



**of violations of trade union rights
in the Commonwealth countries**

**2007
Annual Survey**



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

AUSTRALIA

POPULATION: 20,600,000 / **CAPITAL:** Canberra / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111

Fears that the new industrial relations legislation would be used against workers and trade unionists soon proved true: 107 construction workers face individual prosecution and huge fines. A union delegate was sacked for voicing concerns over health and safety issues and guest workers were dismissed for joining a union. More workers have been forced out of collective agreements onto individual agreements, usually with less favourable conditions.

TRADE UNION RIGHTS IN LAW

The law establishes freedom of association for workers, including those in the public sector, and the right to bargain collectively, but increasing restrictions have been imposed on those rights. Even prior to the coming into force in March 2006 of the *Workplace Relations Amendment (Work Choices) Act 2005* ("the Work Choices legislation") Australian law fell short of meeting internationally recognised standards in respect of freedom of association and the right to bargain collectively.

In particular, the *Workplace Relations Act 1996* ("WRA"):

- y Placed union and non-union agreements on the same footing;
- y Prohibited industrial action in support of multi-employer agreements;
- y Did not require employers to negotiate with unions even when its employees were union members and wished to be represented in bargaining by their union;
- y Provided for individual Australian Workplace Agreements (AWAs) which were privileged over collective agreements;
- y Restricted industrial action, including provision for court orders and financial penalties in cases such as where the action could damage the Australian economy or where it involved sympathy or protest action.

In spite of repeated requests from the ILO's Committee of Experts on the Application of Conventions and Recommendations to review and amend the WRA, the Government's Work Choices legislation has taken the WRA even further away from compliance with the relevant ILO Conventions.

Collective bargaining: The Work Choices legislation further restricts the ability to bargain at a multi-employer or industry level. Pre-authorisation and subsequent approval is required from the Employment Advocate (EA) after private deliberations, where previously this occurred in an open hearing by the Industrial Relations Commission (IRC).

Industrial action in support of multi-employer agreements remains unlawful, as was previously the case, but this is broadened by a new prohibition on "pattern bargaining;" that is, the pursuit of common claims against a number of employers although there is a preparedness by the union to separately negotiate each agreement. The ban on pattern bargaining applies even to subsidiaries of the same parent company.

Individual agreements: The Work Choices legislation substantially strengthens the place of individual AWAs in the industrial relations system. AWAs are no longer subject to collective agreements during the term of those agreements. This means that an employer is free to offer to all employees, and to require new employees to sign, inferior AWAs even where there is a collective agreement in place binding the employer in respect of all employees. This totally undermines the integrity of any collective bargaining process.

The incentives for employers to require AWAs have also been greatly increased. AWAs now must include only five minimum conditions (minimum wage, annual leave, sick leave, unpaid parental leave and maximum weekly working hours) rather than being measured against comprehensive industrial awards, meaning that they can substantially undercut employees' previous wages and working conditions. Once an AWA is made, awards cease to operate for that employee even after the expiry of the AWA. Further, AWAs operate from the time lodged, rather than requiring scrutiny and approval from the EA or the IRC, as was previously the case.

Employer green fields agreements (EGA): The Work Choices legislation introduces a new type of agreement which allows an employer to unilaterally set the terms of an agreement covering the first 12 months of operation of a new project or undertaking, which can include an extension of an existing business, or in some circumstances, when a business is sold.

Restrictions on bargaining subject matter: The Work Choices legislation increases the number of matters which are prohibited by law from being the subject of bargaining, to the extent that financial penalties apply to individuals or organisations which seek to include these matters in their agreements. “Prohibited content” includes: leave to attend trade union meetings or training; right of entry for union officials; general representative rights for unions; restrictions on contractors; encouragement of trade union membership; remedies for unfair dismissal; restrictions on AWAs.

The right to strike: The Work Choices legislation imposes significant and new restrictions on the right to strike:

- y Lawful action cannot be taken in support of common claims or of “prohibited content”;
- y The IRC’s discretion to make orders stopping industrial action has been weakened, so that such orders are close to mandatory; for example, in cases of sympathy action or where the action could damage the Australian economy or an important part of it;
- y Third parties have been given an expanded right to seek orders against workers taking industrial action;
- y All industrial action must be authorised through a cumbersome and legalistic secret ballots procedure;
- y Employers may apply for a cooling off period to stop industrial action;
- y Penalties for taking unlawful industrial action have been sharply increased.

Restricting union access to workplaces: The new law severely curtails the right of union representatives to visit workplaces, thereby restricting their ability to ensure that workplaces are safe, to advise employees of their rights and to recruit members. The Act includes a rigid set of requirements for unions seeking to enter workplaces.

Unfair dismissal: The Work Choices legislation removed unfair dismissal protection for employees of employer with fewer than 100 employees, meaning that around two thirds of private sector workers lose their right to challenge an unfair dismissal. Even in workplaces with 101 or more employees, a dismissal which is even partly for operational reasons cannot be challenged for unfairness.

Building industry Act restricts union rights: The 2005 Building and Construction Industry Improvement Bill imposes even stronger limitations on the right to strike than the WRA, imposing a blanket prohibition on unprotected action (i.e. strike action not specifically protected by the WRA) and introduces the notion of “unlawful industrial action”, accompanied by severe penalties and sanctions (of up to A\$110,000 for bodies corporate and A\$22,000 for individuals). The Act also interferes in collective bargaining through a list of provisions that render project agreements (i.e. those negotiated at a multi-employer level) unenforceable, and by restricting the issues that can be the subject of collective bargaining. Furthermore, the Act gives considerable powers to the Australian Building and Construction Commissioner (ABCC) to investigate compliance with the law, including the power to enter premises and confiscate documents. There are insufficient safeguards against interference in trade union activities.

Western Australia – more rights than at federal level: In August 2002, the Western Australian Labour government enacted the Labour Relations Reform Act. The Act repealed laws that permitted individual contracts to override collective agreements, reversed many of the discriminatory measures against trade unions contained in 1997 legislation, and removed requirements that unions undertake complicated pre-strike ballots.

Queensland – possible sanctions for protest action: 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.

TRADE UNION RIGHTS IN PRACTICE

AWAs used to undermine unions: Employers use the legislation on workplace agreements to undermine collective bargaining and promote individual agreements. Trends show a move towards AWAs and away from union-negotiated collective agreements.

Impact of individual contracts: Workers who have been moved by employers onto individual contracts have usually lost out. The government’s own workplace agency revealed that two thirds of the new AWAs registered under the new laws removed penalty rates, one third cut overtime pay, a half removed shift allowances and another third scrapped public holiday payments, all leading to a fall in real wages. Following public exposure of this information, the Employment Advocate has stopped collecting this data.

VIOLATIONS IN 2006

Background: The Howard government’s industrial relations laws galvanised support for the unions and led to widespread national protest. On 28 June 300,000 Australians took to the streets to protest against the new laws. Similar protests

took place on 30 November, one year after the controversial legislation was passed. Just two weeks earlier the High Court ruled that the laws were legal.

Call centre forces workers out of collective agreement: Global Tele Sales, a subsidiary of the German airline Lufthansa based in Melbourne, took advantage of the new industrial relations laws in June to force 80 workers to renounce a collective agreement signed with the Australian Services Union (ASU), not due to expire until December, and sign individual contracts. Under the new contracts the workers faced pay cuts and penalties for taking sick leave or carer's leave, with no right to negotiate with the company over the terms of the contract. The company claimed that employees were not being forced to sign the AWAs, yet it stated that it would not negotiate a new collective agreement, and that certain privileges would be withdrawn from those who refused to sign. Staff reported that they felt they had no choice but to sign. The Workplace Rights Advocate for the state of Victoria announced an investigation into the AWAs after the ASU expressed its concerns.

Construction workers prosecuted over industrial action: 107 construction workers from Western Australia face individual prosecutions brought by the government appointed and funded Australian Building and Construction Commission (ABCC). Over 400 workers employed on the Perth to Mandurah railway link project had taken part in industrial action in February in protest at the unfair dismissal of their health and safety representative, Peter Ballard, from the Construction, Forestry, Mining and Energy Union (CFMEU). Writs were issued against the workers on 5 July, months after the dispute between the workers and the employer had been settled. It was the first time that fines had been issued against individual workers for taking strike action. The prosecution was brought under the terms of Building and Construction Industry Improvement (BCII) Act 2005. As a result of the court case, which began on 28 August, the workers face fines of up to AUD\$ 28,600 each and possible jail sentences. The Federal Court indicated that the hearing was unlikely to begin before October 2007.

Workers sued over union meeting: In a similar case, also brought under the terms of the 2005 BCII Act, and the WRA, 40 workers were sued by Total Corrosion Controls (TCC). They had taken part in a meeting in June called by the Australian Manufacturing Workers' Union (AMWU) to explain their rights and obligations under a back to work order issued during a strike over a pay dispute. The meeting allegedly ran 15 minutes too long and so constituted unlawful industrial action. Each worker faced fines of AUD\$ 28,600 and unspecified damages, while the AMWU was sued for at least UD\$ 220,000.

TCC subsequently agreed to withdraw its action in the Federal Court on condition that the AMWU agree to various conditions regarding the resolution of any future industrial matters. However, the ABCC has intervened in the case and if it so chooses has the right to continue the prosecution of its own volition, regardless of an agreement that might be reached between the employer and the employees. At the time of writing the AMWU had no indication of the Commission's intentions.

Dismissed for union activities: The mobile crane company Botany Cranes sacked a CFMEU union delegate on 6 September, for "insubordination". Barry Hemsworth had been a union delegate at the Sydney based company for ten years, and was a respected crane driver. His dismissal came after he had expressed his concerns about health and safety issues at the company at a meeting on the subject, after being asked by his employer not to. Unfair dismissal laws have been abolished in Australia, making it difficult for him to fight his dismissal. Fellow employees condemned his sacking but under the new laws, they would face fines of up to AUD\$20,000 each if they were to attend a meeting to discuss it.

Guest workers sacked for joining union: Three Filipino guest workers were sacked on 16 October for joining a union, and five others were told to resign or lose their visas. They had arrived in Brisbane eight weeks earlier to work as welders for a Brisbane labour hire company. They had contacted AMWU after discovering their pay packets were vastly reduced by deductions for accommodation, transport and other charges, that they had no sick leave, no extra rates for night or weekend work, and could be sacked at a day's notice. The agency promptly put pressure on the workers by calling one of their wives in the Philippines, to say they would be sacked if they joined the union. The workers ignored the threats and the agency lived up to its promise.

BAHAMAS

POPULATION: 321,000 / **CAPITAL:** Nassau / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138 -182

An employer can call for a union's recognition to be withdrawn if negotiations on a collective agreement take more than a year to complete. Before unions can legally take strike action they must apply for permission to hold a strike ballot, and the Ministry of Labour can refuse to approve strike action. Casino workers were refused permission to join a union while employees of a major hotel chain were coerced into accepting management's choice of union.

TRADE UNION RIGHTS IN LAW

Freedom of Association: Private sector and most public sector workers may form or join unions. Members of the prison service are not covered by Labour Relations Act and therefore do not have the right to organise. The Registrar has discretionary powers to reject a union's request for registration, which the ILO considers tantamount to prior authorisation and therefore against the principles of freedom of association. The ILO has furthermore asked the government to alter to law to remove the stipulation that the Registrar or designated officer must supervise the secret ballot to elect or remove trade union officers or amend a union constitution.

The right to collective bargaining is recognised in law. To be recognised as a bargaining agent, a union must represent 50 per cent plus one of employees. If an employer fails to reach agreement with a union after 12 months, the employer can apply to have the union's recognition revoked.

Right to strike – strong limitations: The Industrial Relations Act requires a simple majority of a union's membership to vote in favour of a strike motion. The Ministry of Labour must approve a strike ballot, which in the case of the public sector is contrary to the principles of freedom of association, given the government's role as employer. Furthermore, section 75 of the Act restricts the objective of a strike and appears to prohibit protest and sympathy strikes. If strikes are organised in violation of section 75, excessive sanctions, including imprisonment for up to two years are foreseen.

Export processing zone: There is one free trade zone in the Bahamas, Freeport, which is governed by the same laws as the rest of the country.

TRADE UNION RIGHTS IN PRACTICE

Failure to recognise unions or honour agreements: While unions do exercise their rights widely, there have been recent cases where the government or employers have refused to recognise unions. In addition, over the years the government has failed to honour industrial agreements. Trade unions believe some employers deliberately drag out negotiations for more than a year in order to apply for a union's recognition to be revoked.

The Trade Union Congress of the Bahamas reported in 2005 that it can take a year or even longer for a union to be granted recognition.

VIOLATIONS IN 2006

Casino workers barred from forming union: In March, Minister for Labour and Immigration, Shane Gibson prevented casino workers on Paradise Island forming a union, although they had fulfilled all the requirements, on the grounds that it was government policy not to allow casino workers to unionise.

The National Congress of Trade Unions (NCTU) called on the government to abide by the provisions of the Industrial Relations Act and allow the Casino Workers Association to be recognised as a bargaining unit for the gaming industry workers. NCTU President Pat Bain said that the [Industrial Relations] Act allowed for any employee to become a member of a trade union.

Sandal workers forced to join union of employer's choice: The dispute at the Sandals resort which began in 2005 continued into 2006. In September when workers tried to form their own union: the Bahamas Hotel Maintenance and Allied Workers Union, Sandal's General Manager Stephen Ziadie refused to recognise it, forcing them to join the Bahamas Hotel Catering and Allied Worker's Union instead.

