Public sector workers' pay levels and other benefits are set by the National Pay and Wages Commission, whose recommendations are binding.

The Industrial Relations Ordinance gives considerable leeway for discrimination against union members and organisers by employers, such as allowing the arbitrary transfer or dismissal of workers suspected of union activities.

EPZs – exempted until 2004

The export processing zones (EPZs) are currently exempted from the major laws establishing freedom of association and the right to bargaining collectively. That is to change however. Faced with the threat of losing trade preferences for its exports to the US and Canadian markets, the government has announced that unions will be allowed in the zones as from January 1, 2004.

RIGHTS IN PRACTICE**Employers take advantage of legal loopholes**

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 registration, workers suspected of carrying out trade union activities are regularly harassed. One popular ploy is to dismiss a worker for misconduct, as they are then no longer entitled to become a trade union officer. A complaint to the Labour Court is of little use given the underlying corruption and serious backlog of cases, which in some instances can stretch back more than ten years.

Export Processing Zones

The Chittagong and Dhaka zones employ 70,000 and 40,000 workers respectively, 90% of them women, working primarily in the textile, clothing, leather and electronics industries. Given the rapid growth of the zones, government is setting up three more, at the Mongla sea port, in Comilla and Ishurdi.

At the entrance to the Dada factory in the Dhaka zone, Nike and Tommy Hilfiger have posted codes of conduct proclaiming the companies' support for the workers' right to the freedom of association. But in an interview with a British newspaper in April 2001, the zone's general manager firmly asserted "trade unions are banned here".

Many employers in the zones take advantage of the absence of trade unions to commit violations of international labour standards: sexual harassment, physical violence, 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. On August 8, 23 young garment workers died and 15 were seriously injured when a fire alarm sounded at a factory building in the Dhaka zone housing four clothing companies, Mico Sweater Ltd, Europe Garmen, Ajax Sweater and Four Wings Garment. The workers – as is common practice – were locked in, and those who died were crushed in the panic. It was a false alarm.

Welfare committees

Pending the creation of unions in the zones in 2004, the government has allowed the creation of "labour welfare committees". Workers are able to defend their rights, it says, but may not strike or organise demonstrations. Employers and investors from South Korea, Japan and other Asian countries have expressed their opposition to the creation of unions, predicting tension and conflict.

Textile industry – anti-union

Textile workers outside the zones fare no better. An estimated 2 million women workers make clothes for export in Bangladesh, working for 3,300 employers. Unions are registered in only 127 factories and fewer than a dozen employers actually negotiate with them. Workers are regularly sacked, beaten up or subjected to false charges by the police for being active in unions.

No progress on legislation

Despite promises some years ago to “examine the issue” the government has not brought its labour legislation into line with ILO conventions. There has been no progress since it ratified Conventions 87 and 98 in 1972.

EVENTS IN 2001**Background**

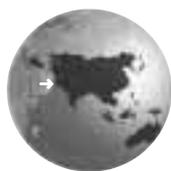
There was considerable unrest during the year, marked by general strikes and protest demonstrations as discontent with the government grew. Meanwhile, exploitation continued, notably in the textile sector. An international trade union study released in February showed that only 21.7% of textile workers in Bangladesh earn the legal minimum wage. The relatively good news was that there had been a significant reduction in child labour in the industry, thanks to an agreement between the manufacturers, the ILO and UNICEF. According to the ILO, while 43% of exporting factories used child labour in 1995, by 2001 the figure had fallen to 5%.

Union leader assassinated

Iqbal Majumder, General Secretary of the Bangladesh Jatiyo Sramik (workers’ trade union) Federation (BJSF), was shot dead as he left his office on August 2. He was a pioneer of the labour movement in Bangladesh and a prominent anti-privatisation and anti-deregulation activist.

Brunei

POPULATION : 300,000 / CAPITAL : Bandar Seri Begawan / ILO CORE CONVENTIONS RATIFIED : --



Trade union rights are very limited in law, and those rights that are legally protected are not enjoyed in practice.

THE LEGISLATION**Very limited rights**

The 1962 law on trade unions authorises the creation of trade unions. They must be registered with the government. There is no provision on collective bargaining. An individual contract is required between an employer and each employee, and legal trade union activities cannot be deemed to violate employee contracts.

The law does not recognise the right to strike. Unions are prohibited from affiliation to international trade union bodies.

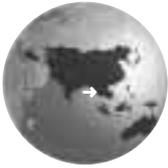
RIGHTS IN PRACTICE**No trade union activity**

There are only three trade unions, all in the oil sector, representing less than 5% of the workers. The absence of human rights and the strict political control imposed in the country means that even these unions do not exercise any independence, and there has been virtually no trade union activity.

There have been no strikes.

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 dismissal, 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 LEGISLATION

The law prevents independent trade union activities

A "Trade Union Act", which exists since 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. Since 1989, the ILO Conference Committee on the Application of Standards has, by way of special paragraphs on Burma in its final report, strongly criticised the government for its persistent failure to comply with these demands.

RIGHTS IN PRACTICE

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 five 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 deten-

tion. 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.

Sailors repressed even overseas

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), a Global Union Federation 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.

129

EVENTS IN 2001

Workers arrested following protest over compensation claims

Several workers at a motorcar tyre factory in Kanthayar village (Thaton Township, Karen State) were arrested when they protested at successive waves of dismissals without compensation in March. The tyre factory, with a capacity to produce 500 assorted sizes of tyres daily, had been opened in 1996 by the Ministry of Industry. It was unable to produce in 1999, owing to shortage of fuel oil and raw materials. Daily wagers, who are unskilled workers, had been retrenched in February 2000, while 120 skilled workers were cut back the following month of May. The remaining 30 highly skilled workers were retained and ordered to sell the tyres that had already been manufactured

On February 25 2001, the Ministry of Industry announced that 19 of the remaining skilled workers were discharged. It also said that the laid off workers who were interested in other clerical positions within the ministry would be accepted for transfer. But the workers who had been laid-off earlier and the newly dismissed ones did not receive any compensation. Former workers, joined by those recently fired, then staged a peaceful protest in front of the factory. The protest, which took place on 9 and 10 March, was aimed at obtaining severance or compensation pay. Thaton District authorities and a local unit of Military Intelligence arrived at the factory and told the protesters that they could submit petitions to the Ministry of Industry and to the Ministry of Labour. They also urged the workers to stop the protest, as it "could affect regional security" and ordered participants to disperse.

However, before workers were able to present their petitions, officers of Military Intelligence and of the Myanmar Police Force Special Branch police began arresting the protest's leaders. They first arrested 19 skilled workers who had taken part in the March 9 -10 protest. As arrests continued on March 11, most workers fled the factory. All work was stopped and two companies from LIB [Light Infantry Battalion] n° 24 were deployed at the site. A sign was installed at the top of the lane leading to the factory: it said anyone passing through the factory lane between 6:00 pm and 6:00 am was liable to be shot.

Firing of textile workers' representatives

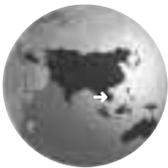
According to a secret government report obtained by the FTUB, dozens of cases of labour unrest in textile factories were reported in the course of the year. A typical example took place in November at the Unique Garment factory located in the Hlaning That Yar industrial zone, near the capital, Rangoon. When workers started asking for an increase in overtime pay, officers of the Strategic Office of the Rangoon Military Command arrived on the scene and asked the workers to elect representatives. Six workers came forward and explained that the staff wanted an increase in overtime pay from 20 to 30 kyats per hour (30 kyats is equivalent to less than 5 US cents). The next day, all six representatives were given three months advance pay as well as their basic monthly pay and dismissed on the spot. The factory produces men's apparel and jackets for Unique, Inc., located on New York's Fifth Avenue.

Junta fearing labour unrest in sensitive textile sector

The FTUB said it had registered six similar cases, including dismissals, in the course of the year. A government report said 78 cases of labour unrest had taken place at 74 textile factories in the Swe Pyi Thar and Hlaing Thar yar industrial zones between June 2001 and February 2002. The textile industry is seen by the junta as being most at risk in the face of economic measures taken by foreign governments and importers under a June 2000 Resolution of the International Labour Conference. The Resolution had called on all governments, employers and union organisations to review their contacts with Burma and to halt any relations that might directly or indirectly help to perpetuate the system of forced labour in the country. Foreign business cannot invest in Burma without contributing financially to the military junta, which has been identified by the ILO as mainly responsible for endemic forced labour throughout the country.

Cambodia

POPULATION : 12,800,000 / CAPITAL : Phnom Penh / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,11,138



There were some improvements in the respect of rights in the garment sector following pressure from the US but in general employers remain strongly anti-union.

THE LEGISLATION

Workers are free to form and join trade unions, under the 1997 Labour Law. The Labour Law does not apply to civil servants, including teachers, judges, military personnel or household servants. Personnel working in air and maritime transportation are not fully subject to the law, but are free to form unions.

The legislation guarantees the right to strike and protects strikers against retaliation.

The right to bargain collectively is also protected by law, but it is not necessarily a trade union right. The law states that all companies must choose a "representative" regardless of whether a trade union has been formed there or not. Hence employers can negotiate with a "workers' representative" who is not from the union, even where a union exists. In the civil service, salaries are set by the government.

The Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitating (MOSALVY) is responsible for enforcement of the labour code and the application of ILO Conventions.

RIGHTS IN PRACTICE

Most workers have little or no knowledge of trade unions, or of their labour rights. Where unions do exist, in the garment and footwear industries, it is difficult for them to negotiate with management as equals. Many of the workers are young women from the rural areas. 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.

Leang Spohea, former union leader of the Apparel company union, was dismissed in 2000. He was accused of organising a strike. The case was filed before the court but there has been no settlement.

Labour inspectors are poorly trained, and given their low pay are open to bribery.

Strikes are frequent in the garment factories, with workers protesting against long hours, low pay and poor treatment. The government generally tolerates strikes and demonstrations, although the police are sometimes called in and have been known to use violence.

Poor enforcement

Collective bargaining is still in its infancy. Only two collective agreements have been registered with the government. Employers ignore trade unions and their demands to improve working conditions’.

Outside pressure improves labour rights

There have been improvements in the respect of rights in the garment industry following a landmark agreement in 1999 with the United States which agreed to increase its quotas for Cambodian textiles in return for positive evidence that Cambodia was complying with international labour standards. Textiles are Cambodia’s biggest export earner and the US its biggest market. The US demands, further to union pressure, were made as a result of the history of poor conditions in the sector, including long hours, forced overtime and low pay.

EVENTS IN 2001

Garment sector

In January 2001 an ILO-backed project on improving working conditions in the garment sector through the application of the Labour Code and internationally recognised core labour standards was launched. This mainly involved training in labour rights and monitoring of the application of those rights.

ILO monitoring unit

The International Labour Organisation’s Monitoring Unit began operations on May 1. The unit was set up in line with the 1999 agreement with the United States to respect international labour standards in the textile industry, and its task is to ensure that conditions in the country’s 173 garment factories comply with those standards. Factory inspections began in June.

ILO finds no evidence of worst abuses

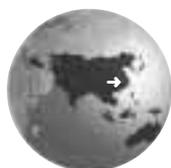
At the beginning of December, the ILO said its initial probe into working conditions in Cambodian garment factories had found no evidence of child labour, forced labour or sexual harassment, but had revealed some problems related to over-time payments, hours of work and anti-union discrimination. The three-year 1999 labour-trade linkage agreement was to be reviewed at the end of the year.

Union rights still in doubt

A Cambodian NGO focusing exclusively on workers’ rights found that although a growing union movement had resulted in some improvements during the year there was still a long way to go before Cambodian workers enjoy internationally guaranteed rights. Forced overtime and low pay are still serious problems, and many employers remain fiercely anti-union. Workers say there is discrimination against union members who face unfair dismissal.

China

POPULATION : 1,264,800,000 / CAPITAL : Beijing / ILO CORE CONVENTIONS RATIFIED : 100,138



Trade union rights are not respected in China. Workers are prevented by law from organising outside the All-China Federation of Trade Unions (ACFTU), which is strictly controlled by the Chinese Communist Party (CCP). This was reaffirmed when the Trade Union Law was revised in October. Attempts to establish independent workers’ organisations are severely repressed and their authors are imprisoned, sometimes for up to 20 years or more. Child and forced labour, as well as discrimination in employment remain a problem.

THE LEGISLATION

China’s Trade Union Law was adopted in 1950. It was most recently amended in 1992 and in October 2001. According to the revised version of the law, “the ACFTU and all organisations under it represent the interests of the workers and safeguard their legitimate rights”. Trade unions must also “observe and safeguard the Constitution (...), take economic development as the central task, uphold the socialist road, the people’s democratic dictatorship, leadership by the Communist Party of China, and Marxist-Leninism, Mao Zedong Thought and Deng Xiaoping Theory (...) and conduct their work independently in accordance with the Constitution of trade unions”.

Among their basic duties and functions, trade unions shall "coordinate labour relations through consultation", "mobilise workers to strive to fulfil their tasks in production" and "educate them in the ideological, ethical, professional, scientific, cultural and other areas, as well as self-discipline and moral integrity". The law also gives trade unions ample prerogatives in various areas such as "democratic management and supervision", which includes removal of managers and major operational and management decisions.

Trade union monopoly

Article 10 of the law establishes the ACFTU as the "unified national organisation". Under art.11, the establishment of any trade union organisation, whether local, national or industrial, "shall be submitted to the trade union organisation at the next higher level for approval". Trade union organisations at a higher level "shall exercise leadership" over those at lower level. The law also empowers the ACFTU to exercise financial control over all its constituents.

Right to strike not protected under the law

The right to strike was removed from China's Constitution in 1982 on the grounds that the political system in place had "eradicated problems between the proletariat and enterprise owners". But both the Trade Union Law and the Labour Law deal with labour disputes. Under the former, trade unions are to consult employers in case of "work-stoppages or go-slow actions" on behalf of the workers, present their demands and propose solutions. Employers have to try and satisfy the workers' "reasonable demands". At the same time trade unions have to assist the employers in "restoring the normal order of production and other work". China's 1994 Labour Law ascribes trade unions the role of chair in "labour dispute mediation committees" and of member in tripartite "arbitration committees", the latter chaired by the authorities.

International obligations

China has ratified neither of the two fundamental ILO Conventions on freedom of association, the right to organise and to bargain collectively (ILO Conventions n° 87 and 98). In February, it ratified the International Covenant on Economic, Social and Cultural Rights, but announced at the same time that provisions guaranteed under art. 8,1 (a) of the Covenant, that is the right to establish and join workers' organisations of one's own choosing, would be dealt with in accordance with Chinese law. In doing so, the government effectively entered a reservation concerning a fundamental element of the Covenant, thereby putting itself in breach of internationally recognised principles on the law of treaties. It did not however, enter any such reservation concerning art. 8,1 (d) of the Covenant which, alone amongst international legal instruments, explicitly guarantees the right to strike.

RIGHTS IN PRACTICE

All attempts to establish trade unions repressed

All attempts at establishing independent workers' organisations are repressed. Organisers are arrested. Some are sentenced to forced labour (officially called "reform through labour, or "lao gai") after trials in which their rights as defendants are systematically ignored. Others are sent to "rehabilitation through labour" ("Lao jiao", formerly translated by the authorities as "re-education through labour"), a form of administrative detention in principle not exceeding three years and imposed by public security authorities without trial or right to appeal. In practice, these periods of forced labour can be extended at the authorities' will, as proven by many cases. As a result, organisers of independent unions or other collective action by workers, such as protest demonstrations and marches or strikes, mostly remain underground. Fearing arrests, workers protesting at non-payment of wages, corruption, embezzlement of company funds and faked bankruptcies are generally reluctant to send representatives for negotiations with the authorities or the employer.

Psychiatric detention

Incarceration in a psychiatric unit is another form of punishment meted out to labour activists. Wang Wanxing and Wang Miaogen, both involved in the Workers' Autonomous Federations (WAF), have been incarcerated in psychiatric hospitals for almost ten years. Another labour activist, Pen Yuzhang, member in 1989 of the Changsha Workers' Autonomous Federation, has also been held in a psychiatric institution; government reports about his release have not been independently confirmed.

Mental illness as a result of imprisonment

Cases have been reported of detained labour activists becoming mentally ill after being severely mistreated in jail or labour camp. One such case is that of Yao Guisheng, a member of the Changsha WAF, responsible for helping WAF

leaders to escape arrest in the immediate aftermath of the country-wide repression which followed the Tiananmen Square events. He was sentenced to 15 years' detention in October 1989 by the Changsha Intermediate People's Court on charges of "robbery and assault" (trumped up further to an argument with a taxi driver), later changed to "looting". According to former prisoners, he was periodically placed in solitary confinement for refusing to "admit his guilt" and not working to the standards required of him. He was regularly beaten and forced to wear shackles. He became mentally ill as a result of this treatment. His case was later taken up by the Special Rapporteur on Torture of the UN Commission on Human Rights. In 1994, the government told the Special Rapporteur that Yao had never been ill-treated.

Role of the ACFTU

The ACFTU strictly enforces its legal monopoly over union organisation. It actively promotes the Party and government's view that any unauthorised workers' action may lead to "social unrest and chaos". The President of the ACFTU has regularly warned against the spreading of strikes and other workers' protests. He also sits on China's highest ruling civilian body, the seven-member Standing Committee of the CCP's Politburo and in this capacity leads the "strike hard campaign" under which several thousand people are executed each year for alleged or proven criminal activities.

Where detailed reports of social unrest are available, workers unanimously dismiss the official trade union as unhelpful or ineffective at best. At local level, ACFTU officials either deny any legitimacy to independent workers' action by calling it illegal, or acknowledge that they are unable to defend their interests in the face of massive restructuring operations. While claiming to consider as its key welfare concern the protection of the more than 21 million workers dismissed in this process, the ACFTU appears to be helpless in negotiating, let alone enforcing any social safety provisions that may have been obtained. The privatisation of state or other collectively owned assets frequently goes hand in hand with corruption of local and regional government officials, over which the ACFTU appears to have no influence

Right to strike

Labour disputes occur on a regular basis. According to official figures, their number rose from 8,150 in 1992 to over 120,000 in 1999. It is difficult to assess the number of cases leading to concrete industrial action. The figure of 100,000 work stoppages or other collective workers' protests occurring each year is often quoted, but difficult to verify in practice. However, there are no suggestions of such actions being called or supported by official trade union structures. There are, in fact, regular indications to the contrary.

Collective bargaining remains ineffective

Collective bargaining, if it takes place at all, seems to have little impact in practice. Employment contracts are mostly drawn up by employers, who set wages and working conditions themselves, where they are not defined by law. In June, an ACFTU leader in a joint-venture enterprise told a foreign trade union leader that the ACFTU would oppose a wage increase, even if one was voluntarily offered by the employer, a multinational company. The ACFTU official said this would trigger off demands for similar deals by workers throughout the special economic zone (SEZ) where the enterprise was located.

Women workers

Women form a large share of the workforce and are primarily affected by large-scale economic restructuring. They constitute the overwhelming majority in Special Economic Zones, where their rights are particularly affected, as in the case of pregnancy.

EVENTS IN 2001

Unemployment in China continued to rise as the privatisation policy led to massive dismissals in the state-owned enterprises (SOE's). According to official sources, SOE's implementing restructuring laid off 7.69 million workers in the first half of 2001. Only 790,000 of them found new jobs during the same period. Millions of mostly unemployed workers were faced with non-payment of back wages or social benefits, or forced to contribute to social security, health or pension funds out of their own means, leading to scores of thousands of demonstrations, protests and strikes.

Workers' protests flourishing

While strongly discouraged by the authorities, independent workers' protests kept occurring throughout the year. In January, hundreds of workers from the Shilin Chemical Industry Company staged demonstrations, protesting at mass firings and demanding just severance and retirement benefits. They also demanded an investigation of the company's accounts so that corrupt officials could be brought to justice. The Shilin Chemical Industry Company is a large state-owned enterprise which had the previous year undertaken massive down-sizing measures in accordance with official directives to reform China's state sector.

Assault by riot police

Ten workers were injured in January when 200 police officers attacked a group of 1,000 workers protesting layoff conditions at a state-owned textile factory in Guiyang, capital of the south-western province of Guizhou. The factory was about to lay off 1,500 employees from a 7,000-strong workforce, with a single severance payment of Renminbi (Rmb) 5,000, equivalent to less than two years' wages at the bottom end of average salaries in the industrial sector.

Psychiatric detention

Also in January, the wife of detained labour leader Cao Maobing was presented by the Public Security Bureau (PSB) with two options: her husband, detained since December 15, 2000 at the Yancheng n° 4 Psychiatric Hospital would either remain indefinitely in psychiatric detention, or he would be prosecuted and sentenced under state security laws. He had been arrested and forcibly committed to a psychiatric hospital in December 2000 after leading an attempt to establish an independent trade union at the Funing County Silk Mill, in the eastern city of Yancheng (Jiangsu Province). The silk factory had been the centre of a yearlong dispute over corruption, unpaid redundancy allowances and unpaid pensions for laid-off workers.

In February, the hospital diagnosed Cao as suffering from an obsessive-compulsive disorder and reportedly forced both drug therapy and electric shock treatment on him. A hospital official said the electric shock reports were "an exaggeration". Cao was released in early July, after having been detained for 210 days. His case had attracted wide attention from the international trade union community. His phone was disconnected the day after his release and it was reported that he had temporarily left the city to spend time with relatives.

Forced Labour

During a visit to China in February the ILO Director General presented Labour Minister Zhang Zuoji with a list of 24 detained labour activists, whose immediate release had been requested by the ILO Committee on Freedom of Association. The Minister replied that Chinese investigations into those cases had determined that all were convicted on criminal charges "unrelated to the issue of free association", ranging from hooliganism to violating state security laws. With regard to the ILO's concern that the "lao jiao" system violated China's commitment to promote the elimination of all forms of forced labour, binding on the government under the ILO's 1998 Declaration on Fundamental Rights and Principles at Work, Mr. Zhang claimed that "China bans all forms of forced labour" and accused the ILO of "confusing forced labour with the re-education through labour system, which has a 90% success rate in rehabilitating criminals".

Protest leader charged

The authorities formally charged Li Jiaqing, a leader of the independent labour movement in Zhengzhou, Henan province in February. He had been arrested in August the previous year for "gathering a crowd to disrupt social order". Li Jiaqing was chief engineer of the Zhengzhou Paper Factory, in Henan province, where in 1998 he organised a Workers' Congress and was elected as a workers' representative. In January 2000, he and his colleagues submitted eight claims including the payment of salary arrears. In June of that year, having still received no response, the workers occupied the factory. In August 2000 the factory was occupied by about 500 policemen. Many workers were dismissed and about 20 workers were detained, including Li Jiaqing. He is reportedly still being held at the Zhengzhou n°2 Detention Center. No verdict had been announced by the end of the year.

Threatened for striking overseas

In April, 170 Chinese workers employed on a building site in Tel Aviv (Israel) were threatened with up to seven years in jail by the authorities of their home town of Xiu Dong, after they had held a week-long strike at the end of March against the non-payment of their wages. They had ended their strike when it surfaced that their salaries had in fact

been paid into their bank accounts by their employer, only to be siphoned off later, probably by a representative of the Chinese firm through which they had obtained employment in Israel.

ACFTU opposes independent workers' organisations

In May, the ACFTU-affiliated Guangdong Federation of Trade Unions said it was increasingly alert to attempts at establishing "autonomous trade unions" in the Shenzhen area, which borders the Hong Kong Special Administrative Region. It said that, should such organisations be discovered, they would immediately be banned. Liu Tao, Deputy Secretary of the Shenzhen CCP Committee, had said "hostile foreign forces were trying to establish autonomous trade unions outside ACFTU control". The authorities were particularly worried about the problem as workers in Guangdong province were leaving the ACFTU in droves and also because Guangdong has millions of migrant workers. The latter often organise "hometown associations" (tongxiang hui) to try and protect the rights of migrants from the same areas. "They (the migrants) have become the target audience in a struggle between the hostile forces and ourselves", Liu Tao said.

Searching for the organisers

In mid-May, some 200 workers from the Dengkou County Chemical Fertiliser Factory, in Inner Mongolia, blocked the Baotou-Lanzhou railway line for over an hour, in protest at non-payment of wages. The authorities ordered local police to find out who had organised the demonstration. Meanwhile, an official from the Dengkou county complaints office reported that the government had decided, as a temporary measure, to distribute chemical fertiliser for the workers to sell in lieu of wages.

Leaders of Sichuan steel workers' protest arrested

In late May, police in Sichuan province detained Hu Mingjun, Zheng Yongliang and Wang Sen. In June, they were put under formal arrest and charged with subversion. Police accused them of having organised a large-scale protest by steel workers.

Imprisoned for claiming medical costs

In June, the authorities charged Li Wangyang, a veteran independent trade union activist and former prisoner, with inciting to overthrow the state, a subversion charge often used against dissidents. Li was arrested on a hospital bed, while recovering from a hunger strike that he had started in February in protest at the government's refusal to pay for medical costs incurred after illnesses contracted while he was earlier detained for his labour activities. He had agreed to stop his hunger strike after 20 days, when colleagues and relatives said they would themselves lobby the authorities to pay for his medical costs. While imprisoned during the 1990s, Li was severely beaten by prison guards and had emerged from prison in 2000 in extremely poor health. He had contracted a severe eye complaint, as well as back, heart and lung problems that resulted from the beatings. He was unable to walk unaided.

On September 20 he was sentenced to ten years' forced labour by the People's Intermediate Court in Shaoyang, after a trial which had been closed to the public. He is believed to be held at the Shaoyang City n° 2 Detention Centre, in Hunan Province.

Relatives of prisoners also face persecution

His sister Li Wangling, who had helped him to organise his hunger strike and had spoken to foreign journalists about her brother's health condition, was sentenced to three years' re-education through labour on June 7 for helping him to publicise his demands.

Protest leaders face arrest

On July 6, over 1,000 workers from a sugar factory in the Inner Mongolian city of Linhe gathered outside the CCP offices of the Lake Bayan district to demand payment of their social benefits. Following the incident, the governor of the Inner Mongolia Autonomous Region issued an order for police to capture the workers' leaders.

First semi-independent union

In a departure from previous practice, the authorities allowed the formation of a semi-independent trade union at Kong Tai Shoes, a Reebok subcontractor in Shenzhen. The ACFTU only appointed the union's Chair, Zhao Fuguo. According to Zhao, workers had freely elected their other representatives, who had hitherto been appointed by management. Permission to form the union was given in July after Reebok's headquarters, tired of receiving complaints directly from the workers, had put pressure on KTS to allow the union to be established. In September, Zhao said working conditions had markedly improved, with the working week no longer

exceeding five days or 60 hours, including overtime. He also said a health and safety committee had been established and that the union's activists would soon receive training from Hong Kong-based trade unionists. The establishment of the union and the free election of its 28 representatives was presented by the ACFTU as a "pilot project", which was to serve as a model for other foreign-owned companies in the Shenzhen area. But no other such cases had been reported by the end of the year.

Police teaming up with hired thugs to enforce privatisation

In September, seven workers were injured and one was sent to hospital after police attacked a group of laid-off workers from a privatised liquor factory in Changchun's Shuangyang District (Jilin province, north-east China). All 288 workers had been sacked when the factory was sold at 25% of its value to Gao Xin, a businessman who planned to use the land for a property development scheme. The initial severance deal gave the sacked workers an Rmb 15,000 settlement. However, Gao later said that he would only pay the workers an annual hardship allowance of Rmb 300. According to one participant in a September 4 protest outside the city government's offices, this figure was way below the minimum annual hardship allowance of Rmb 840, stipulated in local government regulations. In fact, however, the workers had not received a single yuan. In late August, the workers realised they had been swindled by the privatisation deal and had begun protesting outside the factory gates. Gao had then hired more than 30 thugs who attacked and intimidated the workers.

Protesters arrested and injured

In October, over 300 women workers laid off by the Daqing Blanket Factory, in the north-eastern province of Heilongjiang, collectively petitioned in front of government offices demanding either the renegotiation of their original redundancy packages in line with Daqing City's official policy or reinstatement. While the pattern for redundancy packages in the region amounted to Rmb 3,500 per year of service, the 3,000 odd workers had been dismissed with a one-off payment of Rmb 10,000. Meanwhile, their factory had been sold to a private investor and had resumed production with replacement workers. On October 15, riot police attacked several hundred women workers after they had assembled in front of the city hall, shouting slogans, demanding to see the mayor and playing the Internationale on cassette recorders. Two men and three women workers were arrested and many more were injured, some severely.

When colleagues demonstrated the following day, demanding the prisoners' release, they were told that the detainees would only be released if their colleagues paid the cost of their room and board during their detention. A subsequent demonstration, on October 23, led to the arrest of two more workers' leaders. The ACFTU said it was not concerned with the case, while simultaneously acknowledging that it had not been involved in the factory's initial restructuring operation, two years earlier, in violation of existing laws.

Journalist arrested for reporting textile strike

On December 22, police detained Lu Wenbin, a young electrician at the Gin Cotton Factory in Xinfeng city. Lu also served as a special correspondent for the "Textile Daily" newspaper. He was apprehended in Yancheng city, eastern Jiangsu province, by the State Security Bureau of Yancheng City and the Public Security Bureau of Dafeng City, after he had been investigating a strike at the Huainan Textile Factory in Dafeng. Over 4,000 workers had been demonstrating since December 10 against pay cuts introduced following the privatisation of the formerly state-owned factory. The company had gone bankrupt in June, owing to alleged corruption and bad management. Lu Wenbin documented the strike and interviewed workers in preparation for an article, but was arrested before he could submit it. His place of detention was unknown at the time of writing.

Doctor arrested for reporting on workers' protest

On December 21, the Political Department of the Jilin Military District detained Cai Guangye, a doctor at the Number 222 Unit of the province's Military District, for "isolation and investigation". A labour activist, Cai had been active in organising laid-off workers and supporting their plight at several state-owned factories in the province. He had been briefly detained in April by Jilin city police after taking part in a protest by workers from the Jilin Chemicals Company and for taking pictures of the demonstration. He had also posted several essays advocating for workers' rights on a web forum. During November and December, several workers' protests had taken place throughout the province and on at least one occasion the workers from a number of factories gathered at the gates to the

Long-term labour detainees

government's offices, shouting slogans such as "organise an autonomous trade union" and "fight forced redundancies". Cai's whereabouts are unknown to -date.

Dozens of independent labour activists and leaders jailed in previous years remained in prison in 2001. The following is a partial list. More information about some of these and about earlier cases may be found in previous issues of this Survey.

They include activists, notably members of the Workers' Autonomous Federations (WAF), arrested in the wake of the Tiananmen Square massacre of June 4, 1989, and the protests that followed. Guo Yunqiao, leader of the Yueyang City WAF, in Hunan province, was sentenced to 13 years for leading a workers' protest in 1989. Chen Gang, Liu Zhihua and Peng Shi were arrested in or shortly after June 1989, after being prevented from organising a factory protest. Chen Gang was sentenced to death for "hooliganism", but was later granted a reprieve and several reductions in his sentence. He is now due for release in November 2007. Liu Zhihua was sentenced for "hooliganism". Following three reductions in sentence, he is due to be released in January 2011. Peng Shi, sentenced to life for "hooliganism", saw his sentence reduced and should be released in March 2006. Liang Qiang, detained following the 1989 pro-democracy protests, was sentenced in January 1990 to 15 years' imprisonment. He is reportedly held in Beijing's Yanqing Prison and is due to be released in May 2004.

Shao Liangshen was sentenced to death in September 1989. His sentence has since been reduced and he is due for release in November 2007.

At least four leaders and activists of the underground "Free Labour Union of China" (FLUC), which was an attempt to organise an independent trade union organisation in Beijing, in 1992, remained in detention throughout the year. They are: Hu Shigen, sentenced to 20 years; he suffers from liver, heart and stomach illnesses and has developed a hearing impairment while in jail; Kang Yuchun, sentenced to 17 years, seriously ill with heart problems; Liu Jingsheng, sentenced to 15 years, who has a history of gastric problems, has lost his teeth and suffers from hypertension, and Wang Guoqi, a printer, sentenced to 11 years, seriously ill with scabies.

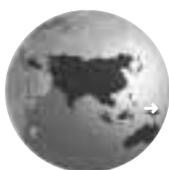
More recent cases include Liao Shihua, detained in June 1999 after organising a protest by workers of the Changsha Automobile Electrical Equipment Factory and sentenced in December 1999 to six years' imprisonment.

In March 2001, Zhang Shanguang, a teacher from Hunan and veteran independent labour activist and prisoner, was repeatedly kicked and punched by prison guards after he organised a petition to end torture and long working hours at the Hunan Provincial Prison N°1, an electrical machinery factory in Yuanjiang city, where he is detained.

Other labour activists who remained in detention in 2001 include Li Bifeng, Zhao Changqing, Xu Wangpin, He Chaohui, Yue Tianxiang, Wang Changchun, Wang Fanghua, Wang Heping, Wang Liguang, Wang Qun, Zhang Jun and Zhu Wanhong, Xu Jian. All had tried to protect workers' interests, by protesting, organising or representing workers.

Fiji

POPULATION : 800,000 / CAPITAL : Suva / ILO CORE CONVENTIONS RATIFIED : 29, 98, 105



The public services union faced a fierce union-busting drive by the airport authorities. The government appeared less than enthusiastic in enforcing trade union rights.

THE LEGISLATION

Under the Fiji Constitution and the Trade Unions Act workers have the right to form and join trade unions and they have the right to organise and bargain collectively. Employees cannot be prohibited from becoming a member of a

trade union, and employers are required to recognise a union for collective bargaining if more than half of their employees have joined it. They may also recognise minority unions. Unrecognised unions have no redress.

All unions must be registered with the government. The Trade Unions Act does not apply to the Navy, the Military or Air Service of the Crown, the Royal Fiji Police Force, or the Fiji Prisons Service. Restrictions can be applied in government employment, in the interests of defence, public safety, public order public morality or public health.

The right to strike is recognised for all matters except those relating to trade union recognition.

There are no provisions requiring the reinstatement of workers who have been sacked for carrying out trade union activities.

Government commitment

On December 11, the government of Fiji, the FTUC and the Fiji Employers' Federation signed a letter of intent reaffirming their commitment to respecting the fundamental principles and rights at work enshrined in the eight core ILO Conventions. The government expressed its intention to ratify the remaining five core conventions in the shortest possible time. The ILO promised technical assistance.

RIGHTS IN PRACTICE

The Labour Ministry does not effectively protect workers from anti-union discrimination in practice. When the Merchant Bank forced members of the Fiji Bank and Finance Sector Employees union to resign in November 2000, the cases was reported to the Ministry. The Ministry finally responded in September 2001 that the Merchant Bank would be prosecuted for breach of the Trade Unions Act, but had taken no further action by the end of the year.

Many employers have been known to refuse to recognise trade unions. The police sometimes help employers fight against trade unions, for example by preventing union representatives from entering company premises.

