

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN NIGER AND SENEGAL

REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE TRADE POLICIES
OF NIGER AND SENEGAL

(Geneva, 11-13 November 2009)

EXECUTIVE SUMMARY

Niger and Senegal have both ratified all eight core ILO labour Conventions. Measures are however needed in all areas, both in law and in practice, to comply with the commitments Niger and Senegal accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO Declaration on Fundamental Principles and Rights at Work adopted in June 1998.

Niger and Senegal have ratified the ILO core Conventions on trade union rights. In Niger, however, social dialogue remains too weak and there are numerous restrictions on the right to strike. Trade unionists are often discriminated against in practice. In Senegal, freedom of association is marred by a number of restrictions, such as the authorities' power to dissolve a trade union by means of a simple administrative decision. The right to strike is likewise limited, among other things, by the authorities' power to requisition workers to replace those on strike. Trade union organisations report that trade unionists often suffer harassment, and have denounced the failure to respect agreements concluded by the social partners.

Niger and Senegal have ratified the Conventions regarding discrimination. In Niger, however, women suffer serious discrimination on the labour market. The absence of reliable statistical data concerning men and women makes it difficult to determine the scale of gender discrimination in the country. A coherent and effective national policy is desperately needed to promote women on the labour market, as the fight against discrimination remains partial and ineffective. Women account for two thirds of those living under the absolute poverty line. In Senegal, progress has been made in the area of gender equality both at legislative level and in the schooling of girls. In practice, however, the position of women on the labour market remains much less favourable than that of men and major efforts are still required to ensure that women enjoy the same rights as men in terms of pay and access to employment.

Niger and Senegal have ratified the Conventions on child labour. In Niger, child labour, including the worst forms of child labour, is a recurrent problem. The mechanisms guaranteeing respect for the legislation on child labour are limited and have little effect. The penalties established in the event of breaches are not always enforced and are not sufficiently dissuasive. In general terms, government action on children's protection and welfare is hugely lacking. In Senegal, despite numerous government programmes to combat child labour, this phenomenon, affecting 36.7% of children aged between five and seventeen remains all too widespread, and includes the worst forms of child labour, in mines for example. The exploitation of young *talibés* (Koranic students) by *marabouts* (religious teachers) who force them to beg is extremely worrying and requires more determined government action.

Niger and Senegal have ratified the Conventions on forced labour. Forced labour and slavery are still present in Niger. Government efforts to end such practices must be stepped up. Action must be taken to ensure that the victims of slavery or forced labour can, in practice, effectively defend their rights. In Senegal, the national legislation on forced labour does not comply with the Conventions. Trafficking in persons, including children, for economic or sexual exploitation remains a problem.

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN NIGER AND SENEGAL

Introduction

This report on the respect of internationally recognised core labour standards in Niger and Senegal is one of the series the ITUC is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996), and ratified during the second WTO Ministerial Conference (Geneva, 18-20 May 1998) in which Ministers stated: "We renew our commitment to the observance of internationally recognised core labour standards." The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998.

The ITUC affiliates in Niger are the Confédération Nigérienne du Travail (CNT) and the Union des Syndicats des Travailleurs du Niger (USTN).

The ITUC affiliates in Senegal are the Confédération Nationale des Travailleurs du Sénégal (CNTS), the Confédération Nationale des Travailleurs du Sénégal - Forces du Changement (CNTS-FC), the Union Nationale des Syndicats Autonomes du Sénégal (UNSA), the Confédération des Syndicats Autonomes du Sénégal (CSA) and the Union Démocratique des Travailleurs du Sénégal (UDTS).

I. Freedom of Association and the Right to Collective Bargaining

Niger ratified ILO Convention No. 87 (1948) on Freedom of Association and Protection of the Right to Organise in 1961 and Convention No. 98 (1949) on the Right to Organise and Collective Bargaining in 1962.

Senegal ratified ILO Convention No. 87 (1948) on Freedom of Association and Protection of the Right to Organise in 1960 and Convention No. 98 (1949) on the Right to Organise and Collective Bargaining in 1961.