The leader of The Bahamas Hotel Maintenance and Allied Workers Union, Lynden Taylor said staff had previously refused to join the Bahamas Hotel Catering and Allied Worker's Union (BHCAWU) because of allegations that the BHCAWU was

selling out, explaining that: “We just didn’t want to be a part of an organisation that is not going to defend the workers. That’s why we decided to form our own union.”

BANGLADESH

POPULATION: 152,600,000 / **CAPITAL:** Dhaka / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-182

Attempts to form workers’ associations in the textile industry were routinely suppressed and the organisers fired. Major worker unrest and riots sparked by a litany of abuses and poor working conditions led to violent repression, including the killing of one striker and the arrest and beating of union leaders. Systematic government and employer opposition to the exercise of union rights in EPZs continued. Reform of the labour law resulted in increased restrictions on the right to organise unions and to strike and excessive force was again used by police and military forces against protesting workers throughout the country.

TRADE UNION RIGHTS IN LAW

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 per cent of workers in an enterprise have to be members and the union can be dissolved if its membership falls below this level. The ILO has informed the government that this is a clear barrier to freedom of association and recommended the law be amended, but that advice has been continuously ignored.

Unions must have government approval to be registered, and no trade union action can be taken prior to registration. Unions can only be formed at the factory/establishment level, with some exceptions (such as private road transport, private inland river transport, tea, jute bailing, bidi production) where union formation can take place based on geographic area. There can be no more than three registered trade unions in any establishment. Membership in a union is restricted only to workers currently working at an establishment, meaning that severance from employment also results in the end of a worker’s membership in the union.

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 in internal union affairs. He can enter union premises and inspect documents. The registrar may also cancel the registration of a union, with Labour Court approval.

Exclusions from union membership: Under the Industrial Relations Ordinance (IRO), workers in the public sector and state enterprises may not belong to a trade union, with the exception of railway, postal and telecommunications workers. Members of the security forces are also denied the right to form unions. Teachers are also forbidden to form trade unions, in either the public or private sector. Managerial and administrative employees can form welfare associations, but they are denied the right to join a union

Right to strike not recognised: The right to strike is not specifically recognised in law. Three quarters of a union’s members must agree to a strike before it can go ahead. The government can ban any strike if it continues beyond 30 days (in which case it is referred to the Labour Court for adjudication), if it involves a public service covered by the Essential Services Ordinance or if it is considered a threat to the national interest. In this last case, the 1974 Special Powers Act can be used to detain trade unionists without charge. The government may ban strikes for renewable periods of three months. Sentences of up to 14 years’ forced labour can be passed for offences such as “obstruction of transport”.

Strikes are not allowed in new establishments either owned by foreign investors or established as joint-ventures in collaboration with foreign investors for a period of three years from the date the establishment begins commercial production.

Compulsory conciliation and court referral procedures: The labour law requires that parties to an industrial dispute must follow procedures (such as request conciliation, serve notice of a strike or lock-out, or refer the dispute to the Labour Court for settlement) within a specified period or the labour dispute will be considered legally terminated. The issue or subject of an industrial dispute which is terminated in this manner cannot be raised for a calendar year after such termination.

Collective bargaining limited: Only registered unions can engage in collective bargaining, and each union must nominate representatives to a Collective Bargaining Authority committee, which is subject to approval by the Registrar of Trade Unions. The National Pay and Wages Commission, whose recommendations are binding, sets public sector workers’ pay levels and other benefits.

Law – significant restrictions continue: The EPZ Trade Union and Industrial Relations Bill 2004 provided for the formation of trade unions in EPZs from 1 November 2006. The ILO Committee on Freedom of Association recommended numerous amendments to the law to bring it into compliance with Conventions no. 87 and 98 which Bangladesh has ratified. The government of Bangladesh has fundamentally failed to take any appreciable steps to comply with the ILO CFA's ruling.

The law foresees the phased introduction of freedom of association, providing for a different type of workers' organisation at each stage. However, the law does not go so far as to say that trade unions with full associational rights will be allowed to exist in EPZs after the last stage outlined, which will be after 1 November 2008.

Stage one – worker representation and welfare committees: Until the end of October, workers in Bangladesh's EPZs were still operating under the first stage of the law. They were only allowed to set up Worker Representation and Welfare Committees (WRWC). The law requires all enterprises in the EPZ to have one WRWC, whose elected representatives have the power to negotiate and sign collective agreements on a limited set of topics but not to strike or organise demonstrations. However, workers and labour activists in Bangladesh reported that in 2006 employers generally refused to enter negotiations or sign an agreement with a WRWC.

Under the law, all WRWCs were supposed to cease to exist on 31 October 2006, unless the employer gave an explicit agreement that the WRWC should continue (which they would in practice only do in the case of compliant WRWCs).

Stage two – workers' associations: The second stage of the law provides that a trade union, referred to as a Workers' Association (WA) in the law, can be organised provided over 30 per cent of the workforce requests that the association should be set up. More than 50 per cent of the workers in the factory must vote affirmatively for the WA to be formed.

This was scheduled to start on 1 November 2006 but in practice there were significant delays, notably because the Bangladesh Export Processing Zone Authority (BEPZA) did not provide the necessary forms for applying to set up WAs. In new enterprises that start operations after 1 November 2006, workers are not permitted to form an association for the first three months after the commencement of commercial activities.

Only one federation can be formed per EPZ, and over 50 per cent of the registered WA in the zone must vote to affiliate before a federation can be formed.

The BEPZA Executive Chairman also has almost unlimited authority to deregister a Workers' Association, should he determine that the WA has committed an "unfair practice", contravened any part of the WA's own constitution, violated any aspect of the EPZ Law, or failed to submit a report to him. Essentially, the law has made illegal the right of workers to talk about unions in their workplaces or to engage in pressure tactics to persuade recalcitrant employers to sign a collective agreement.

Finally, the law explicitly forbids any strikes in the EPZs until 31 October 2008.

Frequent bans on assembly: The law allows the government to ban any public gathering of more than four people, ostensibly only in cases where "public order" or "public health" are at risk. In fact, the government applied this banning power much more indiscriminately.

Labour appellate tribunal created: The new labour law created an avenue for all the judgements, awards and sentences of the Labour Court to be appealed to a Labour Appellate Tribunal. Previously all such appeals had to be taken up by the Supreme Court, resulting in significant delays in reaching a final legal verdict for labour cases.

TRADE UNION RIGHTS IN PRACTICE

The trade union movement is relatively weak in Bangladesh. This is partly owing to the multiplicity of trade unions and partly owing to the considerable intimidation imposed in practice, especially workers' fear of losing their jobs should they show any sign of union activity. The right to freedom of association and to collective bargaining at the workplace is not respected in the garment sector or on the tea estates. Where unions do file applications for recognition, their registration is often delayed long beyond the 60 days foreseen by law.

Strike bans: The government makes regular use of the Essential Services Ordinance in order to ban strikes. The government's use of this order was continuously applied over the past four years to the Power Development Board, the Dhaka Electric Supply Authority, the Chittagong Port Authority, Biman Airlines, and the Bangladesh Petroleum Corporation.

Restrictions on bargaining and union meetings: Since 2003, the government has banned any collective bargaining in jute

mills during production time. Only pro-government supporters are allowed to hold meetings during work time and unions not affiliated with the government's labour grouping are not allowed to hold protests even on their day off.

Employers take advantage of legal loopholes: Private sector workers are discouraged from undertaking any union activity. The Industrial Relations Ordinance gives considerable leeway for discrimination against union members and organisers by employers.

Workers who try to create a trade union are not protected before registration and are therefore 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 transfer or 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 several years.

Export processing zones – anti-union employers: Employers in the EPZs have been consistently hostile towards trade unions, claiming that many of the companies would be ruined and jobs would be lost if they had to have unions. Some employers in the zones take advantage of the absence of trade unions to commit violations of international labour standards, such as sexual harassment, physical violence, unpaid overtime, child labour, non-compliance with minimum wage regulations and deplorable safety conditions.

Despite protections for WRWC committee members provided by the EPZ Law, discrimination against leaders of active WRWCs was reported in 2006, and an undetermined yet significant number of these leaders and activist members have been terminated with permission from the BEPZA in processes that workers claimed were biased and unfair. Since there is no dispute resolution mechanism or tribunal for workers, except to appeal to the BEPZA, workers in the EPZs had few other options but to protest. After 1 November 2006, those factories with WRWCs turned their attention to frustrating efforts of the workers to form Workers Associations, again employing a series of tactics including harassment, intimidation, and termination of leaders.

Failure to set up industrial dispute resolution mechanisms in EPZs: Although the EPZ law provides for the establishment of an EPZ Labour Tribunal and an EPZ Labour Appellate Tribunal, a full two years after the passage of the EPZ law, these two tribunals have yet to be established.

Garment industry anti-union: Textile workers outside the zones fare no better. An estimated two million women workers toil for 3,300 employers to make clothes for export in Bangladesh. Workers are regularly sacked, beaten or subjected to false charges by the police for being active in unions. The General Secretary of the United Federation of Garment Workers (UGFW) has been arrested more than a dozen times. Meanwhile, the country's garment workers are among the lowest paid in the world. They work long hours with very little leave, and face physical, verbal and sexual abuse.

Employer negligence and government indifference kills hundreds of workers: Negligence by employers and the authorities have had appalling consequences that a strong, vigilant trade union could help to avoid. Based on its analysis of publicly available sources, the respected Bangladesh Institute for Labour Studies found that in 2006 there were 845 workers killed and 3018 injured by occupational accidents. The ready-made garment sector led the way in its toll on workers, with 141 killed, and 1578 hurt or maimed.

Ship recycling industry effectively prohibits unions: The Bangladeshi ship recycling industry is based at Chittagong Port. Workers are employed on an as-needs basis, have no contracts and do not sign any documents which could link them to a specific yard. Thus workers have no legal recourse in the event of a dispute. Largely owing to the fear instilled in them – through violence and the precariousness of their employment situation - workers have no way of standing up for their rights or even claiming their dues. Any claim would provoke instant dismissal. Unions are de facto forbidden on the sites and union organisers find it very difficult to gain access.

VIOLATIONS IN 2006

Background: A political crisis was sparked over the government's choice of a three-month caretaker administration to take over when Prime Minister Zia completed her term of office at the end of October, sparking violent protests. President Ahmed assumed a caretaker role until the elections due in January 2007. In December much of the country was paralysed by a blockade aimed at derailing the parliamentary elections.

Striker killed: At FS Sweaters at Gazipur, a pattern of alleged cheating in wage rate calculation, compounded by verbal abuse of workers, caused a series of confrontations between workers and management that in turn resulted in the

detention in the factory of three workers' leaders. Management also filed charges against another 80 workers. Workers walked off the job, prompting a strike on 23 May, and management escalated the situation by calling in hired thugs to attack the workers on the picket. When the strikers fought back, the factory management called in the police who opened fire on the strikers, killing one worker and injuring others. As news of the killing spread, workers rioted, attacking factories, and closing roads. Within a day, the riot spread to the Savar EPZ and to other districts of Uttara, Mirpur, Kafrul, Old Dhaka, and Tejgaon. Media accounts described dozens of factories burnt by rampaging. The government deployed the Army's Rapid Action Battalion to restore order, and harshly cracked down, arresting hundreds of workers.

Union offices raided, leaders arrested and tortured: Government officials also lashed out at the unions, blaming them for instigating the unrest. On 23 May, police raided the Bangladesh Independent Garment Workers' Union Federation (BIGUF) Gazipur office, accused the staff present of starting the riots, and arrested two BIGUF union organisers, Rashedul Alom Raju and Rebecca Khatun, and an office staff person, Minara. While in police custody, Raju was blindfolded, beaten, and tortured. When Rebecca and Minara were brought to court on 24 May, their lawyer saw clear indications of bruises and injuries, lending credence to the two women's claims that they were also tortured by the police. They were charged with destruction of property, vandalism, and other charges connected to the labour unrest. On the same day, police also arrested Moshrefa Mishu, the President of Garment Workers Unity Forum, and placed her under remand for five days. However, when she fell ill in prison, she was allowed bail on 26 May, and police filed 19 charges against her.

Overwhelming military and police presence and a tripartite agreement promising improvements in working conditions and wages (including the respect of trade union rights at every factory) brought the riots to an end. Rather than accepting that poor working conditions and abusive practices prompted the frustration that led the riots, the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) Acting President and the State Minister for Home Affairs both publicly blamed India for conspiring and launching a plan to destroy the ready-made garment industry of Bangladesh in order to gain competitive advantage.

Continued unrest in the factories flared in the Dhaka EPZ after some of the factories re-started production on 26 May – with protesting workers being attacked and arrested at Experience Sweaters on 29 May, and again at other factories in the zone on 3 June.

Systematic firing of leaders organising WRWC in factories in EPZs: Employers routinely harassed, intimidated, suspended and fired the leaders of WRWCs and the BEPZA systematically failed to protect WRWC leaders from these campaigns.

WRWC committee members were routinely suspended by employers without prior approval from BEPZA, making those suspensions illegal – but in most cases, BEPZA took no action to overturn those suspensions. Factory owners' systematic effort to repress workers' exercise of the limited freedom of association rights provided to them by the EPZ law is clearly indicated by the extraordinary number of violations. The total and systematic failure of government officials and BEPZA authorities to protect WRWC leaders significantly undermined the extension of associational rights to workers promised by the EPZ law.

For example, at Honorway Textiles and Apparels, a WRWC election scheduled for May was postponed and in July, before the election could be held, management compelled 37 workers (including 11 WRWC candidates) to resign. Local police were called in by management to ensure that the 37 workers did not resist management's order. Over the ensuing months, management continued to delay the WRWC election. Finally, in October, workers stated that BEPZA official Tahera Begum visited the factory several times, and told workers it was too close to the 31 October deadline to hold an election and therefore WRWC committee members would have to be appointed. The workers refused, and insisted on reinstatement of the 11 fired workers and an election.