The neutrality of the Permanent Arbitrator has been called into question. He or she is appointed by the President of Fiji after consultation with the Minister for Labour and Industrial Relations. He or she is not a public officer, but the Arbitrators offices are in the ministry, the staff are officers of the ministry, and the Arbitrator does not have a separate budget.

EVENTS IN 2001

After all the political upheaval following the May 2000 coup, democratic rights were finally restored when the Fiji Court of Appeal ruled that the 1997 Constitution was the supreme legal authority. Parliament was recalled, but President Iloilo decided to dismiss the democratically elected government led by Prime Minister Mahendra Chaudhry and appoint a caretaker government under Laisenia Qarase. The September 6 elections were won by Laisenia Qarase's SDL party.

Airport refuses to bargain with union

May saw the start of (another) long fight between Airports Fiji Limited (AFL) and the Fiji Public Service Association (FPSA). The AFL is fully government-owned, and owns and operates all airports in Fiji. It has shown itself to be firmly anti-union ever since the creation of its forerunner the CAAF in 1979. The FPSA is the majority union at the airports.

The dispute began when six AFL employees, including civil aviation branch secretary Krishna Chetty, were dismissed for refusing to relocate to premises contaminated by asbestos and glass wool, despite statutory protection provided by the Health and Safety at Work Act. The AFL refused to talk to union, then withdrew check-off, claiming it did not recognise the FPSA. The FPSA represented 60% of the workforce, and the employer was therefore legally required to recognise it.

Union-busting

The Chief Executive of AFL, Mr. Jone Koroitamana, tried undermine the union by forcing workers to sign individual contracts. The union campaigned to oppose the contracts, with the support of 75% of members. In June six employees were sacked for refusing to sign. Many other employees faced threats and coercion to make them sign such con-

tracts. Victimisation of FPSA members continued and there were two lock-outs. AFL also began to recruit additional staff to replace FPSA members, while seeking to get more union members dismissed. Despite numerous meetings between the FPSA and government ministers, as well as legal actions and the intervention of the Fiji Trades Union Congress (FTUC) no progress was made. Several legal rulings in favour of the union were ignored, due the union believes to open connivance between Fiji's government and the main players.

The Labour Ministry recognised the union's claim to recognition, but even after an arbitration tribunal had ruled the dismissals unfair in July, it failed to order reinstatement because of "bad blood" between the FPSA and the AFL. Mr. Koroitama had a history of antagonism towards the FPSA dating back to his first appointment to the post in 1979.

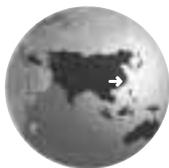
Arrests

On October 15 Krishna Chetty and Iliyaz Henry, president of the Nadi International Airport union branch were arrested by police. The chief security officer at the Nadi Airport had lodged a complaint against them, alleging that Mr. Chetty had stolen documents from the AFL office. No such documents were found on him.

A case brought by the FPSA against the AFL Board Chairman and Executives was still before the courts at the end of the year.

Hong Kong SAR (China)

POPULATION : 6,700,000 / CAPITAL : Victoria / ILO CORE CONVENTIONS RATIFIED : --



Anti-union discrimination and the systematic victimisation of workers for participating in trade union activities were prevalent during the year. The refusal of the government to introduce laws guaranteeing the right to collective bargaining remains a fundamental obstacle to the realisation of trade union rights in the Hong Kong SAR.

THE LEGISLATION

The Employment and Labour Relations Ordinance (ELRO) was introduced in 1997 specifically to repeal the new laws brought in immediately prior to Hong Kong's reunification with China, which had been designed to implement the ILO core conventions. The right of workers to form trade unions is recognised, but the ELRO and labour laws introduced since deny many fundamental trade union rights.

Lack of protection for strikers

The right to strike is permitted by law, but strikers have little protection. In April 2001, the government introduced amendments to the Employment Ordinance that ostensibly increased the protection of workers against dismissal for participating in strikes. However, the amendment only ensures that if a worker is dismissed for strike action, then he or she has the right to sue the employer for compensation. There is still no legal entitlement to reinstatement even if a worker is found to have been unfairly dismissed for participating in a strike. Reinstatement is contingent on the mutual consent of the employer.

Under pressure from unions, protest actions, and criticism from the ILO, the government declared in 1999 that it would amend the law to better protect workers against unfair dismissal. In 2001 the Labour Advisory Board (LAB) finally agreed in principle to laws giving the Labour Tribunal the power to order the reinstatement of unfairly dismissed workers without the consent of the employer. However, the government has taken no further action on this and no timeframe for implementation has been stipulated.

The Public Order Ordinance authorises the use of force to break up strike pickets and demonstrations, thereby infringing on freedom of assembly and the right to strike.

Bargaining not recognised

The law still does not guarantee the right to collective bargaining.

Limitation on use of funds The 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.

Eligibility for trade union office restricted Only persons actually or previously employed in the trade, industry or occupation of the trade union concerned are permitted to become trade union officers.

RIGHTS IN PRACTICE

Right to strike denied The right to strike is limited in practice by clauses in many employment contracts stipulating that absence from work may lead to dismissal.

No recognition of collective bargaining rights Bargaining is neither promoted nor encouraged by the authorities, and employers generally refuse to recognise unions. Less than one per cent of workers are covered by collective agreements, and those that exist are not legally binding.

The Hong Kong Confederation of Trade Unions (HKCTU) is excluded from the LAB, the tripartite consultative body established by the government. This exclusion means that HKCTU is denied the right to participate in tripartite negotiations on labour laws and policy and excluded from bodies such as the Committee on the Implementation of International Standards, which reports to the ILO.

Consultation no substitute The government has consistently claimed that there is no need for collective bargaining rights in the public sector because the administration 'consults' civil servants over their pay and conditions. However, recent civil service reforms, involving transfers, reductions in wages and benefits, retrenchment and contracting-out to the private sector have demonstrated very clearly that the government is free to act unilaterally without consulting the affected civil servants.

This was exemplified by the contracting-out of public services by government departments such as the Food and Environmental Hygiene Department (FEHD) where civil servant jobs are replaced with contract workers and workers hired through private companies. A so-called "voluntary" retirement (VR) scheme was introduced to cut the number of public sector jobs and allow the out-sourcing of public sector work, although in reality the jobs to be cut were targeted. The victimisation of those civil servants refusing to join the VR scheme, together with the poor pay and conditions experienced by the contract workers replacing them, exposed the vulnerability faced by public sector workers in the absence of trade union recognition and collective bargaining rights.

EVENTS IN 2001

The continued economic downturn in 2001 saw increased layoffs by major corporations, as well as rising unemployment in the banking, telecom, clerical, retail and wholesale, restaurant and catering, and transportation industries. At the same time migrant workers again faced threats of wage cuts and were even more vulnerable to discrimination and marginalisation in the absence of worker and trade union rights.

Dismissed for union activities On August 10, 2001, the Chairperson of the Container Truck Drivers' Union was dismissed for his trade union activities. The previous month he was elected as the labour representative in a tripartite committee established by the Labour Department to improve industrial relations in the container transport sector. Coincidentally his employer was elected to represent the employers' group in the tripartite committee. His employer dismissed him immediately after seeing that he was the trade union representative in the consultative committee. Despite the clear case of anti-union discrimination as the motivation for his dismissal, he lost his case in the Labour Tribunal.

Anti-union harassment and dismissals From September to October 2001, the employees of Pricerite, a major home decoration and furniture chain, began organising a union. The employer responded by forcibly transferring the most active union organisers to other branches. Despite this harassment, an application for the registration of the union was lodged. On November 1, six union organisers were dismissed and four were forced to resign. Three of them were members of the preparatory

union committee and the other seven were trade union members. In November the trade union's registration was approved by the Registrar of Trade Unions. At the union's first general meeting held on December 2, elections of union officers were held. Those workers elected were then harassed and forcibly transferred by the management. As a result five union officers quit the union, and by the end of December the remaining union officers were forced to resign from the company. Since the executive committee members are no longer employees of Pricerite, they are no longer eligible to hold union positions and may be forced to disband the union altogether.

Pilots sacked for taking industrial action

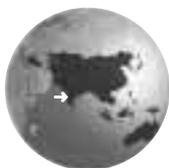
Cathay Pacific Airways fired three pilots on July 6 after they had taken place in a work-to-rule in a dispute over pay and working hours. The union, the Hong Kong Aircrew Officers' Association, had become frustrated at the lack of progress in talks with management, which had broken down at the end of June. The airline said it had extra aircrew and flight attendants on standby to limit the effects of any action. It claimed the sackings were "in accordance with their conditions of service", not an intimidatory measure. A further 49 were sacked two days later however, including the union's secretary and another principal officer.

No more bargaining

At the same time, Cathay Pacific unilaterally imposed a new pay, benefits and rostering package. It included a pay increase, but at a lower rate than the company had offered during the negotiations, and a new rostering system. The pilots continued their work to rule. The airline stated it would not negotiate until the union ended its industrial action. The union did later suspend its action, and negotiations resumed but again broke down, mainly over work schedules. The dispute had not been resolved by the end of the year.

India

POPULATION : 992,700,000 / CAPITAL : New Delhi / ILO CORE CONVENTIONS RATIFIED : 29,100,105,111



Limitations on trade union rights in the civil service remain in place, while proposed legislation would impose new restrictions on organising in the private sector. Striking teachers were arrested, and strike breakers were brought in during a transport strike.

THE LEGISLATION

Workers may establish and join unions of their own choosing without prior authorisation. Collective bargaining is also recognised.

The legislation makes a very clear distinction between civil servants and other workers. Public service employees have very limited organising and collective bargaining rights.

Restrictions on the right to strike

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.

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.

A State excluded from the system: Sikkim

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, workers can only form one 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.

Proposed changes to labour law

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|--------------------------------|--|
| Trade Unions Act | The Rajya Sabha (Council of States), the Indian parliament's Upper House, approved the Trade Unions (Amendment) Bill in August. Under the bill, a union would have to represent a minimum of 100 workers – excessive by international standards - or 10% of the workforce, as distinct from only seven people at present. If ratified it would also reduce the number of "outsiders" (those not employed at the enterprise) allowed to sit on a union executive, and would require unions to submit their accounts for auditing. |
| Industrial Disputes Act | The government announced its intention to amend the Industrial Disputes Act. Under the new Act, establishments employing less than 1000 workers (as against 100 at present) will be permitted to lay-off or retrench workers or close down without consultation and without the prior approval of the government. This new law will affect over 90% of organised workers. The government planned to introduce it in early 2002. |
| Export Processing Zones | The government proposed to declare export processing zones and special economic zones "public utilities", which would mean that a 45-day notice period would have to be given before a strike could be held, as compared to 30 days at present. |
| Contract Labour Act | Plans to amend the Contract Labour Act will curtail the rights of contract labour. |

RIGHTS IN PRACTICE

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| Only a small minority of workers protected | 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. The country has a large informal sector where it is difficult to enforce legislation. |
| Export processing zones | The government seeks to limit trade union action in the country's seven export processing zones to a minimum. In law the right to join trade unions and to bargain collectively applies to the zones but entry is restricted to the workers, who are bussed in by their employers. Given that trade unionists are not able to enter the zones organising is in practice extremely difficult. |

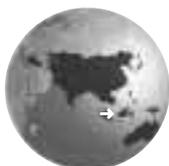
EVENTS IN 2001

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|---------------------------------------|---|
| 450 striking teachers arrested | 450 teachers were detained in the Gujarat state on September 5. They had been part of a strike by 100,000 teachers that began on August 28 over a pay and transport allowances, and had been arrested when they gathered to mark Teachers' Day. They were released within hours, but were warned that all strikers should return to work within three days or the government would invoke the Essential Services Maintenance Act. Under the act, strikers can be arrested and charged if they fail to return to work within the three days. |
| Union leader dismissed | The general secretary of the union at Maruti Udyog Ltd., Mathew Abraham, was sacked on October 10. He had been involved in a legal battle with the management for two months over charges of violating the company's standing orders. Mathew Abraham said the charges were false. He had been strongly opposed to the company's disinvestment policy, and in the past had led various strikes. |
| Strike breakers | When bus drivers, supported by the Centre of Indian Trade Unions, went on strike in the Andhra Pradesh State, the RTC transport company brought in substitute drivers. There were several clashes with police in strikes around the state. In Rajahmundry, strikers who sat at the entrance gate to prevent the buses driven by substitute drivers from coming out, they were forcibly removed by police, even though they were not disturbing public order. In the Prakasam district, there was a police charge, using lathis, on workers trying to prevent buses driven by substitute |

drivers from leaving the depot. In the Nellore town, drivers were brought in from the Police Department, the Lorry Association and the Transport Department.

Indonesia

POPULATION : 209,300,000 / CAPITAL : Jakarta / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



While the worst restrictions on trade union rights have been lifted, many others remain. Labour relations have become increasingly tense, with many incidents of attacks on strikers. In one incident there was an attack on strikers while they slept, killing two.

1 4 3

THE LEGISLATION

Since the Suharto regime ended in May 1998, Indonesia has thrown out its draconian labour laws that prevented workers from forming trade unions and provided for the use of military force in settling industrial disputes.

Private sector workers are by law free to form workers' organisations and draw up their own rules. Under the Trade Union Act adopted in 2000, unions must be registered with the Manpower Ministry. They are required to have a least 10 members, a reasonable limitation by international standards. There can be more than one union at a workplace. Those who prevent a worker from joining a union are liable to a fine or imprisonment. The law gives civil servants the right to organise, which they did not have before.

Restrictions

There are still restrictions in the legislation. A court can dissolve a trade union if its basis conflicts with the 1945 Constitution, or the Pancasila, the national ideology which puts the emphasis on consensus and national unity, or 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. Once a union is dissolved, its leaders cannot form another for six years.

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 the right to represent their workers.

The law does not guarantee the right to strike. Strikes are not forbidden, except in the civil service, but intensive mediation by the Manpower Ministry must take place first and a strike warning must be given.

Collective agreements must be signed within 30 days or must be submitted to the Manpower Ministry for mediation, conciliation or arbitration.

The law does not address the settlement of jurisdictional disputes between different trade unions at the same workplace.

Teachers

Teachers must belong to the Teachers' Association (PGRI) which is technically classified as a trade union but continues to operate more as a welfare organisation, although it does ask the government to improve the status and salaries of teachers.

New proposals

The government proposed a new law that would prevent workers from striking during negotiations with employers, but postponed it further to strong union resistance.

RIGHTS IN PRACTICE

Tension and intimidation

The Chairman of the Indonesian Prosperity Trade Union (SBSI) Muchtar Pakpahan, said that relations between government big business and workers were still tense. Frequently when workers try to set up trade unions, companies either fire or demote union leaders and members, making workers afraid to organise or join a union. Trade unionists

also cite a growing number of attacks on their organisers by paramilitary groups supported by the military and police and paid for by employers to intimidate workers or break strikes.

Collective agreements rarely go beyond the legal minimum provisions set by government in practice. Agreements tend to be presented to workers' representatives for signature rather than negotiation.

Strikes The mediation procedures that have to be followed before calling a strike are so lengthy that they are almost never followed. Strikes are usually wildcat strikes that break out after the failure to settle long term grievances or an employer has refused to recognise a union, etc.

Dues Trade unions other than the SPSI (the only trade union that was tolerated under the former Suharto regime) have problems getting their dues deducted directly from workers' salaries. Sometimes union dues are deducted from non-SPSI workers ... then paid to the SPSI.

Teachers In practice, teachers do form unofficial unions outside the PGRI.

EVENTS IN 2001

Background There were many disputes over the year, against a background of rising unemployment and continuing economic, social, political and security problems. "The labour relations landscape appears to be getting worse" said the ILO Jakarta office in a statement. Disputes were often marred by violence resulting in injuries and fatalities. There was much criticism of the inappropriate role of the government, police and army.

Anti-union campaign in banks The federation of bank labour unions (Aspek) reported that the Panin and Mayapad banks were both continuing to reject the existence of unions at their banks, despite the fact that they had been registered at the Ministry of Manpower. The problems began in 2000 when at least 20 members and executives of the Panin Bank Workers' Union (SPBP) were reprimanded, transferred and one of them dismissed because of their activities in the union. All five executives of the Mayapad Bank Workers Union (SPKBM) were also dismissed. The banks set up splinter puppet unions, and began court actions against union officials.

Shangri-La - replacement labour The dispute at the Shangri-La hotel in Jakarta continued. The workers had held a protest strike in December 2000 when their union president, Halilintar Nurdin was summarily dismissed for his union activities and banned from entering the premises. The union had been engaged in collective bargaining with the management. Some 580 workers were subsequently dismissed for refusing to leave the union, the Shangri-La Hotel Independent Workers' Union (SPMS). The hotel refused to allow union members back in and remained closed for three months. It reopened on March 17 with a non-union workforce.

During the lock-out the union organised a picket line. Union treasurer Mohammed Zulharman was dragged from the picket line on February 19 and badly beaten by five "security guards" identified by witnesses as "body guards" to Osbert Lyman, one of the hotel owners. He had to be hospitalised as a result of the attack. The police released one of the assailants without any charges. On the same day, the governor of Jakarta announced that he would put special security forces at the hotel's disposal in the event the management succeeded in reopening the hotel with non-striking workers.

Police beat protesters When 300 of the union members involved in the dispute held a peaceful protest outside the hotel on the day it opened, they were subjected to vicious beatings by the police. The police had been ordered to take action in order to dismiss the protesters, even though they were not disturbing public order. Several were badly injured and 20 had to be hospitalised. A pregnant hotel restaurant worker miscarried in hospital as a result of the beating she received.

Obstructing negotiations? The Ministry of Manpower and Transmigration had arranged for talks with the SPMS union and the hotel management on March 14. However the management did not deliver the letter of invitation to the union until March 20. The union believe the management deliberately withheld the letter to sabotage the negotiations.

In May the Central Committee for Labour Disputes Settlement ruled in favour of the termination of the employment contracts of 248 employees at the hotel, further to a submission by the management in December 2000. Its main concern seemed not to be the issues involved but rather to ensure the correct calculation of severance pay. The union contested the ruling.

PT Kadera - strikers killed

A violent attack on striking workers at PT Kadera resulted in the death of two workers. PT Kadera is a car upholstery manufacturer located in the East Jakarta industrial area. On March 16, about 400 workers from the plant went on strike and organised a sit-in to demand a wage increase and improved conditions of employment. The workers were being paid less than the minimum wage. In the early hours of March 29, as the strikers were asleep inside the factory, they were attacked by more than 400 unidentified people using knives, metal rods, stones, guns and bombs. One worker, Kimun Effendi, died in the attack. Another Rachmat Hidayat, died in hospital of his injuries. A further ten were seriously injured.

It appeared that the attackers were thugs hired by the company. The deputy manager of PT Kadera, Amrin Gobel, was arrested on May 1 after another suspect told police that it was Gobel who had instructed him and his men to carry out the attack. It later emerged that he had paid them 25 million Indonesian rupiahs (US\$ 2,762) to carry out the attack. Lawyers involved in the case also said they believed there was military involvement, given some of the weapons used.

Marsinah

The incident was compared to that of the killing of Marsinah, a worker at PT Cipta Putra Surya in Surabaya, East Java, who was murdered in 1995 when she and her colleagues staged a strike to demand better working conditions. There was strong suspicion of military involvement in the case, which remains unsolved.

Trial

Seven of the suspects charged with the attack on the striking Kadera workers went on trial on August 28. Although the deputy manager, Amrin Gobel, was still a suspect, he was not on trial, as his case was "still being processed".

PT Singapore Mosquito - union leaders dismissed

SBSI members were dismissed by the PT Singapore Mosquito Factory in Medan, North Sumatra in April. The SBSI had just negotiated an agreement with the company on issues such as monthly pay, annual leave and health insurance. After the agreement had been signed, the company dismissed 11 of its workers, all SBSI union officers.

PT Panarub - union leader jailed

Ngadinah Binti Abu Mawardi was arrested in April, six months after her union organised a strike at the footwear factory where she worked, and held in Tangerang prison without bail. Ngadinah is the secretary of the Footwear Workers' Association (Perbupas), one of two unions operating at PT Panarub, a footwear manufacturer supplying for the sports goods manufacturer Adidas-Solomon. At the end of a three-day strike over allowances and labour regulations in September, management and the union agreed that the company would not fire or otherwise intimidate the workers who had been involved in the strike. Ngadinah was asked to report to the police six months later, on April 23, and arrested for "displeasing acts". Further to international pressure she was released on May 22 on bail, still facing charges.

May Day arrests

Eleven people were arrested for organising a workers' rally to mark International Labour Day in the town of Sidoarjo in East Java. They had been "caught red-handed" going round several factories to encourage workers to take part in the rally.

Suspended for forming a union

Thirty employees from Jakarta Hospital were suspended from their jobs in June after forming a labour union. They had decided to form the Nurses and Paramedics Labour Union because of the wide pay gap between hospital employees and directors. Ophet Emanora, a head nurse and chairwoman of the union was suspended after the union was formed. Other employees protested at her suspension and signed a petition demanding the dismissal of the directors, salary increases and the reinstatement of Ophet. The directors responded by ordering all employees to sign forms stating their compliance with all hospital regulations. It was when 30 employees refused to do so that they were suspended.

Dismissed for organising strikes Arif Minardi and A.A. Bone, the chairman and secretary of the Employee Communication Forum were fired by state-owned aircraft maker PT Dirgantara Indonesia (PTDI) on October 13. PTDI Managing Director Jusman S.SjamaI made it clear that the reason for the dismissals was that the two men were responsible for a series of employee demonstrations and strikes.

Shangri-la strikers fined At the beginning of November the South Jakarta District Court ordered seven of the people involved in the Shangri-La dispute to pay the equivalent of US\$2 million in compensation for the losses they were accused of causing during their demonstrations against the hotel's management last year. In the civil suit brought by the hotel's owners, the presiding judge found the accused guilty of "intimidating" the hotel's management. The seven – five dismissed union leaders, the head of the independent hotel workers' federation (FSPM) to which the Shangri-La union belongs and the International Union of Foodworkers (IUF) representative in Indonesia – were also ordered to publish a written apology to the management in the national newspapers.

Strikers attacked and arrested Strikers were attacked and injured and nine leaders of the Indonesian National Front for Labour Struggles (FNPBI) arrested further to a strike at the Matahari Putra Prima department store. One thousand workers from 15 branches of the store gathered peacefully on November 8 to demand payment of allowances they had not received. After a long wait a workers' delegation had a brief meeting with management, only to be told there would be no negotiation. The peaceful protest continued, ignoring an ultimatum to disperse by the police. An hour after the ultimatum the police commander issued orders to disperse the strikers. Scores of police attacked the workers, 31 of whom received injuries, in most cases head injuries, in others severe bruising from being kicked while on the ground. Nine FNPBI leaders were arrested including FNPBI chairperson Dita Sari, and the chairperson of the Matahari branch of the union, Amran Sadat. The others were all either branch leaders or district leaders. They were detained at the Violent Crimes division of the Jakarta Metropolitan Police Headquarters.

More violence and arrests Nine workers from PT Koinus Jaya Garment who had been demonstrating along with some 250 others, were arrested on November 15. The 250 workers at the garment factory had been laid off supposedly because of declining sales, although those concerned suspected it was really because they had joined the Karya Utama Labour Union Federation. The demonstration was organised after the factory failed to respond to their demands for severance payments. Some 200 officers from the Tangerang Police precinct were deployed to disband the rally. Workers suffered wounds during the clash with the police who fired five warning shots and forced their way into the factory to arrest the nine organisers of the protest. The nine were released the following day and ordered to report to the police station once a week. Three of them, named Luciana, Sri Hayati and Siti Suryani, were charged with vandalism and incitement to violence.

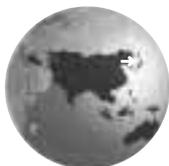
Union members victimised A worker named Hamdani, employed by the sandals manufacturer PT Osaga Mas Utama, was arrested on October 23, on charges of stealing company property. He was reported as being in possession of a sandal, a reject that was to be thrown away. Workers often used the reject sandals for praying. No-one had ever been accused of theft for doing so until Hamdani and a group of his colleagues joined the Trade Union Federation of Karya Utama. His colleagues said Hamdani had been harassed and victimised ever since.

Shangri-La dispute continues Workers at the Shangri-La hotel had not been reinstated by the end of the year. An ILO recommendation that all the workers dismissed in the strike be re-employed was ignored. The ILO also called for an independent judicial inquiry into the attack on Mohammed Zulharman, SPMS treasurer. The Minister of Manpower and Transmigration said the ILO could not interfere in the case because it was a domestic affair.

Neither the Ministry of Labour nor the labour tribunal intervened concretely to protect the workers' rights to freedom of association and to bargain collectively. The Indonesian government failed to meet its obligation to ensure the respect of the country's laws on the freedom of association, and allowed police forces to be used to assist the employer in breaking up the collective protest action.

Japan

POPULATION : 126,800,000 / CAPITAL : Tokyo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,138,182



The Japanese government has decided to maintain restrictions on trade union rights in the public sector, ignoring requests to bring its legislation into line with international standards. The private sector appears to be growing more hostile to union activity

THE LEGISLATION

The constitution recognises workers' freedom of association, right to organise, to bargain and act collectively. There are limitations however, particularly for civil servants and to a lesser extent for employees of state-run companies and private companies with "higher social responsibility" such as the electric power sector.

Public service – heavy restrictions

Labour relations in Japan's public service are governed by the National Public Service Law and the Local Public Service Law, dating back to 1948, which heavily restrict basic trade union rights. At the national level, staff may organise with the exception of members of the police force, penal institutions and the Maritime Safety Agency. At the local level, they may organise with the exception of police officers and fire fighters. Administrative and clerical workers do not have the right to bargain collectively, at either local or national level. Their wages are set by laws and/or regulations. Non-clerical workers may negotiate collective agreements. All public employees are banned from striking, including non-clerical workers. Trade union leaders who incite strike action in the public sector can be dismissed and fined or imprisoned for up to three years.

Over the years the Japanese government has repeatedly ignored ILO recommendations that it amend its legislation to remove the restrictions on public workers' rights and bring them into line with international standards.

New proposals – further restrictions?

The government has finally decided to reform its outdated public service system, and promised at the June 2001 international labour conference to "negotiate and consult with the employees' organisations concerned". It ignored these promises however, and on December 25 2001 unilaterally adopted the General Principles of Administrative Reform. It ignored requests by the national trade union centre RENGO to bring its system into line with international labour standards. Under the General Principles, the authority of the government as an employer is to be greatly expanded while "the current restrictions placed on the fundamental labour rights of public workers shall be maintained". The government is planning a total revision of public service legislation in 2003. Given the government's tendency so far to ignore both the trade unions and the ILO, the unions are concerned that trade union rights will be further restricted.

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 requires separate unions to be created in each municipality. Most staff in senior executive grades cannot be part of the same union.

RIGHTS IN PRACTICE

In the private sector, trade union rights have generally been well respected by employers, although recent abuses suggest this may be changing. Reinstating workers fired for having participated in trade union activities can be a slow process.

Restrictions in the public sector are enforced. The national trade union centre Rengo reports that the legal sanctions are applied in cases where public sector employees defy the rules and take strike action.

EVENTS IN 2001

Interference in union activities

Officials from the All Japan Seaman's Union (JSU) were forced by police to leave the Liberian flag vessel ACX Lily in the port of Osaka on June 4 under threat of arrest. Two days later JSU officials were prevented by police from boarding the same vessel on its arrival in the Tokyo container terminal. On both occasions they were seeking to conduct legitimate trade union business. The union was in dispute with the company over what it considered to be unfair labour practices, including forcing workers employed by the company to withdraw from union membership.

Union-busting

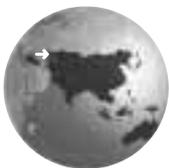
In March Shizuoka Fuji Color laid off more than 70 employees, all members of the union, claiming bankruptcy. The signboard was changed overnight to "Fuji Color Mishima". The company continued to carry out exactly the same activities as before, employing new staff. The new company said it would not allow a union. When the Chemical Workers' Union Federation came to the aid of the Shizuoka Fuji Color Union, and a university professor was hired to analyse the company's financial report, it was found that the bankruptcy was a sham. (Neither Shizuoka Fuji Color nor Fuji Color Mishima has any relationship with Fuji Photo Film.)

Agreements reached at Kobe Steel

All the three cases against Kobe Steel lodged by its employees were resolved on June 26 when out-of-court settlements put an end to years of anti-union discrimination. In April 1992, 12 employees lodged a complaint with the Hyogo Local Labor Relations Commission claiming a wage gap resulting from discrimination against the smaller unions. Two other cases lodged by five employees concerning orders from the company to subsidiaries without consent were also dropped. At the same time the company agreed to abide by labour laws and the corporate ethical code.

Kazakhstan

POPULATION : 16,300,000 / CAPITAL : Astana / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



The country's legislation and practice are strongly anti-union.

THE LEGISLATION

Unions can exist, with a minimum of ten members, and provided they are legally registered, but the law places many obstacles in their way.

Individual agreements

The labour law adopted by the government of Kazakhstan in December 1999 protects the rights of the employer more than those of the employee and favours individual (ILA) rather than collective labour agreements. The employer can determine the term of the ILA, and decide on an employee's salary, provided it does not fall below the minimum wage.

Dismissals

The 1991 law also made dismissals easier by removing the requirement for the permission of the union to terminate an employment contract.

Easy for employers to obstruct unions There is no obligation for an employer to pass on dues collected through the check-off system to the union. Nor does the employer have to allow the union to meet on their premises, or use any communications equipment.

Strike restrictions There is a long list of enterprises where strikes may not be held, including those where production is round the clock. The procedure for taking strike action is lengthy and complicated. After the union has held an assembly and presented its demands to management, it must undergo compulsory arbitration. If it still wishes to pursue strike action, a further meeting of the membership must be held.

RIGHTS IN PRACTICE

High registration costs The cost of registering a branch union is prohibitive. It is the equivalent of about \$150 dollars, far higher than the average wage in Kazakhstan. It makes it almost impossible for union branches to set up in small enterprises.

Puppet unions It is common practice for companies to set up their own puppet unions or employees' organisations which carry out activities that are the exclusive prerogative of trade unions. The president of the 'Kazakhmys' corporation forced workers to leave their union and join a company union headed by the assistant to the general director of the 'Kazakhmys' department.

EVENTS IN 2001

Tengizchevroil – persistent anti-union activities:

No guarantees On February 2 2001, the Trade Union of Tengizchevroil Workers (TUTW) received a letter from the company refusing to sign a collective agreement concerning guarantees about its right to carry out union activities.

No dues The union's problems with Tengizchevroil (TCO), a joint American-Kazakh enterprise (Chevron, Mobil and Kazakhoil) began in 1998, when the company suspended the check-off of union dues. After that time the union experienced a series of problems, including difficulties in gaining access to the workers, continuing problems over collecting dues and denial of permission to hold union meetings.

Puppet unions The management also set up two puppet unions. First it created the Independent Trade Union of the Tengiz Oil and Gaz Complex in 1998. Its chairman was not even able to provide a list of members' names when asked. That union did not seem to satisfy management, as it then created the Association of Tengizchevroil Workers. The Association's chairperson made clear in a letter to the TUTW that management had played an active role in the creation and decision-making of the union.

Collective bargaining compromised Negotiations for a new collective agreement, concluded in October 2000, were carried out with all three unions. The TCO management made it clear that it would only carry on bargaining with the TUTW on condition that a common body was created including the other two organisations. During the negotiations the Trade Union of TCO Workers called for a clause guaranteeing trade union activity, but was not supported by the other two unions. The TUTW therefore called for a separate agreement on the subject. It was this agreement that the management rejected in February 2001. Meanwhile, the question of the transfer of trade union dues had still not been settled, and the management ruled out dealing with it in a separate agreement.

Agreement on check-off still withheld When Togzhan Kizatova, the chairperson of the TUTW, wrote to the General Director of TCO, Tom Winterton, on 28 August, to try to settle the question of the deduction and transfer of union dues, he replied he was not in a position to seek a solution because "a Western businessman cannot act as an intermediary between the trade union and his workers".

Permission to hold union meetings denied Management repeatedly denied or ignored requests from the TUTW to hold trade union meetings. According to the TCO management directory, trade union meetings may only take place if the human resources coordinator receives a request for a meeting 10 days in advance with a list of all participants and the agenda. Furthermore,

the Directory stipulates that "The HR coordinator takes part in all meetings of representatives of trade union and workers of Tengizchevroil". When the TUTW applied on September 26 to hold a meeting, management simply didn't reply.

Other sectors

There were various reports of problems faced by trade unions in other sectors during the year.

Beatings

In January two trade union organisers in Uralsk, Ainur Kurmanov and S. Sultangaliev, were severely beaten. They had been involved in organising a strike at the Metallist factory. Ainur Kurmanov has been singled out in the past for his activities.

Union leader beaten

In March, the leader of 'Tentekskaya' (the coal department of Ispat Karmet Company) mine workers' union was beaten when she put copies of the union information leaflet on the information desk. The entrance to the trade union committee meeting was blocked with an electric welder.

Threats

In the same month, leaders of miners' unions reported serious threats against other activists, notably G. Nikitin, S. Zhunusova and R. Mingazova.

Korea, Democratic People's Republic of

POPULATION : 21,700,000 / CAPITAL : Pyongyang / ILO CORE CONVENTIONS RATIFIED : --



The Democratic People's Republic of Korea still has a single trade union whose only purpose is to carry out the ruling party's bidding. There is no recognition of trade union rights.

THE LEGISLATION

No freedom of association

There is no freedom of association in the Democratic People's Republic of Korea. Independent trade unions are prohibited. The only authorised trade union organisation, the General Federation of Trade Unions of Korea, is controlled by the single party, the Korean Workers' Party (KWP). It operates according to the old "stalinist" model of trade unions, with responsibility for mobilising workers to meet production targets and providing health, education, culture and welfare services.

No collective bargaining

Workers do not have the right to bargain collectively. Government ministries set wages.

The state assigns all jobs. Joint ventures and foreign-owned companies have to hire their employees from lists of workers vetted for their "ideological purity", drawn up by the KWP.

Repressive system

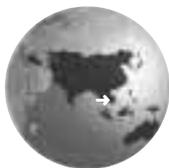
The constitution stipulates that all citizens of working age must work in full compliance with working discipline and working hours. The penal code provides for the death penalty for any individual who hinders the nation's industry, trade or the transport system by purposely failing to fulfil a specific 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.

RIGHTS IN PRACTICE

A government official once described the country's labour force to an audience of foreign businessmen in the following terms: "There are no riots, no strikes and no differences of opinion" with management.

Korea, Republic of

POPULATION : 46,400,000 / CAPITAL : Seoul / ILO CORE CONVENTIONS RATIFIED : 100,111,138,182



There was a sharp increase in the violent repression of industrial action by trade unionists, and many received severe injuries as a result. At least 220 trade union leaders and activists were detained in the course of the year and 50 remained in detention at year's end.