Niger:

All workers, excepting military personnel, have the right to organise and bargain collectively. The constitution and the law recognise the right to freedom of association. There are, however, restrictions, in law and in practice, in the public and private sectors.

The right to strike is limited. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) has, for many years, been asking the government to amend Article 9 of Ordinance No. 96-009 of 21 March 1996 establishing the conditions governing public workers' right to strike, with a view to restricting its

application solely to cases whereby strike action could trigger a serious national crisis, to public servants exercising authority in the name of the State or to essential services in the strict sense of the term. The government has not yet taken the necessary measures.

In practice, the threat of dismissal hangs over workers taking part in trade union activities. This has prompted the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) to insist that protecting trade union leaders and workers against anti-union discrimination is crucial to freedom of association. The government has not, however, taken all the steps necessary to tackle anti-union harassment and discrimination.

According to trade union sources, the government is not taking sufficient action to promote social dialogue and tripartism in the country.

Senegal:

Freedom of association and the right to strike are guaranteed in the Constitution. There are limitations, however. The right to collective bargaining is recognised.

The public authorities have broad powers to dissolve trade unions by administrative authority. The ILO Committee of Experts (CEACR) has for many years been reminding the government of the need to amend the national legislation with a view to protecting trade union organisations against dissolution by administrative authority, in compliance with Article 4 of the Convention. The government has not yet taken the necessary measures.

Minors over 16 years of age may join trade unions, unless their membership is opposed by a parent. This does not conform to international labour standards, which establish that all workers are free to join the union of their choice.

Trade unions report that the public authorities practice discrimination in the recognition of workers' organisations. The ILO Committee of Experts (CEACR) has, accordingly, requested that the government repeal a number of legal provisions, such as those concerning trade union leaders' ethics and capabilities, or those that give the authorities the power to grant discretionary prior approval. These provisions do not comply with the Convention.

The right to strike is also limited. Firstly, the 2001 Constitution stipulates that strike action must not infringe upon the freedom to work or pose a threat to the company. This provision provides scope for abusive interpretations regarding the exercise of the right to strike.

Secondly, the authorities have broad powers to requisition workers from private enterprises, public services and establishments to ensure the safety of persons and goods, the maintenance of public order, the continuity of public services, or to meet the country's essential needs. This is too broad a definition and, as such, is open to abuse. The ILO Committee of Experts (CEACR) has, therefore, repeatedly reminded the government that requisitioning should be limited to essential services in the strict sense of the term (i.e. those which if interrupted would endanger the life, personal safety or health of the whole or part of the population), to public servants exercising authority in the name of the State or in the event of an acute national crisis. The government has not yet taken the necessary measures.

The law states that workplaces, or their immediate surroundings, may not be occupied during a strike. According to the ILO Committee of Experts, however, such restrictions (established in Article L.276 of the Code) can only apply if a strike ceases to be peaceful.

In practice, trade union organisations have reported that trade unionists often suffer harassment and have denounced the failure to respect agreements concluded by the social partners. The year 2008 was marked by a number of protests linked to rising living costs, some of which were brutally repressed.

It also saw the establishment of a tripartite framework for social dialogue. A national social dialogue council, CNDS, is now up and running but has not yet succeeded in bringing an adequate response to workers' demands. In May 2008, Senegal's main trade union organisations held a general strike in protest at the refusal of the government and employers to review the wages of the majority of the workforce, despite the soaring prices for food and basic goods and services. The situation is particularly disturbing in the education sector, where unions denounced the government's decision to carve up ministerial responsibilities, creating three different portfolios. In November 2008, during a meeting bringing together representatives of the government, the unions and parents, the single democratic teachers' union, Syndicat unique et démocratique des enseignants du Sénégal (SUDES), spoke out in protest against the collapse of the consultation process, which forces unions to issue strike notices as the only means of securing a meeting with the authorities. It also condemned the authorities' habit of systematically threatening to sanction strikers every time a strike is announced.