At the Shaha Denims Ltd factory, Aminul Islam, the WRWC convener elected in April, was terminated soon after his election based on a charge of unspecified 'misconduct' filed by management. While admitting the firing was wrong, the BEPZA officials claimed to labour advocates raising the case that the officials could do nothing because the factory was owned by an ex-Minister who was too influential for them to compel to follow the law. On 26 July, management charged another WRWC leader, Mohammed Nurul Islam, with 'misconduct' and suspended him indefinitely. Despite receiving a written appeal, BEPZA failed to investigate, intervene, or take any other action in this case.

Meanwhile, Alfa Package Ltd. suspended the WRWC convener, Masud Munshi, and another WRWC committee member, Nurul Amin, on unsubstantiated 'misconduct' charges which workers claimed were connected to their work as leaders of the WRWC. When these workers filed complaints to the BEPZA and to the General Manager of the Dhaka EPZ, no action was taken to resolve the case, and no formal reply to their written appeals was made. Finally, on 8 October, Nurul Amin was informed by factory management that the BEPZA Chairman had agreed to Amin's firing – despite the fact that at no time was Amin given the opportunity by BEPZA to provide evidence or reply to the company's allegations against him.

Zong Shine Textile Industries Ltd temporarily suspended WRWC leader Rezaul Karim in March for unspecified 'misconduct' charges, and then in May extended his suspension without pay indefinitely, effectively firing him. Rezaul Karim made repeated requests to the BEPZA and the General Manager of the Dhaka EPZ to set aside this illegal suspension order but his appeals were apparently ignored.

Red Point Jackets Ltd factory owner Masud Rana filed criminal cases in July against WRWC convener Ramjan Ali, and six other WRWC committee members, for alleged crimes, presumably committed during their work as labour activists. Management then issued suspension orders without prior BEPZA approval. Ramjan Ali was jailed by police and refused bail for months, while the remaining six workers were allowed to post bail and were released. In November, workers stated that BEPZA officials told the seven workers it could never force Red Point management to accept them back into the factory and so the seven workers should resign in exchange for a termination payment.

At LSI Industries, Kabir Hossain, the convener of the WRWC, was issued by management with a letter of misconduct after forming the WRWC in May, and then was terminated in mid-June. After strong representations by Solidarity Centre (the AFL-CIO's American Center for International Labour Solidarity) and other worker advocates, BEPZA issued a letter to LSI industries informing them that the termination was contrary to the law – but then failed to take any action to enforce its order.

Shah Alam, a core member and activist of the WRWC, was suspended indefinitely on specious grounds of 'misconduct' by Youngone Hi-Tech Sportswear Industries Ltd in October. An appeal was filed with BEPZA.

SG Wicus (BD) filed a criminal case against 16 workers in the factory, including four WRWC members, on 26 August. The WRWC members were suspended without pay.

BEPZA and Government frustrates efforts to form Workers Associations (WA) in EPZs: On 1 November, workers had the right to apply to form WAs but BEPZA failed to devise and provide the "prescribed form" needed by the workers to apply to establish the WA. Workers and their advocates reported they believe this is a willful delaying tactic by BEPZA, in part because BEPZA had more than two years to prepare the necessary paperwork and procedures for this transition yet failed to do so.

Nevertheless, workers continued to try and exercise their rights to form WAs – and were met with immediate and unmitigated anti-union hostility by employers.

The WRWC at the Jeans 2000 Ltd factory, located in the Chittagong EPZ, polled its members in November and found that 80 per cent of them were prepared to form a WA and wanted to join BIGUF. Management ordered workers to cease considering BIGUF as a potential partner. As the WRWC planned in December to seek WA status, an intimidation campaign was started, and the convener of the WRWC was regularly followed by unknown men wherever he went, and especially while traveling between his home and the factory. Meanwhile, management identified and indefinitely suspended seven workers (including the two most active WRWC members) for allegedly 'violating BEPZA regulations.'

In November at Youngone Sports and Shoes Industries Ltd, based in Chittagong EPZ, the management started disciplinary hearings against two activist WRWC members, Dipok Kumar Das and Prodip Kumar Das. Workers at the factory stated that the two workers were targeted because they are leaders in the effort to establish the WA at the factory.

Firings, intimidation, and use of thugs – favourite employer tactics to stop unions in the ready-made garment sector: All over Bangladesh, union leaders and members were routinely harassed, verbally and physically threatened, beaten, suspended, and fired for pursuing union activities. Most employers operated with total impunity and without regard for legal protections for trade union rights.

Workers at Sum Sweater Ltd decided in June to try and organise a union to protect their rights, but when management found out in August they investigated to find who the ring leaders were, and then summarily fired 63 workers, most involved in the union. Virtually all of the workers planning to join the executive committee of the union – which was to be elected in a matter of days – were terminated. Further intimidation of the remaining workforce after the firings effectively brought to an end the union organising effort.

When the workers at New Modern Garments registered a union on 10 August, the management immediately moved against the local union executive and key worker leaders, removing 15 of them from the factory through intimidation, false charges, forced resignations, and transfers.

Workers at SAS Fashion Wear Ltd organised and registered their union on 3 August, but within two months the union leaders were fired and out on the street. Management called in 22 union activists, including the President, Secretary-

General and the local union committee, and summarily terminated them on 11 October without providing any reason or rationale. The factory also declined to give them a signed letter of termination.

Also in August, the management at Haesong Corporation Ltd and Haesong BD Ltd took matters even further by hiring thugs to make death threats against two workers active in trying to form a union at the factories. When the workers refused to heed the warnings, the thugs intervened and forcibly removed them from their residence near the factory and transported them back to their rural villages in the countryside – effectively terminating their employment and their efforts to organise the union.

A union was organised in the Merchantex Company BD Ltd factory in August, during which time management identified and fired one union activist. In September, the union was formally registered, but the company refused to recognise the union and began harassing its leaders. Management then put up a notice in the factory stating that an illegal strike had taken place, and the factory would take legal action against those responsible. After the Eid festival, when workers returned to work on 29 October, 18 union members were denied entry to the factory, effectively firing them. Efforts to have the workers reinstated fell on deaf ears, and at the end of the year, the union members were still out of work.

Florence Garment also employed the strategy of identifying the workers organising the union and then firing them en masse. A total of 140 workers were fired in August, after being forced to sign blank pieces of paper – with the threat being that unless they signed and left the factory peacefully, they would be handed over to a band of thugs hired by the factory. A similar ploy, forcing workers to sign blank sheets before terminating them, was used by Harim Textile against four workers leading the effort to organise the union in that factory.

At Golden Refit Garments Ltd the effort to organise the union resulted from workers' demands that the factory pay wages on time, and in the correct amount. The unsatisfactory situation at the factory led the union organisers to run a strike on 15 September that continued for two days. On 17 September, as the four core workers leading the strike were heading home from the factory, they were surrounded by a gang of thugs who abducted them and beat them with wooden rods. All four workers were forced to sign blank pieces of paper, and leave the factory and their residences near the factory.

At High Tex Export Ltd, a union was officially registered on 15 August. Management fired four key union leaders in October, including the President (Mahidul Islam) and General-Secretary, but refused to provide any written explanation for the firing. The four workers were simply ordered to stop coming to the factory. To emphasise the point, the fired workers were repeatedly visited by a gang of thugs that they believe were hired by factory management, and the intimidation became severe enough that the General-Secretary had to change residence. The union is affiliated with the National Garment Workers Federation.

In October, management at Aboni Knitwear Ltd manufactured a fraudulent resignation letter from one of the key union leaders and used the letter to force her out of the factory. The management then allegedly hired thugs to intimidate her and her husband, a former union activist at the factory, and force them to move out of their residence near the factory.

BIGUF was organising unions in three factories owned by the same owner: Greystone Sweater Ltd, Shirts Mine Ltd, and Power Vantage Wear Ltd. After an apparently good start in building positive labour relations, resulting in the signing on 12 September of Memorandums Of Understanding (MOUs) between the unions and the employer, the employer moved to fire the union leaders in all three factories in October. Problems started when thugs started intimidating union leaders at Greystone Sweater. Worker protests brought subsequent problems with police, and by mid-October, 23 workers from Greystone were in jail, and mass firings at all three factories had removed the union executive committee members in each of the factories.

When the workers at Dekko Accessories Ltd applied to register a newly organised union in October, the management immediately reacted by firing the President, General-Secretary, and Finance Secretary of the union. Workers also accused management of hiring a gang of local thugs to visit the houses of union committee members and intimidate them. In December, the employer fired all the remaining members of the union executive committee.

At MN Sweater Ltd, workers organised a union and sought registration on 26 November. The next day, when factory management learned about the application, it indefinitely suspended 90 workers, including the entire executive committee of the new union. At the end of December, after local police allegedly intimidated the suspended workers, five of the executive committee members were dismissed.

In November, New Town Knitwear terminated Mohammed Shahidul, a key labour activist, in retaliation for his close coordination with BIGUF in their effort to organise a union in the factory.

Harassment of unions and supporting organisations by government: The Bangladesh Independent Garment Workers' Union (BIGUF) reported significant and consistent harassment by national intelligence authorities owing to the federation's efforts to support workers in the EPZs. On 13 October in the middle of the night, the Rapid Action Battalion (RAB) in Chittagong detained Chandon, the International Secretary of BIGUF, and interrogated him throughout the night about BIGUF's activities to organise workers in the EPZs. RAB officers accused BIGUF of violating the EPZ law and ordered that BIGUF should cease its involvement with workers in the zones. Before releasing Chandon, they also warned him that he was under observation and not to undertake any provocative acts, and added that the RAB would hold BIGUF directly responsible for any industrial unrest that occurs in Chittagong.

The Ministry of Labour and Employment (MOLE) showed its hostility towards BIGUF's work with EPZ workers by fundamentally mischaracterizing a meeting held between BIGUF leaders and MOLE officials on 7 September. BIGUF maintains that the only agreement that resulted was for BIGUF to retrieve union "service cards" distributed to workers in the EPZs. However, the MOLE fabricated an account of the meeting which stated that BIGUF had also agreed to cease conducting any activities in EPZs, would not train EPZ workers, would advise EPZ workers seeking legal assistance to seek such assistance from BEPZA, would excise from a brochure any mention of EPZ workers, and finally, would restrict its activities to factories covered by the Industrial Relations Ordinance where the union is already affiliated to BIGUF. BIGUF vehemently denied agreeing to these provisions, and stated they would not be bound by MOLE's account of what had occurred in the meeting.

The Solidarity Centre (the AFL-CIO's American Centre for International Labor Solidarity) continued to receive numerous "visits" and ad hoc investigations amounting to harassment from the government's intelligence services, Police Special Branch, and other official authorities, despite being legally registered to operate in the country. The office received four visits from Special Branch police in December after publishing a pamphlet for EPZ workers that explained their rights under law. Numerous sources confirmed to the office that it was repeated requests to the Special Branch police from the BEPZA that prompted the investigation.

The authorities seemed particularly concerned about work being done to assist EPZ workers, and collaboration with local trade union partners to insist that the government enforce its labour laws. The work of the Solidarity Centre to help workers contact international labour rights organisations and overseas garment companies/brands to rectify problems at the factories was also evidently unwelcome.

Assault on the Bangladesh Cha Sramik Union (BCSU): Police arrested three top leaders of the BCSU on 24 March — Rajendra Prashad Boonerjee (President), Narendra Boonerjee (General Secretary), and Bupesh Sind — and brought them to a local police station in Srimongal. The charge was one of financial impropriety which had already been investigated and found groundless the year before by the trade union registrar. When BCSU members gathered outside the police station, they were brutally attacked with excessive force by police, and dispersed. Despite the trumped-up nature of the charge, bail for the three men was denied twice on 28 March, and again on 2 April. The three leaders were finally released on bail on 13 April.

An investigation of the case found that the charges were filed by a person who was not a member of the BCSU, and therefore lacked standing. Moreover, the police proceeded with the arrest without reference to the relevant labour authorities empowered by the IRO to initiate cases involving violations of the IRO. The BCSU accused a Member of Parliament with vested interests threatened by the union of being behind the harassment arrests of its top leaders.

Senior garment trade union leader attacked: On 14 April, Roy Ramesh Chadra, the General Secretary of the Bangladesh National Council of Textile, Garment and Leather Workers and an executive committee member of ITGLWF-TWARO, was assaulted and seriously injured while returning home at evening after a meeting. The assailants were not known to Chadra, and have not been apprehended.

Union leader shot at for opposing privatisation: On May 10, gunmen pumped six bullets into the car of Mohammed Firoz Mia, the President of the Bangladesh Telejogajog Sramik Karmochari Union which represents workers at the Bangladesh Telephone and Telegraph Board and was actively campaigning against privatisation, as he was being driven to work. He luckily escaped uninjured. The union held a mass protest until police agreed to investigate, but no arrests were made.

BARBADOS

POPULATION: 272,000/ **CAPITAL:** Bridgetown / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138 -182

Under the law, employers are not legally obliged to recognise unions. Essential workers may only strike under certain circumstances and after detailed procedures. During the year an employee was sacked by a financial services company for trying to gain union recognition at his workplace, while a mobile phone company tried to bully workers into leaving their union.

TRADE UNION RIGHTS IN LAW

Under the law, employers have no legal obligation to recognise unions.

Anti union activity by employers is not prohibited, but workers who are wrongfully dismissed can apply to the courts – they may be awarded compensation, but are rarely reemployed.