THE LEGISLATION

Civil service virtually devoid of trade union rights

Broad categories of civil servants remain deprived of the right to belong to professional associations. 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.

The ban on teachers' unions was lifted in 1999, and teachers began to organise at school level in 2001.

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.

Right to strike broadly denied

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.

Striking workers and union leaders can be, and frequently are, prosecuted and sentenced under art. 314 of the Penal Code, which prohibits "obstruction to business".

Right to demonstrate limited

Under the Law on Assembly and Demonstration, any gathering is banned within a hundred metres from foreign diplomatic missions. As a result many large companies, such as Samsung, have invited embassies to rent offices in their buildings, effectively preventing workers from demonstrating in front of company headquarters.

Interference in the internal affairs of the trade unions

The TULRAA allowed for immediate trade union pluralism at industrial and national level from 1997, but had left the ban on pluralism at enterprise level in force until 2002. On February 1, 2001, the Tripartite Commission, which is headed by the government, decided to impose a moratorium on this provision, in effect extending the ban by a further five years, in contradiction with the government's earlier commitments. The ban on union pluralism at company level now runs until December 31, 2006.

The TULRAA also prohibits employers from remunerating leaders from 1 January 2002, a measure criticised by the ILO. However, the above-mentioned moratorium also affects this provision, which is now scheduled to enter into force only in 2006. The ILO, however, has pointed out that the legislation 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. Under ILO standards, such matters should be left to the discretion of the trade unions' statutes.

Third party intervention still hindered

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.

Other legislation used against trade unionists, especially following strikes, includes the Law on Obstruction of Public Law Enforcement and the Law on Traffic Obstruction.

- Rights in practice** The increase throughout 2001 of violently-repressed industrial disputes and the steep rise in the number of detained trade unionists were presented by various observers as evidence of a reversal of the democratisation process, in contradiction with the international prestige of Korea's President Kim Dae-jung. Kim had himself been a political prisoner under the previous authoritarian regime and has won the Nobel Peace Prize for initiating a political dialogue with North Korea.
- The authorities justify the detention of trade union leaders by the violence marking some demonstrations and strikes. Unions insist police action is unnecessarily provocative and disproportionately brutal. Prosecutors are quick to issue arrest warrants as soon as workers go on strike, or sometimes when one is simply announced. Police or security agencies mount (occasionally sophisticated) surveillance operations in order to capture strike leaders. Unions' offices and telecommunications are routinely monitored.
- Teachers able to organise at school level** Though still restricted in areas such as the right to strike, teachers now enjoy the right to organise and trade union membership in this sector has increased nine-fold, to 90,000, over the last two years.
- “Paper unions”** In a context where trade union pluralism is legally prohibited at plant level, many employers have resorted to creating their own, management-controlled union organisations, known as “paper unions”. As they are impossible to democratise from within, owing to management’s hostility, and since it is legally forbidden to organise alternative unions, workers are left with little if any rights and cannot engage in genuine collective bargaining.
- Right of appeal marred by excessive delays** Unionists complain that, when they take the Ministry of Labour to court for refusing to register their organisations, their cases often take up to three or four years to settle, during which time the union generally disappears.
- Prison conditions** Imprisoned trade unionists are generally isolated from one another in order to prevent them from taking collective action while in jail. They are confined to their cells 23 hours a day and are allowed only one seven-minutes visit from lawyers or relatives per day.
- International scrutiny** Korea’s labour relations’ record has for years been the object of intense scrutiny by the ILO and by the OECD. The latter has put in place special monitoring procedures to assess the government’s compliance with a promise, made by Korea when it joined the organisation in 1996, that it would put its legislation and practice in conformity with international standards. At year’s end, both ILO and OECD monitoring procedures were still in process.

EVENTS IN 2001

- Attack on Daewoo strikers** On February 12, thousands of riot police attacked a group of 400 striking workers at Daewoo’s Pupyong plant, in Incheon (west of Seoul). The company had sacked 1,750 of its staff three days earlier, saying it wanted to make itself more attractive for prospective foreign buyers. US carmaker General Motors had expressed interest, but creditor banks had said they would cease providing cash to the company if the workers refused the mass dismissals. The massive layoffs, however, appeared to be prompted by suggestions from the International Monetary Fund, whose representatives had stated that Daewoo was in urgent need of important restructuring. Of an initial number of 7,000 staff at the Pupyong factory, over 4,000 had already been fired since 1999, not including the latest batch of dismissals.
- Over 80 unionists were arrested on that day, including Choi Chong-hak, spokesperson for the Daewoo trade union and a regional representative of the ICFTU-affiliated Korean Confederation of Trade Unions (KCTU). Police were also looking for at least 30 more union representatives, including Daewoo union’s President, Kim Il-sop.
- The police again attacked the Daewoo workers on February 20, but had to retreat when faced with a barrage of petrol bombs. 20 more arrests were made on that day, and over 2,000 workers from other Daewoo plants went on a solidarity strike. On February 21, police attacked a rally of workers and students at the Pupyong subway station, and arrested approximately 85 more workers.

The union claimed that the Pupyong factory had gone bankrupt owing to mismanagement and misguided government policies. In March, they sent a delegation to France in order to look for Daewoo's former CEO, who had gone missing after being charged with fraud and embezzlement. The union delegation met with Interpol officials in Lyon.

Also in March, the company announced it would move its Pupyong plant to a new location in Inchon, a move seen by the workers as an attempt to effectively disband their trade union. And on March 24, the police again attacked a group of Daewoo workers who had met on a university campus located close to the factory.

Access to union offices denied

As production was restored, on March 7, the union also tried to resume its activities, but was prevented to do so by management's closure of the union office and its removal to a remote location on the company's grounds. The union then filed a request for a court injunction, which was granted by the Incheon District court on April 6. A subsequent union attempt to reclaim its office was met with a particularly violent police assault on April 10. Although the unionists had come with a lawyer equipped with the court order, riot police attacked a group of 300 workers, sending 43 to hospital with severe injuries, including broken legs and arms, severe head wounds; one worker was almost blinded and another had a punctured lung by a broken rib. By April 13, 24 victims remained in hospital, including the union's lawyer, whose pelvic bone been broken by the police. In addition, 21 unionists were detained and questioned for 48 hours before being released.

Observers stressed at the time of the attack that union members had displayed a very calm attitude, taking off their shirts and laying on the ground in order to demonstrate their peaceful behaviour. The police brutality shocked national public opinion and many calls were made for the Incheon and Pupyong police commanders to resign. They were eventually sacked and both Korea's President, Kim Dae-jung, and the national chief of police later apologised publicly for the police brutality on April 10. But unions continued to ask that those responsible be prosecuted and sentenced.

In June, further injuries were reported amongst Daewoo workers when they staged a protest in Seoul after it was announced that General Motors confirmed it wanted to purchase the plant.

Repression in the banking sector

Throughout the year, the government repeatedly took action against the FKIU-affiliated Korean Financial Institutions Union (KFIU), which had strongly protested at government interference with bank management and forced mergers of banking institutions. Following a strike at the Housing and Commercial Bank in December 2000, 26 union officials were sentenced on March 22, 2001 to terms of up to two-and-a-half years in jail and heavy fines under the "obstruction to business" clause. They included Lee Yong-Deuk, President of KFIU; Kim Kee-Joon, vice president of KFIU; Kim Dong-Man, KFIU Organising Director; Kim Chul-Hong, President of Housing & Commercial Bank Union; Lee Kyung-Soo, President of Kukmin Bank Union; Pail Dae-Jin, Housing & Commercial Bank Union, as well as Park Dae-Jjon, Suh Sung-bong and Nah Kyung-Hoon, all three of the Housing Bank Union. Two unionists, Yang Won-Mo and Sohn Kye-Hyang, each received a suspended sentence of 10 months, while 18 others, including Park Chang-Wan, Kim Moon-Ho, Nam Sung-Sam, Cho Kee-Sung, Lim Chang-Jin and Jin Seung-hwi were fined, for a total of over 19 million won (approximately US\$ 19,000).

Union leader on hunger strike

In late April, Lee Nam-Soon, President of the ICFTU-affiliated Federation of Korean Trade Unions (FKTU), of which the KFIU is a constituent, went on hunger strike in protest at his KFIU colleagues' sentences and imprisonment and other violations of trade union rights, including the brutal attack on Daewoo workers on April 10.

Imprisonment of telecom workers

On March 29, members of the Korea Telecom Contract Workers Union (KTCWU) occupied the Mokdong telephone office, calling for the reinstatement of laid-off workers and regularisation of non-standard work. Once again, police used excessive force to deal with the striking workers, many of whom were arrested. The public prosecutor demanded heavy sentences against six of the union's leaders, charged under the Assembly and Demonstration Act and accused of property damage. He recommended five years of imprisonment for the union president Hong Joon-

pyo, four years for Director of Disputes Kang Tae-bong, and three years plus a 500,000 won fine for four other union leaders. Among KCTWU leaders detained in the same case were Seoul region President Kim, Ho-ki and Director of Disputes Jang, Jeong-duk, Taegu regional president Woo Seong-ki, Pusan regional President Kim, Youn-min, and KCTWU members Kim, Dong-kwon and Lee, Ho-Yeon.

International union protests against imprisonment of Korean unionists held in jail at the time also concerned HWANG Kyu-Seop and JEONG Sang-Chul, respectively branch President and Vice-President of the Korean Scientist and Technicians' Union (KAIST).

Sound truck driver sentenced

On March 31, police arrested Shin Kwang-Hoon, a member of Korea Social Insurance Union, who was driving a sound truck during a union demonstration. Some 20 riot police descended on the sound truck toward the end of the rally, and smashed the car windows. Shin had inched the car forward out of fear during the melee and police falsely claimed that some bystanders had been hurt. Although it was later confirmed that nobody was hurt by the car's motion, Shin was sentenced to two-and-a-half years' imprisonment. In fact, he had himself sustained internal injuries at the hands of the police during his arrest.

Police attack with bulldozers and helicopters

On May 24, workers at the country's largest nylon plant, owned by the Hyosung Corp. and located in Ulsan, went on strike in protest at the relocation of 14 workers whose posts had been replaced by machines, and at charges laid against several union leaders. The company had earlier resorted to intimidation, dismissals and legal action against the union leadership. In particular, it filed a complaint for "obstruction to business" against 17 union leaders, and obtained that a court freeze the union's bank accounts and strike fund, as well as the private bank accounts of 6 individual union leaders. Three union leaders had been arrested on May 6. Seeing the latest transfer decision as a prelude to massive job cuts, the KCTU-affiliated union's 1400 members threatened industrial action, which the management said would be illegal. During the period from May 15 to 22, management hindered the union's attempt to conduct a proper strike ballot, as foreseen by law. Two weeks later, the company asked the police to intervene.

On June 5, 3,600 police officers stormed the plant. They were backed by bulldozers, used to demolish barricades blocking the entrance to the factory. Workers opposed the raid and eight workers were injured in the ensuing confrontation. Hundreds of workers then took to the street and fought running battles with the police, 36 of whom were injured. Over 200 workers were detained for questioning, according to the police.

Meanwhile, six union activists took refuge on top of a 40-meter hightower. They remained there until June 12, when special police commandos stormed the tower, using two gas-spraying helicopters and fire engines and arresting eight unionists in the process. No one was injured in the operation, but the number of detainees in this case eventually reached 17.

Hired thugs

The KCTU later published a detailed account of the industrial relations situation at Hyosung, including very specific details of how management had hired 10 private security firms to help crush the union. The firms in question had jointly mobilised 700 "guards". One of the hired guards later stated that this number included 200 members of crime rings and 100 vagrants, lured into the job with offers of 40,000 to 50,000 won per day. They came to the factory armed with an assortment of weapons, including home-made bombs and pellet-firing "guns", tear gas, gas guns, butcher knives and electric batons. The security firms had also recruited former military personnel and groups specialised in eviction of tenants on housing development projects.

Union leaders facing arrest

Also on June 5, police announced it wanted to arrest KCTU President Dan Byung-ho and other leading union officials after violence which had erupted on June 2 during a KCTU rally in Seoul, held in protest at the massive layoffs resulting from the government-led economic restructuring. The union said the protest had been less violent than was the norm and that police had overreacted.

Construction workers repressed

In April, the Korea Construction Transportation Trade Union (KCTTU) organised a sit-in near the Parliament building, in Seoul, in protest at the employers' refusal to recognize and to negotiate with the union, which

represented 2,500 ready-mix concrete truck drivers. In March, Ryu, Jae-phil, manager of a ready-mix concrete company affiliated with the employers' federation (KFRIC) and President of the federation itself, had refused to negotiate with the union and ordered the brutal suppression of all union meetings. Many unionists had been hospitalised after their meetings were attacked. By early June, 500 workers had been dismissed, one was in jail, 70 more had been charged and the union's president was on hunger strike in front of the Parliament. On June 19, some 350 workers taking part in an outdoor sit-in were assaulted by 2,000 riot police who used hammers and axes to break windows of cars parked close to the union action. Over 300 workers were dragged away and interrogated. Two unionists, including the union's President, Jang, Moon-kee, were charged and remanded in custody pending trial. Following the end of the police action, management brought in strike-breaking workers and the company resumed production.

KCTU general strike June 12

In early June, the KCTU announced it would start a general strike on June 12, in support of, amongst other demands, an end to the restructuring programme, salary increases, an improvement in working conditions and the abolition of the National Security Law. It said the strike would affect 125 factories, 12 hospitals and the pilots at the country's national airline, KAL. Ground workers at Asiana Airlines said they would also join the action. The government warned that the union had not given the mandatory two-week notice and that the strike would be met with decisive action by the authorities.

On June 12, over 50,000 union members went on strike across the country. As for the two airlines, they were basically grounded, after having cancelled half of their international and most of their domestic flights. Although an agreement was reached on the third day of the airline pilots' strike, arrest warrants were issued and several union leaders were later detained (please see below).

Meanwhile, the Supreme Public Prosecutor's Office (SPP) issued arrest warrants for KCTU President Dan, Byung-ho and General Secretary Lee, Hong-woo, as well as against Yang, Kyung-Kyu, President of the Korean Public and Social Service Workers' Union (KPSU), 13 other top KCTU leaders as well as union leaders in the transportation, hospital and other sectors.

Police also took other actions against the general strike. On June 12, it arrested the KCTU Executive Director of Organising and Disputes Shin, Eun-jik. Also detained were 9 unionists at the Dong-A metal factory, in Ansan. On June 15, it raided the KCTU headquarters and the offices of the Korean Air Flight Crew Union. On the same day, it arrested and laid charges against 4 leaders of the KAL Flight Crew Union, who were amongst 14 union officials that voluntarily presented themselves to the police. Nine others had been released after questioning. On June 16, police arrested KCTU Director of External Relations Park, Ha-soon during a mass People's Rally of 7,000 KCTU members and others sectors of civil society.

Meanwhile, KCTU President Dan, Byung-ho went into hiding, from where he continued to coordinate the union's action. But police made it known during the June 15 raid on the KCTU headquarters that it was cancelling Dan's parole, under which he had been released in August 1999, just two months short of completion of an earlier sentence. "Wanted" posters bearing Dan's physical description promised 5 million won (over 4,000 US dollars) for information leading to his arrest and police officers were promised promotions if they succeeded in capturing him.

In all, 47 union members were arrested and remanded in custody between June 12 and 25, bringing the total of those arrested and charged in the first six months of 2001 to a record 137.

Amidst the repression, the government repeatedly called on the unions to abandon the strike. President Kim, Dae-jung first called the strike "illegal", then said that the moment was ill-suited for a strike, as the country was facing a severe draught. The Korean Confederation of Farmers' Leagues responded by publicly calling on the President to stop using the draught as a pretext for the government's anti-labour acts. And rain, which started on the first day of the pilots' strike, ended two days later, just as the strike came to a halt. But the President said that he would introduce legislation to convert airline pilots into an "essential service", which he wrongly said could be prevented from taking industrial action under ILO jurisprudence.

Renewed general strike of July 5

While the first general strike ended, with many unions actively engaged in collective bargaining, the KCTU began to prepare its next move, a new general strike, described by the union itself as "political". Demands included an end to anti-union repression and to neo-liberal-inspired structural adjustment policies, trade union rights for public servants and university faculty, the withdrawal of arrest warrants and charges against the KCTU leadership as well as the resignation of President Kim, Dae-jung and his government. The strike was held successfully on July 5, with chemical and metal workers in the forefront. Over 80,000 workers took part.

Surrender of KCTU leader

One week after the second general strike, pressure mounted on KCTU President Dan, Byung-ho to hand himself into police custody. He had in fact sought refuge at the end of June in Myongdong Cathedral, in central Seoul, which had traditionally served as a safe-haven for trade unionists and other political opponents. On June 19, the authorities urged the cathedral's clergy to force Dan out of the church premises. However, he and other leaders wanted by the police stayed at Myongdong until August 2, when they voluntarily reported to the police. In addition to Dan, KCTU General Secretary Lee, Hong-woo, KPSU (Korean Public Service Union) President Yang, Kyung-kyu and Cha Bong-cheun, President of the Korean Association of Government Employees Works Councils also turned themselves in.

The union leaders' move came after a prominent Catholic priest had mediated between the union and the government, which had promised that Dan's surrender and serving of the remaining prison term would cease the authorities' hostility towards the union.

Government renegeing on its word

On September 28, shortly before Dan's expected release at the end of his sentence, scheduled for October 3, last day of Korea's major holiday (the "Chusok" full moon harvest festival), which he had planned to spend with his relatives, Dan was informed that the Prosecutor's Office had laid new charges against him and that he would remain in jail pending a new trial for events related to the KCTU-sponsored general strikes. The decision was widely seen as caused by the break-up of the ruling government coalition, which needed a "cause" to rally political support, and inspired by the new mood created in the wake of the September 11 terrorist attack on the United States. As for the government, it denied that any deal had ever been reached during Dan's sit-in at Myongdong Cathedral and stated it was unable to do anything about the independent actions and decisions of the Public Prosecutor's Office.

Record number of prisoners

In mid-October, the KCTU issued a detailed list of trade union prisoners. By October 15, authorities had arrested 218 trade unionists, of whom 67 were still in custody. In a detailed analysis of the pattern of imprisonments, it stressed that the total number of unionists detained during the Kim Dae-Jung presidency, by then less than four years old, had reached 663, well above the total number of those detained during his predecessor's five-year term of office, during which 632 unionists had been arrested. It also stressed that several of the detainees belonged to its rival national trade union organisation, the FKTU.

Metalworkers' leader sentenced

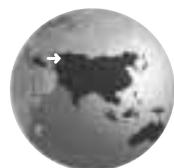
On November 23, Sung-hyun Mun, President of the Korean Metal Workers Federation (KMWF) was sentenced to one and half years in prison. He was taken to Seoul prison right after the sentence was announced. The charges against Mun were related to KMWF-led strikes in 1998 and 1999 and included obstruction to business, obstruction of public law enforcement, violations under the Law on Assembly and Demonstration and the Law on Traffic Obstruction. He had been imprisoned in July 1999 and released after the prosecutor dropped his case. However, the charges were revived in October 2000 and his case had since then been pending in court, although he himself had not been detained. Observers stressed, however, that the KMWF had been playing a key role in the workers' movement for labour law reforms. Mun himself had assured a KCTU Central Committee meeting which had planned the July 12 general strike that auto industry workers from Hyundai, Kia, and Ssangyong were already preparing a strike for July 6, and union representatives for shipbuilding industry workers had also passed resolutions to organise industrial action. It was felt that the KMWF had constituted the backbone of the July 12 general strike and that the government was out to seek revenge against the union.

Bank workers' leaders released for Christmas

Two trade unionists were included in a list of special acquittals designed by the government to mark the Christmas holiday. Lee-Yong Duk, President of the Korea Financial Industry Union and Kim Chul-Hong, President of the former Housing and Commercial Bank (renamed Kookminbank in the course of the year) were released on the morning of December 24. As seen above, they had been sentenced in March 2001 on charges stemming from a week-long illegal general strike against the merger of Kookminbank and the Housing and Commerce Bank in late December 2000.

Kyrgyzstan

POPULATION : 4,800,000 / CAPITAL : Bishkek / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



Practice continues to lag behind legislation.

THE LEGISLATION

The 1992 Labour Law recognises the right of all workers to form and belong to trade unions, and calls for practices consistent with international standards. The right to strike is not specifically protected, but strikes are not prohibited. Unions have the right to bargain for better wages and working conditions. The law protects union members from anti-union discrimination. The government sets the minimum wage, but this does not apply in the export processing zones.

RIGHTS IN PRACTICE

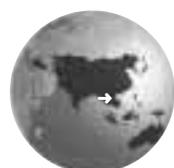
The process of transition from the Soviet era has proved slow, although unions have in general been able to carry out normal activities without obstruction. Respect for democratic rights in general has begun to diminish however, notably since the highly questionable the October 2000 elections. There is concern that the government is more interested in attracting foreign investors than respecting union rights.

EVENTS IN 2001

The dispute at the Ak-Si International, owned by the English company Siton Ltd., continued. Management had taken an aggressive anti-union stand in 2000, threatening dismissals and refusing to negotiate with the union. When, further to outside pressure, Ak-Si finally agreed to collective bargaining in April, the relationship between the parties quickly turned sour. Ak-Si management threatened the union with court action.

Laos

POPULATION : 5,200,000 / CAPITAL : Vientiane / ILO CORE CONVENTIONS RATIFIED : 29



The many restrictions on trade union rights in Laos are still in force

THE LEGISLATION

No freedom of association

Trade union freedom does not exist in Laos. Under the 1990 Labour Code, trade unions can be formed in private enterprises, but they must belong to the single national centre the Lao Federation of Trade Unions (LFTU) which is

directly controlled by the single political party, the LPRP. The LFTU's four-yearly congresses and leadership elections all take place with the authorisation of the LPRP.

Most LFTU members are in the public sector, and its representatives are usually LPRP members, or they are part of the management of the state-run companies. There is virtually no workers' representation in the joint ventures funded by private capital.

Severe limitations on bargaining and strikes

Labour legislation enacted in 1994 was supposed to establish certain minimum labour standards. However only very limited collective bargaining is allowed.

Strikes can only take place with government approval. The government prohibits all "subversive" activities and "destabilising" demonstrations.

RIGHTS IN PRACTICE

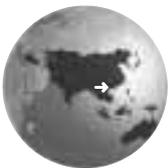
No bargaining, no strikes

The government usually sets wages for government employees, while management sets wages for private sector employees.

No strikes have been reported.

Macao SAR (China)

POPULATION : 400,000 / CAPITAL : Macao / ILO CORE CONVENTIONS RATIFIED : --



China's influence has made itself felt since the handover, with less protection for trade union activity.

THE LEGISLATION

Prior to Macao's reunification with mainland China in December 1999, workers' rights to collective bargaining, the right to organise and freedom of association were protected under Portuguese law which was applied in the colony. These laws were replaced by a series of decrees introduced in 1999 which the government claims are in compliance with International Labour Conventions.

Freedom of association is guaranteed under section 4 of Law No.2/99/M, while section 45 of Decree-Law No.24/89/M prohibits the dismissal of workers on the grounds of membership of trade unions or their trade union activities. Section 347 of the Penal Code is ostensibly a deterrent against public authorities interfering in workers' freedom of association.

No guarantee of collective bargaining

Section 6 of Decree-Law No.24/89/M provides that agreements concluded between employers and workers shall be valid. However, it does not explicitly state that such agreements should be concluded or that they should involve collective bargaining.

Public servants excluded

Certain clauses such as sections 3(2) and 3(3) of Decree-Law No.24/89/M specifically exclude public servants and migrant workers from the protection of the labour law.

RIGHTS IN PRACTICE

Employers' power

It is common practice in Macao that workers do not have formal employment contracts with their employers. Generally only migrant workers have employment contracts. As such, the power of employers to unilaterally change the wages and working conditions of employees or to terminate their employment (which is equivalent to dismissal) is unchecked. In the context of excessive power of employers to act unilaterally, and with no legal-institutional

framework for collective bargaining or even employment contracts, workers are easily victimised and discriminated against for their union activities.

No protection for strikers While the right to strike is supposed to be protected by law, there is no legal protection against retribution by employers for involvement in strike action. As such, striking workers may be dismissed during or after the industrial action, regardless of the negotiated outcome.

China's influence It is reported that the government of the People's Republic of China has a strong influence over local trade union activities, including the direct selection of the leadership of the largest private sector union federation. Nearly all private sector unions belong to this pro-Beijing federation. This has undermined the independence of trade unions, as the concern for supporting central government policies overrides the protection of the rights and interests of trade union members.

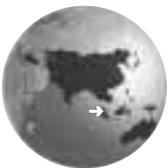
Migrant workers Migrant workers, who make up nearly a fifth of the workforce, are denied the most basic forms of protection. While migrant workers usually have employment contracts, they have no right to collective bargaining and no effective legal recourse in the case of unfair dismissal. While they are entitled to compensation as a result of dismissal before the termination of their contracts, it is common practice for migrant workers to be issued with short-term contracts under which the non-renewal of the contract amounts to dismissal.

EVENTS IN 2001

Strikers arrested On October 20, 2001, around 60 mainland Chinese employees of Guardforce, a security agency held a strike demanding that they be given MOP\$30,000 each as separation pay from the company. This is the same right that local workers enjoy in Macao. The mainland workers are to be laid off as part of the Macao authorities recent decision to repatriate back to mainland China all mainland workers who have been working in Macao for more than six years, apparently to deny them the right to become permanent residents. When the striking workers occupied the offices of Guardforce they were dispersed by the police using tear gas and arrests were made.

Malaysia

POPULATION : 21,800,000 / CAPITAL : Kuala Lumpur / ILO CORE CONVENTIONS RATIFIED : 29,98,100,138,182



There was no relaxing of the many legislative restrictions on trade union rights. The ban on organising in the electronics sector remained in place, and there were several examples during the year of companies manufacturing other goods, such as metals or plastics, being reclassified as “electronics” companies to deny union rights.

THE LEGISLATION

Many restrictions

The law recognises the right of most workers to form and join trade unions, but there are many legal obstacles to organising, while the process for obtaining recognition is slow and cumbersome. 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.

General unions are prohibited and mergers between unions in different professional sectors are practically impossible. The government does not allow organising in the electronics industry. Only in-house unions are allowed.

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. 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.

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.

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 items to this list.

The law establishes restrictions regarding who qualifies as a candidate to become a trade union official.

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.

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 cumbersome.

Restrictions on collective bargaining

The Industrial Relations Act limits collective bargaining in "pioneer" companies. The electronics industry among others still has this status. 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.

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 restrict 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.

The MTUC (Malaysian Trades Union Congress) continues to exert pressure on the government to ratify ILO Convention 87 on Freedom of Association and Protection of the Right to Organise, so far without success.

RIGHTS IN PRACTICE

Employers tend to take advantage of the legal limitations on who can organise 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 as being in 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.

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. So far, the government has failed to apply any sanctions against these employers. In some 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. Even if a worker has been fired for carrying out trade union activities and is later reinstated following a court decision, it can take three or four years, during which time the worker has no income.

Foreign workers barred from trade union membership The Minister of Human Resources 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. Notices on work permits also state that foreign workers are not allowed to join trade unions.

Police intimidation Intimidation and obstruction by police at legally conducted peaceful pickets has become common. The Malaysian Trades Union Congress has been called in on several occasions to seek the intervention of the Inspector General of Police.

Export processing zones There are widespread violations in the zones, despite the fact that the same labour legislation is supposed to apply as in the rest of the country.

EVENTS IN 2001

Suspended for trade union activities On March 7 the Human Resources Minister ordered the Ramatex Textiles company to recognise the Textile and Garment Industry Employees Union (TGIEU) but the company defied the ruling and challenged it in court. The company dismissed 30 union activists on flimsy grounds and drastically reduced the rate of annual bonus to union members. Ramatex then recruited large number of guest workers from Nepal, who by law are unable to join the union. The TGIEU is currently facing serious financial difficulties because it has been drawn into legal proceedings instituted by the Ramatex, which are likely to drag on for years.

Labour activist arrested Labour activist Tian Chua was arrested in April and held at the Kamunting Detention Centre in Taiping. On June 4 an order was issued under Malaysia's draconian Internal Security Act for him to be detained without trial for two years. Tian Chua had been very active in organising workers of all races in Malaysia, and was the organiser of the Labour Resource Centre.

Police stop peaceful picket Police officers ordered members of the Electrical Industry Workers' Union (EIWU) to immediately stop their picket outside M/S Federal Power Sdn. Bhd. in Shah Alam on September 10. The union decided to hold the picket after negotiations on their collective agreement broke down. It had been organised in accordance with Malaysian labour law.

Union members dismissed at Airod (M) Sdn. Bhd. Airod (M) Sdn. Bhd dismissed five union members for wearing badges protesting at the five year delay in settling their collective agreement. The negotiations between Airod and the in-house union had dragged on indefinitely and the action was taken in frustration at the managements' uncooperative attitude. Three of the five dismissed employees were members of the inhouse unions' Executive Council.

Reclassifying as "electronics" industries There were several instances during the year where companies were reclassified as "electronics" industry to deny unions their organising and bargaining rights.

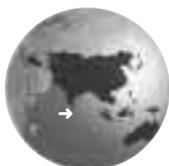
- Metal products classified as electronics** Between June and December, the MTUC-affiliated Metal Industry Employees' Union was directed to remove close to 2000 members from six metal products manufacturing companies. The MIEU had organised workers in these companies since early 2000 and filed claims for recognition. The companies, all Japan based, challenged the MIEU's right to organise and urged the Department of Trade Unions to rule on the matter. They argued that although they manufacture precision metal die-cast parts, they ought to be categorised as an electronics industry because their products are supplied as parts to the electronics industry. The MIEU pointed out that just two years ago these products were classified as metal products.
- Plastic products classified as electronics** The National Union of Petroleum & Chemical Industry Workers expressed dissatisfaction over the DGTU's rulings that classified plastic products as electronics products. The effect of this was to deny union recognition and the right to collective bargaining to nearly 1000 employees. The companies involved are all Japanese.
- More examples** After a two year delay, the Director General of Trade Unions ruled that the 2000 workers at Matsushita Electronics Industry Sdn. Bhd. (MEI) could not be represented by the EIWU. It also ruled that the union cannot represent employees of GE and Mitsumi Segamat, both having been classified as electronics industry.
- Significant court ruling** In June, the National Union of Journalists won a 14-year battle against the management of Sin Chew Jit Poh when the Federal Court unanimously endorsed the union's stand that the 1987 Collective Agreement (CA) signed by the previous owner was binding on the new management. The Court ruled that the new management - Permandangan Sinar Sdn. Bhd and Rimbunan Hijau Estate Sdn. Bhd - were successors, assignees or transferees of Sin Poh (Star News) Amalgamated Malaysia Sdn. Bhd, the previous owner which was placed under receivership in September 1987.
- The ruling was a significant step in clarifying interpretation of Section 17 of the Industrial Relations Act 1967, as it meant that employers could no longer seek refuge under the cloak of 'successor and assignee' to deny employee benefits due under collective agreements negotiated by their predecessors.
- A case in point is that of the US based company Flextronics which took over Swedish telecom giant Ericsson's telephone manufacturing business in Malaysia. Flextronics claimed that the recognition granted to the EIWU by Ericsson was no longer applicable.
- Recognition constantly delayed** The request for recognition of the in-house union for Academic Staff at the Taylor College, filed in September, was still pending at the end of the year. The college filed the application at the High Court to prevent the Minister of Human Resources from acting on the basis of the results of a membership verification. By December 2001, the hearing of the application had been postponed five times.
- Union busting drives** Following the establishment of a new in-house union, the Japanese multinational Casio Malaysia sought to get rid of as many union members as possible. 120 employees were terminated under the so-called "Voluntary Separation Scheme". The employees were reportedly intimidated into signing resignation letters.
- The multinational petroleum giant Shell Malaysia sought to weaken the Shell Employees' in-house union by reclassifying the majority of their staff as Junior Executives which required them to relinquish their union membership. Many refused the reclassification. The Shell Union president who led the opposition to management's move was subsequently dismissed.
- Estates Staff** The All Malayan Estates Staff Union reported that plantation bosses classified union members as confidential, supervisory and executive staff mainly to deny them union representation.
- Sinora Sdn. Bhd. Sabah** The Sabah Timber Industry Employees' Union (STIEU) reported that management terminated permanent employees who belonged to the union whilst retaining the services of foreign workers and contract employees.

Premier Bleaching Earth Sdn. Bhd

The Director General of Trade Unions ruled that the Non Metallic Mineral Products Manufacturing Employees Union, (NMEU) is not permitted to represent employees of the Premier Bleaching Earth Sdn. Bhd. The union reported that previously they were allowed to organise employees in companies manufacturing similar product.

Maldives

POPULATION : 300,000 / CAPITAL : Male / ILO CORE CONVENTIONS RATIFIED : --



The government still does not recognise the right to form trade unions in its legislation.

1 6 3

No recognition of union rights

There are no trade unions on the Maldives. The law does not specifically ban trade unions but it does not recognise the right to form a trade union or to strike.

The right to bargain collectively is not recognised either. Wages in the private sector are set by a contract between employers and employees.

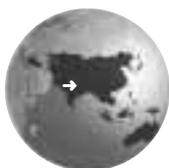
RIGHTS IN PRACTICE**Discouraged**

The government has in the past exerted pressure to discourage seamen from joining foreign seamen's unions.

Workers have not sought to form trade unions as such, but do form associations that address workers' rights issues.

Nepal

POPULATION : 22,500,000 / CAPITAL : Kathmandu / ILO CORE CONVENTIONS RATIFIED : 29, 98,100,111,138, 182



Strike action is still not tolerated in the troubled kingdom, where the police were brought in to arrest striking hotel workers.

THE LEGISLATION

The right to form and join trade unions is recognised. The 1992 Trade Union Act defines the procedures to follow for establishing a trade union and prohibits anti-union discrimination. However the government has not yet implemented all of the provisions.

Strike restrictions

Strikes are permitted, but there are a series of restrictions. The government may stop a strike or suspend a trade union's activities if they disturb the peace or adversely 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 in a very long list of essential services, such as water supply, electricity and telecommunications, road, air and sea transport, the print industry and the government press.

The Labour Act provides for collective bargaining.

RIGHTS IN PRACTICE

There is little collective bargaining in practice, partly because of worker inexperience, partly because of employer reluctance.

Both the authorities and employers have sought court injunctions to prevent workers from going on strike.

EVENTS IN 2001

Background

It was a year of violent upheaval, from the protest riots against the Koirala government in May, to the massacre of the royal family in June, then the Maoist uprising which led to the resignation of Prime Minister Koirala.

Public sector strike ban

On February 6, the Appellate Court of Patan banned strikes by employees in public corporations.