In June 2008, the police blocked a meeting of Senegalese employees' unions from the Agency for Air Navigation Safety in Africa and Madagascar (ASECNA). Security forces with anti-riot gear had surrounded the building where the ASECNA meeting was due to take place, near Dakar airport. The grouping of six trade union organisations, which had filed a ten-day strike notice, decided to postpone the meeting, "so as not to react to this act of provocation". In the days running up to the meeting, several leaders from the union grouping had been called in by the police for questioning over the strike notice.

Conclusions:

Niger has ratified the core Conventions on trade union rights, however, social dialogue remains weak and there are a number of restrictions on the right to strike. Trade unionists are often discriminated against in practice.

Senegal has ratified the core Conventions on trade union rights, but these continue to be hampered by a number of restrictions, such as the authorities' power to dissolve a trade union by means of a simple administrative decision. The right to strike is likewise limited, among other things, by the authorities' power to requisition workers to replace those on strike. Trade union organisations have reported that trade unionists often suffer harassment, and denounced the failure to respect agreements concluded by the social partners.

II. Discrimination and Equal Remuneration

Niger ratified ILO Convention No. 100 (1951) on Equal Remuneration in 1966, and ILO Convention No. 111 (1958) on Discrimination (Employment and Occupation) in 1962.

Senegal ratified ILO Convention No. 100 (1951) on Equal Remuneration in 1962, and ILO Convention No. 111 (1958) on Discrimination (Employment and Occupation) in 1967.

Niger:

The principle of non discrimination is enshrined in the labour legislation. Following the recent reform of the Penal Code, sexual harassment was recognised as an offence. The application of Law 200-008 has introduced a quota system to guarantee women's access to the civil service.

Several items of this legislation, however, fail to comply with the Conventions.

Decree no. 60-S/MFP/T regulating the remuneration and benefits of government officials and public servants states that unless a woman is the head of the family, she is not entitled to a family allowance without appealing through legal channels. Yet, according to the Convention, all benefits or allowances supplementing the basic salary must be granted to men and women on an equal basis. The ILO Committee of Experts (CEACR) has therefore asked the government to remove these discriminatory provisions in order to ensure that family allowances in the civil service are accessible to men and women alike, without discrimination. The government has not, to date, taken the necessary measures.

Article 38 of the cross-sectoral bargaining agreement of 15 December 1972 does not always take into consideration the principle of "equal pay for work of equal value", despite the repeated requests of the ILO Committee of Experts.

The absence of national statistical data concerning the pay of men and women makes it difficult to determine the scope of pay discrimination. The ILO Committee of Experts has requested that the government establish a statistical data system that distinguishes between men and women, to no avail.

In practice, there continues to be significant gender discrimination in the areas of pay and employment, despite the recent setting up of a new national committee to fight forced labour and discrimination, on which workers' and employers' organisation are represented.

The government has not formulated a coherent and effective national policy aimed at promoting equal opportunities and treatment, and has dedicated little if any effort to following up on the few measures taken. The government implements very few educational programmes and other actions to promote equality in employment and occupation and to raise awareness about this issue.

According to the data sent by the government to the Committee on the Elimination of Discrimination against Women (CEDAW), the percentage of women working in the semi-public and private sector went from 14% in 2000 to 22% in 2005.

According to UNICEF, 63% of the population in Niger lives below the absolute poverty line and women account for two thirds of this group. UNICEF also points out that the situation of women is characterized by women's high fertility rate, a wide gap between men and women in terms of health, education and literacy and a high maternal mortality rate.

UNESCO, for its part, found that in 2005 the primary school attendance rate was 46% for boys and 33% for girls, and 9% for boys and 6% for girls at secondary level. According to the government and the report on basic education statistics for 2005-06, the net schooling rate for children aged seven to twelve was 54% for boys and 38% for girls.

In practice, there is huge segregation on the labour market and women are over-represented in low-paid activities such as domestic work or agriculture, as well as in the informal economy.