Right to organise and bargain collectively: The law provides for the right for private and public sector employees to strike, but essential workers may only strike under certain circumstances and after following prescribed procedures.

Since 1993 a set of protocols has provided for increases in wages and increases based on productivity. The fifth prices and incomes protocol was signed by government, private sector and union representatives in 2005.

There are no export processing zones.

TRADE UNION RIGHTS IN PRACTICE

Although employers do not need to recognise unions, many do so when a significant proportion of the workforce wanted to be represented by a registered union, although there have been cases where employers have fought union recognition.

Workers exercised their legal rights to organise and bargain collectively.

VIOLATIONS IN 2006

CLICO sacks long-term employee for union activities: On 3 April CLICO Holdings, a financial services company, sacked Bruce Clark, after 23 years of service, on the grounds that the company was 'restructuring'. Clark had been trying to get union recognition for the Barbados Workers Union (BWU) at CLICO's.

The BWU previously had written to the chairman of CLICO holdings telling him that more than 50 per cent of CLICO's 115 workers wanted to be represented by the BWU.

After Bruce Clark was sacked, 70 of the workers went on strike to protest. The chairman of CLICO Holdings Barbados Limited, Leroy Parris responded that if it was shown that the majority of the non-managerial employees wanted to be represented by the BWU, then the company would agree to union recognition.

The BWU later reported that CLICO had agreed to union recognition and that Bruce Clark had been reinstated.

Digicel intimidates union members: On 11 November, the BWU noted that the Digicel mobile phone company was asking workers to leave their union and to allow the company to deal with their concerns directly. Union members had reported receiving unusually low merit ratings in their appraisals, relative to non-unionised workers.

According to Robert Morris, BWU Deputy General Secretary, Digicel's behaviour was "typical of companies owned by some expatriates who refuse to use internal methods of conflict resolution, ignore the workers, and then try to stifle their democratic rights to join the trade union movement".

BELIZE

POPULATION: 291,800,000 / **CAPITAL:** Belmopan / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

There was no change in Belize where the authorities still have the right to terminate a strike in services that, by international standards, are not considered essential. Restrictions continue on collective bargaining, including a law that gives the government the right to refer a dispute to compulsory arbitration.

TRADE UNION RIGHTS IN LAW

By law, workers are free to establish and join trade unions, and members are free to elect officers from their membership. The law prohibits anti-union discrimination.

Restrictions on the right to strike: Unions do have the right to strike, but this is limited for public sector workers in areas designated as "essential services". The Essential Services 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, financial and transport services (civil aviation), and even services in which petroleum products are sold.

Restrictions on collective bargaining: The law provides for collective bargaining but, under the Trade Unions' and Employers' Organisations Act, a trade union can only be certified as a bargaining agent if it receives 51 per cent of the vote. Hence, if no union represents more than 50 per cent of workers, even the largest union at the workplace could be denied the right to collective bargaining.

The law also empowers the government to refer a dispute to compulsory arbitration in order to prohibit or terminate a strike.

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

TRADE UNION RIGHTS IN PRACTICE

In practice there is anti-union discrimination on the banana plantations and in the export processing zones, where employers do not recognise any unions.

Fines imposed on employers in cases of anti-union discrimination have proved too low to be dissuasive. It is difficult for workers to prove in court that they were unfairly dismissed because of their trade union activities.

BOTSWANA

POPULATION: 1,700,000 / **CAPITAL:** Gaborone / **ILO CORE CONVENTIONS RATIFIED:** 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

The bitter dispute in the mining industry at both Debswana Mining and BCL continued, with suspicions that the management was trying to entrap the union. The government removed the teachers' union president, and prevented unionisation of higher grades of postal workers.

TRADE UNION RIGHTS IN LAW

Workers have right to form unions: All workers, with the exception of police officers, the Botswana Defence Force and the prison service are allowed to join unions, and the ILO has requested Botswana to amend its legislation to allow prison officers to join a union. Workers may not be fired for union-related activities.

Ministry has power to interfere in union affairs: Registration of trade unions, via the Registrar at the Ministry of Labour, is

compulsory. The law requires a minimum of 30 employees in order to form a trade union and the Trade Disputes Act empowers the Labour Minister to determine the conditions for union membership. If a trade union is not registered, union committee members are not protected against anti-union discrimination. Unions are allowed to affiliate to international trade unions and receive funds from outside the country without the Minister's approval.

Collective bargaining allowed: Collective bargaining is allowed, provided the union represents at least 25 per cent of the workforce.

Extensive government powers over industrial relations: The 2004 Trade Disputes Act gives the government extensive power over industrial relations. The right to strike is recognised, but workers must submit their demands to complex arbitration procedures, which unions say always result in strikes being declared illegal. Sympathy strikes are prohibited. The Act does not protect workers' organisations against acts of interference by employers and their organisations.

The Act sets out the procedure to be followed once a dispute is deemed to exist: first, the matter is submitted to the Commissioner of Labour, who, if s/he decides that a dispute exists, refers the matter to mediation or failing that, to an Industrial Court, composed of Ministry of Labour officials.

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

TRADE UNION RIGHTS IN PRACTICE

While workers (with the exceptions noted above) have the right to organise, in practice this is restricted, as each government sector has its own rules.

There is very little collective bargaining, as few unions meet the 25 per cent representational criteria and only the mineworker and diamond sorter unions have enough organisational power. The government has used legislation to order strikers back to work.

Employers' attitudes: Although labour legislation has improved in many areas over recent years and the government has ratified all ILO core labour standards, employers still ignore workers' rights and the government is also either unable or unwilling to confront employers, especially those in the mining and financial sectors.

The Trades Disputes Act is deeply unpopular with the unions. "State control over the mediation and arbitration process has sown deep mistrust and the workers rarely expect a fair hearing," says the Botswana Federation of Trade Unions (BFTU), which is calling for the labour laws to be redrafted to replace the employer-favoured legislation. The government has said that it is working on a new labour bill, but unions complain that as proposed, it will not improve current hostile employer-worker relations.

VIOLATIONS IN 2006

Debswana and BCL management cause havoc in BMWU: The long-running dispute at the Debswana diamond operations continues. Two mining companies, Debswana (which is jointly owned by De Beers and the government of Botswana), and BCL (an enterprise of global mining house LionOre) tried to subvert the Botswana Mine Workers Union (BMWU), by instigating a wildcat strike at BCL to get workers sacked, withholding union fees and starting a rival, 'yellow' (company-sponsored) union.

BCL Management urges illegal strike as excuse for sackings: In 2006 BCL management encouraged workers to hold a non-sanctioned strike, and then sacked 181 workers, saying that it was illegitimate as union leaders were in prison.

BCL entered into an illegal collective agreement with dissidents within the Selebi-Phikwe branch of BMWU, although they had been jailed for failing to comply with court orders to turn union dues over to the national union. BCL continues to support these union dissidents, and has refused to recognise a bono-fide election of a new Selebi-Phikwe branch committee.

De Beers uses dirty tricks against BMWU: The BMWU fears that the Debswana Mining Company has been trying to sponsor union dissidents in order to cause havoc in the BMWU.

In 2005, 461 miners were sacked, including the Botswana Mining Workers' Union (BMWU) Chairman, Chimbidzani Chimidza, and General Secretary, Jack Tlhagale, for taking part in what the government deemed was an illegal 13 day strike in August-September 2004. After failing to get the union penalised for going on strike in 2005, Debswana management tried to intimidate the sacked BMWU leaders by summoning them to internal hearings. The 461 dismissed strikers had still not been reinstated by the year's end.

Teachers Union President sacked for union activities: Japhta Radibe, President of the Botswana Teachers' Union (BTU) and President of the Southern Africa Teachers' Organisation was "retired" from teaching on 24 October, although he was only 45 years old. This sacking seems to have been a reaction to his support for social issues and teachers' welfare. The previous BTU President, Phillip Matoane was also dismissed from his post at the Seepapitso secondary school under similar circumstances. Japhta Radibe was reinstated on 7 November, after hundreds of BTU members took to the streets to protest and intense media coverage.

Botswana Post puts restriction on union membership: On 3 August, Botswana Post management gave the Botswana Postal Services Workers' Union a 10-day ultimatum that any union members in the higher grades would be excluded from union membership. This effectively prevented all experienced union members – such as managers, accountants and public relations officers – from belonging to the union.

CAMEROON

Population: 16,600,000 / **Capital:** Yaoundé / **ILO Core Conventions Ratified:** 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Road workers were dismissed for going on strike, and their organiser was arrested. The leader of the pharmaceutical workers' federation was dismissed for his trade union activities. Cumbersome procedures for calling a strike remain in place, with heavy sanctions for failing to meet them.

TRADE UNION RIGHTS IN LAW

Government authorisation: The 1996 constitution of Cameroon guarantees the freedom of association and the right to strike, and both rights are set out in the 1992 Labour Code. It is illegal to form a union that includes both public and private sector workers. However the Labour Code provides for prison sentences and fines for workers who form a trade union and carry out trade union activities without a registration certificate from the Union Registrar.

The Labour Code is not applicable to members of the public service, judges, military, national intelligence, prison administration and auxiliary administrative personnel. Public servants may form trade unions, but must have the prior approval of the Minister for Territorial Administration and may not affiliate internationally without obtaining prior authorisation. The ILO has urged the government to amend its legislation to ensure that public service workers can form unions without government authorisation.

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.

Limitations on the right to strike: The Constitution and the Labour Code recognise workers' right to strike, but only after mandatory arbitration. Ignoring the procedure can be sanctioned by immediate dismissal and fines. Certain sectors have to provide a minimum service, including transport and postal services, which do not fall within the ILO definition of essential services. Civil servants do not have the right to strike.

Bargaining - enforcement measures weak: The law provides for collective bargaining between workers and management, as well as between trade union federations and employers' associations, but the legal mechanisms for applying collective agreements are ineffectual.

Export processing zones (EPZs): Firms operating in the EPZs are exempt from certain aspects of the Labour Code, but must comply with internationally recognised labour standards. An official notice from the National Office for Industrial Free Zones contains a list of "incentives". It also states that employers enjoy "flexibility in hiring/firing workers".

TRADE UNION RIGHTS IN PRACTICE

Government interference: The government interferes in trade union activities in several ways. The government has a reputation for favouring those workers' organisations it sees as easier to control and has used union registration requirements as a means to withhold recognition from trade unions that it considers to be too independent. One clear example is that the public service confederation has, since its creation in 2000, been one of the six trade union centres in Cameroon that

have still not been recognised. Similarly when industrial disputes arise, the government chooses the union with which it will negotiate.

The government sometimes demands that workers setting up a union produce job descriptions signed by the employer before a union can be registered. This makes it impossible for workers in the informal economy and independent or self-employed workers to form a union.

Only the most representative trade union centres, based on union election results, may take part in the national social dialogue. Smaller, independent unions are excluded.

Collective bargaining almost non-existent: Collective bargaining is almost non-existent. No formal collective bargaining negotiations have taken place since 1996. One of the major union confederations acknowledges that social dialogue does exist, but that the outcome of the negotiations are rarely honoured. Some agreements with the government have been shelved or ignored by the government after being negotiated.

VIOLATIONS IN 2006

Background: The firm grip exerted by President Paul Biya and his followers on all of the state's structures continued, and there were signs that corruption was rife.

Mass dismissal for striking: In January 2006, some 163 people working on the road connecting Yaoundé in Cameroon and Moundou in Chad were fired for organising a strike. The workers had gone on strike to protest against their working conditions and demand an accommodation allowance.

Union leader arrested and detained: The spokesperson of the 163 road construction workers who had been fired in January 2006 for organising a strike was arrested in Yaoundé on 22 May 2006. His arrest followed a visit to the site where the workers had been fired. Barnabé Paho, of the Confédération Syndicale des Travailleurs du Cameroun (Confederation of Cameroon Trade Unions CCTU/CSTC) was accused by his former employer DTP Terrassement, part of the French group Bouygues, of forgery. He was transferred to Tchollire, more than thousand kilometres from where he was arrested and was held in detention for one week without questioning. He was released unconditionally.

General Secretary of union federation fired: In June 2006, Jean Marie N'Di, the General Secretary of the Fédération des Syndicats de la Santé, Pharmacies et Assimilés (health and pharmaceutical workers' union FSESPAC), an affiliate of Public Services International (PSI), was fired by the Fondation Medicale AD-LUCEM because of his trade union activities.

CANADA

POPULATION: 32,000,000 / **CAPITAL:** Ottawa / **ILO CORE CONVENTIONS RATIFIED:** 87-100-105-111-182

In several provinces, the law still contains restrictions on the right to form a union, to bargain collectively and to strike, particularly in the public sector. The government of Quebec imposed a collective agreement on its public sector workers, thereby denying their bargaining rights and taking away their right to strike. Diamond workers were threatened with disciplinary action for taking part in a legal strike.

TRADE UNION RIGHTS IN LAW

Under federal 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 (with a few exceptions such as fire fighters in Nova Scotia who have the right to strike). Replacement labour may be used in industries governed by the Canada Labour Code. 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: Categories of workers, including agricultural, horticultural and domestic workers are excluded from provincial labour relations' legislation and therefore the protection this provides.

The law on labour relations in the provincial civil service bans strikes by all employees of the province. Hospital workers, whether deemed to be providing essential services or not, are also collectively prohibited from striking. Workers involved in illegal strikes are liable for heavy fines and even prison sentences.

Construction trades workers are forced to bargain at the same table in arbitrary groups of unions regardless of the wishes of the workers of their unions. Workers are subsequently prohibited from striking unless 60 per cent of the unions within a group, and 60 per cent of all union members affected, vote to do so.