Employers seek hotel strike ban

The Hotel Association of Nepal went to court to prevent workers from taking strike action. The two hotel unions, belonging to the General Federation of Nepalese Trade Unions (GEFONT) and the Nepal Trade Union Congress (NTUC) been calling for a 10% service charge for over 20 years. The two unions began to take joint action in the form of demands and mass meetings in August 2000. When negotiations led nowhere they were ready to strike in November, but held off after the government promised to find a solution. By March their patience had finally given way. On March 14 the Appellate Court ruled against the hotel association and allowed the strike to go ahead.

Police intervention

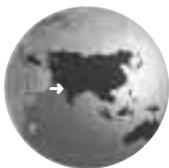
Over 200,000 workers responded to the strike call. The day the strike began, on March 15, police were deployed at the capital's Kathmandu's Soaltee Hotel, where they arrested over 80 hotel workers. Similar arrests took place at the Nanglo Restaurant, the Tansen Restaurant and the Shankar Hotel.

Government intervention

The employers then sought the intervention of the government, which declared the hotel industry an Essential Service, making the strike illegal. The union called off the strike but said they would continue to press their demands.

Pakistan

POPULATION : 137,600,000 / CAPITAL : Islamabad / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111, 182



There were fierce anti-union attacks in all sectors, including arrests, police raids and coercion to sign individual, non-union contracts. Unions were suspended at the international airline, the steady stream of dismissals of union members at the banks continued and the union ban at the Karachi Electric Supply Corporation remained in place.

THE LEGISLATION

The Industrial Relations Ordinance of 1969 (IRO) permits industrial workers to form trade unions but contains many restrictions. Agricultural workers or teachers are not covered by this law as these sectors are not considered an industry. Supervisory and managerial staff are excluded. The law does not apply to companies that employ less than 50 people.

Banks

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. They also stipulate that no officer or member of a trade union in a banking company shall use any bank facilities including a car or telephone to promote trade union activities. Any person violating such provisions shall be liable to a fine or imprisonment of up to three years or both.

Public sector

In the public sector, the Essential Services Maintenance Act of 1952 (ESMA) covers the state administration, government services and state enterprises such as oil and gas production, electricity generation and transmission, the state-owned airline and ports. Workers in most of these sectors may form unions, but cannot go on strike.

Hospital staff, some civil servants and workers in many defence-related establishments may not form unions. These definitions are broad, effectively denying many workers their rights. Forestry workers are considered civil servants, while many railway lines are classified as "defence installations" and consequently their workers considered as defence personnel.

In November 2001, the government introduced new laws for public sector workers preventing them from appealing to the courts against dismissal, and prohibiting any court intervention in such matters.

Strike limitations

There are many legal obstacles to the right to strike. 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 prejudice the national interest. The government can put an end to any strike that has lasted for more than 30 days. The IRO allows the government to ban strikes in any public service utility and the ESMA provides for up to one year's imprisonment for anyone who contravenes the ban. The Anti-Terrorist Ordinance of 1999 codifies the crime of a "terrorist act", which includes "acts of civil commotion". Illegal strikes and go-slows are considered "civil commotion", which carries a penalty of imprisonment of seven years to life, as well as fines.

165

Export processing zones

Workers in export processing zones may not form or join unions, bargain collectively or strike. They have no protection against employer interference or anti-union discrimination. The government recently reported to the ILO that it had authorized the Export Processing Zone Authority (EPZA) to frame draft legislation and that draft labour laws were being finalised by the authority. It was not known at the time of writing whether these complied with international labour standards.

RIGHTS IN PRACTICE

In industry some employers divide production up into units of less than 50 people to evade labour legislation, even to the extent of having employees of different enterprises working at the same premises. Employers also artificially promote workers to managerial status so that they no longer qualify for union membership, usually without the concomitant salary. The procedures for union registration and the appeals process can take many years if an employer is opposed to the formation of a union. Employers often strongly resist unionisation of their employees, resorting to intimidation, dismissal and blacklisting.

Strikes are rare, and given the complications attached to organising a strike are usually illegal and short. They are often broken up by police and used by employers to justify dismissals.

The United Bank Employees' Federation has reported that further to the amendments to the Banking Companies Ordinance, union members have been ruthlessly victimised by the management of banks, particularly the United Bank Limited (UBL). Over 500 trade union leaders have been dismissed, including the President of the UBL Employees' Federation of Pakistan and the General Secretary of the UBL Labour Union in Karachi. They believe the dismissals are being used by the UBL management as a pretext to undermine the very existence of the United Bank Employees' Federation. The government has not acted on the ILO's request that it amend the Act.

EVENTS IN 2001

Background

The country remained under military rule, with the government of General Musharraf using every possible means to stifle democratic movements and violate trade union rights. Poverty was still rife; statistics released at the beginning of the year showed that about 34% of the population lived below the poverty line. Concern about unemployment rose, with further downsizing and layoffs, particularly in the Punjab province.

Bargaining agent recognised at WAPDA

Further to the lifting of the ban on trade union activities at the Pakistan Water and Power Development Authority (WAPDA) last year, the WAPDA Hydro Electric Central Labour Union (WHECLU) was recognised in April as the bargaining agent for the company.

- Collective bargaining denied in PTCL** Workers at Pakistan Telecommunications Corporation Limited (PTCL) were deprived of the right to a representative collective bargaining agent after the management decided not to go ahead with the referendum required to establish a CBA.
- May Day – mass arrests** Zahoor Awan, General Secretary of the All Pakistan Federation of Labour Unions (APFOL) and 21 other trade union leaders were arrested in Rawalpindi following rallies held to mark international labour day. The workers' gathering in the district turned into a procession that was blocked by 500 policemen. The district administration brought charges against Zahoor Awan, Zafar Ullah Niazi, Sardar Iqbal Dogar, Sajid Tanoli, Riaz Bhatti, Malik Muhammad Hussain, Raja Mulazan Zaheer, Abid Rizvi, Sajjad Gardezi and C.R. Shamsi under the Maintenance of Peace and Order Act. Around the country, a total of 855 people in five districts were arrested during peaceful labour day celebrations. Recognition of the day as a public holiday had only recently been restored by the military government.
- WAPDA union leader arrested** Pirzada Imtiaz Syed, General Secretary of the one of the unions at the power facility WAPDA, the Pakistan WAPDA Labour Union (PWLU) was arrested on June 1 during a raid on the union's headquarters by the Federal Investigation Agency (FIA). The raid was a very violent one during which a member of the union staff had his arm broken, computers and other equipment were smashed and the PWLU's files seized. No reason was given for his arrest. Mr. Syed was detained until June 12, when a judge ordered his release. He was then taken to hospital, to recover from the ill-treatment he received during his detention and interrogation.
- Union president tortured** Nadeem Dar, President of the Leatherfield Labour Union, was tortured by the owner of Leatherfield (Pvt) Ltd. Sialkot after the union filed an application for registration of their union with the Registrar. The application was filed on June 2. On June 12, as Nadeem Dar entered the factory he was abducted by the owner and asked at gunpoint to desist from forming the union and to sign a blank sheet of paper. He refused and was taken to a separate room where he was subjected to physical torture.
- Two days later, the management held separate meetings with the union's officers to persuade them to renounce the union. Management threatened to close or relocate the factory if they did not comply. The company also said it would provide records showing that the union officers were all removed from their jobs six months previously, and were not on the company roll at the time they applied to form the union. It would also bring false criminal charges of drugs possession, unauthorised arms and theft. Those who helped them in setting up the union would be killed by hired assassins, they were warned.
- Hundreds of workers involved in the union were later laid off. The employer claimed their union activity had nothing to do with the dismissals, and that 243 workers were laid off owing to the "unavoidable circumstances" prevailing after the September 11 tragedy.
- Airline unions suspended** All unions at Pakistan International Airlines (PIA) and their collective agreements were suspended for two years in July, further to a Rs 20 billion rescue package agreed in June with the government to rescue the ailing airline. According to the deal, there was to be no union activity during that time. The "Suspension of Trade Unions and Existing Agreements Order" of July 5 also stated that during the suspension period the management may prescribe fresh terms and conditions of service. The managing director of PIA, Ahmed Saeed said that the measure was "unavoidable" to save the national airline from collapse, and described agreements signed by the previous management with the unions as "unreasonable". The agreement was supposedly intended to avoid lay-offs, but it did empower PIA management to sack any employee.
- Union busting at Sugar Mills** When the Sindh Sugar Mills Trade Unions' Federation (SSMTUF) held a general meeting at the Al Noor Sugar Mills to inform workers of its charter of demands to the company on July 4, the management termed the meeting illegal and issued suspension letters to the officers of the union and some workers. The management also started to force the workers to sign resignation letters. The management dismissed eight union officers, refused to pay arrears

of 22 months, locked the union office and did not transfer the union dues deducted from workers' salaries. The management also lodged police reports against the union officers leading to the arrest of five.

This was just one incident in a series of union-busting tactics at the mills. Over the course of two years nearly 200 workers were "promoted" as officers without their consent at the Mirpur Khas Sugar Mills, and another 150 workers at the Habib Sugar Mills, so that they were no longer entitled to take part in union activities. The same tactic was followed at the Al Noor Sugar Mills. As their promotion meant they were no longer recognised as workers under the law, they were therefore not covered by trade union law or collective agreements. Other trade union officers faced regular harassment and dismissal. At Ranipur Sugar Mills all the union officers were dismissed. The unions at these mills had protested at harsh management tactics including mass layoffs, 50% pay cuts and the refusal to pay benefits and bonuses.

Union leaders dismissed to break union

Challenge Sports dismissed members of the Challenge Employees' Union after they applied on August 30 for legal registration of the union. The eight concerned were: Mohammed Shabaz, President, Iftikar, Vice President, Nadeem Masih, Joint Secretary, Mohammad Yusaf, Treasurer, Nafees ur Rehman, Secretary, Mohammad Naeem, Executive Member, Mohammad Khalid, Member, and Mohammad Asif, Member. The Registrar of Trade Unions subsequently rejected the application to form a union under the name "Challenge Employees Union" on the grounds that the applicants were no longer Challenge employees.

More arrests at WAPDA

Three leaders of the electricity workers' union PWLU were arrested on October 15 in a violent raid by the police and agents of the Federal Investigation Agency (FIA) on the union's headquarters in Gujrat. PWLU President Choudhry Riaz Ahmed, General Secretary Pirzad Imtiaz Syed and Assistant General Secretary Syed Zia Ullah Azam were taken away for interrogation. The police and FIA searched the offices without a warrant and took away union documents. They also searched the General Secretary's home without a warrant. They did not specify the reason for the arrests, but did speak of "anti-state activities" and "treason". The union had publicly expressed its opposition to the use of nuclear power for military purposes. The three were released the following day.

Civil servants' leader arrested

Hameed Khan, leader of the Baluchistan Civil Secretariat Employees Association was arrested on November 21 after organising a strike to call for the implementation of an agreement on better working conditions and salaries. An agreement had been reached on workers' demands in July, but the government went back on its word and refused to implement it. The governor of Baluchistan declared the strike illegal, and warned that if workers did not return to work they would be sacked and punished. The strike continued and about 100 workers were arrested. The CSEA and the government of Baluchistan reached a new agreement on November 24. The release of Hameed Khan and the other strikers was delayed until November 26, however, as the Chief Secretary of Baluchistan was reluctant to accept the agreement.

Union negotiations rejected

The Pearl Continental Hotels Employees' Trade Unions Federation sought to negotiate with the management of the Pearl Continental Hotel in Karachi on behalf of its casual workers. The hotel management, citing a downturn in occupancy after September 11 proposed to the union that all casual and temporary workers be retrenched and that every permanent employee should take two days weekly rest, one of which would be unpaid. The union rejected the proposal and called for negotiations. Management then proceeded to sack 350 casual workers without informing the union. On November 4, the union's vice-chairman was detained by police. On November 7 he was attacked outside his home.

The dismissal letter was published in a daily newspaper on November 8, and the workers were barred from entering the hotel when they reported for work the next day.

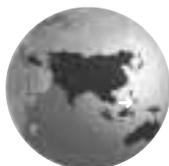
KESC union ban continues

The ban on trade union activities at the Karachi Electric Supply Corporation (KESC) was still in place at the end of the year. The government's response to the ILO's firm request that it lift the ban and restore the right of the

KESC Democratic Mazdoor Union as collective bargaining agent was to reiterate its argument that it will restore trade union rights when the enterprise becomes productive and viable again.

Philippines

POPULATION : 74,200,000 / CAPITAL : Manila / ILO CORE CONVENTIONS RATIFIED : 87,98,100,105,111,138,182



It is difficult for trade unions to take industrial action, both because of continuing legal restrictions and the attitude of employers. Union activity is still strongly discouraged in export processing zones, while car manufacturers also demonstrated their intolerance.

THE LEGISLATION

The law recognises the right of workers, including public employees, to form and join trade unions, although organising is restricted in the public sector.

Obstacles

The law also contains many obstacles to trade union activity. A union must represent at least 20% of the workers of a given collective bargaining entity in order to register. The law also requires high quotas to be met for the establishment of a federation or national centre. Trade union leaders must be employed in the same enterprise as the workers they represent. Foreign nationals may not establish or join a trade union unless there is a reciprocal agreement between their respective countries and the government of the Philippines.

The right to strike is recognised under Philippine law. 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. All avenues of conciliation must have been exhausted. If the Minister of Labour and Employment considers that the industry concerned by the strike is vital to the economy, he or she can impose compulsory arbitration and compel the workers to return to their jobs.

The Law also prescribes heavy penalties for participation in an illegal strike. Trade union leaders are liable to prison terms of up to three years. Anyone who organises or directs any "meeting for the purpose of spreading propaganda against the government" is liable to life imprisonment or the death penalty. The term "meeting" covers the notion of picketing during a strike.

Public sector workers have limited bargaining rights. Strikes are banned.

RIGHTS IN PRACTICE

Employers can and do appeal against unions' right to registration. The process can be very lengthy, seriously hampering organising efforts.

The government and employers also take advantage of the restrictions in the law to obstruct the right to strike. The requirement to give advance notice to the Ministry of Labour gives employers the opportunity to divide the workers among themselves and, in most cases, to organise reprisals against them. If the workers still go ahead with the strike call, the employers can request the National Commission on Labour Relations to issue an injunction against the strike. Instead of playing an impartial role, the government tends to interfere in labour disputes to the benefit of the employers.

Export processing zones

Trade union activity is strongly discouraged in the export processing zones in particular. The officials who govern the zones try to block organising by maintaining a "union free, strike free" policy, and claim they have the right to carry out their own labour inspections in the zones. The Department of Labour and Employment (DOLE) has proved unable or unwilling to enforce labour legislation in the zones. There has been very little effective union organising as a result.

A study carried out in 2000 by the TUCP showed that in seven export processing zones (Cavite, Victoria Wave, Luisita Industrial Park, Laguna, Subic Bay Metropolitan, Bataan and Cebu) at least 977 employees from 43 enterprises had been dismissed for being union members, forming a union, or calling for transparent union elections. In seven enterprises management had refused to recognise the union, and in eight others it had refused to negotiate. Six firms had set up their own "sweetheart" unions to sabotage the existing union.

EVENTS IN 2001

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| Background | The Trade Union Congress of the Philippines (TUCP), welcomed the inauguration of President Gloria Macapagal-Arroyo on January 20. The TUCP had signed the impeachment complaint filed against President Joseph Estrada. The news on the economic front was not so good. Unemployment rose to 11.4% and the unions were warned that job prospects would not improve in the short term. |
| Union supporters fired | Toyota Motor Philippines Corporation (TMPC) fired 227 employees on March 16 in a long-running dispute with the TMPC Workers' Association. After finally winning a two-year fight for union recognition, the TMPCWA was still facing management reluctance to negotiate with it. In an effort to challenge the union's legitimacy, the company had called for a review of the tasks of some of its members, and court hearings were held on February 22 and 23. The union notified the company in advance that 315 workers would be absent from work to attend the hearings, and the company agreed. However, when the Department of Labour and Employment (DOLE) ruled against the company on March 16 and announced it would not hear any further complaints, Toyota dismissed 227 and suspended 70 of the 315 who attended the hearings, claiming they had been absent from work without due notice. |
| Toyota flouts reinstatement order | The TMPCWA first organised pickets then held a strike in protest at the dismissals on March 28. Toyota sought to have the strike declared illegal, and threatened to withdraw from the country if the government did not help end the dispute. The DOLE ordered the union to stop the strike and the management to reinstate the workers. Toyota told the government it would reinstate the workers. In fact, it paid them their wages, but refused to allow them to enter the premises and hired replacement workers instead. |
| Police and security guards attack picketers | The TMPCWA organised a peaceful picket outside the Toyota Bicutan and Toyota Santa Rosa plants on May 28 to call for the physical reinstatement of the 227 union members, and for collective bargaining to begin. The management's reaction was to call its security guards and the police to forcibly disperse the picketers. The picketers were beaten with sticks and warning shots were fired in the air. Ten union members were injured. The dispute, and the suspensions, continued. On August 9, the government ruled that the union's protest action in February and May had been illegal. It also repealed the order to reinstate the 227 dismissed workers. Toyota filed a criminal case against 26 workers, claiming that they had looked at members of management "in a threatening manner" and had shouted "invective words". The union filed an appeal against the government's decision, but faced a two to four year court battle. In the meantime, the number of workers dismissed rose from 227 to 233. |
| Nissan sacks union officers | The Nissan Motors plant in the Laguna Techno zone sacked 18 union officers and a further 27 workers in September after months of collective negotiations reached deadlock. The union called a strike in protests. Nissan's response was to bring in replacement workers. |
| EPZs – fierce anti-union action continues | Fierce anti-union tactics continued in the EPZs during the year. Many of the companies concerned are Korean-owned, producing for internationally-known brands. A common tactic was to try to block union certification elections, to offer financial incentives not to hold such elections, to threaten to close down if elections were held, and to carry out that threat if the union obtained certification. In other cases union leaders were transferred or dismissed, workers were intimidated into not getting involved in union activities, and were offered money in |

exchange for providing the names of union members. The following are just a few specific examples of the anti-union tactics deployed during the year by certain companies. The workers in these factories badly need unions to defend their interests. Long hours, forced (and often unpaid) overtime, job insecurity (short-term contracts) and petty rules such as strict regulations on toilet breaks are the norm.

At Yusung Adventure, a Korean manufacturer of bags for Jansport and Eddie Bauer in the Bataan zone, two workers were threatened with dismissal just for talking to a union organiser. Members hesitate to pursue organising activities for fear of dismissal, and the union vice-president was intimidated into not standing for the presidency.

At Chunji International, a Korean-owned company in the Cavite zone producing sweaters for brands such as Walmart, K-mart and JCPenney, the union president and director were dismissed one day after management received notice of the union certification election. The company threatened to close down if the union won the election, it forced staff to work overtime the night before the election, declared the day of the election a company holiday and recorded the proceedings on video camera. It also offered a financial reward to each worker in exchange for the name of union members.

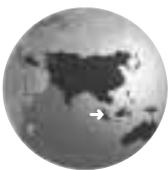
At Philippine Steel Coating Corp, a Filipino-Chinese/Japanese company in the Laguna zone, the union president was dismissed, the vice-president was promoted to a non-union position and the management refused to bargain with the union after it won the certification election.

Good news for railway workers

Union officials at the Philippines Railway Company claimed they had faced harassment from government security forces in their ten-year battle with the company. During that time the PNR management had failed to remit workers' premiums to the Government Service Insurance System, and had failed to pay mandated salary increases. Both issues were finally settled in August, after international pressure and the threat of strike action.

Singapore

POPULATION : 3,900,000 / CAPITAL : Singapore / ILO CORE CONVENTIONS RATIFIED : 29, 98, 182



Singapore needs to update its labour legislation. Several of the restrictions which still exist in law are not applied in practice.

THE LEGISLATION

Private sector – limitations on the right to organise

Workers are free to join trade unions in the private sector. However, the parliament may impose restrictions on grounds of security, public order or morality. Forming a trade union is subject to the approval of the Registrar of Trade Unions who has wide-ranging powers to refuse or cancel registration, particularly where a union already exists for workers in a particular occupation or industry. These powers could be used to obstruct the establishment of a trade union or impose a single union structure. The unions point out that this could be used to promote "yellow" unions.

The Registrar also has far-reaching powers to investigate union finances.

Public sector – exceptions to union ban

There is no legal right to form and join trade unions in the public sector. The Trade Unions Act actually prohibits government employees from joining trade unions but the president of Singapore has the power to make exemptions from this provision. The Amalgamated Union of Public Employees has been granted such an exemption, and the scope of representation has been expanded over the years to cover all public sector employees except the most senior civil servants.

Collective bargaining – court can reject agreements

Collective agreements must be certified by the tri-partite Industrial Arbitration Court before going into effect. The Industrial Arbitration Court can refuse certification at its discretion on grounds of public interest. Transfers and layoffs are excluded from the scope of collective bargaining.

The Industrial Arbitration Court can also refuse to certify collective agreements in newly established companies if those agreements provide for more favourable conditions than the legal minimum laid down in the Employment Act. Exemptions can be granted. The NTUC 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.

Disputes can be settled through discussions with the Ministry of Manpower. If conciliation fails, the parties may submit their case to the Industrial Arbitration Court. In limited situations, the law provides for a system of recourse to compulsory arbitration, which can put an end to collective bargaining at the request of only one of the parties.

Interference into internal trade union affairs

The Trades Union Act restricts the right of trade unions to elect their officers, and whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, exemptions can be granted by the Minister. The Act also limits the objectives on which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes.

Restrictions on the right to strike

To call a strike, 50% plus one of all the trade union's members must vote in favour, rather than the internationally accepted standard of over 50% of those actually taking part in the vote. Strikes are prohibited in essential services such as water, gas and electricity. In February 2001, 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". Some of the MPs have viewed this clause as an infringement of fundamental rights.

Increased representation for executives on its way

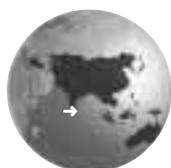
Singapore has approved a Tripartite Agreement on the Extension of the Scope of Representation, which is due to become law in 2002. The agreement will allow rank and file unions to extend their representation to executives on certain issues, such as dismissal and redundancy. Executives do have the right to form their own unions but in practice find this difficult because they are too small in number.

RIGHTS IN PRACTICE

Practice suggests that many of the laws are outdated, as many of the potential restrictions are not applied. For example, compulsory arbitration has not been imposed since 1981, while the Industrial Arbitration Court has never in practice refused to certify a collective agreement on the grounds of public interest. Similarly, the Court always grants exemptions in order to allow the certification of collective agreements that exceed the minimum conditions laid down in the Employment Act. The unions have called for these outdated restrictions to be removed from the country's legislation.

Sri Lanka

POPULATION : 18,700,000 / CAPITAL : Colombo / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,111,138,182



The government still turns a blind eye to the denial of trade union rights in the export processing zones. Employers in the zones consistently refuse to recognise trade unions.

THE LEGISLATION

All workers have the right to form unions, including public sector workers. Seven workers may form a union, adopt a charter and elect leaders. An amendment to the Industrial Disputes Act adopted in December 1999

granted compulsory recognition to any union which represents more than 40% of workers at a given workplace. It also forbids employers from firing a worker as a result of his or her union activities.

Limitations on the right to strike

The right to strike is recognised, but with limitations. Civil servants may not strike, nor may workers in essential services, which are broadly defined to include the distribution of petrol, the export of commodities, the sale of food and drugs etc. Furthermore, the President of Sri Lanka may designate an entire industry or service as essential, thus giving him or her the power to outlaw strikes. The law bans reprisals against strikers in non-essential sectors.

The law provides for the right to collective bargaining.

The law grants workers in the EPZs the same rights to join unions as other workers.

RIGHTS IN PRACTICE

There are widespread violations of trade union rights in Sri Lanka's export processing zones. The zones are managed by the government's Board of Investment (BOI) which sets wages and working conditions and discourages union activity. Union members face intimidation, including threats of beatings from security guards, and new workers are warned not to join unions. Labour representatives say that the Labour Commission, under pressure from the BOI, fails to prosecute employers who refuse to recognise or enter into collective bargaining with trade unions.

The civil war that has been raging in Sri Lanka since 1983, pitting government forces against the separatist Tamil Tigers (the Liberation Tigers of Tamil Eelam, LTTE), gives rise to many human rights abuses, such as the violent repression of protests. The situation inevitably has an impact on the freedom of association and union activities. In May 2000, for example, the government placed Sri Lanka on a "war footing" in response to events in the north, and banned all strikes, although the measure was lifted a month later.

EVENTS IN 2001

Background

At the beginning of the year northern Sri Lanka was still recovering from the havoc caused by the cyclone that killed nine and left thousands homeless on December 26. The battle with the Tamil Tigers in the north and east of the country continued. At the end of the year the LTTE called a month-long ceasefire from December 24, calling on the newly elected United National Front to do the same. Prime Minister Ranil Wickramasinghe had promised a peaceful end to the civil war.

EPZ companies refuse to recognise unions

The Free Trade Zone Workers' Union (FTZWU) has been repeatedly refused recognition in the zones. It has formed 11 branches, only one of which has been recognised.

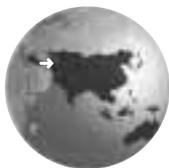
Management at Cosmos Macky told the FTZWU that under BOI rules they were not required to recognise the union. The FTZWU reported that by the end of the year its branch union had become defunct because of management repression on union members.

On September 28, management at Bensiri Rubber told the Commissioner of Labour that it did not recognise the union. It insisted a referendum to prove that the FTZWU represented 40% of the workers. The union agreed.

The Topstar company responded to the FTZWU campaign for union recognition by closing down the factory without warning. The management vanished on October 1.

Tajikistan

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



There are ambiguities in Tajikistan's labour legislation that could leave the door open to serious restrictions. The government has repeatedly failed to respond to ILO requests to clarify the provisions concerned.

THE LEGISLATION

The freedom of association, the right to strike and the right to collective bargaining are recognised in national legislation. At the same time, however, the law appears to give the government a free hand to restrict those rights.

173

Interference in trade union activities?

The Law on Trade Unions states that interference in trade union activities by the state authorities shall not be permitted "except in cases specified by law". The text does not however state what those cases are, and the government has repeatedly failed to respond to requests from the ILO for clarification.

Restrictions on the right to strike

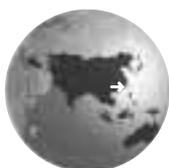
Similarly, the Labour Code states that restrictions on the right to strike shall be "subject to the provisions of the legislation in force in Tajikistan". Again the provisions are not specified, and again the government has repeatedly ignored ILO requests for the text of the provisions referred to. It particularly wanted to know whether the old legislation inherited from the USSR restricting strikes in the transport sector and providing for penalties of up to three years' imprisonment were still in force.

RIGHTS IN PRACTICE

Collective bargaining does take place in practice. Strikes do not. The people are exhausted after the long civil war, and nobody wants to strike, for two main reasons. First, virtually all sectors of the economy are paralysed, and those who have a job are happy to have one, however low the pay. Of all the CIS countries, Tajikistan has suffered the most from the break up of the Soviet Union. It coincided with civil war and Tajiks lost their chance to rebuild their economy and establish new trade and economic relations in the post-Soviet world. The second reason is that workers are afraid that any kind of open conflict could be exploited by political forces seeking to foment unrest and war. Given these circumstances, the trade unions want to support the President of Tajikistan and develop social dialogue.

Taiwan

POPULATION : 22,300,000 / CAPITAL : Taipei / ILO CORE CONVENTIONS RATIFIED : --



While restrictions on trade union activity have been relaxed, the government has not yet introduced the proposed legislation that would strengthen trade union rights.

THE LEGISLATION

The right to organise is protected by law but there are restrictions. Teachers, civil servants and defence industry workers are still not permitted to form trade unions.

The legislation authorises the government to interfere directly 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".

There are many restrictions on the right to strike, which make it difficult to hold a legal strike and undermine 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.

Collective bargaining is recognised by law but is not mandatory. There are no penalties for anti-union discrimination.

Improvements on their way?

A new bill will bring several improvements if adopted, although progress seems slow. 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, and 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: it contains a provision that would allow civil servants, teachers and employees in the defence industry to join trade unions (but not necessarily bargain collectively or to strike).

Companies operating in the export processing zones are subject to the same labour laws as the rest of the country.

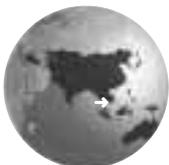
RIGHTS IN PRACTICE

Respect for trade union rights has improved in practice, since the change of government in 2000. It has recognised three new national trade union federations, whereas previously only one was tolerated. However there are still very few unions, and very few workers covered by collective agreements. Collective bargaining generally only takes place in large companies, which only account for 5% of companies in the country.

Labour representatives at the Economic Development Advisory Conference held in August 2001 reported that many employers were still unwilling to discuss labour disputes with unions, and some were still ready to fire workers for union activities.

Thailand

POPULATION : 62,000,000 / CAPITAL : Bangkok / ILO CORE CONVENTIONS RATIFIED : 29,100,105,182



While organising is allowed, with the exception of the civil service, both law and practice still impose many limitations on union activity. Proposed legislation could further weaken collective bargaining rights and the right to strike. There were many examples of strong employer hostility towards trade unions during the year.

THE LEGISLATION

Private sector workers have the right to form and join trade unions under the 1975 Labour Relations Act. They may decide on the rules of their unions and may have employee representation in direct negotiations with employers. The Act prohibits anti-union discrimination by employers. Ten workers in the same factory or industry can apply to form a union. Unions must be registered with the Ministry of Labour and Social Welfare (MOLSW).

No real protection

There is no specific protection for union founders or committee members. Despite the ban on anti-union discrimination therefore, workers can be legally fired for any other reason provided they receive severance pay, even if they are a union leader, a provision which can easily be abused. Members of the bilateral Worker-Employer Welfare Committee are protected from dismissal under the 1998 Labour Protection Act, but reinstatement for unfair dismissals in such cases is a very lengthy process.

The LRA requires that all members of a union executive must be full-time workers in the enterprise. They must therefore negotiate leave of absence for trade union work with the employer.

A 1991 Decree prohibits trade unions from calling on more than two outside advisors. They must be licensed by the Ministry of Labour, and they can assist in collective bargaining.

State enterprises

Employees of state enterprises regained the right to form trade unions and bargain collectively when an amended State Enterprise Labour Relations Act (SELRA) came into force in April 2000. When the SELRA was first enacted by the military dictatorship in 1991 it abolished trade unions in state enterprises.

There is a contradiction in the law, however. The SELRA allows state enterprise workers to affiliate to a national labour congress with private sector workers' unions, but at the same time the LRA does not.

No unions for civil servants

Civil servants are excluded from the Labour Relations Act and there are government regulations saying they cannot form unions. The government sets civil servants' wages.

Restrictions on the right to strike

Private sector workers have the right to strike but the government may restrict strikes that would "affect national security or cause severe negative repercussions for the population at large". The right to strike is not specifically protected for employees in state enterprises. Labour law forbids strikes in "essential services", which it defines in broader terms than those set out by the ILO. There is no protection for the right of civil servants to strike.

Proposed new law would weaken union rights

The Thai government is preparing a revised version of the Labour Relations Act which would further weaken collective bargaining and the right to strike. The law would give the Labour Minister sweeping new powers to impose arbitration. The Minister could end any labour dispute by decree and could order unions not to demand wage rises – and employers not to pay them. These powers could be invoked for reasons of "national security", "public order" or undefined "serious economic problems".

RIGHTS IN PRACTICE

Exploiting legal loopholes

Unions in Thailand report that employers frequently dismiss workers trying to form trade unions. In some cases they are fired while awaiting registration, in others they are fired ostensibly for non-union reasons invented by the employer. Thai law does not provide for punitive damages in cases of wrongful dismissal.

Labour courts inefficient

The unions also report that tri-partite labour courts are very slow in handling disputes, and tend to side with the employer in cases where union leaders have been fired. Even where a court has ordered the reinstatement of an illegally fired worker, employers often react by offering substantial severance pay in lieu of reinstatement.

Another means of circumventing trade union activity is outsourcing, which has proved increasingly popular among employers, notably in the garment and textile industries.

EVENTS IN 2001

Two important cases which began in 2000 and continued during the year illustrate how little trade union members are protected from discrimination in practice, namely those at Thai Durable and Almond. There were many other similar incidents, just a few of which are mentioned here.

Thai Krieng Durable

At the beginning of January it was announced that the Hong Kong based Wing Wah company had bought 51% of Thai Durable shares. Wing Wah had apparently said it would only buy shares if there was no union. Hence, the union believes, the management's constant refusal to recognise it in the run-up to the share sale.

The dispute at the Thai Krieng Durable textile factory began in May 2000 after the company steadfastly refused to negotiate a pay rise with the union. When the workers staged a sit-in strike at the factory in protest, the management fired 390 of the strikers, including 15 union representatives. This was followed by two incidents of violent attacks on the strikers for which no-one was prosecuted. The company ignored an order by the Ministry of Labour in October 2000 to reinstate the sacked workers.

By June 1, one year after the dispute began, management was still refusing to reinstate the dismissed workers, and the protest continued. Management offered the union committee 8 million baht to drop the protest, but the union refused.

Police attack protesters

On September 16, police used metal shields and pepper spray to prevent 200 Thai Durable union members from reaching the home of Prime Minister Thaksin Shinawatra. They wanted the dispute resolved and legal compensation to be paid. The Prime Minister had promised to solve their problems during his election campaign, but there had been no progress six months after he came to power. The union reported that the police used unnecessary force against the women workers. Many of the protesters were injured, four had to go to hospital.

Almond – anti-union campaign continued

Almond (Thailand) Ltd., based in Bangkok, produces gold jewellery distributed in the US by Michael Anthony Jewellers Inc. In December 2000 it sacked 45 workers when they tried to form a union in order to improve their low wages and hazardous working conditions. On April 19 Almond was ordered by the Labour Relations Commission to reinstate the workers. The company ignored the order.

Union members reported in July that the management had stepped up its harassment against them, as they continued to press for union recognition. The company began to restrict union members from working overtime, depriving them of a vital supplement to their low wages. Talking during working time was also restricted. At the same time, workers were being forced to sign a document to say whether they were in favour of the campaign for trade union rights at Almond.

Suspicious attack on union member

Prathum Khamdiwan, a member of the union committee at Almond, was attacked with a metal rod while driving his motor cycle. He and other members had gathered after work to sing labour songs outside the factory, as they had done every afternoon for a week. Colleagues noticed he was followed by another motorcycle as he left the gathering. Prathum was a prominent member of the union committee, and rumours had been circulating that "someone was going to get hurt". Fortunately, he managed to avoid serious injury.

Stepping up the pressure

On August 14, Almond filed a lawsuit against 20 union members for 46 million Baht, about one million US dollars, or 30 years of the combined wages of all the workers concerned. The company claimed it was for financial damages caused by the bad international publicity the union had generated in its campaign, which was probably going to force it to lay off 250 workers without compensation.

On August 18, nine workers, all members of the union's in-plant committee, were suspended for the offence of not tucking in their shirts. No such discipline was imposed on non-union members.