Senegal:

The principle of non discrimination is covered in the labour legislation. Article 105 of the Labour Code states that when working conditions, skills and output are equal, the salary shall be equal for all workers irrespective of origin, sex, age or status. The ILO Committee of Experts (CEACR), however, considers that while criteria such as a worker's skills or output allow a comparison of the tasks performed by different persons carrying out work of the same or a similar nature, they do not provide a sufficient basis for the application of the principle laid down in the Convention, particularly where men and women, in practice, perform work which is of a different nature but nevertheless of equal value. The Commission has therefore asked the

government to take all action necessary to ensure full respect for the principle of equal pay for work of equal value.

Trade unions consider that women receive unequal pay for work of equal value on account of the tax benefits for family responsibilities granted solely to men.

Various decrees have been adopted to promote gender equality over recent years. A National Strategy on Gender Equality and Equity (SNEEG), drawn up in conjunction with employers' and workers' organisations, was launched in December 2007. Women are now being hired in the customs service (since 2005), the national police force (since 2006), the armed forces (since 2007) and the gendarmerie (since 2006), areas which were traditionally reserved for men. Activities to raise awareness regarding the principles of the Conventions are regularly conducted. Nevertheless, in the absence of statistical data, it is difficult to assess the progress made in the application of the Conventions.

The ILO Committee of Experts has insisted on the need for Senegal to continue to review its legislation, particularly the Family Code. It considers, moreover, that additional action must be taken to tackle the gender imbalances that still exist in the areas of education, employment and occupation. This additional action should, for example, include the adoption of a policy of prevention, the promotion of equality at work and in society at large, and should avoid any stereotypical assumptions regarding women's aspirations, capabilities and their social roles.

According to UNICEF, the literacy rate for young men (15-24 years), over the 2000-2007 period was 59% as compared with 44% for young women. Numerous efforts have been made to increase the net primary school attendance rate of girls. It is now virtually at the same level as for boys. There is, however, still a gap of around 5 points in secondary school attendance rates for boys and girls.

According to statistics provided by the government, 22.6% of public servants are women, with a very large proportion concentrated in jobs linked to health and social matters. The proportion of women in category A (the highest level of the public service) is, however, only 8.7%.

In practice, the position of women on the labour market is less favourable than that of men. They are over-represented in low-paid jobs with few prospects, such as domestic work (90% of domestic workers are women), or agriculture (85% of the jobs in this sector are held by women).

Conclusions:

In Niger, women suffer discrimination on the labour market. The absence of reliable statistical data concerning men and women makes it difficult to determine the scale of gender discrimination. A coherent and effective national policy is desperately needed to promote women on the labour market, as the fight against discrimination remains partial and ineffective. Women account for two thirds of those living below the absolute poverty line.

In Senegal, progress has been made in the area of gender equality at both legislative level and in the schooling of girls. In practice, however, the position of women on the labour market remains much less favourable than that of men, and major efforts are still required to ensure that women enjoy the same rights as men in terms of pay and access to employment.

III. Child Labour

Niger ratified ILO Convention No. 138 (1973) on the Minimum Age in 1978, and Convention No. 182 (1999) on the Worst Forms of Child Labour in 2000.

Senegal ratified ILO Convention No. 138 (1973) on the Minimum Age in 1999, and Convention No. 182 (1999) on the Worst Forms of Child Labour in 2000.

Niger:

In theory, education is compulsory for a period of six years. The law prohibits child labour under the age of 14, except where specific decrees apply. However, the figures indicate that only a small minority of children attend primary school (see section II on discrimination).

Decree 67-126/MFP/T of 7 September 1967 authorises the employment of children over age 16, including in hazardous activities. This legislation is not in conformity with the Conventions, which only authorise employment as of age 16 if the children's health, safety and moral welfare are fully guaranteed.