In 2005, the provincial government invoked, for the first time ever, "Division 8" of the Labour Relations code to force construction workers to be represented by an organisation and contract they had not voted to support. Alberta labour laws continue prohibitions in contradiction of a Supreme Court of Canada ruling allowing secondary picketing.

Alberta legislation also authorises extensive intervention by the authorities in collective bargaining and allows the employer to bypass a trade union as the bargaining agent and to use replacement workers in a strike.

British Columbia: collective bargaining undermined in the education and health sectors: In 2001, nurses and paramedical professionals in the province lost their right to strike, with the introduction of the Health Care Services Continuation Act, and had a collective "agreement" imposed on them by the Health Care Services Collective Agreement Act. Education was designated an "essential service" under the Skills Development and Labour Statutes Amendment Act, giving the authorities the power to deny teachers the right to strike.

Further limitations were introduced in 2002, with the adoption of the following three bills: the Education Service Collective Agreement Act (Bill 27); the Public Education Flexibility and Choice Act (Bill 28), and the Health and Social Services Delivery Improvement Act (Bill 29). The Acts completely eliminated or rewrote provisions in existing collective agreements that had been freely negotiated and afforded substantial protection for workers in the province. Furthermore, the removal of restrictive language gave health care and other employers the right to avoid the terms of binding collective agreements by "contracting out" to related employers who are not covered by such agreements. The legislation also permits the government to initiate action that could result in the cancellation of bargaining rights. The case was submitted to the ILO Committee on Freedom of Association, which urged the government to amend some provisions and review the collective bargaining issues raised. The health care unions challenged the legality of Bill 29. The court ruled in July 2004 that although the bill did affect the unions' bargaining strength, it was not unconstitutional.

Also in 2004, the Health Sector (Facilities Subsector) Collective Agreement Act (Bill 37) imposed terms and conditions favourable to the employer, ordered an effective 15 per cent decrease in compensation for the union members covered by the agreement, and ordered the end of their strike.

Again in 2004, the provincial government passed the Education Services Collective Agreement Amendment Bill (Bill 19) which modified or eliminated numerous provisions from freely negotiated collective agreements in the education sector, undermining the right of teachers' unions to act as bargaining agents for their members. The amendment overturned a successful court challenge by the British Columbia Teachers' Federation against an earlier arbitration award removing provisions from collective agreements and pre-empted any further challenges by stating the amendment applied "despite any decisions of a court to the contrary".

This was followed in 2005 by the Teachers' Collective Agreement Act (Bill 12), imposed while the teachers were involved in the first stages of industrial action (a work-to-rule) following a lengthy attempt to negotiate a new agreement. While the Act appeared to set out an extension of a current agreement, it was the latest piece of legislation taking away contract terms and imposing collective agreements on public school teachers.

The government also introduced the Crown Counsel Agreement Continuation Act (Bill 21) in 2005, rejecting an arbitration award granted under the terms of other legislation governing Crown Counsel and imposing its own salary terms on lawyers working for the Crown. The Act also prohibited the withdrawal of services.

British Columbia denies nurse practitioners right to organise: The Health Statutes Amendment Act excludes nurse practitioners in British Columbia from joining a union.

Ontario: many restrictions: Ontario's labour legislation continues to exclude 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 that the Ontario law prohibiting the unionisation of agricultural workers was unconstitutional. In October 2002, the government of Ontario passed the Agricultural Employees Protection Act which, according to the Ontario Federation of Labour, "basically gave agricultural workers the right to join a social club, but they still can't join a union or bargain collectively."

The Ontario Labour Relations Board lost the authority to order automatic union certification right after the election of the anti-labour Harris government in 1995. In early 2005 the new Liberal government tabled a bill that would provide a card check certification process only to workers in the building trades, but not the rest of the workforce. The automatic certification, based on evidence of a signed union membership card, was a key cornerstone of the Ontario Labour Relations Act that applied to all workers prior to the Harris government. Its reinstatement - only for the building trades - was considered as a partial victory. The Act passed in the Fall of 2005 remains, to many, as a systemic barrier to workers in other sectors joining a union.

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. The global trade union federation, Education International, lodged a complaint with the ILO in October 2003 about legislation adopted by the outgoing government of Ontario that further narrowed the bargaining rights of teachers. It altered the definition of strikes and expanded the statutorily prescribed duties of teachers. In response to the critical conclusions of the ILO, the new government of Ontario said that it was committed to creating fair labour relations in Ontario's schools.

With the election of the new government in Ontario in 2005, the requirement to post workplace documents on the process to terminate bargaining rights has been repealed. The Ontario Labour Relations Act has also been amended to empower the Ontario Labour Relations Board to certify, without a vote, when the employer has grossly violated the law and intimidated the employees. The labour movement also gained the right to interim reinstatement for those fired during organising campaigns.

New Brunswick: certain categories of workers excluded: Agricultural and horticultural workers are excluded from the protection provided by the province's 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: organising rights denied to many, collective bargaining undermined: In 2003, the provincial government introduced amendments to the Act on health and social services and the Act on early childhood centres and care services, which withdraws the definition of salaried employee from anyone performing a job "outside of the workplace". Under the Quebec labour code only "employees" enjoy the right to form unions. Hence, by redefining them as independent workers, the amendments deprived them of their previously recognised right to organise. Ironically, the Acts concerned were designed to promote a policy of non-institutional and home based care, yet it was the very people providing this care that were deprived of their basic rights by the amendments. Those unions that had been set up had their union status revoked, and their right to collective bargaining. The great majority of the workers concerned were women. In 2006 the ILO Committee on Freedom of Association condemned the government of Quebec for depriving thousands of workers of their right to be considered a salaried employee under the Labour Code and urged it to amend the Act.

In 2004, the Prosecutors Act (as amended by the act amending the Act respecting Attorney-General's Prosecutors) denied prosecutors the right to join a trade union and deprived them of protection against hindrances, reprisals or sanctions related to the exercise of trade union rights. The ILO has asked the government to ensure that prosecutors do have the right to join unions of their choice and enjoy protection against anti-union discrimination.

In December 2005 the provincial government passed a law, Act 43, imposing conditions of employment on employees in the Quebec public sector thereby violating their fundamental right to bargain collectively. The law renewed all collective agreements in the sector, modified unilaterally, with effect from 1 January 2006, until 31 March 2010. It also took away their right to strike, as Quebec labour law prohibits strikes during the term of a collective agreement (see below), without granting them an alternative procedure for the settlement of disputes such as mediation, conciliation or arbitration. The ILO's Committee on Freedom of Association emphasised that a legal provision which allows the employer to modify unilaterally the content of a signed collective agreement was contrary to the principles of collective bargaining, and urged the government to amend Act 43 and review the excessive sanctions imposed on workers for violating the prohibition on strike action.

The right to strike is limited by two acts that give a very broad definition of essential services, and the provision that strikes may not take place during the term of a collective agreement.

Manitoba: The Public Schools Act bans teachers from going on strike and contains 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. The police face similar restrictions.

Prince Edward Island: As with Ontario, the law effectively imposes a trade union monopoly by naming a bargaining agent in the Civil Service Act.

Nova Scotia: The same applies to Nova Scotia, where the bargaining agent is named in the Civic Service Collective

Bargaining Act and in the Teachers' Collective Bargaining Act.

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

TRADE UNION RIGHTS IN PRACTICE

While the law is generally 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.

Ontario: Trade unions in Ontario reported that the changes to the labour law brought in by the conservative Harris government had made it extremely difficult for Ontario workers to exercise their union rights. Tensions over trade union activity had escalated into threats and physical violence over recent years, to the extent that workers were afraid to unionise.

VIOLATIONS IN 2006

Strikers threatened with disciplinary action: Striking members of the Union of Northern Workers, a component of the Public Service Alliance of Canada, received letters on 31 May and 1 June from their employer, the Ekati diamond mine owned by BHP Billiton, threatening them with disciplinary action for taking part in a legal strike. The strike by nearly 400 Ekati workers began on 7 April, over the failure to conclude negotiations on a first collective agreement. Despite international profits of 7.5 billion dollars BHP Billiton offered workers a mere 1 per cent pay increase, no increase in holiday entitlements, no seniority rights and no job security. At the end of May BHP Billiton tabled a "final" offer which the PSAC said would leave union members in a far worse position than when the strike began. The union was particularly angry because it had tabled a counterproposal accepting many but not all of the employer's proposals, but BHP Billiton refused to compromise. Agreement was finally reached at the end of June, although several matters were the subject of arbitration at the time of writing.

FIJI

POPULATION: 854,000 / **CAPITAL:** Suva / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

It remains relatively easy for employers to dismiss trade union activists. A gold mine closed down after its employees went on strike, leaving 1,700 people out of work. On 5 December the Fijian military seized power in a coup d'etat, promptly declared a state of emergency, and promulgated broad restrictions on freedom of assembly and expression. Public protests were banned.

TRADE UNION RIGHTS IN LAW

Freedom of association: 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. The Trade Unions Act requires a minimum of seven people to form a trade union. All unions must be registered with the government. The Act does not apply to the Navy, the Military and 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.

Employers are required to recognise a union for collective bargaining if more than half of their employees have joined it. While they should also recognise minority unions, they normally fail to do so, and unrecognised unions have little redress except to attempt to achieve 50 per cent membership, and then file appeals to the Ministry of Labour, and ultimately, the courts, to overturn this refusal of their rights.

The Permanent Secretary for Labour has the power to decide on the registration, suspension or cancellation of trade unions, after consultation with the Advisory Committee, which is appointed by the Minister of Labour and Industrial Relations. The Advisory Committee has four members: one from an employers' organisation, one from a workers' organ-

isation, and the other two are “independent”. Union expenditure is closely monitored, and unions can have their registration suspended or cancelled if they fail to file required annual financial reports to the Ministry of Labour.

The government also continued a restriction on the key elected office of union Secretary General, under which any individual occupying that position is required to work (or have previously been employed) in the industry or trade with which the union is directly concerned.

Right to strike: The right to strike is recognised for all matters except those relating to trade union recognition. Under the Trade Unions Act, unions are required to give 21 days’ notice to the Registrar of Trade Unions (who reports to the Minister of Labour) before putting a strike to the ballot. The strike is allowed if more than 50 per cent of the paid-up members vote in favour. This applies to all unions, in both essential and non-essential industries. With respect to “essential” industries, however, the Trade Disputes Act imposes a further 28 days’ notice and organisers must provide the Ministry of Labour with information concerning the date, time and location of the strike, together with a list of participants. The list of “essential” industries claimed by the government remains far more extensive than provided for under ILO convention no. 87, despite ILO recommendations to the government to amend the list.

Ministerial powers: The Minister of Labour has the right to declare existing or proposed strikes unlawful. If he or she does so, the dispute is referred to a Permanent Arbitrator and workers are obliged to return to the workplace. Trade unionists can face criminal charges if they persist with strike action.

Lack of protection in law: There are no provisions requiring the reinstatement of workers who have been sacked for carrying out trade union activities, nor are there provisions prohibiting employers from hiring strike breakers.

Amending the Labour Law – Employment Relations Bill under consideration: The democratic government that was displaced by the December military coup was in the process of reviewing all labour legislation, and had introduced a draft Employment Relations Bill in the Parliament in late June 2006. The Fiji Trades Union Congress (FTUC) has made a comprehensive submission to the government with the assistance of the ILO, and followed that up with testimony to public hearings, parliamentary hearings, and other forums. According to the FTUC, the draft Employment Relations Bill proposed by the government does not comply with key provisions of the ILO’s eight core conventions, notably in its provisions on the right to strike. At year end, the government was promising that the new Employment Relations Bill would be passed into law in 2007.

TRADE UNION RIGHTS IN PRACTICE

While the right to organise, collective bargaining, fair labour practices and humane treatment are enshrined in the Fiji Constitution, the Minister of Labour does little to enforce these rights.

Registration of unions by Ministry of Labour slow, overly bureaucratic: The process of registering a trade union can be very slow. The FTUC adds that in some cases, registering a union has taken over a year to complete.

Anti-union employers: 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. Police have also been used very effectively in intimidating workers during strikes and serious industrial disputes. The Ministry of Labour and Industrial Relations, and the Director of Public Prosecution’s Office, often call on the police to act swiftly against strikes but do very little to help when employers illegally lock out workers.

Numerous cases of victimisation of workers who show any inclination to join a union are reported to the Ministry each year. The Employment Act Section 59 makes it an offence for an employer to victimise any worker or make it a condition of employment for a worker not to belong to a union. To date, not a single employer has been prosecuted.

Failure to prevent anti-union discrimination: The Ministry of Labour does not protect workers effectively from anti-union discrimination. Further, since there are no laws to protect workers who organise unions in a factory, employers can, and do, fire them.

The Arbitration and High Courts have usually taken the position that reinstatement is not the remedy when employers interfere in union activities and, instead, highlight the employer’s loss of trust and confidence in the employee.

Right to strike undermined: The government consistently declares all strikes illegal, even when workers comply with notice provisions to strike and receive endorsement by secret ballot. In past years, trade unionists have been charged in the criminal courts for taking part in strikes declared unlawful.

Unions repressed in the EPZs: Although export processing zones (EPZs) should be subject to the same legislation as the rest of the country, in reality workers who try to organise are subject to illegal and intimidating practices, including the threat of losing their jobs. The FTUC has found it extremely difficult to conclude collective bargaining agreements in the EPZs.

VIOLATIONS IN 2006

Background: In May, multi-party elections returned Prime Minister Laisenia Qarase to power. In December, the Fijian Army seized power in a bloodless coup, displacing the elected government of PM Qarase which the military claimed was destabilising Fijian politics by planning to offer a legal amnesty to those involved in a year 2000 coup opposed by Army Commander Frank Bainimarama. The take-over is the fourth coup in the past 20 years in the country.