Almond still refuses reinstatement

In November, further to Almond's appeal against the order to reinstate the sacked workers, the Central Labour Court upheld the ruling that the workers should be reinstated with full back pay. Almond management in Thailand still refused to accept the ruling and said it would appeal to the high court.

Almond dispute settled

The Almond dispute was finally settled on December 2, with the help of an international campaign, and after intense negotiations involving not just the local management in Thailand but also the US owner of the company, Jonathan Mandelbaum. Almond agreed to reinstate the 41 workers dismissed one year previously (four more did not seek reinstatement), and to pay full compensation. It promised to recognise the union with full bargaining rights, and to begin negotiations within three days of receiving the union's demands.

Other examples...

TV company fires union leaders

The independent TV company I-TV purchased by Shin Corporation (now owned by the son of the Prime Minister) fired nine members of the I-TV union committee (including the top three officers – the President, Vice-President, and Secretary-General) on February 6, literally one day after the union held its founding congress and elected its leadership. Another 12 union members (including all the union 'founders' not elected to the committee) were also

fired the same day. A campaign of intense anti-union announcements, anti-union meetings with staff by management, and other intimidation preceded the firings. The firings occurred despite the fact that the union was legally registered on January 5, 2001 at the Ministry of Labour and government officials from Ministry attended the February 5 founding congress of the union. On February 22, the Ministry issued certificates of union board member status to the entire union board. On June 1, the Labour Relations Committee unanimously ordered the reinstatement of all 21 dismissed union members and leaders, but the television company appealed the case in July. The case is in the hands of the Central Labour Court.

Ladybird – union busting tactics

Garment workers also faced harassment at the Ladybird company when their union sought to negotiate better wages and working conditions. After the workers submitted their demands, on April 19, the company began a concerted campaign to break the union. It sent representatives to the workers' homes, encouraging them one by one to withdraw their support for the union's demands, in return for a bonus, new overalls, and pay in the event of a strike or lockout. It succeeded in winning over 136 of the 386 workers who had submitted the demand.

On June 8 the company locked out 77 workers, all union leaders or members. Negotiations were scheduled for June 15, but the employer failed to show up.

Police attack protestors

On June 27, the police attacked protesting Ladybird garment workers, injuring 10 and arresting two. The 100 protestors had organised a peaceful protest to ask the government to help solve their dispute with Ladybird. They were sitting in front of Parliament House chanting when the police ordered them to move on. When they refused and demanded to see the Prime Minister the police began kicking them, removed their placards, and took their vehicle and speaker system. They arrested Jamnien Vorawongsa and Sanom Mingsantia and charged them with blocking traffic. A government representative did meet with union representatives however, and promised to intervene.

Agreement – but anti-union discrimination continues

All 77 locked out workers were reinstated on July 5, further to government intervention, and an international campaign. Pressure had been put on the companies that Ladybird supplies to, such as Guess, Gymboree, PreNatal, TJ Max and Marshalls. A new contract was negotiated with Ladybird, which the union welcomed although it fell short of its initial demands. The employer did not implement all the terms of the agreement however. Discrimination against union members continued, despite promises that there would be no reprisals. Union members were not allowed to work overtime and were kept separate from non-union members to prevent them from organising.

Union leaders dismissed ...at Ampass Auto Parts

On July 2, the managing director of the Ampass Auto Parts company called a surprise meeting with 19 union committee members from two unions (from the Ampass Supervisors' Union, and the Ampass Workers' Union) at the factory. His sole demand was for the unions to agree to disband, because he claimed there was no need for unions at the company. When both unions refused, the employer put all 19 on indefinite leave with pay. On July 25, the employer sacked the 8 union committee members who were not Worker Welfare Committee (WWC) members (and therefore not protected by law) outright. He then petitioned the Labour Court to dismiss the other 11 union committee members who were WWC representatives. Another 16 leading union activists from the rank and file were fired between June 24 and 30, after being labelled 'agitators' by the company. The company began to find itself short-staffed. It was having difficulty meeting its orders, and workers were required to put in a lot of overtime. It was also hiring sub-contract workers to replace the missing staff. The cases were submitted to the Labour Court, but were being dealt with very slowly.

...and Thai Klinipro

The Thai Klinipro company fired 23 leading union members, including all ten union committee board members in June. The action followed several weeks of anti-union harassment by the employer against union activists. The reason cited by the employer was a work rule. Five of the 23 were Worker Welfare Committee members, and the employer locked them out while petitioning the Labour Court for the right to fire them. Ultimately, after three failed negotiations to resolve the cases over the period of July 16 to August 21, the Labour Court allowed all the workers to be fired.

Union status revoked

The Department of Labour Protection and Welfare of the Ministry of Labour and Social Welfare MOLSW revoked the registration of the Bangchak Petroleum Public Company Ltd Employees' Union on December 26 and ordered that it be dissolved. The reason given was that the parent company, the Petroleum Authority of Thailand, became a private company on October 1. On that date the union submitted a set of collective bargaining demands to the management, which refused to proceed with bargaining. It claimed it needed to check whether the union still had the right to bargain. The final decision was based on the fact that the Bangchak Petroleum Company was no longer a state enterprise, and therefore no longer covered by the SELRA. By the same token, it was argued, as the union was no longer covered by the SELRA, it should instead be registered under the terms of the Labour Relations Act. It was not allowed to continue with the same charter and same leadership, it was told, it would have to be dissolved and begin the whole process of forming a union from scratch.

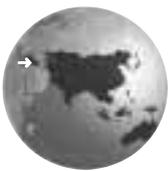
Tanong Pho-Arn – 10 years on

June 19 marked the tenth anniversary of the disappearance of Tanong Pho-arn, President of the Labour Congress of Thailand. He went missing a few days before he was due to fly to Geneva to tell the International Labour Conference of the limitations placed on free trade union activity following the February 1991 coup. He had been publicly critical of the martial law imposed by the military government, which had denied him permission to attend the ILO Conference. Shortly before his disappearance he had been followed everywhere and received numerous anonymous death threats. He told his family "If I don't contact you for three days, that means I have been arrested. If it's more than seven days, that means I am already dead."

At an event to commemorate the May 1992 Democracy Uprising, the University Affairs Minister, Mr. Sutham Saengprathum, had promised that a committee set up by the government to investigate the disappearance of democracy protestors would also investigate Tanong Pho-arn's disappearance.

Turkey

POPULATION : 65,700,000 / CAPITAL : Ankara / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



The public sector confederation KESK and its members faced persistent attacks during the year, including raids on their homes and offices and arrests. Despite changes to the constitution to improve human rights legislation, there was no improvement in trade union rights. A new law on the public sector further undermined union rights.

THE LEGISLATION**Many restrictions on trade union rights**

The law recognises the freedom of association and the right to form a trade union, but also 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.

The new law on Public Employees Trade Unions (PETU) adopted by parliament in June, restricts the right to conduct collective bargaining rights and the right to strike for all public employees trade unions (covering over 2 million employees). It also places restrictions the right to organise. Over 400,000 public employees are now banned from organising.

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. They also have to have at least ten years' work experience.

The law provides protection against anti-union discrimination. The size of the fines that can be imposed on employers

who do not respect trade union rights are too small to be dissuasive however. 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.

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 banned in many sectors that do not fall under the category of essential services defined by the ILO. The right to strike is prohibited in funeral parlours, the administration of cemeteries, the gas, oil, water and electricity industries, the public fire department, maritime transport, railways and urban public transport, banking and finance, health and public services. The law imposes compulsory arbitration in these services.

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. If there is a decision to go ahead with strike action, the employer must be given at least one week's notice. Furthermore, the law allows the government 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.

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 hang up 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.

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.

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.

RIGHTS IN PRACTICE

Poor rights record

Turkey has a very poor human rights record in general. It would like to join the European Union, but its government is still responsible for many violations of human rights, including trade union rights. In an attempt to move closer to EU standards, constitutional changes were adopted in October, the main fundamental change being the abolition of the death penalty for common criminal offences. The European Commission's 2001 annual report on Turkey's progress towards accession notes however that Turkish citizens still have to endure torture and ill-treatment in police custody, excessive and arbitrary restrictions on freedom of expression, association and assembly and the repression of cultural and language rights. Within 48 hours of the constitutional changes being passed, trade unionists were indicted for preparing invitations to a meeting in both the Turkish and Kurdish languages.

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".

Bargaining obstructed

As regards collective bargaining rights, unions report that the government manipulates membership figures or claims there are irregularities in the figures in order to deny them that right. If a union wishes to take an employer to court over challenges to its bargaining rights, the case may take one to two years.

EVENTS IN 2001

Background

Turkey faced economic recession resulting in an estimated 1.5 million jobs lost over the year. The State Planning Organisation, DPT, estimates the number of people living below the poverty line at 25 million, out of a total population of 66 million.

Trade union leaders detained

Five trade union leaders were detained and legal documents confiscated in a raid on the national headquarters of the KESK affiliate Tüm Yargı Sen (Union of employees in the judiciary and enforcement institutions) in Ankara in January. Those detained were Necdet Bekci, President; Nano Kaya, Legal Secretary, Figen Öner, Organising Secretary, Kamuran Emir, Social Affairs Secretary, and F. Hürriyet Pinar, Collective Bargaining Secretary.

Also in January, the houses of the national and Ankara branch leaders of Tüm Yargı-Sen were raided at midnight. Sixteen union leaders were detained and 13 of them later released. The remaining three, including the Ankara branch union's president Tekin Yıldız, were taken into custody. On the following day, January 20, police raided the union's headquarters and confiscated documents. Criminal charges were later brought against Tekin Yıldız and the 15 union leaders detained with him, under art. 169 of the Penal Code, which punishes whoever "knowingly supports a terrorist organisation". The charges related to a report issued the previous year by the union about the expected working conditions of its members in the newly-based "Sincan-F", or "F-type" high security prisons where the government wanted to transfer several thousand extreme-left prisoners. The transfer did actually take place after a massive security operation left over 30 prisoners and several "gendarmes" (armed police personnel) dead. The union's report had actually been written at the request of the Internal Affairs Minister, acting as the employer of the penitentiary personnel affiliated with Tüm Yargı Sen.

The document had criticised the prison guards' working conditions, including constant camera surveillance and isolation of employees from each other, blamed for hampering trade union activities and social contacts. Lack of housing facilities near the isolated "F-type prisons" and occupational health and safety problems were also criticised by Tüm Yargı Sen, as were the detention conditions of the prisoners themselves.

In the following months, Tüm Yargı Sen suffered a number of repressive measures, culminating in April in a police raid on its headquarters.

Union leader injured

Cafer Akpınar, a senior member of KESK, received a head injury during a clash with police on March 17. The incident occurred as unions gathered outside parliament to protest at the government's planned austerity measures. Riot police confiscated placards carried by KESK members.

Demonstrations banned

Further protests by trade unions led the governor of Ankara to declare a month long ban on demonstrations on April 12. The unions had been joined in their protests by other civil groups and small businessmen anxious at the rapidly deteriorating economic situation.

Union headquarters raided

The headquarters of the KESK-affiliated Egitim Sen union were raided on May 2 on the order of the State Security Court. Certain documents were confiscated.

Protesting unionists arrested

Police arrested 21 KESK members on May 15 during a sit-down protest in Ankara against the restrictions on their rights contained in the PETU bill. A further eight KESK members were arrested during a protest in the southeastern city of Diyarbakir.

On May 26, in another protest by KESK against the bill, Ankara police said 500 people had been detained after they resisted efforts at being turned back. Witnesses said hundreds of police were involved in the action, including some on horseback, and that many of the protesters were wounded. The protest had initially been declared illegal, hence the arrests, but as the demonstration built momentum the authorities decided it could go ahead.

More clashes with the police followed. On June 7, KESK members gathered in the southern town of Mersin to read out a public statement in protest at the bill. When the police moved in to stop them, scuffles ensued and eight protestors were injured. Ten were taken in for police questioning. On the same day, more than 2,000 protesters in Ankara faced tear gas and batons as police sought to break up the demonstration. Other protests on the same day by KESK members around the country passed without incident.

Strike action repressed

Also on June 7, employers at the glass company Sisecam removed stocks from plants affected by a strike by its workers, represented by the glass, ceramic and earth workers' union, Kristal-Is. Security forces then arrested trade unionists who opposed this measure, including Kristal-Is branch chairman Aksungur. The strike began on May 24, after negotiations on a new collective agreement, which began in December 2000, broke down over the employers' refusal to consider wage increases in line with inflation. The day after the arrests, the Turkish government decreed a two-month suspension of the strike, under article 33 of Turkey's Law on Collective Agreements, Strikes and Lock-outs, on the grounds that the loss of glass output was a threat to "national security".

181

Anti-union bill adopted

On June 25, the Turkish parliament adopted the Public Employees Trade Unions bill, banning the right to organise of over 400,000 employees, and restricting the organising and bargaining rights and right to strike of all 2 million public sector workers. . Two trade unions, ASIM-SEN (Union of civilian public employees in military workplaces) and TUM YARGI SEN (Union of employees in the judiciary and enforcement institutions) were forcibly closed down, and hundreds of thousands of public employees became unable to elect workplace representatives, except in larger cities.

Union leader arrested

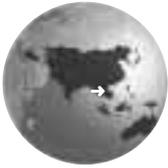
Sabri Topcu was led from his home in handcuffs and taken into custody on September 8 following a police search. The only reason given for his arrest was that a "complaint" had been made against him. Sabri Topcu is the President of the Transport Workers Union TUMTIS (a member of the ICFTU-affiliated Turk-Is national trade union confederation) which had been very active in seeking union recognition for workers at the Istanbul-based company Aktif Transport. Other TUMTIS activists were also detained. A few days before the arrests, TUMTIS organising secretary Sukru Günsili had been threatened, and unionists at the company had been targeted for dismissal. Sabri Topcu's home was raided by the police back in January.

Court cases and transfers

At the end of the year, several of the KESK members arrested during the protest demonstrations were facing court cases, while others had been transferred from their place of work. Nine members of the KESK steering committee and its affiliated unions faced charges relating to a march from Beyazit to Sultanahmet on June 12. A further two KESK leaders face charges after attending a press conference on the "IMF and the Economic Crisis". The 16 executive committee members of the KESK affiliate Tum Yargi Sen, charged in the wake of the "F-type" prisons disaster, were sentenced to three years and nine months imprisonment by the Ankara State Security Court. At year's end, their appeal was pending before the Ankara Supreme Court. In the meantime, several Tum Yargi Sen leaders had been demoted, transferred, banned for life from employment in the public service and/or forbidden to travel abroad. Two teachers from KESK affiliates were displaced to other schools for attending the KESK protest meeting on May 26 in Mersin. Nine doctors from Mersin, from the KESK affiliated SES union, were transferred to other cities. Many more members of KESK affiliated unions faced administrative and legal investigations and were transferred to other workplaces.

Vietnam

POPULATION : 77,100,000 / CAPITAL : Hanoi / ILO CORE CONVENTIONS RATIFIED : 100,111,182



Legislative restrictions and the single trade union system are still in place. Some strike action is tolerated and independent activity is slowly emerging.

THE LEGISLATION

No freedom of association Workers are not free to join and form the unions of their choosing. Any union that forms must be approved by the party-controlled Vietnam General Confederation of Labour and must affiliate with it. All local trade unions must operate under the umbrella of the VGCL.

Restrictions on the right to strike The right to strike exists, but with limitations. There are cumbersome pre-strike procedures to follow. Management and labour must go to the enterprise's own labour conciliation council, or in the absence of this to the provincial labour arbitration council. Not all provinces have such a council however. Strikes are prohibited in public services and those considered by the government to be important to the national economy and defence. The definition is broad, covering a total of 54 sectors, including transport, banks, the oil and gas industries etc. The Prime Minister has the right to suspend a strike considered detrimental to the national economy or public safety.

Collective bargaining Party-approved unions have the right to bargain collectively on behalf of all workers. Acts of union discrimination are prohibited by the labour code.

Export processing zones Export processing zones are covered by the same laws as the rest of the country.

RIGHTS IN PRACTICE

Strike action tolerated Despite the restrictions on strike action, many strikes do take place, without respecting all the procedures, and are generally tolerated by the authorities.

At the same time, many "labour associations" are developing outside the official VGCL, among taxi drivers, market porters and cooks for example.

Old habits die hard The VGCL itself is proving slow to adapt to the market economy and the changing climate that brings. It still sees itself as the bridge between boss and worker, rather than the defender of workers' rights. When the leader of the Tan Binh district branch of the VGCL in Hi Chi Minh City was asked if he had helped his union members lobby for a pay rise, he replied that "The point is not to increase their salary. The point is to make workers understand why their salary is low".

Export processing zones Employers in the zones tend to ignore workers' rights. Only about 10% of workers have long term employment contracts. The remainder are on contracts of between three months and a year, which helps employers avoid the legal requirement to set up a union in enterprises with 10 employees or more. Although wages, working and living conditions are poor, the workers are too afraid of losing their jobs to protest. The management boards of the EPZs have labour offices but in practice they do not deal with labour disputes, and little is done to ensure workers' legal protection in the event of conflict.

The effect of the policies imposed by the international financial institutions with their emphasis on macro economic stability can be seen no more clearly than in the transition countries of Europe. The public sector is contracting, as privatisation without genuine consultation is pushing up already high rates of unemployment, and the gulf between the poor majority and the rich elite is widening. Despite improvements and, in some cases, the introduction of entirely new labour codes, as a general trend, harassment and intimidation have remained widespread while limitations on fundamental trade union rights, both in theory and in practice, are rife.

Croatia, Hungary, Romania, Georgia and Moldova were among the countries to witness the full extent of the failure of the IMF and the World Bank to take into account the often devastating consequences of the undermining of domestic production. Trade liberalisation has led to a huge increase in the precarity of employment, with countries striving to make their markets as attractive as possible to foreign investment. In practice this has led to weakened collective bargaining and anti-union discrimination. The result has been a sharp rise in the informal economy, which in countries such as Serbia, Moldova and Ukraine has grown to levels reaching third world proportions. In Croatia, 70% of workers are now employed on fixed-term contracts, usually of only three months. In Romania, although trade union rights are relatively well protected in law, an increasing number of private sector - mainly foreign - employers attempt to put a halt to any trade union activity whatsoever.



2001 also witnessed the introduction of a wave of labour codes and new legislation, the quality of which was highly variable. A new labour law in the Federal Republic of Yugoslavia has eased restrictions on the dismissal of workers by companies, while in Russia on December 19, the Duma adopted a new labour code which has been bitterly opposed by many unions for weakening their rights. In Ukraine a new trade union bill was passed by parliament in December, after articles in the previous law contravening Convention 87 had been declared unconstitutional. However, the new law is still not in line with the Convention, and is now the subject of a complaint to the ILO by the Free Trade Union Confederation of Ukraine. Further steps were taken towards a unified legislative framework in Bosnia and Herzegovina, although shortcomings remain, while in Latvia labour legislation has been brought in line with international standards. Regrettably, even with more effective labour codes, 2001 failed to arrest the slide in workers' rights, due in part to governments seeking to render their countries more 'business friendly' by taking an increasingly anti-union stand.

Harassment and even violence against trade unionists has not diminished. Harassment including frequent cases of trade unionists being sacked, relocated and threatened has created a climate of fear in countries such as Bulgaria and the Federal Republic of Yugoslavia in which workers are reluctant to join unions. Discouraging workers from becoming union members is widespread, and the simple banning of unions from company premises is not uncommon. In the Czech Republic, workers have been fired for joining unions, bribes have been offered for their dissolution, and the legal recourse for victims of anti union behaviour can be ponderously slow. In the Ukraine, a leader of the IMTUU mineworkers' union was physically attacked during a June strike.

The account of Belarus in 2001 reads like an unabridged encyclopaedia of trade union violations. The internationally condemned re-election of President Lukashenko's dictatorial regime in September marked the further intensification of repression to such a level that it has become almost impossible for trade unions to function. During 2001, social dialogue was de facto suspended, foreign grants were prohibited in a wide variety of activities and the ILO condemned the Belarusian government for "numerous and varied attacks on trade union rights." The year was crowned in December by the outlawing of the check-off-system for trade union dues. According to United Nations data, 75% of the population now live below subsistence level.

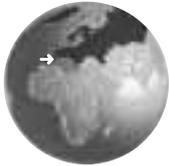
Although Western Europe saw only minor adjustments during the year, significant and longstanding limitations in existing legislation remained, especially concerning civil servants. In Spain for example, civil servants faced difficulties over their collective bargaining rights, in the UK, the government sought to undermine a civil servants' strike by offering staff extra pay and hotel accommodation to maintain services in strike hit areas, while in Germany large swathes of the civil service are completely prohibited from striking.



Europe

Andorra

POPULATION : 66,000 / CAPITAL : Andorra / ILO CORE CONVENTIONS RATIFIED : --



Trade union rights are still not respected in Andorra, in law or practice. There were hopeful signs at the end of the year however, as negotiations began on the drafting of new labour rights legislation.

THE LEGISLATION

Obsolete legislation

The Constitution formally protects the right of association and the country signed the European Social Charter in November 2000. No legislation has been adopted however to apply the relevant international conventions on this, and obsolete, undemocratic laws are still in force.

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.

RIGHTS IN PRACTICE

No protection

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

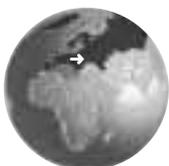
The only unions that exist are illegal. Only the police union, which is more like an association than a trade union, has been registered since 1983, when many unions sought recognition. Employers' organisations, on the other hand, were duly registered and can therefore unilaterally decide on their employees' working conditions.

Hopeful signs

A workers' association was officially formed in September, that aims to regularise labour relations through dialogue. At the end of the year it was negotiating with the government on the drafting of a new law for the protection of workers' trade union rights, as well as the development of labour relations and a social security system.

Belarus

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



President Lukashenko's dictatorial regime further intensified trade union repression during the year, to the extent that it became almost impossible for trade unions to function. Anti-union attitudes hardened when the FTUB leader Vladimir Goncharik, decided to run as the opposition candidate in the elections. Social dialogue was suspended de facto, and at the end of the year the check-off system for trade union dues was outlawed.

THE LEGISLATION

Violations in law

The 1996 Constitution transferred all powers to the President of Belarus, giving him the right to enact decrees that carry the weight of law. This constitution technically recognises the right of workers to form and join trade unions, but both the Trade Union Law of January 2000 and several Presidential Decrees contain serious violations of trade union rights.

Compulsory registration

Presidential Decree no. 2 of January 1999 required all previously registered trade unions at national, branch and enterprise level to re-register. If a trade union is not registered, its activities are banned and the organi-

sation 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. A letter from the management confirming the address is usually required, making trade unions completely dependent on the good will of management.

High minimum membership requirements

The same Decree sets forth minimum membership requirements at the national, branch and enterprise level that are so high it makes it almost impossible to create new unions, while undermining the position of existing ones. At the national level there must be a minimum of 500 founding members representing the majority of the regions of Belarus. A list of names must be sent to the Ministry of Justice.

Heavy limitations on the right to strike

The January 2000 Labour Code imposes severe limitations on the right to strike. 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 in advance and a minimum service must be ensured. Strike participants may not receive financial aid or subsidies from foreign organisations.

New decrees

Several new anti-union decrees were adopted in 2001. Presidential Decree n° 8 lays down stringent conditions for the receipt of foreign grants for activities in the country. Foreign funds must be registered with the Human Resources Department, which is directly under the responsibility of the Presidency. The decree prohibits the use of foreign grants in activities related to elections, referenda, meetings, rallies, demonstrations, pickets and strikes as well as for carrying out seminars or propaganda activity. Decree No.11 makes it practically impossible to carry out protest action. Organisations violating these decrees are liable to dissolution.

Check-off abolished

The financial independence of trade unions was seriously undermined by the decree adopted on December 14 entitled "Measures to Protect the Rights of Trade Union Members". The Decree abolished union check-off by which employees pay their union dues directly through deduction from their salaries by the employers.

RIGHTS IN PRACTICE

Constant attacks

Democratic rights are not respected in Belarus, least of all trade union rights. The government has sought by every means to undermine, if not eliminate, the trade unions.

Harassment

Workers are actively discouraged from joining independent trade unions. Those who do face continual pressure at the workplace to leave the union or risk losing their jobs. Members of independent trade unions have been arrested for distributing trade union literature, have had materials confiscated and have been denied access to work sites.

Trade union leaders are particular targets for harassment. Threats are taken very seriously in a country where political opponents to the regime have disappeared. In the last two years 30 well known political and public figures have gone missing.

Systematic interference

A report adopted by the ILO's Governing Body in March 2001 condemns Belarus for "numerous and varied attacks on trade union rights" and of "regular and systematic interference in trade union activities". The list of allegations in the report included interference in union activities and elections by the government – the head of the presidential administration ordered Ministers and chairs of government committees to interfere in the elections of branch unions - anti-union discrimination and attacks on union assets.

EVENTS IN 2001

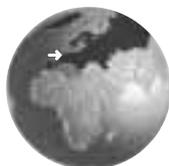
- Background** The economic situation continued to deteriorate. According to United Nations data, over 75% of the population live below subsistence level. The trade unions were struggling financially, finding it difficult to provide services to their members or pay their staff.
- Intensified repression** At the ILO conference in June Viktor Babayed, president of the Congress of Democratic Trade Unions (CDTU) reported that Lukashenko had stepped up his attacks on trade unions, systematically interfering in trade union activities. Union members were dismissed, arrested and faced constant threats, he told delegates. He also reported that a new presidential decree had been introduced, declaring trade union meetings illegal in the run-up to the Presidential elections. The Conference's Tripartite Committee on the Application of Standards decided to devote a special paragraph in their report to express particular concern over the situation in Belarus. The ILO only uses special paragraphs for the worst cases of rights abuses.
- American trade unionist expelled** At the end of August Mr. Robert Fielding, a representative of the American Center for International Labour Solidarity of the American national trade union centre, AFL-CIO, was expelled from Belarus. He had been responsible for trade union education programmes in the country. While addressing a trade union seminar in the north of the country, on August 23, he had expressed support for Vladimir Goncharik's bid for the presidency.
- Presidential elections** When it was first rumoured that Vladimir Concharik, president of the Federation of Trade Unions of Belarus (FTUB) would stand as an independent candidate in the September Presidential elections, the presidential administration threatened to dissolve the FTUB. When he officially announced his candidacy, the authorities unleashed a powerful media campaign aimed at discrediting Goncharik and the FTUB.
- The elections were won by President Lukashenko. International observers judged them to be neither free nor fair.
- Picketers arrested** Five people were arrested by police for taking part in a picket on November 9. All were released the same day. Four were fined 20 times the minimum wage (\$ 100) while the organiser of the picket, Mr. Markatchuk, was fined 200 times the minimum wage (\$ 1,000). The union had applied in advance for permission to hold the picket. They did not receive a reply until they began their action, when they were shown a letter indicating that they had the right to conduct their action in Bangalor Square, on the outskirts of the city, but not close to the presidential administration.
- Attack on union office** The office of one of the grass roots organisations of the Free Trade Union of Metalworkers at the Minsk Tractor Works was broken into on November 29. One of the doors was broken and the lock of another was damaged or changed. Some of the furniture was removed and some had been upturned.
- Yellow unions** An increasing number of yellow unions have emerged, which enjoy a privileged position in relation to bona-fide unions. At the Integral factory for example, only the union set up by the director is able to receive its dues using the check-off system.
- At the Mogilyov Meat-Packing plant, the director gave the union leader an ultimatum to step down from his post or be forced to leave the enterprise. As a result, the union's 1,157 members were left without a chairman. This was not the first time that the director had taken anti-union action. Mikhail Khortov had previously prohibited the deduction and transfer of membership dues through the accounts department. The workers continued to pay their dues, in cash. In response, the director ordered the workers to submit their written resignation from the union.

Retaliation for strike action

The Chairman of the Grodno Regional Executive authority, Vladimir Savchenko, threatened to imprison a union leader. Aleksandre Gensh, the chairman of the union at the Smorgon Aggregate plant, had been appointed to head the strike committee after 600 workers had voted to take industrial action on July 26. The decision was taken after many appeals to the management and the district authorities concerning a three-month delay in the payment of wages had failed to produce any satisfactory result. When the strike call was announced, Vladimir Svachenko gave orders that Aleksandre Gensh was not to be allowed on the factory site. 'The best place for people like him is a cell of steel,' he reportedly stated. The day after the strike the director of the plant called the union chairman to his office, told him that his presence was no longer acceptable in meetings and that membership dues would no longer be transferred by the accounts department.

Belgium

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

**Strong legislation****Employers in Belgium still tend to turn to the courts in an attempt to circumvent labour law.****THE LEGISLATION**

Workers have the right to form and join unions of their own choosing. The government does not require trade unions to register. The right to strike is recognised, as is the right to collective bargaining.

Trade union delegates are protected from anti-union discrimination by law. Employers found guilty of anti-union discrimination are required to reinstate workers fired for their union activities or pay a fine.

RIGHTS IN PRACTICE**Circumventing the law**

Unions are allowed to exercise their rights in practice, and there is a strong tradition of collective bargaining. There are some weaknesses, however. Employers prefer to pay fines rather than reinstate workers dismissed for union activities.

The right to strike has often been undermined in practice, with many cases in recent years of employers seeking court rulings to ban strikes. The courts have often ruled in the employers' favour, ending strikes under the threat of fines and prohibiting picketing. The Sabena pilots' strike in September was a case in point.

EVENTS IN 2001

The year was overshadowed by the problems of the ailing national airline Sabena, which finally collapsed and declared bankruptcy in November, resulting in the loss of some 9,000 jobs, and the threat of more to come. The 315 workers at Marks and Spencer also learnt, through the media, that they were to lose their jobs at the end of the year, with the closure of all four Belgian stores.

Sacked for calling for safety measures

On October 1, a fire broke out at BP's Chembel chemical plant in Feluy. It was brought under control, but several people were injured. With the explosion at the AZF chemical plant in Toulouse (France), which left 29 dead, fresh in their minds, a group of 12 workers called for an urgent inquiry and additional safety measures. They were promptly sacked, for "gross misconduct". They included a union representative on the plant's health and safety committee, and the secretary of the works council.

The workers at the plant went on strike on October 5 to demand the reinstatement of their colleagues. BP refused to take the sacked workers back. It also asked the Belgian courts to uphold its decision to fire the health and safety representative and the secretary of the works council. The court ruled against it.

On October 8, BP management at Chembel Feluy announced restructuring plans that would cut 25% of jobs there. The FGTB national trade union centre is convinced the decision was linked directly to the union's action.

The 12 workers who were sacked had not been reinstated by the end of 2001.

Bosnia and Herzegovina (BiH)

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



A more complete legislative framework is gradually being set in place, although it still has some shortcomings. One notable problem is the lack of protection for trade unionists, evidenced by the dismissal of four workers for their trade union activities.

THE LEGISLATION

The freedom of association is included in the labour law of both the Federation of Bosnia and Herzegovina (the Federation) and the Republika Srpska (RS). All workers, including migrant workers are free to join trade unions, with the exception of the military. The fact that there was no unified labour code covering the whole state created obstacles to trade union registration. The Law on Associations and Foundations, covering the whole of BiH was adopted in December 2001, but it does not provide the mechanisms for registering a federation at BiH level.

There are no legal sanctions against employers who obstruction union organising. Financial penalties are foreseen for anti-union discrimination against individuals, but this can be hard to prove.

Strikes limited in the public service

The right to strike is recognised, although there are some limitations. In the Federation, the law requires that "production maintenance" be ensured during a strike. How this is to be done must be worked out in advance with the employer and announced on the day the strike is due to start, which effectively imposes a delay. Furthermore, the employers interpret "production maintenance" as meaning continuing production as usual, making a strike meaningless.

In the Republika Srpska, a minimum service must be provided by enterprises listed as public services, the list of which is excessively long. Workers in these enterprises must give at least eight days notice before striking.

No collective bargaining in Brcko District

The right to collective bargaining is recognised in both entities. The Brcko District of BiH has a separate labour law however, which came into force on December 2000 and stipulates that collective agreements will be regulated by a separate law for the District. No such law has come into force yet, meaning that collective bargaining rights are not recognised or practised in Brcko.

RIGHTS IN PRACTICE

Collective bargaining avoided

The Trade Union Confederation of the Republika Srpska (TUCRS) reported that both the government and employers do everything they can to avoid bargaining with the trade unions. The Labour Law for the RS was adopted in October 2000, but by the end of 2001 there was still no new National Collective Agreement and no collective bargaining had taken place in practice. However the TUCRS was confident that bargaining would begin soon, thanks to the creation of the tripartite Economic and Social Council.

No protection

Under the privatisation process, trade unionists throughout BiH have been just as vulnerable to dismissal as any other worker. In some of the newly privatised companies, employees are warned they will be dismissed if they join a trade union.

EVENTS IN 2001**Unpaid wages**

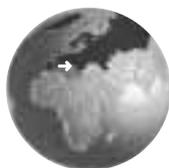
By the end of the year unemployment was still very high, at 38%, and unpaid salaries continued to be a huge problem throughout BiH.

Dismissed for trade union activities

The TUCRS reported that four trade union representatives had been dismissed by their employer for their trade union activities. Their cases had been taken to court but had not been resolved by the end of the year.

Bulgaria

POPULATION : 8,700,000 / CAPITAL : Sofia / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



Collective bargaining is not sufficiently protected in law and is often violated in practice. A trade union leader was called for police questioning after investigating workers' rights violations.

THE LEGISLATION

The constitution provides for the right of all workers to form or join trade unions. Legislative changes in 2000 had left a legal vacuum for the registration of trade unions, delaying or denying the registration of some organisations. In 2001 the national trade union centre CITUB obtained a change to the law to allow for these registration procedures to go ahead pending a specific law on the registration of trade unions. Public servants are covered by a separate law, which recognises their freedom of association.

Strike limitations

The right to strike is recognised, provided all other means to settle the dispute have failed. However, "political strikes" are prohibited, as are strikes in essential services, the list of which exceeds the ILO definition, and includes the railways for example. A 1998 amendment to the law made district court rulings on the legality of strikes final, taking away a union's right to appeal.

Weak protection from discrimination

The labour code provides for six-months' salary as compensation in cases of anti-union discrimination. However the burden of proof lies on the worker, who has to go to court to prove his or her case. Employers may appeal the court ruling, enabling them to postpone payment of compensation, in some cases indefinitely.

Bargaining rights not recognised in public sector

Collective bargaining is allowed for private sector workers, but the law on public servants does not specifically recognise this right.

Where collective agreements are concluded between representative trade unions' and employers' organisations at the sectoral level, they can be extended to cover all enterprises in the sector, but only at the discretion of the Minister.

RIGHTS IN PRACTICE**Frequent harassment**

The unions report frequent cases of discrimination and harassment against trade union activists and members, who are relocated, downgraded or sacked. This has created fear and insecurity, often making workers reluctant to join a union. The legal proceedings for the reinstatement of dismissed workers can take a long time, sometimes years, while the sanctions against employers for unfair dismissal are too weak to be dissuasive. Some employers simply ban trade union membership in their enterprise.