In practice, many children work. According to the information available and surveys conducted by ILO/IPEC, over 85% of working children are under 15 (31% are aged between 10 and 12 and 54% are between 13 and 14). Children are also employed in extremely damaging forms of labour, in violation of the Conventions. These include:

The sale and trafficking of children:

An ILO High-Level Fact-Finding Mission went to Niger in January 2006 to look into the internal trafficking of young people for domestic work, and sexual or economic exploitation. The Mission revealed that "*Niger is a source and destination country for the trafficking of persons, including children*" and that "*the trafficking networks are fed, especially in Niamey, by young persons recruited mainly in Nigeria, Togo, Benin and Ghana, with the promise of a bright professional future, to carry out tasks which are traditionally regarded as demeaning in Niger (domestic work) or which are prohibited on religious grounds (work in bars or restaurants, etc.)*".

The Mission therefore recommended that the government take the necessary steps to complete the legal framework for the prevention, suppression and punishment

of trafficking and the worst forms of child labour. Although Articles 255 and 258 of the Penal Code prohibit the abduction of children under age 18, Niger does not yet have any specific legislation on trafficking in persons.

Forced begging:

Article 179 of the Penal Code prohibits begging and Article 181 of the Code punishes the parents of minors under 18 years of age who habitually engage in begging, and the persons who ask them to beg or wittingly benefit from the begging. The practice of child begging, however, remains a common phenomenon. For economic and religious reasons, many families entrust their children from the age of 5 or 6 to a spiritual guide (*marabout*), with whom they live until they are 15 or 16 years old. During that time they are entirely in the guide's charge. The guide teaches them religion and in return requires them to carry out certain tasks, including begging. The ILO Committee of Experts has expressed deep concern over the exploitation of children for purely economic purposes by certain *marabouts* as well as over the vulnerability of children who beg on the streets.

Government efforts to take child beggars under age 18 off the streets remain feeble. The government has not done everything it can to punish unscrupulous *marabouts* using children for purely economic purposes.

Hazardous work:

A 1999 ILO study on child labour in small mining operations revealed that child labour is widespread, especially in the informal economy. Mining extraction is a very hazardous activity. It is regrettable therefore that the national legislation on the protection of children against underground work does not apply to informal mining sites and quarries. The government is nonetheless taking part in the ILO/IPEC project to prevent and eliminate child labour in artisanal gold mines in West Africa.

Strengthening government action

In overall terms, government action to combat child labour continues to fall far short of the needs and the funding allocated to it is much too low. The government should give greater priority to children's welfare and to the fight against the worst forms of child labour.

Some government efforts should be noted, however, in the areas of schooling (particularly of girls), awareness raising and the mobilisation of communities and other actors in the fight against child labour. These efforts nonetheless remain largely insufficient and, in overall terms, it is essential that the quality of education in Niger be improved, as this remains the best way of combating child labour. The ILO Committee of Experts has expressed deep concern over the low school attendance rates

and the scale of illiteracy. The ILO Fact-Finding Mission has recommended improving the workings of the education system to ensure access to quality education for all.

As regards the worst forms of child labour, the ILO Committee of Experts has repeatedly asked the government to take every step necessary to ensure the strict enforcement and genuine effectiveness of the penal sanctions established by law concerning the use of children in hazardous work, especially in mines and quarries. Determined government action to tackle these points is still awaited.

Senegal:

The law stipulates that education is free and compulsory for all children from age 6 to 16. When ratifying the Convention, the government specified that the minimum age for admission to employment in Senegal is 15.

Article L.145 of the Labour Code provides for the possibility of derogating from the minimum age for admission to employment by order of the minister responsible for labour. This Article is not, however, in conformity with the provisions of the Convention, which specifically defines the cases whereby a derogation from the minimum age for admission to employment is possible. The ILO Committee of Experts has therefore requested that the government amend the legislation accordingly.

