

**INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)**

**INTERNATIONALLY RECOGNISED CORE  
LABOUR STANDARDS IN TRINIDAD AND  
TOBAGO**

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE  
TRADE POLICIES OF TRINIDAD AND TOBAGO**

**(Geneva, 7 and 9 March, 2012)**

**EXECUTIVE SUMMARY**

**Trinidad and Tobago has ratified all eight core ILO labour Conventions. In view of restrictions on the trade union rights of workers, discrimination, child labour, and forced labour, determined measures are needed to comply with the commitments Trinidad and Tobago accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO's Declaration on Fundamental Principles and Rights at Work and its 2008 Social Justice Declaration.**

**The law provides the right to organise, to collectively bargain and to go on strike, albeit with restrictions. However delays by the state authorities frequently impede union recognition and collective bargaining.**

**The law does not sufficiently protect women against discrimination. Women face a 20 per cent pay gap and unemployment rates are significantly higher for women than for men. Persons who live with HIV/AIDS and persons with disabilities are not protected by the law and homosexual persons are discriminated against by the law.**

**The law does not protect children from certain forms of exploitative labour and trafficking. In practice illegal child labour occurs, mainly in the agricultural sector.**

**There is no law to explicitly prohibit forced labour. Trafficking and forced labour occur. The government adopted formal victim identification procedures in 2010 and an anti-trafficking law in 2011.**

## **INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN TRINIDAD AND TOBAGO**

### **Introduction**

This report on the respect of internationally recognised core labour standards in Trinidad and Tobago 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) 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 and in the Declaration on Social Justice for a Fair Globalisation adopted unanimously by the ILO in 2008.

The ITUC affiliates in Trinidad and Tobago are the National Trade Union Centre of Trinidad and Tobago (NATUC) and the All Trinidad General Workers' Trade Union (ATGWTU) which have a membership of 30,000 persons covering various areas of employment in Trinidad and Tobago.

### **I. Freedom of Association and the Right to Collective Bargaining**

Trinidad and Tobago ratified both Convention No. 87 on Freedom of Association and Protection of the Right to Organise and Convention No. 98 on the Right to Organise and Collective Bargaining in 1963.

The 1972 Industrial Relations Act grants workers the right to organise and join trade unions of their choice. The law's scope does not cover domestic workers, drivers and gardeners and so those workers do not enjoy the right to organise, collective bargaining and strike.

Furthermore, the authorities register unions at a slow pace and many unions face problems with obtaining recognition. Partly in consequence only 20 per cent of the labour force is unionised, in 24 different unions.

The law protects workers against anti-union discrimination, including unfair dismissal on the grounds of union membership and activity. The Industrial Court may order the reinstatement of unfairly dismissed workers and compensation.

Workers have the right to collective bargaining but in order for a union to obtain bargaining rights, the union needs to represent 51 per cent of workers. The ILO Committee of Experts on the Application of Conventions and Recommendations

(CEACR) has stressed “*the need to amend section 34 of the Industrial Relations Act in order to ensure that, in cases in which no trade union represents the majority of workers, the minority unions can negotiate jointly a collective agreement applicable in the negotiating unit, or at least conclude a collective agreement on behalf of their own members.*” The law also prescribes that collective agreements are valid for a maximum of five years and a minimum of three years. This provision makes it impossible for workers on short-term contracts to enjoy the benefits of collective agreements.

Regarding collective bargaining in the public sector, the NATUC trade union centre reports that negotiations are held between workers of different agencies and the Public Sector Negotiation Committee. However, the state authorities have appointed one office to negotiate the collective agreement of the whole sector resulting in lengthy delays, exacerbated by the state’s reluctance to negotiate on an agency level. For instance, TT-Post workers have been waiting to negotiate a collective agreement since 2008 when their last agreement expired. In the private sector, collective bargaining is hampered by employers’ unwillingness to engage in negotiations.

Workers have the right to strike; however, in some cases strikes can be prohibited at the request of one party when the union does not enjoy bargaining agent status or when the government considers that the national interest is threatened. Strikes can only be called over terms and conditions of employment. The law stipulates penalties of up to 6 months’ imprisonment for participation in unauthorised strikes.