Collective bargaining obstructed

Collective bargaining is not always effective in practice. Employers often refuse to negotiate collective agreements, delay negotiations unnecessarily or refuse to sign agreements. In other cases, employers sign agreements but do not apply them. Collective bargaining has proved particularly difficult in small and micro enterprises.

Withholding union dues

The authorities are reluctant to enforce the law on the check-off of trade union dues. There have been cases of employers deducting dues from workers salaries but not passing them on to the unions.

EVENTS IN 2001**Harassment**

On July 17, Dr. Jeliázko Hristov, president of the Confederation of Independent Trade Unions of Bulgaria, CITUB, was handed a summons asking him to appear the next day for questioning by the police. The summons related to a visit by a team of trade union experts to the "Mraz" JSC company to investigate violations of workers' rights, as unions are entitled to do under the labour code. The complaints they were investigating included the non-payment of social and health insurance, forced unpaid leave, and the failure to respect health and safety conditions. The company strongly objected to the presence of the experts' team.

Reinstatement ordered

On August 28, the government reported that engine drivers dismissed by the Bulgarian State Railway had been reinstated by court order. Investigations were continuing into allegations of harassment and anti-union discrimination against members of the TUEPB.

Croatia

POPULATION : 4,700,000 / CAPITAL : Zagreb / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



A change to labour law allows workers to strike over the non-payment of wages. Many problems persist however, including the inefficient legal system and a tendency to ignore collective bargaining rights. Many cases of anti-union discrimination were reported during the year.

THE LEGISLATION

Workers are entitled by law to form or join unions without prior authorisation.

Limitations on the right to strike

The right to strike is recognised, but there are limitations. Workers in the government administration and public services may not strike. Strikes can only take place at the end of a collective bargaining agreement or in specific circumstances mentioned in the agreement. Workers' used not to be able to strike over non-payment of wages, according to a Supreme Court ruling, but an amendment to the Labour Law in March overturned this, specifically entitling workers to strike over non-payment. If the strike is over the negotiation of a new collective agreement, there must be a mediation process before any action can be taken.

Collective bargaining is protected by law, and the labour code prohibits anti-union discrimination. Union delegates cannot be dismissed by the employer, reinstated or downgraded without the consent of the trade union. If the employer does not get the consent of the union, they can apply to the courts for a decision.

RIGHTS IN PRACTICE**Anti-union employers**

Private employers in small enterprises resist union organising, as do large national and international companies operating big commercial chains. Many of these employers simply prohibit their workers from organising. As the majority of workers, approximately 70%, are on fixed-term contracts, usually of only three months, they dare not join or form a union for fear their contract will not be renewed.

Inefficient legal system There have been many cases of employer harassment of trade union activists and officials, despite the protection provided in law. One serious problem is that the legal system is too slow and inefficient in dealing with these cases. Court procedures last for over three years on average. The majority of the cases concerning the unfair dismissal of union delegates that were filed in 1996 had not been resolved by the end of the year.

Collective bargaining rights ignored Employers, including the Croatian Employers' Association, often do not want to bargain collectively, or cancel existing agreements, claiming they are unable to respect the terms of the agreement. The State has also been guilty of ignoring collective bargaining rights, having unilaterally decided on the grades of civil service posts. Many older workers' found their rights reduced as a result.

The Commercial Trade Unions of Croatia reported other forms of obstructing trade union activity such as opening and keeping mail addressed to the union delegate, the supervision of union members by installing cameras in company offices, and the refusal to allow unions to use company premises for meetings.

EVENTS IN 2001

Discrimination There were many cases of discrimination against trade union members and officials during the year.

In the Varaždin metal industry, the employer actively discriminated against members of the Metalworkers' Trade Union of Croatia, ensuring more favourable conditions for non-union members. The employer also decided to reduce the salary of the union delegate, Željko Panić, in retaliation for putting up notices on the company notice board. The company then brought charges of perjury against him for talking about the company's situation at a press conference. The union has applied to the courts for Željko Panić to have his full salary restored.

Union delegates dismissed

The PPI Varaždinka Varaždin company sacked five union delegates: Tomislav Ceilinger, Vladimir Lukać, Stanko Telebar, Josip Vlahović and Rajko Jagenčić, stating their dismissal was due to their participation in an illegal strike. The employer also filed charges against Siniša Miličević, UATUC county official for Varaždinska County; Tomislav Ceilinger, union delegate, and Vjekoslav Indir, PPDIV trade union regional official, for having organised a workers' gathering and a strike the employer claimed was illegal.

Gordana Bujas, the union delegate for the Zanatoopskrba branch union, in Dakovo, of the Commercial Trade Union of Croatia, was unfairly dismissed. Further to a temporary court decision she was reinstated, but the employer then cancelled her employment contract regardless. The case was taken to court, and was still pending at the end of the year.

Branislav Vukosavljević, deputy union delegate from the Geodetski zavod Osijek branch union of the Trade Union of the Construction Industry of Croatia, was also dismissed for alleged infringements of his professional obligations. The union believed his trade union activities were the real reason for his dismissal and took the matter to the Osijek Municipal Court which ordered his reinstatement.

The union delegate for the Vrtlar d.o.o. Dubrovnik branch union was dismissed while engaged in collective bargaining with the employer. The Autonomous Trade Union of Workers in Public Utilities and Housing Services of Croatia did not give its consent to his dismissal.

The union delegate and chairman of the Komus d.o.o. Donja Stubica Union Local were unfairly dismissed. The decision was later overturned by the courts.

Follow-up to previous cases

One of the union activists sacked by the Tvornica alatnih strojeva d.d. (ITAS) company in Ivanec, further to a strike in 2000, Vladimir Harjač, was reinstated during the year, while the case of Dragutin Varga remained unresolved at the year end.

The court case involving Valentin Sakač, the union delegate at the Kaming d.d. company in Ljubešćica, had not been resolved by the end of the year either. The employer has been paying him below the agreed rate for his post since 1999.

Government halted collective bargaining process

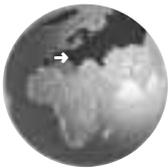
There were many violations of collective bargaining rights during the year. The government itself acted to block the signing of already-negotiated collective agreements for state-owned companies and to halt negotiations on such agreements where they were in progress. Negotiations were in progress between management of the Croatian Electrical Company (HEP) and the Croatian Post Office (HP) when the government issued instructions to management to suspend talks, allegedly in order to wait for the conclusion of agreements with all public employees, and with the expectation of a substantial reduction of their salaries. After the public sector negotiations were completed, the government instructed HEP and HP managements to resume negotiations. The post office workers went on strike in December and won the right to sign the agreement that had been under discussion when the government ordered the suspension of negotiations. The electricity workers' negotiations had not resumed by the end of the year.

Job insecurity after agreement is cancelled

At the national oil refinery INA, workers faced transfers and job insecurity under the company's new restructuring plan. Their jobs had been protected under the terms of their collective agreement, but this was unilaterally cancelled the year before by management.

194 Czech Republic

POPULATION : 10,300,000 / CAPITAL : Prague / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,182



New labour legislation introduced at the beginning of the year has strengthened trade union rights, but at the same time a new bill will prohibit collective bargaining in the public sector. Anti-union discrimination continues, notably in foreign-owned and multinational companies.

THE LEGISLATION

New labour legislation, which came into effect in January 2001, guarantees the right to organise and provides for protection from anti-union discrimination.

There are no restrictions on the registration of trade unions or international cooperation and affiliation. Foreigners and migrant workers also have the right to organise.

The new law provides for works councils, even in workplaces where there is no union representation, and these works councils provide all workers with the right to information and consultation regarding major company decisions. The legislation on works councils prohibits discrimination for membership of the works council or for activity resulting from membership.

Collective bargaining Improvements in private sector

The right to collective bargaining is protected for private sector workers. Collective agreements can improve upon the rights and obligations provided in law, but only in those areas stipulated by law. The 2001 Labour Code extended the scope of the areas where improvements can be made.

Restrictions in public sector

A new draft law bars public sector employees from collective bargaining. The government has explained this violation of ILO Convention No. 98 by virtue of the fact that wage levels set by collective agreements could have a bearing on the state budget. Public sector workers and their unions are instead offered the possibility to sign agreements with the public sector employer concerning some elements of their contract – excluding wages, working conditions and working times – but these agreements are not legally binding.

Limitations on the right to strike

Strikes are prohibited in certain essential services, but the list of these covers some that do not conform to the ILO definition of such services (the interruption of which would endanger the life, personal safety or health of the whole or part of the population) such as nuclear energy and oil and natural gas pipelines. 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 before the strike.

RIGHTS IN PRACTICE

Harassment

In practice, there are frequent cases of violation of trade union rights, harassment of trade unionists and even action by employers targeted against the very right to associate. On repeated occasions employers in the trade sector have exerted both direct (verbal) and indirect pressure on employees who either seek to establish or a part of a trade union. The problem occurs in small and medium-sized enterprises, as well as in the big chains, such as Billa, Penny Market and Plus Discount, all owned by foreign investors. It is common practice for employers to carry out special "checks" on trade unionists in the performance of their normal workday tasks. Another tactic is for trade unionists to be told directly that trade union membership is not company policy, for example.

Other examples of anti-union activity include refusing trade unions access to company premises and preventing communication between unions and their members, offering money for the dissolution of enterprise unions and refusing to withhold union dues from salaries. In some cases workers have been fired for attempting to form a union. There is legal recourse for victims of anti-union discrimination, but the court procedure is generally slow. Some employers refuse to bargain with union representatives, or obstruct the conclusion of collective agreements.

EVENTS IN 2001

The two most flagrant cases of trade union rights violations during the year both concerned multinational companies.

195

Union leader threatened with dismissal

Management at "Siemens Automobilová Technika Ltd.", in the town of Stříbro, western Bohemia, would not allow the workers' occupational safety and health representative to attend a meeting about safety breaks on the assembly line. When the chairman of the trade union organisation requested that the representative be allowed to participate in the meeting he was told by the director of the company by e-mail that "there was nothing for him to request, he could only very politely plead, or he could very quickly find himself, including his office, out of the company premises."

Management blocked creation of union

The second case concerned the company Bosch Diesel Ltd., Jihlava. A meeting was called on April 23 by three company employees, outside the company premises, with a view to establishing a branch of the OS KOVO trade union organisation at the enterprise. They informed the workers of this ten days before the scheduled date. The employer promptly launched a parallel campaign, explaining to workers that it would be harmful to establish a trade union. It persuaded more than 960 employees, out of 2,700, to sign a petition against the formation of a union and provided free transport in company buses to the meeting for those employees willing to oppose the union. One of three OS KOVO representatives who came to the meeting to give their support, Bohuslav Svoboda, was attacked. A proper constituent meeting could not take place, as it proved impossible to address the audience owing to the noise of incessant whistling. The union was not established, therefore. At the end of the meeting, the interior of the hall was damaged.

Multinational guidelines enforced

In both cases ČMKOS approached the National Contact Point, established in accordance with the OECD Guidelines for Multinational Enterprises, whose is to deal with problems arising from the implementation of the Guidelines. These are seen as a code of "good practice for all" and include a chapter on industrial relations. They also stipulate the "national treatment principle" whereby the treatment of workers should be no less favourable than in domestic enterprises. ČMKOS argued that both Siemens and Bosch had acted against the spirit of the Guidelines. There was an immediate response. In both cases the companies agreed to start negotiations with OS KOVO. Following these negotiations the OS KOVO asked ČMKOS to withdraw the complaint against Siemens. In the Bosch case the matter had not been settled by the end of the year, despite several joint meetings.

Georgia

POPULATION : 5,300,000 / CAPITAL : Tbilisi / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



Despite a strong legislative framework, trade unions still face interference in their activities. The court battle over the GTUA's assets continues.

THE LEGISLATION

Recognition of rights

The right to form and join trade unions is recognised in law. The 1997 Trade Union Law contains comprehensive legislation on basic trade union rights. Workers in governmental organisations are governed by a separate law on the civil service, which also recognises the right to join trade unions. Collective bargaining is recognised in the law on Collective Agreements and Contracts. The law provides punitive measures against those who refuse to take part in negotiations. The right to strike is also recognised, and anti-union discrimination by employers is banned.

Potential limitations

The Organic Law on the Suspension and Prohibition of Activities of Voluntary Associations defines the grounds for the suspension of a voluntary associations including trade unions. Final responsibility for such decisions lies with the courts. Grounds for prohibition include stirring up national or social conflicts.

New code

A new version of the Labour Code is being worked out, and the Georgian Trade Union Amalgamation (GTUA) is taking an active part in this.

RIGHTS IN PRACTICE

Interference

There has been repeated interference in the activities of the GTUA. Over the past few years the GTUA has faced systematic obstruction through harassment and intimidation. Both the GTUA and its national unions report frequent cases of management warning staff not to organise trade unions. Some workers, including teachers in the Imereti region, employees of mining, pipeline and port facilities, and of the Tbilisi municipal government complained of being threatened by employers for their trade union activity. Some employers have failed to transfer the union dues deducted for workers' wages to the union's bank account.

Assets still confiscated

The battle over the restoration of the GTUA's property continues. The GTUA's building, the Palace of Culture, was confiscated from it in March 1992 and placed under the control of the Ministry of Defence. The building housed the GTUA, affiliated trade unions and other organisations, and generated half its income. The Constitutional Court ruled in 1998 that the building should be restored to the GTUA, but this never happened. In 1999 a district court ordered that the building should remain in the hands of the Ministry of Defence and froze other assets, including its bank accounts. The GTUA appealed. The case has yet to be resolved.

EVENTS IN 2001

Unpaid wages remained a serious, and increasing, problem during the year, in both the public and private sector. The worst affected were education, public health and energy workers.

Reinstatement order ignored

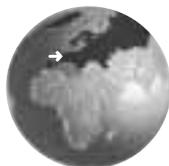
The American transnational AES-telasi dismissed some trade union members without consulting the trade union committee. The company was ordered by the court to reinstate the workers and pay them for the time they had been laid off. By the end of the year the court order had not been carried out.

Interference in trade union affairs

The management of the joint-stock company "Kurortinvesti", with the support of state representatives, told the GTUA that it could not include a discussion on the future of Kurortinvesti on the agenda of its council meeting. The chairmen of several branch trade union organisations appealed against this interference in the union's internal affairs, taking the case to court on May 30. The Vake-Saburtalo district court ruled that the GTUA council should remove the item from its agenda. The council went ahead with its agenda, without change.

Germany

POPULATION : 82,000,000 / CAPITAL : Berlin / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



Workers' consultation and information rights have been strengthened, in line with European Union legislation. Civil servants are still denied the right to strike, however, and public sector teachers still have no collective bargaining rights.

THE LEGISLATION

The Basic Law guarantees the freedom of association. Minimum standards are provided for in separate acts, rather than a single labour code.

The Basic Law recognises the right to bargain collectively and agreements are governed by the Act on Collective Agreements. Collective agreements are binding for members of the trade union and employers' association concerned.

Consultation and information rights strengthened

Workers are able to participate in management decision-making through works councils, which are responsible for supervising the implementation of the union's collective agreement in a workplace. The rights of these councils are regulated through the Works Constitution Act that was amended in June 2001 to strengthen workers' consultation and information rights in line with European Union legislation. Members of works' councils do not have to be union representative.

No right to strike in the civil service

The principal limitation on workers' rights is the denial of the right to strike of all civil servants, including teachers, railway employees and postal employees. No civil servants have the right to strike, irrespective of their function. The ILO has repeatedly reminded the government of Germany, since 1959, that this restriction is not in line with Convention 87, and has asked it to change its legislation accordingly, but to no avail.

Teachers still denied bargaining rights

Similarly, teachers in the public service continue to be denied their right to collective bargaining. This has not changed despite repeated ILO criticism of this violation of convention 98. A pilot project aimed at ensuring more dialogue with trade unions was launched in 1999, resulting in an agreement regarding careers and training in 2000. Despite this hopeful move, there is no sign of any change in the law.

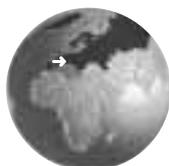
RIGHTS IN PRACTICE

Avoiding collective bargaining

Some companies in the eastern part of Germany have refused to join employer associations or have withdrawn from them, then bargained independently with workers.

Hungary

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



There were cases during the year of private sector employers blocking trade union activity and discriminating against trade union members, including several incidents of unfair dismissal. The Railway Workers' Union continued to face harassment.

THE LEGISLATION

The Labour Code recognises the right to organise and the right to strike. Collective bargaining is permitted at the enterprise and industry level. Under a separate law public servants may negotiate working conditions but the final decision on increasing public service pay rests with parliament.

Lack of protection The 1999 amendments to the Code, which weakened trade union rights, remained in force. Employers no longer have to give reasons for dismissal if the worker has reached retirement age or qualifies for early retirement. In cases of unfair dismissal, a court can decide not to reinstate a worker to their original job if it is against the employers' wishes. In the past a worker would either be reinstated or receive double the severance pay owed. Now if there is no reinstatement, this level of compensation is reduced to an order from the court to give severance pay amounting to between two and 12 months' salary.

Collective bargaining rights weakened Collective bargaining rights have also been weakened by allowing works councils to enter into collective agreements with the management in companies where there is no union. This can undermine previously signed national or industry-wide agreements.

The unions are also concerned about further changes proposed. They say that the amendments would be a further attack on collective bargaining rights as they would allow employers to agree duty rosters, working hours and pay with individual employees. The government says the final version will differ from the draft and only where the collective agreement does not cover those conditions will they be defined by the employer.

RIGHTS IN PRACTICE

Abusive interpretation of strike act The unions report that the right to strike has been violated as a result of the judicial interpretation of the Act on Strikes. The Act qualifies a strike to be unlawful if "it has been declared during the term of a collective agreement for the purpose of altering the provisions in that agreement". This has been extended in practice to apply to strikes over the renewal of a collective agreement, three of which have been declared illegal, including the February 2000 railways strike. The unions believe government pressure had a lot to do with this.

National survey finds widespread violations A survey carried out among member organisations of the national trade union centre MSZOSZ found evidence of violations of the freedom of association, discrimination against trade union officers, intimidation, a lack of protection, and breaches of labour law.

International trade union cooperation needed The MSZOSZ found that, particularly when dealing with multinationals or foreign owned companies, there was a clear need for international trade union cooperation to protect workers' rights effectively.

EVENTS IN 2001

Union premises confiscated Problems continued at the Hungarian railways (MAV Rt.). On January 12 the two rooms used by the local branch of the Railway Workers' Union at the MAV Rt. headquarters were opened by management, the furniture taken to the cellar, and the list of members and other union documents removed. The union protested and within a few days both the premises and its documents were restored to it.

It was also reported that workers were removed from the night shift and put on daytime shifts, at a lower rate of pay, with no consultation with the union.

Obstructing the formation or functioning of unions Local managers at MAV Rt. service stations have explicitly told their workers there is no need for a union at the workplace.

Foreign employers have also been conspicuous for their anti-union attitudes. Samsung does not allow unions or works councils to be established in their plants in Hungary. Where there have been attempts at organising, it has threatened to relocate. The Japanese firm Clarion has also blocked organising by threatening workers that they will lose their jobs if they join a union, and will not be able to get work with neighbouring firms. Zollner Elektronik, headed by a German director, also made it clear to workers that they wanted a union-free workplace.

Discrimination against union officers At Braun Kft, Boch, Gyongyos, Pikopack and Fuzesabony, trade union officers were excluded from wage increases and rewards, or downgraded in their jobs. Comments from management included remarks to the effect that union

officers did very little work because they were too busy with their trade union activities, and that they would not be given higher posts because management didn't want them gaining an insight into company matters.

At the Csemege Supermarket Rt, the president of the board of directors sacked the union secretary for being "racist" and hostile to the company. The union had voiced disapproval at the "internal loan" of labour, which involved making up for workers' absences by exploiting other workers. During the union secretary's term of office, 700 new members had joined.

Collective agreement cancelled

The collective agreement at the Southern Hungarian Corn Trade and Flour Milling Company was ignored then annulled by the new management after privatisation. The Privatisation and State Property Holding Ltd. (APV Rt.) was supposed to ensure that the collective agreement remained in force for two years, under the terms of the sale. In reality it imposed no obligations on the new owner to protect the workers' interests. The management cancelled the agreement and refused to regard the union as a legitimate negotiating partner.

Employers try to undermine the union

At the Metro Holding Hungary department store, the management informed workers that they would only get a pay rise if they renounced their union membership. Anyone who objected could look for a job elsewhere.

The managing director of a textile factory in Budapest sought to bypass the union's collective bargaining role by forcing employees to sign a statement on who they "chose" to represent them in wage negotiations.

The Sportfolio company refused to consult the union representatives of employees with public servant status.

Collective rights were ignored at the Hungarian-owned textile company Hun-garn Fonó Kft which intimidated workers into signing a new employment contract individually. The aim was to offset the impact of an increase in the minimum wage by setting unrealistically high production targets. Those who refused to sign were dismissed.

Dismissed for union activities

The LIGA Democratic Confederation of Free Trade Unions lists several cases of trade union activists and officials who were dismissed for their trade union activities. The following are examples of cases that occurred during the year. Owing to lengthy court proceedings there were several other cases before the courts, dating back to 2000.

An employee was dismissed by Caterpillar Magyarország Kft, which claimed the dismissal had taken place during their trial period, and that the employee had not come up to requirements. The union managed to demonstrate in court that the dismissal took place after the end of the trial period, and shortly after the employee had formed a trade union and spoken out against the infringement of workers' rights. The lawsuit was discontinued by mutual consent, and the worker reinstated.

The Vas Country Hospital dismissed an employee after he had founded a trade union. After a complicated series of legal proceedings, the Zala County Labour Court ruled that the dismissal had been unlawful, but did not order reinstatement. An appeal for reinstatement has been filed with the Zala County Court.

Delphy Pakard dismissed one trade union official and two trade union members on grounds the union considered to be insubstantial. If no agreement can be reached, all three cases will be taken to the Szombathely Labour Court.

Another case of unfair dismissal of a trade union activist at Volánbusz Kozlekedési Rt was still before the Pest Country Labour Court at the end of the year.

Latvia

POPULATION : 2,400,000 / CAPITAL : Riga / ILO CORE CONVENTIONS RATIFIED : 87,98,100,105,111



Labour legislation has been improved to bring it into line with international standards, but civil servants were told that organising and bargaining rights did not apply to them. Many private employers are opposed to trade unions, as several cases during the year illustrated.

THE LEGISLATION

Restrictions on the right to organise

The Trade Unions Act of December 1990 stipulates that the residents of the Republic shall have the right to freely form trade unions. The application for registration must be reviewed by the Ministry of Justice. If the Ministry refuses application, it must give its reasons, grounded in law, and the union has the right to appeal. A union must have at least 50 members, too high by ILO standards. The state police are still banned from organising, and numerous requests to remove this ban have been ignored.

Strike limitations

The right to strike is recognised, but the limitations contained in the 1998 law on strikes remain in place. A quorum is required to vote on a strike, pre-strike procedures are too long, solidarity strikes are prohibited and strikes must not be called to protest at the government's economic and social policies.

Collective bargaining – no time limit

The law on collective bargaining does not set any time limit on negotiations, allowing employers to drag them out indefinitely.

Improvements

There were some improvements to the legislation during the year. The Labour Law and the Labour Protection Law were adopted in 2001, taking into consideration ILO conventions and European Union (EU) directives. The unions report that on the whole they have managed to retain previous rights and guarantees and add some new ones. The Labour Protection Law is described as a framework law based on EU requirements, experience and principles.

RIGHTS IN PRACTICE

Trade union representatives, notably from the Industrial Workers' Trade Union, find it difficult to gain access to the largest newly-formed companies, where owners try to discourage organising in every way. Unions representing workers in the fish industry and commerce reported similar difficulties.

The Free Trade Union Confederation of Latvia (LBAS) says that the government does not promote the formation of strong and independent trade unions as the basis for stable social partnership and social dialogue. Opposition to the formation of trade unions is strongest in the private sector.

EVENTS IN 2001

Violations of the freedom of association

At the VOVA company in Liepaja the owner, Vladimir Zozula, informed the 49 members of the Latvian Industrial Workers' Union, including the chairwoman, that they would lose their jobs if they stayed with the union. They decided the risks were too great, and left the union.

The manager of the OGRE company in Daugavpils, Mikhail Kabelinsky, refused to allow a union representative to enter the company premises and take part in a trade union meeting there, despite a prior agreement with him on the time and place of the meeting.

The management of the Latvian-English joint venture LUMAT informed union representatives that if any of their employees were to join a union, they would do everything possible to persuade them to renounce their membership.

Union rights denied in the civil service

On August 14, the State Civil Service announced that the rights to organise, to bargain collectively and to conclude collective agreements did not apply to civil servants. This rule is applied to all civil servants and employees in the ministries.

New anti-union employer

When the Livanu Stikls company was sold to Lettglas they signed an agreement whereby the new management would maintain the existing collective agreement and continue existing labour relations. The new owners ignored the agreement, took away the union's offices, prohibited the company's accountants from continuing the deduction of union dues at source (check-off), despite an existing agreement on the arrangement, and on October 18, dismissed the union chairman.

Tax on union income

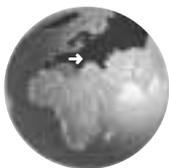
In November the parliament adopted amendments to the law on income tax, stipulating that tax should be deducted from the financial bonuses distributed by unions to their members. There was no prior consultation with the unions, who point out that this money comes from profits on their assets. Union assets are built up solely from trade union membership dues, paid from workers' salaries, on which they are taxed. Hence this supplementary tax amounts to a double income tax, say the unions.

Union assets – court case continues

At the end of the year the court case regarding the property of the Book Industry Workers Union (BIWU) had not yet been resolved. During the years of Soviet occupation the union's property, including its real estate, was taken from it. It applied for the restoration of that property after Latvian independence in 1991. Parliament did not discuss the restoration of property rights until the end of 1997 and in early 1998, during which time the union's property was sold by the state property agency into private hands. The BIWU appealed to the courts. It is still awaiting a decision.

Lithuania

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



Legislation introduced during the year made workers more vulnerable to dismissal, and removed protection for trade union members. Heavy restrictions on the right to strike remained.

THE LEGISLATION

The Law on Trade Unions recognises the right to form and join trade unions, a right that is extended to the police force and the army.

To be registered unions must have at least 30 founding members in large enterprises, or represent at least one fifth of all employees in small enterprises.

Strike restrictions

The Law on Trade Unions recognises the right to strike. However, the 1992 Act on the Settlement of Collective Disputes does not permit strikes in essential services, the list of which exceeds the ILO definition. It also prohibits strikes in regions where a state of emergency has been declared, without specifying the legal framework and procedures for this. The authorities may requisition workers to provide a minimum service. The courts may delay a strike that has not yet begun for a period of 30 days, for "specially important reasons" and delay those that have begun for a further 30 days.

Dismissal of union members made easier

Owing to changes in the law on employment contracts introduced on March 30 2001 employers no longer need to seek the trade union's permission to lay off trade union members. Moreover an employer may fire any employee without prior warning, and without having to justify the dismissal, provided they pay compensation of between four and 12 months' salary, depending on length of service.

This new legislation has also made it easier to put workers on short-term contracts, reducing their job security and undermining the union's ability to organise, protect their rights and bargain for their working conditions and wages.

Expected legislation should strengthen rights

There is hope that the trade union legislation will improve. Lithuania is seeking membership of the European Union, and on May 15 ratified the revised European Social Charter. Provisions in this charter, other European Directives and ILO conventions are all to be incorporated in a draft Labour code, due to be adopted in 2002 and to come into force at the beginning of 2003. The new Code, that will remove and replace several old laws, such as the Law on the Settlement of Collective Disputes, will require the State to encourage bilateral negotiations between trade unions and employers to conclude collective agreements.

RIGHTS IN PRACTICE

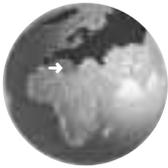
The Lithuanian Workers' Union, (LWU) one of the national centres, says that it is currently almost impossible to call a legal strike under the 1992 law. The City of Vilnius for example invoked the Act to maintain 70% of the city transport operation, as a so-called "minimum service" during a strike.

The LWU has also reported anti-union discrimination against organisers, and the dismissal of workers for their union activities. The judicial system is very slow in dealing with unfair dismissal cases, it says.

Managers often determine wages without entering into bargaining with the unions, except in larger factories with well-organised unions.

Malta

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



There is concern that new legislation will impose limitations on the right to strike.

THE LEGISLATION

The law recognises the right to form and join trade unions. Workers may bargain collectively and employers may not take action against workers for their trade union activities.

Compulsory arbitration

Under the terms of the Industrial Relations Act, the government can impose compulsory arbitration in the event of an industrial dispute. The ILO has been pointing out for more than 20 years that this is not in line with Convention 87, which states that such recourse should be restricted to public servants exercising authority in the name of the State, essential services, situations of acute national crisis, or cases where both parties request arbitration.

Further limitations on right to strike planned

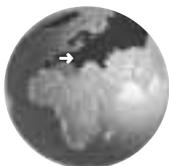
The General Workers' Union has expressed concern at a government white paper on two new pieces of legislation on employment and industrial relations. New clauses would drastically reduce the right of workers to support others through sympathy strikes, it says. The new provisions also ban industrial action in a broadly-defined range of essential services.

RIGHTS IN PRACTICE

The government insists that it only imposes arbitration after all other avenues have been exhausted, and that in practice it rarely has to do so.

Moldova

POPULATION : 4,300,000 / CAPITAL : Kishinev / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



In the public sector, education unions still faced harassment, while in the private sector, food industry employers tried to prevent organising.

THE LEGISLATION

The right to form or join a trade union is recognised by the Constitution. The trade union law of July 2000 provides for trade union independence and prohibits discrimination on the basis of trade union membership. It also provides for basic trade union rights such as collective bargaining, as well as the protection of trade union assets and the guarantee of trade union activities.

Limitations on the right to strike

Government workers and those in essential services may not strike. Other unions may strike, but only when two thirds of their members – excessive by ILO standards – vote in a ballot to do so.

Mechanisms for enforcement needed

There are still no legal mechanisms to ensure the respect of labour standards. There is no labour inspection service, for example, to monitor the respect of workers rights.

Both employers and some public authorities continue to violate trade union rights. The State has set out to prevent the organisation of its workers into trade unions, particularly in the education sector. Regional union structures are still weak as a result, and teachers have had difficulties in collective bargaining and concluding collective agreements.

In the private sector, some employers have failed to transfer union dues, or have avoided collective bargaining. Most employers also fail to provide the 0.15% of wages to the union to be used for purposes foreseen in their collective agreement, as provided for by the Trade Union Law and the Collective Agreements Act.

EVENTS IN 2001

Education unions' activities obstructed

The President of the Edinet Regional Council instructed the local municipal authorities to retain the trade union dues deducted at source, instead of transferring them to the bank account of the local education union. The same Regional Council tried to take away the offices of the Education and Science Trade Union, cut off its telephone connections and deprive it of basic services.

There were other problems facing education unions. At the "Mircea Eliade" school in the Chisinau municipality, the director did everything he could to eliminate the existing trade union.

Organising opposed in food industry

In the food industry too there have been violations of trade union rights and resistance to trade union activity. During the year the companies Morozeanca-Prim, in the Balti department, and Marculesti-Combi, Bah-Flor and Pan-Chip in the Soroca department, all opposed the creation of a trade union.

Dues withheld

The limited liability companies Cen-Agro Impex and Caren-Prim in the Balti department refused to pay the trade union the dues deducted from members' salaries.

Similarly, employers at the following companies in the Lapusna department, Vitis-Himcesti, Negru-Promvit, Baciuc and Merinde illegally made use of 40% of the trade union dues deducted from workers' salaries.

No collective bargaining

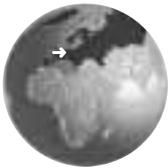
The union at the "Lapte" company in Chisinau reported that the employer avoided negotiating a collective agreement for 2001.

Interference

There was also interference in trade union activities at the national level, when the Chisinau Tax Inspector insisted on carrying out an audit of the accounts of the national trade union centre, the Confederation of Trade Unions of the Republic of Moldova (CSRM). When the CSRM refused to provide the necessary documentation, on the grounds that as a trade union it was defined in law as a non-commercial entity and thus exempt from income tax, the State imposed a heavy fine. The CSRM took the case to court and won.

Poland

POPULATION : 38,600,000 / CAPITAL : Warsaw / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



Employers have taken advantage of the economic downturn to discriminate against trade unionists. The law has proved ineffective in protecting them.

THE LEGISLATION

All workers, including civilian employees of the Armed Forces, police and border guards, have the right to form and join trade unions. A minimum of ten people may form a local union and 30 a national one. There is one serious limitation however: workers on individual contracts may not form or join unions.

Right to strike limited

The right to strike is recognised, other than in essential services which are broadly defined (exceeding the ILO definition) to include uniformed services, state administration and local government, where they only have the right to protest. Procedures for calling a strike are long and cumbersome.

Rights denied to civil servants

A 1998 law on the civil service restricts rights in the sector. It divides workers into two categories, civil service employees, employed on the basis of an employment contract, and civil servants, employed by appointment. Civil servants may not, according to this law, "perform functions within trade unions", which restricts the right of union members to freely elect their representatives. Neither of the two categories may participate in strikes or protest action if it interferes with the normal functioning of the office. This limitation should only apply to those exercising authority in the name of the state, according to Convention 87.

Collective bargaining is a recognised and protected right. Anti-union discrimination is banned.

Proposal to weaken trade unions' role

President Kwasniewski announced that he wanted to change labour law to make it more business friendly. He wanted to limit the role of the trade unions and remove the strict controls on the hiring and firing of workers.

RIGHTS IN PRACTICE

Law ineffective

In practice, unions report that employers discriminate against workers who try to organise in the private sector, and that the law has not been sufficiently dissuasive to prevent harassment.

In cases of unfair dismissal, it has often proved difficult to ensure the reinstatement of the workers concerned. Where courts rule in the union's favour employers often ignore the reinstatement order. Further legal action by the union is either dealt with inefficiently, or the case simply closed.

Individual contracts

Many workers in state-owned enterprises such as the health sector, water and forestry have had their employment contracts terminated and replaced by individual contracts, so that they can no longer be trade union members.

Legal strikes too complicated

Because of the long and complicated strike procedures, many strikes are carried out illegally. As a result, strikers risk losing their social benefits and union organisations risk having to pay damages.

Obstructing trade union activity

The national trade union centre NSZZ Solidarnosc reports that many employers do not comply with the legal requirement to provide premises for trade union activities, or the company information they request and are entitled to. Trade union meetings have been interrupted, sometimes forcefully, or cancelled on the pretext there was no agreement on holding the meeting. Some employers refuse to release union officers from their work duties to carry out trade union activities, despite being required by law to do so. Others do release them but do not pay them, or do not allow them to enter the premises or contact the workers during that time.