Article 1 of Order no. 3748/MFPTEOP/DTSS of 6 June 2003 on child labour provides for a minimum age of 18 years for admission to hazardous work. However, according to Order no. 3750/MFPTEOP/DTSS of 6 June 2003 determining types of hazardous work prohibited for children and young persons, certain types of hazardous work could be performed by persons under 16 years of age. Article 7, for example, of the Order allows work in underground mines, quarries and other mineral extraction plants by male children under 16 years of age. The ILO Committee of Experts (CEACR) has therefore requested that the government bring its legislation into line with the Conventions.

The government is participating in an ILO/IPEC project entitled "Contribution to the Abolition of Child Labour in French-Speaking Africa" as well as in the Time-bound programme (TBP) on the worst forms of child labour. The government has also adopted a strategy for the implementation of national initiatives to combat child labour through education, vocational training and apprenticeship.

However, the number of children actually working remains high. According to the statistics provided by the government, and gathered in 2005, 36.7% (i.e. 1,378,724) of children aged between 5 and 17 are involved in some form of activity or work and more than two out of ten children aged from 5 to 9 years had already worked in 2005.

The majority of child workers are to be found in the agricultural, stockbreeding and fisheries sectors, handicrafts, domestic work and sales.

The phenomenon of the young *talibés* (Koranic students) is particularly worrying. According to a UNICEF report from 2006 on trafficking in human beings, especially women and children in West and Central Africa, internal trafficking exists in Senegal, from rural to urban areas, such as the young *talibés* who beg on the streets of Dakar. Joint research in 2007 by UNICEF, the ILO and the World Bank identified 7,600 child beggars in Dakar. Most of these children were around 10-years-old. They were generally undernourished and prone to sickness. In 2006, the UN Committee on the Rights of the Child expressed concern at the large number of working children and, in particular, at the current practices of the Koranic schools run by *marabouts* who use *talibés* on a large scale for economic gain, sending them to work in the fields or to beg in the streets and to perform other illicit money-earning tasks, thus preventing them from having access to health, education and good living conditions. The ILO Committee of Experts (CEACR) has urged the government to take every step necessary to enforce the national legislation on begging and to punish *marabouts* using children for purely economic gain.

Conclusions:

In Niger, child labour, including the worst forms of child labour, is a recurrent problem. The mechanisms guaranteeing respect for the legislation on child labour are limited and have little effect. The penalties established in the event of breaches are not always enforced and are not sufficiently dissuasive. In general terms, government action for children's protection and welfare is hugely lacking.

*In Senegal, despite numerous government programmes to combat child labour, this phenomenon, affecting 36.7% of children aged between five and seventeen, remains all too widespread and includes the worst forms of child labour, in mines for example. The exploitation of young *talibés* (Koranic students) by *marabouts* (religious teachers) who force them to beg is extremely worrying and requires more determined government action.*

IV. Forced Labour

In 1961, Niger ratified ILO Convention No. 29 (1930) on Forced Labour, and, in 1962, ILO Convention No. 105 (1957) on the Abolition of Forced Labour.

In 1960, Senegal ratified ILO Convention No. 29 (1930) on Forced Labour, and, in 1961, ILO Convention No. 105 (1957) on the Abolition of Forced Labour.

Niger:

The law prohibits forced or compulsory labour and slavery. Slavery, however, continues to exist in practice. In 2004, the ILO Committee on the Application of Standards reported that a traditional form of slavery is still practiced in nomad

communities and that the status of slave continued to be transmitted by birth to individuals from certain ethnic groups. Slaves are given to a master for free or as part of a dowry. The relationship between masters and slaves is based on direct exploitation. The latter are forced to work without pay for their masters, primarily herding cattle, working on farmland, or as domestic servants.

At legislative level, Law no. 2003-025 of 13 June 2003 added a section on slavery to the Penal Code. Enslaving or inciting someone to enslave themselves or a person in his or her care is punishable by fines and prison sentences of 10 to 30 years. Awareness raising activities have been carried out, especially among traditional communities. In 2006, a national committee to fight forced labour and discrimination was set up. It has drawn up a national plan to combat forced labour and discrimination.