Emperor Gold Mine ignores union, fires workers: Despite world record gold prices, Australian-owned Emperor Gold Mine in Vatukoula laid off workers, made unilateral changes in conditions of work without consulting the union, and continued to refuse to reinstate or compensate 370 fired workers who continue what is now the world's longest run picket, dating back to 1991. Emperor has refused to pay compensation to those fired strikers, despite rulings by the Fiji Human Rights Commission and a Parliamentary Commission of Inquiry that they do so.

In April, the company claimed financial losses and fired 300 workers, thereby exacerbating the company's already troubled relationship with its workforce and the Fiji Mine Workers Union. The union held a vote in September to go on strike if management did not meet union demands regarding past and future lay-offs. Over 400 workers walked off the job in late November, protesting unilateral changes in work rosters by management that would threaten workers safety by failing to provide adequate rest in transitions between working day and night shifts. The mine then ceased operations on 5 December, stating that it was no longer economically viable, throwing another 1700 workers out of work.

As the year ended, a government appointed commission was investigating the situation, and examining claims by the union that there was ample gold still left in the mine which should guarantee continued mining operations.

Ongoing rights' violations at Turtle Island: The dispute at the luxury Turtle Island resort remained unsolved, as resort owner Richard Evanson continued to refuse to recognise the National Union of Hospitality, Catering and Tourism Industries Employees (NUHCTIE) despite a compulsory recognition order.

GHANA

POPULATION: 21,800,000 / **CAPITAL:** Accra / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-182

Two US-owned companies, Affiliated Computer Systems (ACS) and Wal-Mart, opposed their Ghanaian employees' attempts to unionise.

TRADE UNION RIGHTS IN LAW

Rights protected: The 2004 Labour Act removed restrictions on the right to organise, bringing the law into line with ILO Convention 87. However, the Emergency Powers Act 1994, which grants extensive powers to suspend the operations of any law and to prohibit public meetings and processions, has still not been repealed.

The armed forces, the police, the prison service, and the security and intelligence agencies mentioned under the 1966 Security and Intelligence Agencies Act are excluded from belonging to a trade union, as are workers whose function is considered as: (a) policy-making (b) decision-making (c) managerial (d) holding a position of trust (e) performing duties that are of a highly confidential nature or (f) being an agent of a shareholder of an undertaking, so they do not have any possibility of bargaining. Excluding the armed forces and police from the right to organise is not in breach of international labour standards, but the other services mentioned should not be denied these rights.

There is no minimum statutory length of time for a collective agreement to last. The law prohibits acts of anti-union discrimination, and employers found guilty can be required to reinstate fired workers.

Unions have restricted rights to strike: The law recognises the right to strike, with limitations. All disputes have to be

referred to the National Labour Commission, which is also known as the National Tripartite Committee (NTC) and is an arbitration body composed of government, union and employers' representatives. Strikes are seen as a last resort, where arbitration is unsuccessful, and unions must give seven days' notice.

The government has not yet formally approved a list of essential services in which the right to strike can be restricted. Limitations can be imposed on the right to strike for workers in a private enterprise if their services are deemed essential to the enterprise's survival.

Export Processing Zones: The Labour Act protects trade union members and their officers against discrimination if they organise within the zones.

TRADE UNION RIGHTS IN PRACTICE

Anti-union discrimination: Unions report anti-union discrimination in many companies, which the authorities fail to stop. Many employers are particularly resistant to senior staff being unionised.

Collective bargaining under attack: The Ghana Trade Union Congress considers that the country's labour law is anti-union, as it seeks to weaken trade unions, attacks the collective bargaining system, discourages job security, erodes workers' benefits and over-protects the dispute settlement procedures. While the GTUC welcomes the National Labour Committee, it is concerned that it is bypassed by state institutions, which intervene in industrial disputes. Recent government representatives' statements quoted in the press indicate that the government believes that the 2003 Labour Law effectively outlawed strikes.

No union has ever gone through the complete dispute resolution process, and there were numerous unsanctioned strike actions during the year. There have been no legal strikes since independence.

VIOLATIONS IN 2006

Background: There were a number of public sector strikes this year by teachers and health workers, over pay and working conditions, although 80% of the workforce is now in the informal sector.

US data company denies union rights: It was reported in April 2006 that Affiliated Computer Systems (ACS) the US-based data processing company was still refusing to allow its workforce to form a union. The workers' campaign to win the right to organise started over five years ago, and since then the ACS management has responded by threatening to close down its operations and to sack those who criticise management policies.

Wal-Mart blocks union: In Spring 2006 Wal-Mart reportedly refused to sign the certification for the union at the garment-making factory used by the company. The factory management told the UNI-affiliated Industrial and Commercial Workers Union (ICU) that it could not go ahead and recognise the union, as it wanted to keep its business with Wal-Mart.

INDIA

POPULATION: 1,100,000,000 / **CAPITAL:** Delhi / **ILO CORE CONVENTIONS RATIFIED:** 29-100-105-111

Barriers to the organising of trade unions continued in law and practice, and the government maintained strong restrictions on the right to strike. Workers at two garment factories faced a systematic anti-union campaign, while Unilever closed down a factory to remove the union. A farm worker was killed when police attacked protestors. The government remains committed to a policy of creating greater flexibility in labour law which would be detrimental to workers and their unions.

TRADE UNION RIGHTS IN LAW

Workers may establish and join unions of their own choosing without prior authorisation. However, there is no legal obligation on employers to recognise a union or engage in collective bargaining.

The legislation makes a very clear distinction between civil servants and other workers. Public service employees have very limited organising and collective bargaining rights.

Freedom of association limited: Under the 2001 Trade Unions Act, a union has to represent a minimum of 100 workers – which is excessive by international standards – or ten per cent of the workforce, whichever is less. The act also sets limits on the number of “outsiders” (those not employed at the enterprise) allowed to sit on a union executive and requires unions to submit their accounts for auditing.

Anti-union discrimination: The Trade Unions Act prohibits discrimination against union members and organisers, and employers can be punished if they discriminate against employees engaged in union activity.

Restrictions on the right to strike: Under the 1947 Industrial Disputes Act (IDA), industry workers in public utilities have to announce a strike at least 14 days in advance. In some states, the law demands that certain private sector unions must submit formal notification of a strike before it is considered legal. However, the IDA does specifically prohibit employers from retaliating against workers for their participation in a legal strike.

Workers in the banking industry have to give six months’ notice before going on strike. The industry has been declared a public utility under the IDA.

Strike bans: The Essential Services Maintenance Act (ESMA) enables the government to ban strikes and demand conciliation or arbitration in certain “essential” industries. However, the Act does not define which these essential services are. Interpretation therefore varies from one state to another. Legal mechanisms nonetheless exist for challenging a decision taken under the terms of this Act, if a dispute arises.

The Central Civil Services (Conduct) Rule, 1964, stipulates that no government servant shall resort to, or in any way abet, any form of a strike.

In August 2003 the Supreme Court ruled that government employees did not have the right to strike because it “inconvenienced citizens and cost the state money”. The ruling came following a strike in the Tamil Nadu state, whose government dismissed 350,000 striking employees. In December 2003, the Court ruled that lawyers had no right to go on strike, or to boycott the courts.

Increased threat of “reforms” to gut labour laws: The government has aimed for a number of years to create a more flexible labour market in which employers could hire and fire employees at will, and easily hire workers on contracts. The Ministry of Labour drafted amendments to the labour laws in 2003, and in 2005 developed a policy proposal entitled “Making Labour Markets Flexible” to explain its initiative.

Among the changes proposed were amendments to the Contract Labour (Regulation and Abolition) Act, 1970, which would open up huge swathes of the economy to contract labour arrangements by expanding exclusions to the Act for work of a year-round nature. Among the new sectors that the Ministry proposed to exclude are information technology and support services in establishments at ports and dockyards, airports, railway stations, interstate bus terminals, hospitals, educational and training institutions, and guesthouses and clubs. The Ministry also recommended that export oriented activities, including those in special economic zones, and support services for those zones, should be on the list, which would make contract labour available for these sectors. Another problematic proposal is raising the threshold (from 100 workers to 300 workers) of the size of enterprises that do not need government permission to lay off workers.

The strident opposition of India’s trade unions has been critical in forcing the government to re-consider the wisdom of formally introducing the proposed changes to the law and policies. As a result, during 2006 there was no concrete legislative action taken on the government’s proposed labour law reform agenda.

Sikkim - excluded from the law: The Trade Unions Act, even after its amendment in 2001, does not apply in Sikkim, a State annexed to India in 1975. Consequently, workers there do not benefit from trade union rights. Although there are some workers’ associations, no one sector, as such, is organised. Registration of trade unions is subject to a police inquiry and then depends upon receiving the permission of the Land Revenue Department of the Government of Sikkim. One negative comment by the police about a member of the union’s executive can be grounds for refusing registration. Furthermore, the public too has an opportunity to state its objections to the creation of a trade union, which can also prevent its registration. According to the State government, however, no such instance of objection by the public to the creation of a union had come to its notice.

Repressive legislation in Tamil Nadu State: The Tamil Nadu Essential Services Maintenance Act (ESMA) was passed in May 2002. Characterised by trade union leaders as one of the most repressive pieces of legislation enacted against workers in India since Independence, the Act prescribes a punishment of up to three years’ imprisonment and a 5,000 rupee fine against participants in a strike involving “essential services”. A large number of public services are included within the defi-

nition of “essential”, such as those relating to the supply of water and electricity, passenger and goods transport, fire fighting and public health. Activists who call for a strike or instigate workers to go on strike, or anyone who provides financial assistance for the conduct of a strike, risks the same penalties. Under the Act, the word “strike” not only includes the refusal of employees connected with these “essential services” to “continue to work or to accept work assigned”, but also a “refusal to work overtime” and “any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service”. The government has ignored ILO recommendations to amend the Act.

General strikes banned in Kerala: In 2002, the State of Kerala issued an order stating that all general strikes were illegal when they involved a complete close down of all activities. Furthermore, organisers of a general strike who cause a shut-down can also be held financially liable for damages caused to an employer. The Kerala state order was challenged, but it was upheld as legal by the Supreme Court.

Export processing zones (EPZs): The right to join trade unions and bargain collectively exists in law for EPZs. In the 2001 Trade Union Act, the government designated the EPZs and Special Economic Zones (SEZs) as “public utilities”, requiring a 45-day strike notice period. The Mahanagar Asangathit Mazdoor union reported that the government of Delhi State has exempted EPZs from most labour legislation and there is a ban on the formation of trade unions.

TRADE UNION RIGHTS IN PRACTICE

Only a small minority of workers protected: In practice, workers’ rights are only legally protected for the small minority who work in the organised industrial sector. Over 90 per cent of workers belong to the agricultural and informal sectors where there is almost no union representation, and where it is difficult to enforce legislation. The growing use of contract labour also creates problems for organising, and weakens the unions. Even governments are turning to contract labour. In 2004, the government of the Tamil Nadu state ordered its health department to recruit personnel, other than doctors, on a contract basis through private agencies.

The Tamil Nadu state government also continued to refuse to recognise and bargain with unions of government employees and teachers, and continued to seal off the Tamil Nadu secretariat building, which served as the Tamil Nadu Government Employees’ Union headquarters until a 2002 strike.

Hostile employers, poor law enforcement: The hostile attitude of employers towards trade unions is clearly a deterrent to organising. Employers tend to either ignore the law making it illegal to dismiss a worker for their trade union activities or circumvent it by transferring workers to other locations to disrupt union activities or discourage union formation. Seeking justice through the judicial process is time consuming and costly. Unions report that some employers resort to intimidation, threats, demotion, beatings and, in extreme cases, death threats or even attempted murder against trade unionists. A more popular form of harassment, however, is the filing of false criminal charges.

One problem with such charges, in addition to unfair dismissal, is that the courts are excruciatingly slow. Legal charges brought by a police officer against 12 leaders of a tea workers’ union, the Hind Khet Mazoor Panchayat (HKMP) took 13 years to come to court. Three of the accused had passed away in the interim. There was no concrete evidence to support the charges filed, but the legal battle effectively the officers from their union work for all that time.

Globalisation and economic liberalisation have created a climate in which there is further pressure to dilute labour standards, in particular labour inspections and the enforcement of labour legislation. For example, during the year the Haryana State Government created a “State Labour Policy 2006” to reform the way that the State Government enforces labour laws. The State now forbids more than one labour inspection per factory per year.

Repression in the construction and ship-breaking industries: Contractors and sub-contractors in the construction industry are loathe to allow workers to exercise their right to trade union membership, and are likely to threaten them with dismissal should they try. Since all work is project-based, the possibilities for engaging in collective bargaining are extremely limited.

Similarly, in the ship-breaking industry, employment is so precarious that workers do not try to enforce their right to organise trade unions. Anyone who even attempts to demand a wage increase is fired instantaneously. Intimidation is commonplace and the “muqadam”, who is responsible for hiring and supervising the workers, sides more with the ship-breaker than with the workers.

Collective bargaining: In the absence of a statutory right to collective bargaining, employers are frequently reluctant to negotiate, and in particular, refuse to negotiate with the unions of the workers’ choice.

Strikes: The procedures for holding a legal strike are so cumbersome that unions rarely fulfil them completely. Most private sector strikes are therefore technically illegal, although reprisals have been rare so far.

In the public utilities, unions tend to take strike action, despite the ban. Such strikes are declared illegal and, if the union is not strong enough, can lead to reprisals.