Many employers are reluctant to deduct trade union dues, or they deduct the dues from the workers' salaries but do not pass the money on to the union.

EVENTS IN 2001**Trade unionists targeted**

The year saw an economic downturn in Poland, and a sharp rise in unemployment. Employers took advantage of the situation by targeting trade unionists for redundancy when restructuring or downsizing. At the Daewoo Lublin Company, for example, all the trade union officers were dismissed. The employer said it was a case of "adapting employment to production levels".

Obstruction of union activities

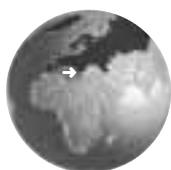
A city mayor transferred a trade union officer to a lower position and made it impossible for him to conduct his trade union activities by removing his telephone and computer and prohibiting him from leaving his office without permission. The labour court overruled the mayor's decision.

Trial over killing of strikers continues

The trial of Poland's last communist leader, General Wojciech Jaruzelski, continued. He finally appeared in court in mid-May, after years of legal wrangling. He and nine other defendants are charged with giving the order to shoot striking shipyard workers in Gdansk, Gdynia, Szczecin and Elblag in 1970. Forty-four people were killed and over 1,000 injured, 200 of them seriously. If convicted they could face a jail term of 25 years. Jaruzelski denies ordering the killings. The trial was not over 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



Trade union rights are fairly well protected in law, but an increasing number of private sector – mainly foreign – employers seek to prevent any trade union activity.

THE LEGISLATION

Under the 1991 Trade Union Law workers can establish and join the trade union of their choice. There must be at least 15 members, who must all be employees of the same enterprise. This right applies to all except high level government and civil service staff, public prosecutors, judges, military and intelligence personnel. No worker may be forced to withdraw from or join a union.

Restrictions on choice of union officials

To be elected to trade union office a person must be a Romanian citizen, a member of the trade union and employed at the workplace, restricting the freedom of unions to elect the representative of their choice.

Strike limitations

The right to strike is recognised. Employees in sanitary services, pharmacies, schools, communications, radio and television, transport, and the supply of essential services (gas, electricity) etc. must provide a minimum service of one third of normal activity in the event of a strike.

Strikes may be held only if all means of possible conciliation have failed. The employer must be given 48 hours warning. Strikes can only be held to defend the economic interest of the workers and must not be used for political reasons. The same people who are prohibited from joining and forming trade unions may not strike.

Collective bargaining

Collective bargaining is a recognised right under a 1996 law which stipulates that collective agreements are to be renewed every year. The state may not interfere in the collective bargaining process. No sector is excluded by law from collective bargaining. Public employees may bargain for everything except salaries, which are set by the government.

Anti-union discrimination is prohibited by law, but the unions would like to see more specific protection for trade union leaders.

RIGHTS IN PRACTICE**Yellow unions**

The right to form trade unions is generally respected in practice. However, some employers create "yellow unions" to counteract the activities of independent trade unions. In some cases the employer seeks to destroy independent trade unions, which is punishable by law but difficult to prove.

It is reported that the most anti-union employers – usually foreign companies – make employment conditional upon the worker agreeing not to create or join a union.

Collective bargaining is complicated by the fact that the state still controls most industrial enterprises and there are no independent management representatives. Collective agreements have not always been effectively enforced.

EVENTS IN 2001

The government announced it was stepping up its privatisation programme. Workers feared the loss of rights, and particularly the loss of their jobs. There were a series of protests at the Resita steel company following privatisation.

Refusal to recognise union

The Village Museum of Bucharest refused to recognise the trade union, despite the fact that it had been recognised as a legal entity by the court. The employer also refused to provide the union with premises, or access to a telephone, fax machine, computer, etc. The Director made verbal threats against the union, and withheld its correspondence, including the notification that it had been granted legal status. The union leaders have faced constant pressure, including the removal of personal effects. The Director asked for a list of names of union members, while all those suspected of being members have been harassed.

Unpaid wages

Several unions reported their members had faced problems of unpaid wages, although only for short periods, of between two to five days.

Russian Federation

POPULATION : 146,200,000 / CAPITAL : Moscow / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



The new labour code makes collective bargaining very difficult for smaller unions and further limits the right to strike. It does make strikes over unpaid wages legal however. A new "trade union" organisation was set up during the year under employer and state control.

THE LEGISLATION

Workers have the right to form and join trade unions in law.

Strong limitations on right to strike

The right to strike is recognised, but strikes are banned in the railway and air traffic sector, at nuclear power stations, by members of the military, militia and government agencies and by disaster relief organisations. A minimum level of "essential" services must be maintained. The broad definition of these deprives most public sector employees of the right to strike. The procedures for calling a strike are so complex that most strikes are

considered technically illegal. The civil court can order the confiscation of union property to settle losses incurred by the employer if the strike is found to be illegal.

Court rulings had established that the non-payment of wages was an individual dispute, and could not be addressed collectively by a union. Collective action on the non-payment of wages was therefore not recognised as a strike, and individuals were not protected by law from dismissal while on strike over this issue. This changed at the end of the year with the introduction of the new labour code (see below).

Provisions on collective bargaining too weak

The right to collective bargaining is recognised and employers are required by law to negotiate with the union. No time limit is stipulated however, and the law does not require management to sign the agreement.

New labour code adopted

On December 19 the Duma adopted a new labour code, the text of which had been bitterly opposed by many unions for weakening their rights, particularly those of smaller unions. The aim of the new code is to make the labour market more "flexible". It favours short-term contracts, which as well as threatening job stability making organising more difficult. The new law also permits employers to gather information about workers suspected of involvement in union activity, giving rise to the fear of blacklists.

The new code makes it easier for employers to dismiss workers, not only for absenteeism and alcoholism but also for divulging commercial secrets or causing material damage to the enterprise. The employer no longer needs to seek a trade union's permission to dismiss one of its members, but merely to consult it.

On collective bargaining, the law specifies that the employer will negotiate with the local branch union or other representative. This is not a problem for the larger trade union federations, but some smaller independent unions do not have union locals in their structures. At the same time, the term "other representative" allows for the union to be by-passed. The law also says that "another representative" may negotiate with management where a union represents less than half the workforce. Where there are more than two major unions, they are asked to develop a unified collective agreement. If they fail to do so within five days, the union that represents more than half the workers is considered as the representative of all the workers. Only one collective agreement can be negotiated at the enterprise, effectively excluding most small unions from the process.

There are no clear enforcement measures to ensure that employers engage in good-faith bargaining.

Strike restrictions

Restrictions on the right to strike remain, and procedures have been further complicated. If a workers' representative calls for a strike, the action must be approved by a majority at a general meeting of all workers in the enterprise, regardless of whether they are trade union members. The meeting is only considered legitimate if at least two thirds of workers are present. This places a high barrier on the ability to call a strike, and means that unions representing a minority occupation or profession are denied the right to strike. Federations and confederations may not call a strike.

Strikes can only be called to resolve a collective labour dispute. There is nothing to forbid employers hiring substitute labour during a dispute.

Strikes over unpaid wages made legal

A positive aspect of the new labour code is that it seeks to address the problem of the non-payment of wages. Workers can down tools if they have not been paid for more than 15 days, and cannot be fired for taking such strike action. The law also obliges employers to set wages above the official subsistence level.

RIGHTS IN PRACTICE

Discrimination

Anti-union discrimination is fairly common in practice. Union leaders have been followed by security services, detained for questioning by police, subjected to heavy fines, have lost bonuses and have been demoted.

Collective bargaining rights ignored

Collective bargaining rights are often ignored by employers, who refuse to negotiate or refuse to provide the financial information requested by trade unions.

The management at Moscow Railway has refused to negotiate a collective agreement and other issues with the Russian Trade Union of Locomotive Brigades of Railway Employees (RPLBZh). Any sign of trade union activity by union officials leads to harassment. Members of the union receive differential treatment, such as being refused the free rail travel they are entitled to. Many local branches of the union have been repeatedly refused registration, usually on petty grounds such as a supposed problem with their documentation.

EVENTS IN 2001

Privatisation increases violations

Privatisation continued during the year. The Commercial, Catering and Consumers Cooperation Workers' Union (CCCCWU) says that the privatisation of state commercial and retail outlets has led to serious rights violations. Often unionised staff members are simply dismissed en masse.

The Krasnopresnenskii department store was closed without warning on May 26, for restructuring. Some 300 people lost their jobs, without the statutory two months' notice and without any prior discussions with the trade union. They did not receive compensation until after the Labour Inspector was brought in to examine the case.

Often when the stores re-open with new labour, the workers do not dare, or are heavily discouraged, from joining a union. The CCCCWU has tried to get round the problem of employers obstructing the formation of a union at the enterprise – through threats, pay-offs and stalling tactics - by changing its statutes to allow for individual affiliation to it.

Anti-union discrimination

Anti-union attitudes were also reported in foreign owned companies. Labour inspectors visiting South Korean owned garment factories in Artyom found clear evidence of anti-union discrimination. Notably, union members were refused the pay rises given to other workers, and were deprived of other financial advantages such as lunch subsidies.

Problems also continued at McDonalds, where the union had finally won recognition and the company was forced into negotiating a collective agreement. The managers had decided to resort to more subtle tactics, offering money to those workers who agreed to leave the union.

The Dockers' Union of Russia (DUR) reported blatant anti-union discrimination by the Kaliningrad Sea Trading Port Company. Union members had faced harassment ever since a two-week strike over pay and working conditions in 1997. International pressure resulted in the signing of a collective agreement in 1999 and relations improved. That agreement was ignored however after a restructuring programme in December 2000, and the situation again deteriorated. First, DUR members were overlooked when other dockers received lucrative transfers to a subsidiary stevedoring company. All cargo handling work was signed over to the new company. Then in April DUR members were forbidden to work night shifts, cutting their potential earnings in half. Their income fell to US\$ 55 per month, compared to non-DUR members earning an average of US\$ 300 per month. Earnings continued to fall, and so did DUR membership. The union has again sought international trade union support.

Pickers beaten and arrested

In July, four women trade union leaders faced criminal charges after being arrested on a picket line. Protesters had blocked a road after the Gazprom gas company had refused to honour an agreement with the Zashita union to rehouse the families of workers at serious risk of chemical poisoning because of the company's activities. Protesters, including a pregnant woman, were beaten by police as they tried to remove them from the road. The charges against the trade union leader were dropped, and the union's demands were met.

New organisation undermines unions

The Federation of Independent Trade Unions of Russia (FNPR), the All-Russia Confederation of Labour (VKT) and the Confederation of Labour of Russia (KTR) reported on activities during the year to create a trade union structure under the control of the employers and state bodies. The result of this was the establishment on August 2 of the "Association of Trade Union Organisations of Workers of Pan-National and Transnational Associations", a structure whose elective bodies include employers' representatives. Several unions expressed their strong concern at attempts to draw members of the all-Russian trade unions and other large trade union organisations

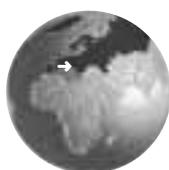
into the new association, accompanied by pressure from government officials on the leaders of those trade unions. The FNPR, VKT and KTR believed the purpose of creating this association was to weaken and split the Russian trade union movement and undermine the developing system of social partnership.

New Arbitration Court

The government set up the Moscow Labour Arbitration Court in September to deal with the increasing number of labour violations registered every year. The Ministry of Labour estimated that there had been over 2000 violations during the year. If the experiment works, other similar courts will be set up in other regions.

Slovak Republic

POPULATION : 5,400,000 / CAPITAL : Bratislava / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



The government amended its strike legislation to remove the requirement that a list of striking workers be provided. Trade union rights are generally well respected, but some employers discriminate against union members and resist collective bargaining.

209

THE LEGISLATION

All basic trade union rights are recognised in law. Workers are free to form and join trade unions and anti-union discrimination is banned. Collective bargaining rights are recognised, but the unions would like the law to contain stronger protections of this right.

Strike legislation – some improvements

Strike legislation was changed during the year to remove some restrictions, principally the requirement to provide the employer with a list of all striking workers. There are still many ambiguities in the law however, with the result that very few strikes actually take place.

RIGHTS IN PRACTICE

Despite a good legislative framework, there have been some abuses, notably as a result of the privatisation process, which has led to collective redundancies.

Insufficient protection

There have been increasing reports of anti-union behaviour by employers, and insufficient protection of the workers who have been the victims of this discrimination. Collective bargaining is widespread, but some employers seek to obstruct bargaining.

Non-payment of wages continues to be a problem.

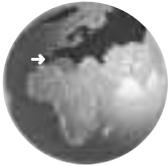
EVENTS IN 2001

Government tried to avoid union consultation

The government proved reluctant to consult the unions over the privatisation of the Slovak electrical energy company. The Slovak trade union of energy workers reported in September 2001 that an agreement on the social aspects of privatisation had eventually been signed, thanks partly to support from the global trade union federation Public Services International and the threat to involve the European Commission and Parliament.

Spain

POPULATION : 39,900,000 / CAPITAL : Madrid / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



Civil servants still faced problems with the government over their collective bargaining rights, and the implementation of agreements signed between the trade unions and the administrative authorities.

THE LEGISLATION

The law recognises the freedom of association. All workers can form or join the union of their choice, with the exception of members of the State security forces, the Armed Forces, judges, magistrates and prosecutors.

Some limitations on the right to strike

The right to strike is recognised. There are limitations however in those services the government considers essential. A minimum service must be maintained during a strike. The level of minimum service must be negotiated and agreed between the union and the employers. A union must give five days notice, and respect the agreed minimum service requirements. Strikes may not be held for political reasons or any reason other than the occupational interests of the workers concerned. Strike action cannot be taken to change the terms of a collective agreement while it is still in force.

Rights denied to "irregular" foreign workers

The rights of foreign workers not legally registered in Spain were further limited by the Basic Act on Rights and Freedoms of Foreigners in Spain, which came into force on January 23. The new Act specifically states that foreigners may not exercise the right to organise and strike, the freedom of assembly and association (and by extension, the right to collective bargaining) until they "obtain authorisation for their stay or residence in Spain". The government says the purpose is not to discriminate against foreigners but to distinguish between "legal" and "irregular" foreigners. There are no intermediate measures to deal with the "irregular" foreigners already living in Spain who used to enjoy the freedom of association but have been deprived of that by the new law.

RIGHTS IN PRACTICE

Effect of strike undermined

In many cases, the minimum service to be ensured during strikes in essential services is imposed on the workers, owing to a failure to reach agreement on the excessive demands of the employers. As a result, the effect of a strike is often undermined.

EVENTS IN 2001

Ruling on collective bargaining in the civil service

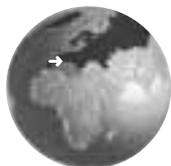
The collective bargaining rights of civil servants were ignored when the government froze wages for all public employees in 1997, breaking an agreement signed with the trade unions. A court ruling made public on January 23 obliged the government to pay civil servants the amount they would have received had the agreement been respected. It was hailed by the unions as a landmark ruling, recognising the right to collective bargaining in the public service. Their relief was short-lived however, as the government went back to court to appeal the ruling. The Supreme Court's decision went against the workers, who have in turn taken the case to the Constitutional Court.

Virtual discrimination continues

The problems reported last year at the BBVA bank, which sought to prevent unions from communicating with staff by e-mail, continued. The bank was not the only culprit. The unions reported similar problems in other companies, notably in the American multinational NCR.

Switzerland

POPULATION : 7,200,000 / CAPITAL : Bern / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



The recognition of the right to strike in the civil service at federal level still needs to be extended to the local level.

Recognition of right to strike

A new clause in the Federal Constitution which came into force in January 2000 explicitly recognises the right of workers to form and join trade unions. It also recognises the legality of strikes provided they are related to industrial relations.

The prohibition on strikes by public servants was removed from the Federal Act in 2000. The Federal council may only restrict or prohibit the right to strike where it affects the security of the state, external relations or the supply of vital good to the country. The changes have been introduced in stages and will come into fully into force by July 2002.

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Restrictions remain at regional and local level

The changes to strike law only apply to federal level however. Civil servants in seven cantons and many communes are still denied the right to strike.

Collective bargaining rights are recognised in law.

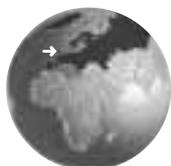
RIGHTS IN PRACTICE

Employers try to avoid collective bargaining

The national trade union centre, the USS, reports that more and more employers try to avoid collective bargaining. Some employers actually leave their federation in order not to be bound by the collective agreement for their industry. Others simply ignore it. Of the 270 members of the Swiss textile employers federation only 37 adhered to the framework collective agreement for their industry in 2000.

United Kingdom

POPULATION : 60,600,000 / CAPITAL : London / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



Events during the year illustrated the need for more protection in law of workers' rights, notably the right to strike, collective bargaining rights, and consultation and information rights.

THE LEGISLATION

The 1999 Employment Relations Act (ERA) recognises many basic trade union rights, after years in which such rights had been denied. Workers have the right to form and join trade unions of their choice.

Strikes allowed – with limitations

The ERA provides protection against prosecution for workers taking industrial action as long as certain conditions are met. These are that strikes must be confined to workers and their own employers, the dispute must be wholly or mainly about employment-related matters, and the decision based on a secret ballot of the workers concerned. If striking workers are dismissed within eight weeks of taking part in a legal strike, they can claim unfair dismissal. Secondary picketing is not allowed, and there is no immunity from civil liability for workers taking part in sympathy strikes.

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| Bargaining – statutory recognition | A trade union may be awarded statutory recognition by the Central Arbitration Committee if the majority of the workforce wants that. Support for recognition must be shown either by majority membership, or via a workforce ballot, in which 40% of those eligible to vote must vote in favour. A union has to show at least 10% membership in the bargaining unit to trigger a ballot. |
| Opting out | The legislation still allows employers to offer financial inducements to employees to sign personal contracts, even where they are performing identical work to those who do not sign. |
| Small firms | Companies employing fewer than 21 workers are excluded from the statutory recognition provisions of the ERA. |
| Right to union support | The ERA also gave workers 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. The TUC would like this to be strengthened so that instead of just being “accompanied” workers can be “represented”. |

RIGHTS IN PRACTICE

There is a long-standing tradition of collective bargaining in the country, and about a third of the workforce is covered by collective agreements. The most outstanding feature of the statutory trade union recognition scheme has been a very significant increase, of over 300% over the previous year, in the conclusion of voluntary agreements.

The government has sought through its legislation to improve the respect of workers’ rights, but still falls short of some international and European standards. The ILO Committee of Experts on the application of Conventions have in particular found incompatibilities in respect of the continuing ban on all solidarity action; of restrictions on the right of unions to enforce democratically-decided rules; and of prison labour. The government opposed a European Union (EU) directive that would extend information and consultation rights on a range of workplace matters to employees of all national companies in the EU with over 50 employees. However, following a sustained campaign by the Trades Union Congress (TUC) and the European trade union movement as a whole, the directive was adopted by the EU Council of Ministers in June 2001. A key TUC objective is now to secure a robust transposition of the directive into UK law, in the face of the consistent approach of the government to seek to minimise the positive effects for UK workers of EU social legislation.

EVENTS IN 2001

The year was dominated by news of mass layoffs at the steel company Corus (formerly British Steel), the Vauxhall car assembly in Luton, and Cosignia (formerly the Post Office). These events led to increasing tensions between the TUC and the government, and heightened the debate on consultation and information rights, privatisation, and public-private partnerships.

| | |
|---------------------------|---|
| Agreements ignored | At the beginning of January, General Motors Vauxhall announced it would close its Luton plant in 2002. The company did not consult the workers or their unions over the plan, and the workers learnt of the decision in the mass media. Commitments had been made two years earlier on securing the plant’s future and agreements were signed with the unions. The workforce had delivered on productivity targets and maintained good industrial relations, yet the agreement was still ignored. |
| Strikers sacked | Events at Friction Dynamics Ltd demonstrated weaknesses in the law when workers were sacked for striking, but not until after the statutory eight weeks in which they are protected from dismissal had elapsed. Workers at the Wales-based car parts manufacturer went on strike for one week in April over health and safety conditions, production targets and attempts to break existing agreements. When they returned to work they found they had been locked out and temporary staff had been recruited in their place. Eight weeks later they were given an ultimatum. They could return to work if they accepted a 15% pay cut and changes in conditions, failing which |

they would be dismissed. The workers, all members of the Transport and General Workers' Union, voted to continue their action. On June 29, as soon as the eight-week protection expired, 87 members were issued with dismissal notices.

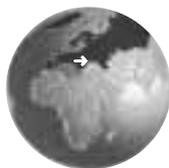
Strike breaking

The government sought to undermine a strike by civil servants by offering staff extra pay and hotel accommodation to maintain services in strike-hit areas. The strike was called by the Public and Commercial Services Union (PCS) over the decision to remove the screens protecting staff in employment agencies and benefit offices. A government document dated October 19 detailed the incentives offered to staff willing to travel to the sites concerned to replace the strikers. It said its aim was simply to continue to provide a service to vulnerable people who needed their social security benefit. The PCS pointed out that it had called for talks and had not had a response.

Ukraine

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

2 1 3



High barriers to organising

The government's attempts to remove restrictions on the right to organise do not go far enough. There was serious interference in the affairs of the mine workers' union, one of whose leaders was physically attacked.

THE LEGISLATION

The right to join and form trade unions is guaranteed by the Constitution. The principal law governing trade union rights is the 1999 Act on "Trade Unions, their Rights and Guarantees of their Activities". Key articles of this act are not in line with Convention 87. Article 11 sets excessively high representational criteria at the territorial level. It stipulates that for a trade union to obtain recognition at the district or national level it must unite more than half the workers of the same vocation or occupation or should have its organisational units in the majority of administrative territorial units of the same district or of the 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. Registered unions with national status may participate in the national collective bargaining agreement, sit on the Social Insurance Fund Board, acquire property, open bank accounts and enter into legally binding agreements.

In December 2000 the Constitutional Court declared articles 11 and 16 unconstitutional. In April 2001, an ILO experts mission visited the country to advise the government on how to amend the law to bring it into line with the Convention. Finally a new draft text was passed at first reading by parliament, in December 2001. The Free Trade Union Confederation of Ukraine notes however that of the three possible versions that could have gone to parliament, the one introduced by the government of Ukraine was still not in line with the Convention.

Public servants denied right to strike

The right to strike is recognised in the constitution, provided it is to "defend economic and social interests". Members of the judiciary, armed forces, security services, law enforcement agencies and public servants may not strike.

Collective bargaining

The Law on Collective Bargaining provides for the right to collective bargaining, but that right is limited to unions registered under the restrictive terms of the 1999 Act.

RIGHTS IN PRACTICE

Discrimination

When the 1999 law came into force, the Confederation of Free Trade Unions of Ukraine (CFTUU) was no longer recognised as a partner at the national level. Even after articles 11 and 16 were declared unconstitutional, they

continued to be applied. State authorities take discriminatory action against trade unions, reports the CFTUU, for example by refusing to enter them in the state register if they are not registered at the Ministry of Justice. Similarly banks refuse to open bank accounts for unregistered unions, and employers and local administrations will not recognise them. When trade unions are involved in disputes, they have to prove their legitimacy to the court by providing certification of registration at the Ministry of Justice.

EVENTS IN 2001

Registration refused

The impact of article 16 of the 1999 law on trade unions was felt when the Luganskoy regional branch of the Confederation of Free Trade Unions of Ukraine (CFTULR), created on March 23, was denied registration. The Luganskoy regional Statistics Unite refused to give the CFTULR an identification number and put it in the State Register on the grounds that it had not presented a certificate from the Ministry of Justice.

The All-Ukraine Trade Union "Capital/Regions", which last year was still awaiting recognition, was finally registered.

Mineworkers' leader physically attacked

Members of the Independent Miners Trade Union of Ukraine (IMTUU) came under threats and pressure following strikes in June at mines owned by the "Shahterskukol" State Holding Company over the non-payment of wages. State security agents threatened union leaders, notably V.V. Stulmann, with prosecution and dismissal. On July 1 Mr. Stulmann was stopped on his way home and forced into a car where he was beaten and a pistol aimed at him. He was warned to stop his trade union activities, otherwise he and his family would suffer. Mr. Stulmann reported the case and asked for police protection.

In July management refused to grant elected union delegate Mr. Filimonchuk leave to attend the IMTUU Congress because they did not agree with his views. He was finally able to attend after the union intervened.

Interference in trade union affairs

The IMTUU reported numerous attempts by the authorities throughout June and July to interfere in their leadership elections. It recorded 49 incidents of psychological or physical pressure. The campaign was principally directed at persuading people not to vote for Mikhail Volnetz, chairman of the IMTUU and the CFTUU, at the congress. The Krasnogvardeyskoy mineworkers' leader was invited into the Director's car for example, and offered his own telephone line if he would vote as the mine director instructed. In Kiev and Kirov and other regions, agents for the security forces approached regional IMTUU leaders to ask them about lists of delegates to the congress, leadership candidates, and their voting intentions. Some were offered bribes to ensure that Mihail Volnetz was removed from the leadership. In most cases the bribes were accompanied by threats.

The mineworkers' union has been particularly active owing to the serious problems in its sector. Many workers face late or unpaid wages, and hundreds died during the year due to appalling safety standards. On August 19, a single explosion at the Zasiadko mine killed 49 people.

Union dues withheld

The Ilichevsk Port Authority, in the Odessa region, obstructed the activities of the Independent Trade Union of the Commercial Sea Port of Ilichevsk by refusing to pass on the trade union dues deducted from workers' salaries to the union. It also refused to allow the union to use facilities such as the telephone and fax machine. The union complained in April to the Ministry of Transport which investigated and upheld the complaint. It ordered the Port authority to rectify the problems by August 15, but the authority ignored those instructions. It also started legal proceedings against the trade union leader, A.M. Boychuk, claiming the signed agreement regarding the deduction of trade union dues was a forgery.

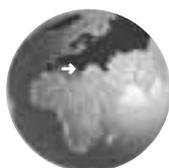
Union activities obstructed at Sugar plant

Management at the Orijijs sugar plant in the Poltava region tried to block the activities of the independent workers' union at the plant, affiliated to the ICTUU. The chairman of the trade union and members of the executive committee were not allowed to cross land owned by the plant to gain access to their union premises, or to visit members in their workplace. The union was not allowed to use any kind of communication facilities. Management refused to deduct trade union dues from workers' salaries, and has ensured the commission for

labour disputes was unable to function. The district attorney verified the violations and ordered management to rectify the situation. Management did nothing. The union has twice submitted a complaint to the General Prosecutor of Ukraine.

Yugoslavia, Federal Republic of Serbia

POPULATION : 9,900,000 / CAPITAL : Belgrade / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,111,138



Trade unions still need the consent of both the employer and the Ministry of Labour before they can register. A new labour law adopted at the end of the year improved collective bargaining rights, but at the same time made it easier to dismiss workers. Nezavisnost reported many cases of anti-union discrimination during the year, with union leaders being dismissed or suspended.

THE LEGISLATION

Authorisation required

All workers except military and police officers have the right to join and form a trade union. Trade unions must be registered in accordance with regulations issued by the Ministry of Labour. The procedure is very complicated, and is handled by the Ministry itself. The Ministry does not only receive documentation, it must give its consent. Before applying for registration the union leader must have a certificate from the employer, or an "authorised person", stating that they are in full-time employment at the enterprise. Hence the employer's consent is also required. The Ministry can dissolve a trade union if false data is supplied during the registration procedure.

Right to strike heavily limited

The right to strike is recognised, although it is restricted for employees in "essential services" who must give at least 15 days advance warning of strike action, and must ensure a minimum service. The notion of essential services is very broadly defined, and in practice covers 60% of workers, including teachers and postal workers.

Collective bargaining restricted to "majority" union

Collective bargaining is compulsory but signing a collective agreement is not. The Labour Relations and Collective Bargaining Law, introduced the notion of the "majority trade union". This is the union that represents the majority of workers within a company, sector of activity or at the national level. Majority trade unions have the exclusive right to enter into collective bargaining agreements. At the national level the state recognised the SSS (Trade Unions Confederation of Serbia) as the majority trade union. Its membership is still based on the old "automatic" affiliation system whereby all new employees systematically become members. This law was in force for the period under review but was about to change.

A new labour law was adopted on December 12, which improved collective bargaining rights, although it did not make the signing of collective agreements mandatory for employers. Most importantly, it removed the SSS's exclusive bargaining position, giving the other confederations the possibility of negotiating collective agreements. Under the new law, a union must represent 15% of employees to negotiate with an employer, or 20% of all workers to negotiate with the national or local government.

It was not all good news however. The new law has also made it much easier for employers to dismiss workers, as part of a general trend towards the liberalisation of the labour market.

RIGHTS IN PRACTICE

Harassment

The Nezavisnost national centre reports that its members are exposed to harassment and persecution, both by private company managers and government bodies. Problems begin with registration. Out of 300 applications for the registration of local "Nezavisnost" branches, over 200 have been delayed by the authorities for longer than the time limit set by law. At the workplace, it reports that company managers prohibit the operation of "Nezavisnost" unions and ban their entry to the premises, on the grounds that they are not registered. There

were many reports of workers having their pay docked, being transferred to lower paid positions, or being threatened and even assaulted after joining Nezavisnost.

EVENTS IN 2001

Unemployment continued to rise to over 30%, as many people were made redundant after long years of service. Over 70% of the population live below the poverty line.

Union representatives dismissed or suspended

Discrimination against Nezavisnost and its members continued during the year.

The founder and shop steward of the Nezavisnost branch union at the Mldost textile company in Subotica, Ivan Mologurai, faced threats, assignment to a lower paid post and finally suspension because of his union activities.

Union leaders at the KCX enterprise, Jozef Kantor and Zoran Grabusin, were fired for their union activities and all the members of the local Nezavisnost executive board were suspended.

The president and 11 members of the Nezavisnost strike committee at the Ni Ekpres transport company were fired because of their trade union work, notably for having organised a strike in December 2000, over pay, working conditions and fraud at the company.

The Nezavisnost shop steward at the Tigar chemical and rubber production company, Jovan Dimitrijevic, was fired after 10 years service, despite being known as a hard-working and conscientious employee.

Gordana Adamovic, the Nezavisnost shop steward at the Galenika pharmaceutical factory in Zemun was harassed, threatened and finally suspended for her trade union activities.

Ljubisa Dembos, the Nezavisnost representative at the Dijana carpet factory in Stara Pazova was suspended for her trade union activity. After union members exposed management fraud, the general manager prohibited the work of "Nezavisnost" at the company and prevented a Nezavisnost leader from entering the premises.

Union-busting at Hyatt Regency Hotel

Union members were either fired or forced to leave the union further to a strike called by Nezavisnost at the Hyatt Regency Hotel in Belgrade. The strike took place on May 22 in response to management's repeated refusal to enter into negotiations on raising the wages of the lowest paid staff. By July 4, 23 workers were back at the jobs, but only after being compelled to sign letters of resignation from the union. Some also had their pay cut. The remaining 19 were fired on August 3.

Police harassment

On June 1, Boban Bogdanovic, a representative of the Nezavisnost Union of Street Vendors was summonsed to the main police station in Belgrade, without a written warrant. He was interrogated for several hours about his trade union work and views he had expressed in a newspaper article. He was warned to take care about what kind of action he took, and threatened that "different" measures may be taken against him.

Exclusion from delegation to ILO Conference

When the Yugoslav government sent its tripartite delegation to the International Labour Conference in Geneva in June, it failed to include Nezavisnost, the country's second largest trade union organisation and the only one which was independent under the Milosevic regime. According to the ILO rules, delegations to the conference should include delegates from the country's most representative employer and worker organisations as well as government representatives. The government-appointed worker delegate came from Yugoslavia's smallest trade union – ASNS (Association of Free and Independent Trade Unions) - which is said to be close to Yugoslav labour minister Dragan Milovanovic. Milovanovic was a former president of this trade union. The 600,000-member Nezavisnost was not consulted over the composition of delegation which also failed to include representatives from Montenegro's Confederation of Independent Trade Unions (SSSCG).

The overall trade union landscape of the Middle East remains bleak – most countries either ban trade unions outright, such as Oman, Qatar and the United Arab Emirates, or have a single trade union under the control of the ruling party, such as Iraq and Syria.

There are small, almost imperceptible moves towards change. Bahrain has adopted its National Charter of Action, aimed at setting democratic structures in place. Measures foreseen include proposals to allow for the establishment of trade unions. During the period under review, trade unions were still banned, however. The country has a history of repressing any attempt at trade union activity, but Bahrain's recent human rights record is an encouraging sign – no violations were reported to the UN in 2001.

Saudi Arabia too appears to have taken a small step in the right direction. During the year the government approved regulations for the creation of workers' committees, expected to come into force in 2002. The initial restrictive draft had apparently been improved upon, although it still seemed to fall short of international labour standards. In the meantime, trade unions are still banned.

In Iran, there seems to be a gradual move towards more tolerance of trade union rights in practice. The Workers' House reports that it is no longer the only trade union to be accepted by the regime, and some workers' protests were not only tolerated but in certain cases led to the satisfaction of their demands. Again, restrictive legislation remains in place, and there were still instances of harsh repression, resulting in the arrest and injury of protestors.



The above changes are to be welcomed with a heavy dose of caution. Only time will tell if there is to be any real respect of trade union rights in these countries. In the meantime, other governments regularly promise to make changes to their repressive legislation, but do nothing about it. Iraq repeatedly makes promises but remains as repressive as ever. Oman has been promising new legislation since 1994. Yemeni workers, suffering from job losses as a result of privatisation, are still waiting for improved legislation. Their situation is considerably better than most however, given that they have a functioning trade union organisation in the country.

The workers who suffer most in the region are the migrant workers, who in the Gulf States account for between 50% and 90% of the workforce. The majority are badly paid, work long hours, and have few or no rights. Domestic workers are often kept in conditions of near slavery, vulnerable to physical and sexual abuse, with little or no pay, poor food and often deprived of their freedom of movement. Most of these countries, notably Kuwait and Saudi Arabia, have for several years officially had a policy of replacing migrant workers with country nationals, but to no avail.

International trade union solidarity has played its role in the region. It led for example to an international pressure campaign on the government of Iran that resulted in the release from prison in April of bakery workers' leader Mahmood Salehi. His health had suffered badly from the harsh conditions suffered during his ten months' in prison for speaking out publicly in defence of workers' rights on May Day the previous year.

No report on the Middle East could avoid mentioning the escalating Arab-Israeli conflict, which has dominated events in the region. The biggest impact has been on Palestinian workers, many of whom depend for their livelihoods on jobs in Israel. Palestinian workers may not form or join trade unions in Israel, but are entitled to protection under collective agreements negotiated by the national trade union centre Histadrut. Most of the time, however, they cannot even get into the country because the borders are sealed. When the borders are open, they have to run the gauntlet of border checks. Over 15,600 workers were arrested during the year at checkpoints on their way to and from work. For some the journey can even mean death. The PGFTU has filed a lawsuit for the deaths of 23 workers killed on their way home from work in the evening.