Aside from these efforts, the action taken by the government is insufficient and not always implemented effectively.

The ILO Committee of Experts (CEACR) has therefore reminded the government that, in conformity with Article 25 of the Convention, it must ensure strict enforcement and genuine effectiveness of the penalties established by law. In practice, many victims of slavery do not assert their rights, for a number of reasons, such as the fear of reprisals as well as the lack of viable alternatives for freed slaves. Moreover, in a number of cases, the penalties applied to those guilty of slavery offer little dissuasion. Strong government action to tackle these points is awaited. Government action is particularly needed to ensure that the victims are, in practice, able to turn to the police and judicial authorities to assert their rights.

Trafficking in persons is a problem in Niger. To date, in spite of repeated reminders from the ILO Committee of Experts, the Nigerien government has not yet taken adequate measures to prevent, suppress and punish the trafficking of people for the purposes of exploitation. The United Nations Committee on the Elimination of Discrimination against Women has expressed particular concern about the lack of information concerning the scale of trafficking in women and girls.

The law on the imprisonment of vagrants is not compliant with the Conventions. According to Articles 177 and 178 of the Penal Code, vagrants, defined as persons of no known abode or means of subsistence, who as a rule exercise no trade or occupation, shall be liable to a prison sentence of three to six months. Pointing out that the provisions punishing vagrancy and that define it too broadly could be utilised as a means of direct or indirect compulsory labour, the ILO Committee of Experts (CEACR) has asked the government to amend this legislation, to ensure that penalties are limited to persons disturbing the public order by committing unlawful acts. The government has still not acted on these points.

Senegal :

The law prohibits forced or compulsory labour. Several elements of the legislation, however, fail to comply with the Conventions:

In the event of a strike, article L.276 of the Labour Code allows the authorities to requisition workers from private enterprises, public services and establishments to ensure the safety of persons and goods, the maintenance of public order, the continuity of public services, or to meet the country's essential needs. Any worker who does not comply with the requisitioning order is liable to a fine and/or imprisonment ranging from three months to one year. The ILO Committee of Experts, which also underlined that recourse to the replacement of striking workers is a serious violation of the right to strike, considers that the imprisonment of workers not complying with a requisitioning order is not in conformity with the Conventions. The government has not yet, however, amended its legislation.

The provisions of Article L.276, in the final paragraph, state that any exercise of the right to strike accompanied by occupation of the workplace or its immediate surroundings is liable to penalties including the loss of entitlement to payments and benefits and imprisonment ranging from three months to one year. The ILO Committee of Experts has asked the government to amend these provisions, to remove the penal nature of the penalties laid down. Moreover, in accordance with the Conventions, the right to occupy the workplace or its immediate surroundings is guaranteed as long as the strike remains non-violent. To date, the government has not yet taken the necessary measures.

With regard to trafficking, the law passed in 2005 against people trafficking and associated practices and the protection of trafficking victims defines trafficking in persons and provides for prison sentences of five to ten years as well as a fine of five to twenty million francs. The law contains provisions on the protection of victims and witnesses. This legislation is not, however, always respected and people trafficking is, in practice, carried out from, to and within Senegal.

Trafficking in child beggars is a problem (see point III on Child Labour). The *Talibés* come from Senegal itself or neighbouring countries, including The Gambia, Mali, Guinea, and Guinea-Bissau. Trafficking in young girls for domestic work is also a problem. According to reports by NGOs, trafficking in women and children for sexual exploitation is a growing phenomenon in the country.

Conclusions:

Forced labour and slavery are still present in Niger. Government efforts to stop such practices must be stepped up. Action must be taken to ensure that the victims of slavery or forced labour can, in practice, effectively defend their rights.

In Senegal, the national legislation on forced labour does not comply with the Conventions. Trafficking in persons, including children, for the purposes of economic or sexual exploitation remains a problem.

FINAL CONCLUSIONS AND RECOMMENDATIONS

1. Although Niger and Senegal have ratified all the ILO Conventions concerning core labour standards, serious difficulties remain as regards the application of trade union rights, both in the legislations of the two countries and in practice.