Export processing zones (EPZs): The government seeks to keep trade union activity in the country's EPZs to a minimum. Although the right to join trade unions and to bargain collectively exists in law, in reality entry to the zones is restricted to the workers, who are transported in by their employers. Since trade unionists are not able to enter, organising is extremely difficult and union activity rare in the EPZs.

There are moves to exempt the zones from the application of labour laws. Some states, such as Andhra Pradesh, have even dissuaded labour departments from conducting inspections in the zones.

In May 2006, the government of Maharashtra State introduced a new policy applicable to EPZs in the state that allows industries and/or export oriented units to employ certain categories of services on a perpetual contract basis. The regulation supplants the law that currently prohibits industries from retaining employees under 'temporary' category beyond 240 days (after which such employees can claim the rights of permanent staffers) in the EPZs.

The majority of workers in the EPZs are women, employed in industries such as ready-made garments, electronics and software. In the Santacruz Electronics Export Processing Zone (SEEPZ) near Bombay, 90 per cent of the workers are women who are generally young and too frightened to form unions. Working conditions are bad and overtime is compulsory.

Workers fear victimisation by management and those who protest are immediately sacked. It is common for workers to be employed by fictitious contractors on temporary contracts rather than directly by the company. In the Noida EPZ, workers have been sacked for demanding that labour laws should be implemented.

Associational rights debated for Information Technology workers: New employment sectors such as call centres, the visual media and telecommunications are not covered by any explicit employment regulations and employers obstruct the formation of unions. High levels of casual employment were built into the structure of the call centre/business process outsourcing (BPO) industry, affecting many of the approximately 400,000 of these workers in India, and making it difficult for them to organise.

During 2006, state and national governments, unions and employers held strenuous public and private debates over the right of workers in the IT sector to form unions. The public debate was caused by the decision of the CITU on 14 November to organise the West Bengal IT Staff Association (WBITSA) as a first step towards assisting IT workers to be represented by trade unions. IT employer associates immediately attacked the move as a "retrograde step" that they claimed would damage the international competitiveness of call centres in West Bengal. Buddhadeb Bhattacharjee, the West Bengal Chief Minister was reported to oppose the creation of unions in the IT sector but later he denied holding any such position when he met with a delegation of trade union leaders in late December. A mass strike across all economic sectors called by the CITU for 14 December did not exempt IT workers, and in response, the West Bengal Government declared it would not tolerate workers' pickets outside of the Salt Lake Electronics Complex, the hub of IT offices in the State. As the year ended, the issue was still undecided about whether IT work would be classified by the government as an "essential service" and therefore subject to restrictions on the right to strike.

VIOLATIONS IN 2006

Blocking the union at Fibre & Fabrics International (FFI) and Jeans Knit Pvt. Ltd (JKPL): Investigations in 2005 and 2006 by labour rights organisations based in Bangalore discovered a pattern of systematic and grave abuses of workers' rights at FFI and JKPL. Workers were not allowed to form unions, and were intimidated to prevent them from engaging in any collective activity to stand up for their rights. In clear contravention of the labour law, FFI workers were employed without written contracts. Moreover, credible worker interviews discovered that supervisors consistently intimidated and abused workers with threats of discipline and termination if they complained about wages (such as unpaid overtime), health and safety problems, or other poor working conditions. Supervisors also engaged in physical violence against workers, and, in some cases, sexual harassment.

In response to these abuses, international campaigners led by Clean Clothes Campaign and its Netherlands national affiliate, raised concerns with European and North American brands (G-Star, Ann Taylor, Tommy Hilfiger, GAP, Mexx, Guess, and Armani and RaRe). FFI set up a management-run grievance committee but refused to recognise the workers' rights to freely associate with unions or other groups to seek assistance.

he FFI then filed a legal petition with the Bangalore Civic Court, seeking a restraining "gag" order against the Clean Clothes Campaign and its partners, preventing them from circulating information abroad about FFI's company practices

or the labour situation at factory. On 28 July, the Court issued the restraining order until such time as the FFI's allegations could be heard in court. FFI then immediately began a strategy of legal delay, pushing back the beginning of the trial from late August to December. As the year ended, the case was before the Bangalore Civic Court.

One worker dies as protesting farm workers are attacked in West Bengal: On September 25, more than 7000 agriculture workers were carrying out a peaceful sit-down demonstration in front of a local government office when they were brutally attacked and severely beaten by police. The protest was over the seizure of their lands by the West Bengal Government for industrial use. One youthful protester, Rajkhumar Bul, was beaten to death and another 70 persons were injured by the police action. At the time of writing, no police official had been held accountable for the death. The entire leadership of the village Krishi Jama Raksha (Farmlands Protection Committee) was arrested and hauled off to jail, where they were detained for two days before being granted bail by the Kolkata State High Court. With the support of the International Union of Foodworkers-affiliated Paschim Banga Khet Majoor Samity (PBKMS) agricultural union, a lawyer's organisation filed a legal petition against the police actions on 25 September, and the case was accepted by the Supreme Court.

The West Bengal government organised a massive crack-down on the Singur villagers and their allies starting on November 30. The government issued an emergency ban on all assemblies in the area and sent in military police units to erect fences around the farmlands to be handed over to Tata Group. Protests by agricultural workers in the area were met by volleys of rubber bullets and tear gas, police beatings, and arrests. A solidarity and support delegation sent by the PBKMS was prevented from entering Singur by police, and on 4 December the PBKMS President Anuradha Talwar was arrested along with two other union activists. The PBKMS officials were held for over 48 hours in jail before being released.

Harassment of Self-Employed Workers Association (SEWA) by Gurajat State Government continues: SEWA, a dynamic trade union of 700,000 informal sector workers operating in Ahmedabad and surrounding areas, continued to face difficulties as a result of a campaign of systematic harassment from the conservative BJP-led government of Gujarat state. The problems started when the Gurajat government halted funding from the UN's International Fund for Agricultural Development (IFAD) to SEWA for the support of 14,000 families impacted by a devastating 2001 earthquake. Government allegations that there were "financial irregularities" were belied by the fact that its own auditors had examined SEWA's accounts, and already approved the audits. This brought SEWA to publicly state in October 2005 that the government's campaign seeks "to destroy our credibility, our solidarity, and our reputation." SEWA announced it had no option but to end all cooperation with any Gujarat government agencies. The Gujarat government further retaliated by cutting off all support and funds for a network of SEWA-established cooperatives and day care centers. The Government even went so far as to cut off food aid projects for children. Meanwhile, SEWA publicly disclosed all the organisation's financial accounts and hired an independent CPA to review and audit the accounts. The auditor's report on SEWA received the central Indian government's official approval, providing further evidence of the baseless nature of the Gujarat government's allegations. Despite these actions, the Government of Gujarat refused to acknowledge the auditor's findings, and continued its campaign of harassment of SEWA – thereby indicating the essentially political nature of the Gujarat government's attacks against SEWA.

Unilever continues anti-union tactics, closes factory to get rid of union: Hindustan Unilever Limited (HUL), a subsidiary of the Anglo-Dutch multinational Unilever, sought to rid itself of the Hindustan Lever Employees Union (HLEU), a member of the IUF-affiliated All-India Council of Unilever Unions, by arranging the sale of its Mumbai-based plant to a HUL-created proxy company, Bon Ltd. At the time of the sale, the two principals of Bon Ltd were both full-time employees of HUL, operating under the supervision of M.K. Sharma, the head of HUL, with whom Bon Ltd signed the purchase agreement. More tellingly, Bon Ltd reportedly had a capitalization of only \$10,800 and had to borrow over \$2 million from HUL to conclude the purchase. The HLEU challenged the sale in the courts. Not surprisingly, Bon Ltd lacked the wherewithal or resources to manage the factory, and on July 26, 2006, announced it was closing down – thereby laying off all 911 HLEU members. HUL explicitly supported the closure in court documents filed by Bon Ltd to seek permission to close the factory.

According to the IUF, this unlawful behaviour is not a new trend for the Mumbai factory management of HUL. In fact, the sale of the factory to a HUL proxy company and its subsequent shuttering are just the final steps in a long anti-union campaign. Management's practice of refusing to bargain in good faith and reach agreements with the union, dating back to 1986, forced the union to repeatedly rely on court intervention to secure wage increases in line with inflation. In December 2005, the Supreme Court of India ended the company's ten year battle in the courts by conclusively deciding that the company had engaged in unfair labour practices under the Industrial Disputes Act. In March 2006, the factory's Vice-Chairman and three other senior managers were cited for contempt of court for failing to obey the court's order to rectify the identified labour abuses – and all four were arrested and then released on bail. In October, the IUF filed a complaint at the OECD, alleging Unilver and its subsidiary HUL had consistently violated the OECD Guidelines for Multinational Enterprises, and at the end of the year, the case was under joint consideration by the British and Netherlands OECD contact points.

Toyota fires union leaders, locks striking workers: On 6 January, management of the carmaker Toyota Kirloskar Motor Private Ltd (89% owned by Toyota) fired three union leaders of the Toyota Kirloskar Motor Employees' Union, affiliated to the Centre for Indian Trade Unions, for alleged 'disciplinary' reasons. Union members at the factory in Bidadi (on the outskirts of Bangalore) countered that the factory-level leaders had in fact been terminated because of their active role in the union, and 1550 workers promptly went out on a wild-cat strike to demand reinstatement of their leaders. Management responded with a lock-out of the strikers, starting on 8 January, and suspended another 27 union members. Three separate efforts by government regulators to mediate a resolution to the impasse failed, as management repeatedly refused to meet with the union for joint talks, and insisted that all strikers sign a pledge to "maintain discipline and ensure full production" before allowing them to return to work. Finally, at the prompting of the company, the Karnataka State Labour Secretary issued an order on 21 January, prohibiting the workers' strike from continuing. On the same day, 1300 striking workers were arrested by police for unlawful assembly as they marched to petition the State Labour Secretary. Most of the workers were released the same day.

Deprived of their right to strike, union members were compelled to return to work on 24 January and to sign a modified written pledge before entering the factory. The dismissal of the three union leaders and suspensions of 27 workers were appealed by the union to the Labour Court.

Mass arrest of CITU protesters in Madras: Factory shut-downs in the Madras EPZ prompted a series of mass protests by unions affiliated with the Centre for Indian Trade Unions (CITU), demanding that employers pay outstanding wage demands for laid-off workers. On 21 March, police attacked a rally near the entrance to the EPZ, and arrested over 300 union members on charges of illegal assembly.

JAMAICA

POPULATION: 2,700,000 / **CAPITAL:** Kingston / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

The Ministry of Labour still has excessive powers to intervene in industrial disputes and terminate strikes, while employers in the export processing zones have so far successfully prevented any trade union activity. There were a number of cases during the year of companies trying to withdraw union recognition.

TRADE UNION RIGHTS IN LAW

Limitations on collective bargaining: The Labour Relations and Industrial Disputes Act (LRIDA) provides for the right of freedom of association and collective bargaining and applies to most workers. Collective bargaining is denied if no single union represents at least 40 per cent of workers or when the union seeking recognition for collective bargaining does not obtain 50 per cent of the votes of the total number of workers.

The LRIDA prohibits anti-union discrimination. Employees may not be fired solely for trade union membership.

Ministerial powers: The right to strike is not specifically protected in law.

The Ministry of Labour has the power to refer an industrial dispute to compulsory arbitration and to terminate any strike. As the ILO has commented, compulsory arbitration should be limited to essential services or situations of acute national crisis and the notion of "a strike which is likely to be gravely injurious to the national interest" can be interpreted very widely. The government has reported that the relevant sections of the Labour Relations and Industrial Disputes Act are still under review.

The law applies to export processing zones.

TRADE UNION RIGHTS IN PRACTICE

Sacked workers rehired on the cheap: Some unionised workers complained that private sector employers laid them off, with severance pay, and then rehired them as contractors on reduced pay and benefits.

Employer resistance: The unions report that many employers still continue to prevent workers from seeking union representation. This is particularly the case in the foreign-owned and multinational companies based in the country's three export processing zones. No unions exist in the zones which unions attributed to an unwritten agreement by foreign

owners to prevent workers from participating in trade unions. Employer-controlled “workers’ councils” handle grievance resolution in most companies, but do not negotiate wages and conditions with management. Wages in the zones are set by management.

Of the 220 disputes reported to the Minister of Labour in 2006, 21 resulted in strikes.

VIOLATIONS IN 2006

JAMALCO workers denied union recognition: Workers at JAMALCO alumina refinery (part of Alcoa World Alumina and Chemicals (AWAC) went on strike in January, after the company refused to recognise the Union of Technical, Administrative and Supervisory Personnel (UTASP) as representing its workers. The General Secretary for UTASP said that JAMALCO insisted that contractors negotiate their individual work contracts without trade union representation.

Shell Attempts to ditch unions: On 11 March, the National Worker’s Union (NWU) accused Shell’s new owners, Cool Corporation of trying to force out the unions. The NWU said that Cool had also stopped deducting union dues from worker’s salaries.

Children’s home sacks union members: In May, West Haven Children’s Home in Copse, Hanover, started a campaign of intimidation against staff members who had put in a request in January that they be represented by the National Workers Union. Mr Herbie Morris, the NWU’s negotiating officer, said that three workers who had been accused of encouraging team members to seek union representation had been dismissed. Despite this, the workers planned to go ahead with the ballot to see whether to affiliate to the NWU.

KENYA

POPULATION: 32,800,000 / **CAPITAL:** Nairobi / **ILO CORE CONVENTIONS RATIFIED:** 29 - 98 - 100 - 105 - 111 - 138 - 182

There was considerable union discontent throughout the year, including a bitter strike in the autumn by university professors, whose leaders were arrested after the court declared the strike illegal. Striking flower plantation workers were attacked, tea workers were sacked, and members of the truck drivers’ union were arrested for blockading border posts. Unions reported that workers are being prevented from unionising or going on legal strikes.