According to Convention No. 98 restrictions on the right to strike in the public sector should be limited to public servants who exercise authority in the name of the state and those working in ‘essential services’ in the strict sense of the term. In Trinidad and Tobago the definition of ‘essential services’ is broad: it includes teachers and Central Bank employees. Participation in strikes in these services is subject to imprisonment terms of 18 months. This is inconsistent with the ILO’s definition of essential services as those “*the interruption of which would endanger the life, personal safety or health of the whole or part of the population*”.

The labour legislation in export processing zones is as in the rest of the economy.

### *Summary*

*The law provides the right to organise, to collectively bargain and to go on strike, albeit with restrictions. However delays by the state authorities frequently impede union recognition and collective bargaining.*

## **II. Discrimination and Equal Remuneration**

Trinidad and Tobago ratified Convention No. 100 on Equal Remuneration in 1997 and Convention No. 111 on Discrimination (Employment and Occupation) in 1970.

The Equal Opportunities Act of 2000 provides protection from discrimination in employment and occupation. However, the law fails to give explicit expression to the principle of 'equal remuneration for men and women for work of equal value'.

Women face a 20 per cent pay gap. In particular sectors the gap is bigger: for instance, women working in sales services face a gap of 47 per cent while legislators, senior officials and managers face a pay difference of almost 40 per cent. Female unemployment is almost double men's unemployment and only 61 per cent of women participate in the workforce.

Sexual harassment in the workplace is not prohibited. Sexual harassment is a problem and trade unions state that many victims refrain from reporting such cases. Some trade unions include provisions against sexual harassment at the workplace in their collective agreements.

No laws protect persons with disabilities against discrimination in employment. Reports show that such persons face discrimination in hiring and other aspects of employment.

Homosexuality is illegal and punishable with up to 25 years' imprisonment. The Equal Opportunities Act explicitly excludes sexual orientation from grounds of discrimination. Homosexuals face discrimination in various aspects of life, including in employment.

The law does not provide protection from discrimination against persons who live with HIV/AIDS. They face societal stigma and discrimination in various aspects of life, including in employment. The Ministry of Labour and the ILO are cooperating in promoting workplace programmes for persons who live with HIV/AIDS.

### *Summary*

*The law does not sufficiently protect women against discrimination. Women face a 20 per cent pay gap and unemployment rates are significantly higher for women than for men. Persons who live with HIV/AIDS and persons with disabilities are not protected by the law and homosexual persons are discriminated against by the law.*

### **III. Child Labour**

Trinidad and Tobago ratified Convention No. 138, the Minimum Age Convention in 2004, and Convention No. 182, the Worst Forms of Child Labour Convention, in 2003.

The minimum age for work in Trinidad and Tobago is 16 years of age. Children between 14 and 16 years may perform light work in family businesses. Children between 16 and 18 are not allowed to perform night work and hazardous work, except night work in sugar factories and some types of hazardous work under specified conditions. The Ministry of Labour and Small and Micro Enterprise Development (MOLMED) developed a list of hazardous occupations based on the outcomes of a tripartite meeting that discussed this issue in 2004. Nonetheless, the list has not yet been adopted. The Occupational Safety and Health Act (OSHA) prohibits employing young persons for more than eight hours a day or 48 hours a week and provides for a mandatory 12-hour break between shifts.

Compulsory education finishes when a child is 12 years of age, which renders children between 12 and 16 vulnerable to the worst forms of child labour as they are free to stop education but not to be admitted to work.

The law does not protect children against the use, procuring or offering of a child for illicit activities including the production and trafficking of drugs and production of pornography.

There are 6,000 registered working children. Illegal child labour occurs mainly in the agricultural sector.

MOLMED has trained labour inspectors in identifying cases of illegal child labour. The government has established the National Steering Committee for the Prevention and Elimination of Child Labour in Trinidad and Tobago (NSC) with competences for monitoring, reporting and coordinating efforts against child labour.