Niger:

2. The government should amend Article 9 of Ordinance 96-009 of 21 March 1996 establishing the conditions governing public servants' right to strike, with a view to restricting its application solely to cases whereby strike action could trigger a serious national crisis, to public servants exercising authority in the name of the State or to essential services in the strict sense of the term.

3. The government should support and strengthen social dialogue and tripartism in the country and ensure that trade unionists are not subjected to harassment or discrimination.

4. The government should implement active measures to promote the situation of women on the labour market.

5. The government must establish a statistical data system that provides a picture of men's and women's incomes and situation.

6. The government must amend the legislation to ensure that the family allowances in the civil service are accessible to men and women alike, without discrimination.

7. The government must introduce the concept of equal pay for "work of equal value" in the legislation.

8. The government must step up its efforts and increase the budget allocated to eliminating the gap in school attendance rates between girls and boys.

9. The government must invest in the welfare and protection of children and take all action necessary to eradicate the worst forms of child labour.

10. The government must establish a legal framework to prevent, suppress and punish trafficking and the worst forms of child labour.

11. The government must implement programmes to take child beggars off the streets. The *marabouts* using these children for purely economic gain must be brought to justice and punished.

12. The penalties applicable to those guilty of making children work must be sufficiently dissuasive and strictly enforced.

13. The government must improve the quality of the education system and increase its efforts and its budget with a view to increasing the school attendance rate, especially among girls.

14. The government must step up its efforts to eradicate slavery definitively from the country. The government must ensure that the victims of slavery are effectively able to turn to the police and judicial authorities to assert their rights.
15. The penalties applied to those convicted of slavery or forced labour crimes must be sufficiently dissuasive and strictly enforced.
16. The government must strengthen its legislation to prevent, suppress and punish trafficking in persons in its country.

Senegal:

17. The government must amend the legislation so as to remove the possibility of dissolving trade unions by administrative authority.
18. The government must amend the legislation to ensure that all workers, including minors, are free to join the union of their choice.
19. The government must ensure that there are no discriminatory practices in the recognition of trade union organisations. Accordingly, it must repeal the legal provisions such as those concerning trade union leaders' ethics and capabilities, or those that give the authorities the de facto power to grant discretionary prior approval.
20. The government must amend the legislation to ensure that requisitioning to replace strikers can only take place in very precise cases clearly defined by the Conventions.
21. The government must take effective measures to ensure that trade unionists are not discriminated against in the workplace.
22. The government must encourage social dialogue, including in the public sector, and ensure that the commitments undertaken are fulfilled.
23. The government must introduce the principle of equal pay for work of equal value in the legislation. Tax benefits should be granted to men and women without discrimination.
24. The government should establish a statistical data system that provides full information on men's and women's pay.
25. The government must step up its efforts to actively promote gender equality on the labour market.
26. The government must amend the legislation in order to ensure that children under 18 cannot be employed in hazardous activities such as work in mines.
27. The government must pursue and step up its efforts to combat child labour, including its worst forms.

28. The government must take strong action to stop the exploitation of child beggars for purely economic gain by unscrupulous *marabouts*.
29. The government must amend Article L.276 of the Labour Code regarding the exercise of the right to strike, to remove the penal sanctions that can be inflicted on workers not complying with a requisitioning order or who occupy the workplace.
30. The government must step up its efforts to eradicate trafficking in people in the country.

Actions at the ILO and WTO

31. In line with the commitments accepted by Niger and Senegal at the Singapore, Geneva and Doha WTO Ministerial Conferences and their obligations as members of the ILO, the governments of Niger and Senegal should provide regular reports to the WTO and the ILO on any legislative changes and programmes to implement all the core labour standards.
32. The WTO should draw the attention of the Nigerien and Senegalese authorities to the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. The WTO should request the ILO to intensify its work with the Senegalese and Nigerien governments in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

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