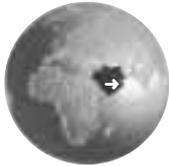
In the West Bank and Gaza, a new Palestinian Labour Code was signed by Yasser Arafat, but had not come into force by the end of the year. Normal trade union activity has been virtually suspended however. Given the impact of the hostilities and soaring unemployment, the PGFTU has been concentrating its efforts on aid to the poor and strategies for job creation.



Middle East

Bahrain

POPULATION : 600,000 / CAPITAL : Manama / ILO CORE CONVENTIONS RATIFIED : 29,105,111,182



No unions

There were still no trade unions in Bahrain by the end of the year, but proposed legislative changes could soon make the establishment of bona fide workers' organisations possible.

THE LEGISLATION

Bahrain is in the process of changing its repressive legislation. Under the laws still in force during the period under review no bona fide trade unions were permitted.

The constitution allows for the creation of associations, but these are forbidden by decree from engaging in politics. The same decree stipulates that all labour related activities are to be undertaken by Joint Consultative Councils (JCCs). These councils are composed of four workers' and four employers' representatives and can be set up in public and private companies employing more than 200 people. The government has to give prior approval before a JCC can be set up. The workers' representatives are elected, but the elections are organised by management. The Labour Ministry has the right to prohibit any worker from standing in elections to JCCs. The JCCs represent the interests of the workers in talks with management, particularly with regard to wages, but their role has been solely advisory.

The activities of the JCCs are coordinated and supervised by the General Committee of Bahraini Workers (GCBW), which has 11 executive members elected by workers in a secret ballot. The GCBW has hitherto been under government control and has not been able to recruit members or charge membership fees. Its rules of procedure have to be approved by the Labour Ministry. The government requires that a Ministry representative attend and supervise the GCBW's general assemblies.

Strikes banned

The right to strike was still banned during the period under review by the 1974 Security Act that prohibits any action that could undermine existing relations between employers and employees or that could damage the country's economic well-being. The ban is backed up by penalties of up to ten years' imprisonment

Major changes ahead

Changes in the law could lead to the creation of the Gulf's first trade unions. On February 14 and 15 the population voted overwhelmingly in favour of the National Charter of Action, a package of measures aimed at ushering in democratic change. Notably it foresees the establishment of a bicameral parliament, with the lower house having legislative powers and elected on the basis of universal suffrage, and an appointed upper house. It provides for the full separation of the legislative, judicial and executive arms of the state and the transformation of Bahrain into a constitutional monarchy.

Among the measures foreseen is a law to allow for the establishment of trade unions to defend workers' rights. The ILO is helping Bahrain draft its labour union law. The GCBW, which has long called for the law to be changed, is involved in this process.

RIGHTS IN PRACTICE

Repression of independent union activity

There are JCCs in 20 large companies, but so far there has been no genuine trade union action. Any attempts in the recent past at independent trade union action have been repressed, including through the use of imprisonment, banishment, and the loss of Bahraini nationality.

Migrant workers

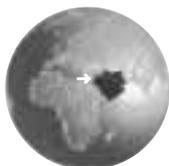
Those who have suffered the worst abuses of workers' rights are migrant workers, who make up over 60% of the workforce. They have been underrepresented on the JCCs and are particularly vulnerable to discrimination. Domestic workers suffered the most, as they have not even been covered by the limited provisions of existing labour law. It was announced during the year that the law would be changed to improve protection for domestic workers. Bahrain's long term policy is to replace migrant workers with Bahraini nationals.

Impact of change?

It is too early to judge the impact of the proposed changes in law. The new labour law had not come into force by the end of the year, and no trade unions had yet been created. More broadly, the UN recognises that Bahrain has improved its human rights records, with no violations being reported during the period under review.

Cyprus

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



The Turkish Cypriot authority continued its repressive behaviour. It restricted freedom of movement, preventing trade unionists from attending meetings. Teachers' leaders were arrested for taking protest action. There were no problems in the rest of the island.

THE LEGISLATION

All workers other than the police and the military, have the right to form and join trade unions without prior authorisation.

Strike limitations

All workers have the right to strike, but with limitations. The Council of Ministers has the discretionary power to prohibit strikes in services that it deems as essential. The government has promised that it will draw up a framework law defining "essential services", further to complaints that the current definition is open to abuse. In the northern (Turkish Cypriot) part of the island employers have the right to hire replacement workers, which limits the effectiveness of the right to strike.

Bargaining and discrimination

Trade unions are free to conduct collective bargaining throughout Cyprus. Anti-union discrimination is illegal in the government-controlled area but not in the Turkish Cypriot community.

Labour law applies to the small export processing zones in the port of Larnaca and in Famagusta.

RIGHTS IN PRACTICE

Harassment in Turkish Cypriot north

Unions report that in the area controlled by the Turkish Cypriot authorities, trade unions and their members are the target of harassment. The Denktash administration has made no secret of its hostility towards Turk-sen and has actively sought to discredit it. It has fostered political divisions within the organisation, and directed some member unions not to pay their subscriptions. Turk-sen has been left nearly bankrupt as a result. There has been a smear campaign in the press, much of it aimed at the Turk-sen president, Onder Konuloglu, claiming financial irregularities.

Private sector employers are able to discourage union activity because the enforcement of labour regulations is sporadic and penalties for anti-union practices are too weak to be an effective deterrent. Some employers have set up their own organisations and put pressure on workers to join these.

EVENTS IN 2001

The Cyprus Workers' Confederation SEK reported that there were no violations of trade union rights during the year in the government-controlled area of Cyprus.

Charges brought against teachers

The situation was rather different in the area controlled by the Turkish Cypriot authority. The Cyprus Turkish Teachers' Trade Union (KTOS) came under attack when it publicly called for self-government in April. Thirty executive members of KTOS were charged with "seditious publication" and the case was sent for trial in the criminal courts. Their computers, fax machines and printers were taken away by police.

Teachers arrested

Teachers again came under attack in December when leaders of the Cyprus Turkish Secondary Education Teachers' Union (KTOEOS), president Ahmet Barçın, general secretary Adnan Eraslan and four executive board

members, were arrested on the morning of December 11. The arrests were the result of protests over the removal of Nilgun Orhon from her teaching post. The general secretary was beaten so badly he had to be taken to hospital.

In both the above cases the union sought international trade union solidarity to press for a solution.

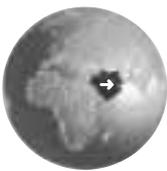
Union committee denied freedom of movement

During the year the Permanent Committee of the All Cyprus Trade Union Forum, consisting of the Greek Cypriot Unions PEO, SEK, PASYDY and the Turkish Cypriot Unions Turk Sen Dev-Is, KTAMS, found its work seriously obstructed after being denied freedom of movement. New procedures introduced by the Turkish Cypriot authorities meant that the committee was unable to hold a major meeting it had been preparing for nine months in the offices of the Turkish Trade Unions (KTAMS). Several other routine meetings of the committee and the sub-committee could not take place during the year because they were not free to travel to them.

At the end of the year the Turkish Cypriot authorities refused to allow the trade unions to attend a seminar organised by the European Union in Nicosia, in the UN-controlled buffer zone. There was equality of sorts – the employers' organisations couldn't go either.

Iran

POPULATION : 69,200,000 / CAPITAL : Teheran / ILO CORE CONVENTIONS RATIFIED : 29,100,105,111, 182



Despite the continued strong restrictions on trade union rights in the legislation, there was a lot of protest activity by workers over the year. In many cases this was tolerated, and in a few rare cases led to the satisfaction of workers' demands. There were still several incidents of harsh repression by police and security forces however, resulting in protestors being arrested and injured.

THE LEGISLATION

Islamic labour councils

Iran's 1990 labour code states that workers in any unit can establish an Islamic labour council, a guild society, or appoint a workers' representative. However, the code gives a central place to Islamic societies and associations. It says that "in order to propagate and disseminate Islamic culture and to defend the achievements of the Islamic revolution ... the workers of production, industrial, agricultural, service and guild units may establish Islamic societies and associations".

The rules for the functioning of the Islamic labour councils, their constitutions and elections, are drawn up by the Ministry of the Interior, Ministry of Labour and Social Affairs, and the Islamic Information Organisation. The Council of Ministers then has to approve these rules.

The Islamic labour councils are overseen by the Workers' House. Branches of the Workers' House exist in each town to coordinate the Islamic workplace councils.

Government control

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.

No strikes allowed

The law does not give workers the right to strike, but they can down tools so long as they remain at the workplace, or operate a go-slow. A 1993 law prohibits public sector strikes and any contact between civil servants and foreign nationals.

Labour legislation does not apply in the export processing zones.

Small companies exempt

A law adopted in February 2000 exempts companies employing no more than five people from having to respect labour legislation for a period of six years. This law, which affects some 3 million workers, also makes it easier to hire and fire.

RIGHTS IN PRACTICE

For a long time the government-sponsored Workers' House was the only national organisation claiming to represent workers to be tolerated by the authorities. This has changed in recent years however. Representatives of the Workers' House report that there is more tolerance of workers' organisations and that there are now four nurses' organisations, a health workers' union, and a textile workers' union.

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| Protest activity | Despite the ban on strikes, there have been numerous protests and work stoppages in recent years. |
| Obstacles to organising | Obstacles to organising include the presence of security and intelligence forces in workplaces, and the increasing trend towards temporary contracts. |

EVENTS IN 2001

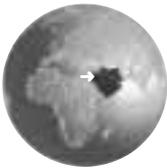
Privatisation continued, leaving many workers out of work, including tens of thousands in the textile industry alone. The majority do not receive unemployment benefit. The problem of unpaid wages continued, with over one million workers facing arrears ranging from several months to over three years. It is estimated that over 70% of the population live below the poverty line.

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| Many protests | There were many work stoppages, sit-ins, protest demonstrations and rallies during the year, almost all because of wage arrears. Many of these protests were allowed to go ahead, and a few resulted in talks with management or the authorities, although rarely with the settlement of wage arrears. In some cases however, workers' protests were harshly repressed. |
| 25 protestors arrested | On March 4, 500 workers from the Simin textile factory in Isfahan (in central Iran) gathered outside the factory to protest at the non-payment of their wages for many months. When they began to walk through the streets towards the town centre, the security forces attacked the demonstration and injured a number of protestors. At least 25 workers were arrested. |
| Union leader released | There was better news on April 18 with the release from prison of Mahmood Salehi, president of the Bakery Workers' Union of Saquez. The authorities had come under a lot of pressure to release him further to an international solidarity campaign. He had spent 10 months in prison, suffering steadily deteriorating health owing to harsh conditions and the loss of one kidney. He had been sent to prison on August 24 2000, for having spoken publicly on May 1. Although May Day is recognised in Iran, workers are not allowed to stage their own May Day demonstrations. Mahmood Salehi had been detained on five previous occasions because of his activities in defence of workers' rights. |
| Demonstrators attacked | <p>On May 6 security forces and anti-riot police attacked a peaceful demonstration by textile workers from the Baresh factory in Isfahan with tear gas, injuring 50. Over 1,000 workers had gathered outside the factory in protest at the non-payment of their wages and bonuses for over four months. The Baresh factory is managed by Bonyad Mostazafan, a government Islamic foundation.</p> <p>As the wave of protests spread, and workers grew increasingly angry and frustrated at their situation, some began to take their protest not only onto the streets but outside the Majiles (the Islamic Parliament) itself. The protest outside the parliament, by workers from the Chit-e Rey textile factory in June, led to the satisfaction of their demands.</p> <p>On July 15, workers from the Jamko clothing and Shadan Pour shoe factories followed suit, organising a joint demonstration. As they tried to climb over the barriers outside the Majiles, chanting slogans, they were attacked by the security forces. In the ensuing scuffles eight workers were injured and taken to hospital. Workers at both factories had not been paid for over a year.</p> <p>On October 4, thousands of workers from textile factories in Isfahan demonstrated against legislation on the "restructuring" of the textile industry. The authorities had not given permission for the protest, and had tried</p> |

to stop it. As the workers walked through the streets of Isfahan towards the provincial government's offices, they were attacked by anti-riot police using batons and tear gas. The police succeeded in dispersing the workers, who later regrouped in a main square. Further clashes with the police followed, in which scores of workers were injured, and dozens arrested.

Iraq

POPULATION : 23,100,000 / CAPITAL : Baghdad / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



There was no change in Iraq where the single trade union remains under government control, and the regime remains as repressive as ever.

THE LEGISLATION

Single trade union structure

A 1987 law establishes the General Federation of Trade Unions (GFTU) as the sole trade union organisation. It is closely linked to the ruling Ba'ath party and is used to promote party policy among workers.

No collective bargaining

Workers in private and mixed enterprises may join local union committees. These are affiliated with individual trade unions, which in turn belong to the GFTU. There is a consultation mechanism for setting the minimum wage, but no collective bargaining. Wages are fixed unilaterally.

Public sector workers and workers in state enterprises cannot form or join trade unions or bargain collectively. The state sets their wages.

No protection

The law does not protect workers against anti-union discrimination.

Virtually no right to strike

Workers may only strike if the employer fails to respect a labour court's ruling in the workers' favour. All other strikes can be punished by imprisonment or detention in a labour camp.

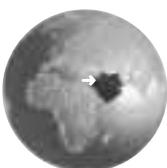
Iraq has in the past responded to ILO criticism of its restrictive labour legislation by promising to draft amendments. So far no amendments have been seen.

RIGHTS IN PRACTICE

No independent trade union activity is tolerated in Iraq. There have been no known attempts at organising independent trade unions, and no strike has been reported for the past two decades.

Israel

POPULATION : 5,900,000 / CAPITAL : Jerusalem / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138



The trade union rights of Israeli workers are fairly well respected. Palestinian workers still suffer discrimination in law, and in practice can rarely get to Israel to work. Other foreign workers, notably Chinese construction workers, find their rights completely ignored and face appalling working conditions.

THE LEGISLATION

Discrimination against Palestinian workers

Israeli workers are free to join and establish trade unions and have the right to organise and bargain collectively. 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. Similarly, Palestinian trade unions in the West Bank and Gaza Strip are not permitted to carry out trade union activities in Israel.

Palestinian workers are entitled to 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. Since the intifada, however, maintaining any links between the Histadrut and PGFTU has become impossible.

There is no law specifically prohibiting anti-union discrimination but the existing law against discrimination (in all its forms) can be used to prevent any discrimination based on union membership.

Strikes are permitted but unions must give 15 days advance notice unless otherwise specified in the collective bargaining agreement. Strike leaders are protected by law.

Restriction on right to strike

The government or authorised Ministers may pass emergency measures to "defend the country", ensure public safety and guarantee the supply of "essential services". Such measures, which can remain in force for up to three months, allow the government to issue back-to-work orders to strikers and impose severe penalties for failure to comply.

RIGHTS IN PRACTICE

Israeli workers can and do exercise their trade union rights widely. No anti-union discrimination has been reported.

Palestinian workers in Israel face a very difficult situation. Daily border crossings between the West Bank and Gaza Strip and Israel are tedious. In addition to the travelling time involved, they are frequently subjected to harassment and humiliation by border guards. Moreover, following the renewed intifada, the occupied territories have been sealed off on countless occasions and for extended periods of time by the Israeli authorities. It has become extremely difficult, often impossible, for Palestinian workers to get to their jobs in Israel.

Other foreign workers also face exploitation and little or no protection in Israel, such as the Chinese "guest" workers in the construction industry, working long hours for poverty wages. They are often recruited by Chinese intermediaries who confiscate their passports and cheat them out of their legal wages. Most are too scared to take any action. When workers at the A.Dori contracting company went on strike in March 2001 in protest at their appalling conditions, they were threatened with deportation.

The government has proposed to cut the number of licences for guest workers.

EVENTS IN 2001

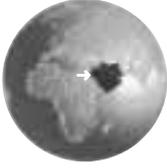
Events during the year were overshadowed by the renewed escalation of the Israeli-Palestinian conflict which, after a spate of suicide bombings and attacks on settlers in Gaza and the West Bank, led to Ariel Sharon cutting off relations with the Palestinian Authority in December. The violence, together with the world economic situation, had its effect on the economy, with unemployment rising to over 10% by the end of the year.

Organising obstructed

Two Histadrut representatives who went to the offices the Amisragas company in Tel Aviv, in August, were barred entry and refused contact with the women workers. Company officials told the union representatives that they had no authorisation to enter the premises to organise workers.

Jordan

POPULATION : 4,800,000 / CAPITAL : Amman / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111,138,182



Obstacles to the freedom of association

Restrictions on the freedom of association remain and certain categories of workers, notably foreign workers, are still denied their trade union rights.

THE LEGISLATION

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.

Right to strike heavily curtailed

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. The law prohibits employers from dismissing a worker during a labour dispute.

Unions have the right to bargain collectively.

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.

RIGHTS IN PRACTICE

Jordan's labour inspection service is ineffective and the law is not always enforced.

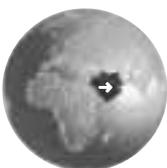
EVENTS IN 2001

Many workers lost their jobs as a result of the privatisation of several public enterprises. Job cuts were particularly acute at Royal Jordanian Airlines and the unions fought a hard battle to secure compensation for those made redundant.

The government's response to job losses was to get tough on foreign workers, cutting the numbers allowed into the country, and deporting those who were working illegally or whose permits had expired.

Kuwait

POPULATION : 1,800,000 / CAPITAL : Kuwait City / ILO CORE CONVENTIONS RATIFIED : 29,87,105,111,138,182



Single trade union system

High barriers to trade union organising are still in force, together with many other restrictions on union rights. A new draft labour code had not been adopted by the end of the year.

THE LEGISLATION

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. Trade unions are only allowed to create a fed-

eration if they represent workers of the same trade or sector who produce the same goods or provide similar services.

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| Barriers to organising | 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. For a trade union to be officially recognised, the Ministry of the Interior must deliver a statement certifying its approval of the list of founding members. |
| Government supervision | 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. |
| Excluded from labour law | 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 moral standing and good conduct before they are allowed to join a trade union as non-voting members. They are not permitted to run for any trade union post. |
| Restrictions | The law limits the right to strike and imposes compulsory arbitration if the workers and employers are unable to resolve a conflict. Collective bargaining is recognised in law. |
| New draft labour code | In the new draft labour code, the provisions for a trade union monopoly have been removed, together with several other provisions that infringed international labour standards. There are still many discrepancies however, including the ban on political activities. The new code had not been adopted by the end of the year. |

RIGHTS IN PRACTICE

In practice, reports indicate that foreign workers have joined a trade union before the period of five years has expired, and that these workers make up one third of the registered members.

Despite the trade union monopoly imposed by law, two trade unions exist outside of a confederation, namely the Bank Workers' Union and the Kuwait Airways Workers' Union. Several applications to form trade unions have been rejected over the years by the authorities however.

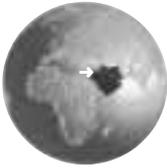
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| Migrant workers exploited | The government policy to reduce its reliance on migrant workers has not been effective. They still make up over 80% of the workforce, according to figures issued during the year. These workers are still exploited, even though the government has sought to improve their legal protection. Domestic workers, mainly women, are particularly vulnerable. They are subject to prosecution if they leave their employer, who often confiscates their passports, and are frequently the victims of physical and sexual abuse. |
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EVENTS IN 2001

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| Threats against proposed strike action | The mere threat of a strike by oil workers over an increase in their retirement age brought warnings of repression by the Kuwaiti government. The union opted for negotiations instead. |
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Lebanon

POPULATION : 3,400,000 / CAPITAL : Beirut / ILO CORE CONVENTIONS RATIFIED : 29,98,100,105,111, 182



Broad powers of interference

The Ministry of Labour again interfered in trade union elections. Four striking workers were injured by police. Strong restrictions on trade union rights remain in force.

THE LEGISLATION

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. 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.

High hurdles for collective bargaining

Collective bargaining is recognised in law. However, 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 union members at a general assembly.

Further limitations

The right to strike is limited and the law does not adequately protect workers against anti-union discrimination. Sanctions have become more dissuasive however. In the Budget Act of 2000, fines for infringing labour legislation were multiplied by 25. Furthermore a draft amendment to the Labour Code prohibits any discrimination on grounds of trade union membership. It had not become law by the end of the year.

The freedom of trade unions to organise demonstrations is limited by the obligation to establish the number of participants in advance and the requirement that 5% of the union's members be assigned to maintain order. The organisers must sign a document whereby they assume full responsibility for all damages occurring during the demonstration.

RIGHTS IN PRACTICE

Government interference

The government has often interfered in trade union affairs, instigating or aggravating conflicts within the trade union movement.

Migrant domestic workers suffer

Domestic workers, notably Ethiopian migrant women workers, suffer badly from their lack of legal protection. Many are held in conditions of near slavery, and some have even been killed.

EVENTS IN 2001

Interference in union elections

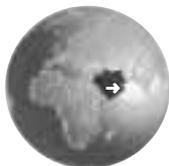
Government interference in trade union affairs continued during the year. The Minister of Labour exploited divisions within the General Workers' Confederation of Lebanon (Confédération Générale des Travailleurs du Liban – CGTL), siding with one group's decision call early leadership elections. The elections, on March 15, were boycotted as illegitimate by several federations, with the result that 27 of the 74 members of the CGTL executive board did not take part. The outgoing general secretary, Elias Abou Rizk, who was abroad at the time, had frequently criticised attempts to interfere in internal trade union affairs. A new general secretary was elected, supported by the Amal Shi'ite movement and the Syrian national socialist party (PSNS). Representatives of the Minister attended the elections.

Strikers injured

Four striking workers at the national electricity company Electricité du Liban (EDL) were injured and five others detained for questioning when anti-riot police were sent to break up a demonstration on July 12. The protest had begun the day before, over proposals to take away some of their acquired rights, such as reduced water and electricity rates. Several hundred had gathered near to the Council of Ministers. The riot police fired water cannon at them. Scuffles ensued, leading to injuries and detentions.

Oman

POPULATION : 2,500,000 / CAPITAL : Muscat / ILO CORE CONVENTIONS RATIFIED : 29,182



No unions, no strikes

The trade union rights situation in Oman remained as bleak as ever. The promised new labour code had still not come into force by the end of the year.

THE LEGISLATION

The law does not allow workers to form or join trade unions. Strikes are banned. A 1973 decree states "it is absolutely forbidden to provoke a strike for any reason whatsoever". Workers can be dismissed for striking or inciting others to strike.

Enterprises with more than 50 employees must 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.

No collective bargaining

The right to collective bargaining is not recognised in law. Pay and working conditions are generally defined by law or by individual contracts in accordance with government directives. Temporary workers are not covered by law. Enterprises with more than 50 employees must set up a joint labour-management committee as a communications forum. They may not discuss pay or working conditions.

Still no new labour code

The government announced that it would draw up a new labour code when it joined the ILO in 1994, to bring its law into line with international labour standards. From time to time it announces progress in the drafting progress, but by the end of the year the code had still not been promulgated. The government reported during the year that it had created a Ministry of Social Development and a Manpower Ministry.

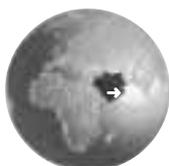
RIGHTS IN PRACTICE

Migrant workers

Half of the country's workers are foreigners, who are cheap and vulnerable. Most are from southern Asia (Bangladesh, India, Pakistan and Sri Lanka) and they 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.

Qatar

POPULATION : 600,000 / CAPITAL : Doha / ILO CORE CONVENTIONS RATIFIED : 29, 111, 182



Unions and bargaining banned

The ban on trade unions remains in place. The government is apparently prepared to revise its labour legislation.

THE LEGISLATION

Trade unions are prohibited 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 also prohibited and wages are set unilaterally by the employers.

Severe limitations on the right to strike

The government recognises the right to strike but places severe limitations on it. Civil servants and domestic workers may not strike. No worker in a public utility, health or security service may strike if it would harm

the public or cause damage to property. 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 striking. In contrast, under the same conditions, employers are authorised to lock out or sack workers.

Changes ahead? The government of Qatar has asked the ILO for technical assistance to review its legislation to bring it into line with international labour standards.

RIGHTS IN PRACTICE

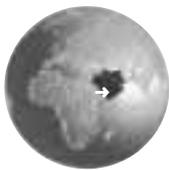
Migrant workers Three-quarters of the workforce is composed of migrant workers. Most work in the private and semi-private sectors, where they often fall victim to abuse from their employers. Migrants can do nothing since they depend on their employers for their work permits.

EVENTS IN 2001

Strike action There were reports of increasing unrest and strike action by foreign workers. There was an average of two or three strikes per month during the year, usually in protest at non-payment of wages and poor living conditions.

Saudi Arabia

POPULATION : 19,600,000 / CAPITAL : Riyadh / ILO CORE CONVENTIONS RATIFIED : 29,100,105,111, 182



Trade unions, strikes and collective bargaining are still banned. The government did take a step forward by approving the creation of workers' committees, but the regulations on these are highly restrictive.

THE LEGISLATION

No basic rights Trade unions and strikes are banned by royal decree. Whoever tries to form a union can be dismissed, imprisoned or (in the case of migrant workers) deported. Protest action is made difficult by the heavy limitations on the freedom of association. Public demonstrations of a political nature are prohibited, for example. Collective bargaining is also prohibited. Salaries are determined by employers, according to the nature of the work and the nationality of the worker. There is no minimum wage.

Workers' committees The Labour Minister announced in March that it would bring in regulations allowing the establishment of Workers' Committees. Allowing the creation of any kind of workers' organisations is a significant step forward, but the draft regulations for these committees fall short of international labour standards.

Limited powers According to the draft regulations, workers' committees can only be created in enterprises with more than 100 Saudi workers. Only one committee can be formed in each enterprise, with between three and nine members. The main tasks of the committees are limited to providing recommendations on issues such as the improvement of working conditions, health and safety standards and training, as well as increasing productivity. The Minister and the management both have the right to send a representative to meetings of the committees. Minutes of the meetings are to be submitted to management .

One of the biggest limitations in the draft still being worked on during the period under review was that the composition of the committee and names of its members were to be decided by the Minister of Labour and Social Affairs. It was reported however that the authorities were making efforts to bring it more into line with ILO standards. Notably it was expected that the committees would have more freedom to choose their own representatives.

RIGHTS IN PRACTICE

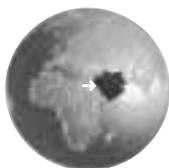
- Associations** A regional collective of taxi drivers has existed for several years, and professional associations grouping computer experts, economists and engineers also exist. Their scope of action is very limited however.
- Work stoppages** Despite the ban on strikes, there have been occasional work stoppages in recent years, usually to protest at non-payment of wages. In August there was a stoppage at a Jeddah biscuit factory over non-payment.
- Foreign workforce** Over 60% of the workforce is still foreign, working primarily in the private sector. Under its "Saudiisation" policy the government actively discourages the employment of migrants, and is seeking to replace foreign workers with Saudi workers. During the year it was announced that the foreign labour force was going to be cut by six million.
- Abuse of migrant workers** Abuse of migrant workers, particularly women, is widespread. This includes restrictions on their movement, forced confinement, lack of food, 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. The numerous reports of serious cases of abuse towards domestic migrant workers continued during the year. Some have even been killed in the past for trivial motives. Some countries have prohibited their citizens from accepting work in Saudi Arabia.

EVENTS IN 2001

- Journalists' association permitted** In July the government approved a law authorising the creation of a journalists' association, removing a 40-year ban on organising in the profession. Its task will be to defend the "welfare" of journalists, guarantee their job security and advantages. No journalist affiliated to the association can be fired without the prior authorisation of the association. Foreign journalists may not join.

Syrian Arab Republic

POPULATION : 15,800,000 / CAPITAL : Damascus / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111, 138



The government has removed a few of the legal limitations on trade union rights, such as the ban on strikes in the agricultural sector and the power of veto over collective agreements. It is still not possible to form free and independent unions, and strike restrictions remain.

THE LEGISLATION

- Trade union monopoly** The law outlaws independent trade unions. All workers' organisations must be affiliated with the country's sole official trade union federation, the General Federation of Trade Unions (GFTU), which is strictly controlled by the ruling Ba'th 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.
- The single union system also applies to associations of craftsmen and peasants' cooperatives.
- Only workers with Arab nationality can stand for election to trade union office.
- Severe strike restrictions** The right to strike is severely restricted by the threat of punishment, fines and jail terms of up to one year. 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. Forced labour can be imposed on anyone who causes "prejudice to the general production plan".

No unions in EPZs

At the end of 2000 the government repealed some of the provisions that contravene the freedom of association, the right to organise and the right to collective bargaining.

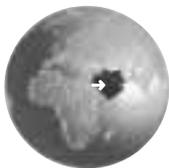
- The provision that foreign workers can only join a union if there is a reciprocal agreement between their country of origin and Syria has been removed.
- Workers no longer have to have been union members for over six months before standing for election to union office.
- The Ministry of Labour and Social Affairs' broad powers of intervention over trade union finances have been removed.
- The ban on strikes in the agricultural sector has been lifted, together with the sanctions for striking, ranging from three months' to one year's imprisonment.
- The Ministry no longer has the power to refuse approval of a collective agreement or quash any clause liable to harm the country's economic interests.

RIGHTS IN PRACTICE

Collective bargaining rights have not yet been practiced in any meaningful way. Workers dare not exercise the right to strike given the heavy penalties foreseen and memories of past repression.

United Arab Emirates

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



No trade union rights are recognised.

THE LEGISLATION**Trade unions and strikes prohibited**

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 a dispute with their employers.

RIGHTS IN PRACTICE**Migrant workers exploited**

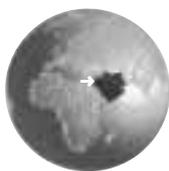
According to figures for 2001, migrants account for 91% of the workforce. They risk expulsion if they try to organise trade unions or take strike action. Generally hired for three to five-year periods, they often work in very harsh conditions. A recent study by the Ministry of Labour and Social Welfare revealed that garment workers, hired from India, Pakistan, Sri Lanka and the Philippines, are among the lowest paid, and have to endure poor standards of accommodation and sanitation.

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.

EVENTS IN 2001**Warned against taking protest action**

The economic downturn led to an increasing problem of unpaid wages. When workers began to protest by stopping work and walking out, they were warned by the Ministry of Labour and Social Affairs that such actions were illegal. They were however invited to send representatives to the Ministry with their grievances. In some cases they did, without reprisals, although they did have a police escort. Some reportedly obtained satisfaction of their claims. The Ministry said it would black-list companies who failed to pay wages. It also advised companies to send workers back to their home countries if they couldn't pay them.

West Bank and Gaza



The new Palestinian Labour Code had not come into force by the end of the year. Given the dramatic situation in the territories, it was virtually impossible to carry out any trade union activity.

THE LEGISLATION

A new Palestinian Labour Code was signed by Yasser Arafat in May, but had not come into force by the end of the year. (It was expected to come into force in January 2002.)

Old laws still in force

Until the new code is adopted, the West Bank and Gaza are subject to various remnants of laws derived from Ottoman, British Mandate, Jordanian and Egyptian sources. They provide no protection for striking workers, or against anti-union discrimination.

A public service law that came into force in 1998 regulates employment benefits and salaries for public servants, including postal workers, teachers and doctors.

New law will strengthen rights

The new law has been the subject of extensive tripartite consultations, and is expected to considerably improve the protection of trade union rights. It will for example allow public sector employees to organise and to bargain collectively at sectoral level.

RIGHTS IN PRACTICE

The lack of a legal and institutional framework for industrial relations has meant that social dialogue and tripartite activities have been sporadic.

EVENTS IN 2001

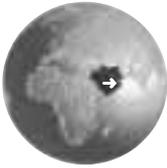
The escalating conflict with Israel has brought the Palestinian economy to its knees. Many workers depended for their livelihood on jobs in Israel, but even when the borders are open they face stringent checks. Over 15,600 workers were arrested during the year at checkpoints on their way to or from work. Some were killed. The Palestinian General Federation of Trade Unions (PGFTU) has filed a lawsuit for the deaths of 23 workers killed on their way home from work in the evening. The PGFTU General Secretary Shaher Sae'd has been placed in detention six times, and once had a bullet through his hand.

Trade union activity virtually impossible

Given the dramatic economic situation, and an unemployment rate of 35% and 60% in West Bank and Gaza respectively, the PGFTU is concentrating its efforts on aid to the poor, and strategies for job creation. Normal trade union activity is virtually impossible in the current situation.

Yemen

POPULATION : 17,600,000 / CAPITAL : Sana'a / ILO CORE CONVENTIONS RATIFIED : 29,87,98,100,105,111,138,182



Anti-union discrimination is still common, while promises to bring in a new labour code relaxing current restrictions have yet to be fulfilled.

THE LEGISLATION

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| Single trade union system | The law recognises the right to organise, but imposes a single trade union system, mentioning the General Federation of Workers' Trade Unions by name. Civil servants may not join trade unions, nor may migrant workers. Trade unions must be officially registered. |
| Strict conditions on the right to strike | The law recognises the right to strike, but imposes strict conditions. Strikes may only be called after the completion of dispute settlement procedures and disputes may be referred to compulsory arbitration at the request of only one of the parties, in which case the strike can be suspended for 85 days. The strike call must be signed by two thirds of members and must concern more than two-thirds of the workforce of the employer concerned. Three weeks notice of the intention to strike must be given. Strikes are banned in some sectors, such as ports, airlines and hospitals. |
| Authorisation required for bargaining | The 1995 labour law provides for the right to collective bargaining, but government approval is required for bargaining to take place, and agreements must be in line with the "economic interests" of the country. The law does not contain sufficiently dissuasive sanctions to protect workers against anti-union discrimination. |
| Intervention | The authorities enjoy wide powers of intervention in the internal affairs of trade unions, especially in financial matters. |
| New law promised | The government has been promising to bring its trade union law into line with ILO conventions, but a 1999 draft still fell very short of that. At the end of 2001 the ILO organised a tri-partite workshop to revise the draft. |

RIGHTS IN PRACTICE

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| Anti-union discrimination | In practice, other trade unions exist outside the GFWTU structures. Strike action does take place, without reprisals, and can lead to the satisfaction of workers' demands. However, the GFWTU reports that there are still cases in which the authorities arrest and detain trade unionists for their trade union activities. The lack of protection in law for trade unionists is felt through the discrimination against them, which takes the form of transfers, demotions and dismissals, particularly in the private sector. |
| Employer resistance to organising and bargaining | A lot of private sector employers refuse workers the right to organise, while in both the public and private sector many employers do not allow trade unions to negotiate collective agreements, Al-Yamani Airlines being a case in point. |
| Union property still in state hands | The property of the GFWTU was confiscated following the 1994 civil war and taken over by the government, police and the ruling party. Much of this has still not been returned. |

EVENTS IN 2001

Yemen continued to pursue its economic reforms and free trade policies, and many workers lost their jobs as a result of privatisation. Some workers have faced wage arrears, notably transport workers who were not paid for several months.

Organising obstructed It was reported that employers in the Aden free trade zone prevented workers from organising.

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.