#### *Summary*

*The law does not protect children from certain forms of exploitative labour and trafficking. In practice, illegal child labour occurs mainly in the agricultural sector.*

#### **IV. Forced Labour**

Trinidad and Tobago ratified Convention No. 29, the Forced Labour Convention, and Convention No. 105, the Abolition of Forced Labour Convention in 1963.

The government enacted legislation against trafficking in 2011. However, there is no law prohibiting forced labour and such crimes are prosecuted under provisions of the Penal Code and other laws.

The Shipping Act, the Trade Disputes and Protection of Property Ordinance and the Industrial Relations Act contain provisions under which penalties of imprisonment involving compulsory labour may be imposed for various breaches of labour discipline and participation in strikes without endangering life, personal safety or health of persons. These provisions are not in line with Convention No. 105 which does not allow for forced work because of expression of particular political views, breach of labour discipline or participation in a strike.

Forced labour and trafficking occur in Trinidad and Tobago. Reports show that some migrant workers' travel documents are held by employers and in some cases wages are withheld until the end of the contract. The government has hired Chinese-speaking interpreters and translators to help the labour inspectorate in their raids and controls in factories with many migrant workers.

The authorities formalised and adopted a procedure for the identification of trafficking victims in October 2010. The authorities already recognised two victims with the use of the new procedures. However, the government has not provided information on recent investigations, prosecutions and convictions.

The government provides some assistance to victims directly and through NGOs. However, in 2010 the authorities detained and deported five victims for breaching the immigration laws.

In partnership with the International Organisation for Migration (IOM), the government provided anti-trafficking training to more than 1,500 law enforcement officers in 2010, and published reference guides for immigration and police personnel on human trafficking.

#### *Summary*

*There is no law to explicitly prohibit forced labour. Trafficking and forced labour occur. The government adopted formal victim identification procedures in 2010 and an anti-trafficking law in 2011.*

## **Recommendations**

1. The Industrial Relations Act, 1972 should be amended in order to cover domestic workers, drivers, gardeners and other workers who are currently excluded.
2. The state authorities should increase their capacity to register unions so that this does not operate as a barrier to union recognition.
3. The excessive requirements for granting bargaining agent status to unions should be repealed.
4. In cases where a union does not have majority status in a workplace it should still be allowed to negotiate in the name of its members. Members of such unions should be allowed to take industrial action and in all other ways be represented by their union.
5. The state authorities should engage in collective bargaining with public employees on an agency level.
6. Strikes should be permissible not only over terms and conditions of employment but also remuneration, solidarity and other issues.
7. Provisions that establish penalties of imprisonment for participation in unauthorised strikes should be repealed.
8. The government needs to amend its definition of 'essential services' so that it meets the ILO definition.
9. The government should promote collective bargaining as the procedure to regulate industrial relations and settle industrial disputes.
10. Explicit expression to the principle of 'equal remuneration for men and women for work of equal value' should be given by the law.
11. Sexual harassment in the workplace should be prohibited, complaints mechanisms should be established and strict penalties should be prescribed in law.
12. The government should implement policies to improve women's participation in the workforce and women's access to high skilled and high paid jobs and to close the gender wage gap.
13. A legal provision to protect persons with disabilities against discrimination in employment should be established. Measures such as training should be taken to enable disabled persons and other groups that face discrimination to locate good employment opportunities.
14. The Equal Opportunities Act should be amended in order to include sexual orientation among the prohibited forms of discrimination.
15. Legal provisions should be introduced to protect persons who live with HIV/AIDS from discrimination.
16. The hazardous work list drawn up in 2004 should be enacted.
17. Compulsory education should be extended to cover children up to 16 years of age.

18. Legal provisions against the use, procuring or offering of a child for illicit activities should be introduced.
19. The government should design and enact a law prohibiting forced labour.
20. The provisions of the Shipping Act, the Trade Disputes and Protection of Property Ordinance and the Industrial Relations Act under which penalties of imprisonment involving compulsory labour are established should be revoked.
21. The authorities need to urgently initiate investigations into reports that some migrant workers' travel documents and wages are withheld by employers.
22. The WTO should draw the attention of the authorities of Trinidad and Tobago to the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. It should request that the ILO intensify its work with the Government of Trinidad and Tobago 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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