TRADE UNION RIGHTS IN LAW

Government can deny registration: Workers can form a union in an enterprise provided there are seven or more workers, but all unions must be registered by the Trade Union Registrar who has the right to deny registration. If registration is denied, the aggrieved unions have the right to seek redress in the courts.

Both the Trade Disputes Act and the Industrial Relations Charter authorise collective bargaining.

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

Bargaining rights still denied to teachers and others in non-essential services: According to regulations introduced in 2004, civil servants not involved in state administration are now allowed to bargain collectively and to go on strike, but this right is still denied to workers in the military, prisons, the National Youth Service and teachers under the Teachers’ Service Commission.

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, which may act as arbitrator, appoint a mediator, or submit the dispute to the industrial court. No strikes are permitted during the mandatory cooling-off period (21 days or 28 days for services such as education, health, and air traffic control or water utilities). The Ministry of Labour also has the discretionary right to decide whether a strike is legal.

Delays on finalising labour law review: A government task force is revising the Labour Code to ensure that it incorporates ILO core labour standards and is consistent with the African Growth and Opportunity Act (AGOA). There is growing

union frustration over the slow pace of finalising the laws, as the government claimed that they cannot be finalised until the Constitution is ratified. However, in August, the Labour Minister himself described the laws as “archaic” and promised that new laws would be in place by the end of the year, although by year end, there had been no change.

TRADE UNION RIGHTS IN PRACTICE

Obstructing the right to unionise: Some unions complained that government labour officials hindered efforts to establish unions in factories where at least 80 percent of workers wanted union membership and representation. The unions alleged that the officials refused to approve applications by continually finding fault with minor technicalities in the applications.

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, their action has usually been declared illegal.

New contracts for teachers remove senior teachers' union rights: The Teachers' Service Commission (TSC) regulations, introduced in 2005, prohibit senior teaching staff from playing an active part in the union or participating in strikes. Teachers who fail to comply are disciplined.

Workers allowed to join unions in EPZs, but with restrictions: Workers in the export processing zones (EPZs) are allowed to join trade unions, but they still suffer appalling working conditions, and those who complain are threatened with the sack.

VIOLATIONS IN 2006

Background: The year began with severe drought in the north, and ended with flooding in the north east. Government mismanagement and corruption continued to be of concern to both the Kenyan people and donors.

Striking truck drivers' leaders arrested for obstruction and incitement: Two hundred truck drivers, all members of the Kenya Long Distance Truckers Welfare Association (KLDTWA) were arrested after they blocked the Malaba and Busia border points between Uganda and Kenya on 28 January. KLDTWA Chair Dickson Mbugua and two colleagues were arrested and imprisoned until they were officially charged with incitement on 8 February and released on bail. The rest of those arrested were charged with obstruction.

The blockade started when the drivers protested about the death of Joshua N'gang'a, a truck driver, in a road accident with a military truck. The strikers were demanding compensation for the murdered driver, union recognition and the immediate addressing of grievances about security.

Striking flower workers attacked with tear gas: Police fired tear gas and fought running battles with the thousands of flower workers at the Oserian farm near Naivasha on 30 January who were demonstrating in protest at mass dismissals. Several demonstrators were injured. The company had fired more than 1,000 of its 4,500 employees, claiming that they had failed to give the obligatory 21 days' notice before taking strike action. The strike was over workplace injuries and discrimination in allocating places in an education programme.

Striking tea workers fired: James Finlay Company fired 28 workers for striking over poor working conditions on 30 May. Both the Kenya Plantation Union and the Minister of Labour supported the workers, and asked for them to be reinstated.

Collective agreement ignored at Athi River EPZ: Over 1,000 workers from the Rising Sun Company in the Athi River EPZ were laid off, and their termination benefits were not paid. The company then rehired some of the workers on a casual basis, ignoring the existence of a collective agreement.

University lecturers sacked and union leaders arrested: Key union officials from the Universities Academic Staff Union (UASU): National Chairman Dr. Sammy Kubasu, General Secretary Muga K'Olate, Kenyatta University UASU Chairman Joseph Kinyanjui and Secretary Richard Wafula, were among 50 lecturers who were either sacked or suspended at the end of October during a strike at the country's public universities. The strike began on 23 October after negotiations over salaries broke down. The court immediately declared it illegal, and arrested the union leaders and other strikers. The government also withheld the October salaries of the strikers.

LESOTHO

POPULATION: 1,800,000 / **CAPITAL:** Maseru / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

There was little change in Lesotho where public employees, including university lecturers, are prevented from forming unions and engaging in collective bargaining.

TRADE UNION RIGHTS IN LAW

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

Public servants denied union rights: Currently, public employees, including university lecturers, are prohibited from forming and joining trade unions, in spite of the fact that the Lesotho Constitution guarantees freedom of association. They can only form or join “associations” that have consultative status. The government has promised that the new Public Service Bill will guarantee freedom of association to public officers and allow them to form associations for collective bargaining.

The right to strike is recognised, but complicated procedures must be followed before strike action is authorised. Civil servants are not allowed to strike and all public sector industrial action is illegal by definition.

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

TRADE UNION RIGHTS IN PRACTICE

The trade union rights situation continued to be a cause for serious concern during the year. Trade unionists in Lesotho have faced a lot of pressure, with many of them being victimised because of their trade unions activities.

Legislation not enforced: The government and some employers, particularly in the textile sector, do not observe trade union freedoms. In the private sector, the complex procedures and employers’ anti-union attitude make it very difficult to operate a trade union. Foreign employers in the export processing zones (EPZs), mainly textile groups from South Africa, Hong Kong and Taiwan, ignore national legislation and pay wages below the statutory minimum. They are usually very anti-union, and collaborate with government to declare strikes “illegal”.

Harassment: Although the law prohibits anti-union discrimination, many employers stop union organisers from entering factory premises to organise workers or represent them in disputes. In some cases, employers intimidate union organisers and members, threatening the latter with dismissal, particularly in domestic industries. In the textile sector, some workers have been locked up in their factories for trying to organise.

No legal strikes: Because the strike procedure is complicated, there have not been any official strikes in the country for many years. There have been regular spontaneous protest actions over the years, however. As these are technically defined as illegal, workers continue to risk losing their jobs and being taken to court.

Labour Court cannot review civil servants rights’ cases: The government has removed cases concerning civil servants’ rights from the Labour Court, thus effectively taking away their rights to present their cases. This has prevented the affiliates of COLETU, the Lesotho Union of Public Employees (LUPE) and the Lesotho Teachers’ Trade Union from assisting their members.

Lesotho migrants in South Africa’s mines settle claims: In January 2006 the South African department of labour agreed to settle the pension and compensation claims of migrant Basotho (Lesotho nationals) who worked in South Africa’s mines over the last 30 years. This paved the way for a Memorandum of Understanding on social dialogue and dispute resolution.

MALAWI

POPULATION: 12,600,000 / **CAPITAL:** Lilongwe / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

Employer resistance to union activity and the poor enforcement of union rights legislation continue to be a problem, particularly in the export processing zones.

TRADE UNION RIGHTS IN LAW

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, although this is largely a formality. The law prohibits anti-union discrimination and requires that workers sacked because of union activities, must be reinstated.

Cumbersome strike procedures: 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 per cent of employees at enterprise level. At a sectoral level, unions must represent at least 15 per cent of employees. In the absence of collective agreements, the law provides for industrial councils to set wages and conditions and resolve disputes.

Labour laws apply in the export processing zones (EPZs).

TRADE UNION RIGHTS IN PRACTICE

Employer resistance: Since barely 10 per cent of workers are in formal employment, the labour legislation automatically excludes the vast majority of workers in the informal economy. For the small minority in formal jobs, the resistance of some employers, including the government, towards respecting their rights, limits freedom of association and collective bargaining. The Malawi Congress of Trade Unions has reported in recent years on a number of cases where workers are badly mistreated, and where employers appear unaware that workers have employment rights by law.

Ineffective legislation: Ambiguities in the application of the law, especially the right to strike, and continuing government interference in trade union activities, reduce the effectiveness of the law to protect workers. The law does not specify exactly which services are essential, enabling the authorities to declare strikes illegal.

Many companies in the EPZs resist union activity, while the unions complain that they have little access to workers in the zones.

Enforcement of legislation by the Ministry of Labour is ineffective. In addition, it was reported in 2005 that there were signs of collusion between the government and some employers against trade union activists.

MALAYSIA

POPULATION: 25,300,000 / **CAPITAL:** Kuala Lumpur / **ILO CORE CONVENTIONS RATIFIED:** 29-98-100-138-182 (105 – denounced)

Employers consistently refused to recognise trade unions, exploiting a requirement in the labour law, and workers regularly faced years of delays waiting for the government and courts to rule on union recognition and reinstatement of workers fired for union activity. The ban on the formation of industrial unions in the 'pioneer' electronics sector, and other extensive restrictions on union rights remained unchanged. Protests by migrant workers were attacked.

TRADE UNION RIGHTS IN LAW

The law recognises the right of most workers to form and join trade unions, although the procedure for obtaining union recognition is lengthy and cumbersome. Furthermore, the 1959 Trade Unions Act and the 1967 Industrial Relations Act (IRA), as well as subsequent amendments, place extensive restrictions on freedom of association. The ILO Committee on Freedom of Association (CFA) has found that many provisions of the Trade Unions Act violate the principles of freedom of association, and has decried the fact that, despite unambiguous recommendations made to the government (in this and other similar cases filed in the past 15 years), to amend the law, no such action has been taken.

Other laws not directly related to labour issues also place restrictions on freedom of association. For example, the Malaysian Penal Code requires police permission for public gatherings of more than five people.

Many restrictions on union formation, wide discretion in de-registering unions: The Director General of Trade Unions (DGTU) has the power to supervise and inspect trade unions, can refuse to register a trade union without giving any reason for the refusal, and can withdraw registration. Unions which do not register, or whose registration has been denied or withdrawn, are considered illegal organisations. The DGTU is given very broad discretion in deciding these matters. For example, a union's registration can be withdrawn if the DGTU 'is of the opinion' that the union is "likely to be used for unlawful purposes". The DGTU may also deregister a union if he finds that two or more registered trade unions exist in a "particular establishment, trade, occupation or industry". The DGTU has the authority to suspend a branch of a trade union if he "is satisfied" that the branch has contravened any part of the Act or the rules of the union. The Minister of Human Resources may also suspend a trade union for up to six months in the interests of national security or public order.

The DGTU can specify the category in which a union would be permitted to organise. He must also give his approval before a trade union is permitted to join an international organisation. Section 9 of the Trade Unions Act limits trade union membership to workers in similar trades and has allowed the DGTU to promote in-house, enterprise-level unions. This has served to keep the labour movement small and fragmented.

Restrictions on union officers: Membership of a trade union executive committee is reserved for citizens of Malaysia, who must have worked for at least one year in the establishment, trade, occupation or industry with which the trade union is connected. They cannot hold a position in a political party, nor can they work as an employee of a political party.

Banned from organising: The law prohibits industrial unions from organising employees in managerial and executive positions, or those entrusted with "confidential" matters or performing security-related tasks. This definition is extensively abused by most employers to deny union membership rights and often to demand the removal of experienced union leaders. The government does not allow national unions in the electronics industry, the country's largest sector, only in-house ones.

General unions are prohibited and mergers between unions in different professional sectors are practically impossible.

Requirement of union to receive recognition from employer: Section 9 of the Industrial Relations Act of 1967 provides that a trade union must apply for recognition from the employer, who then has the discretion to recognise the union, deny recognition, or appeal to the Director General for a ruling on whether the members of the union are, in fact, really members. This provision is systematically abused by employers to delay union recognition and thwart efforts by unions to organise and collectively bargain.

Prohibition on migrant workers forming or leading trade unions: Migrant workers are prevented by law from organising or applying to register a trade union, and are barred from serving as officers of the trade union. Given the ever increasing percentage of the Malaysian workforce which is comprised of migrants, this prohibition strips union rights from a significant section of Malaysia's workers.

The public sector:

Trade unions in the public sector are permitted to organise unions per ministry, department, profession or activity, as well as to join federations. Employees in statutory bodies (such as ports and the Employees' Provident Fund) are only authorised to join internal trade unions, which, in turn, may join the Civil Service Federation and 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: The right to strike is not specifically recognised, and legislative 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. General strikes and sympathy strikes are not permitted either.

Penalties for executive committee members of a union that engage in an illegal strike include fines and imprisonment for up

to one year. Rank and file workers who engage in an illegal strike are considered by the government to be automatically stripped of their union membership, and cannot join another trade union in the future without the written approval of the DGTU.

Pre-strike authorisation procedures are cumbersome. Two thirds of the members of a trade union must vote in favour of a strike in a secret ballot and the ballot must include a resolution that states “the nature of the acts to be carried out or to be avoided during the strike”. The results of the ballot are passed to the DGTU for verification. Once all procedures have been complied with, a seven-day cooling off period is imposed. During the cooling off period, the Ministry of Human Resources’ Industrial Relations Department can attempt conciliation and, if this fails, refer the dispute to the Industrial Court. While the dispute is before the Industrial Court, strikes and lockouts are prohibited.

Trade unions in “essential services” face additional restrictions on their right to strike, including the requirement to give at least 21 days’ strike notice. Essential services are very broadly defined, but include health care, education and transportation.

It is almost impossible to strike in the public sector.

Restrictions on political activities by trade unions: Trade unions are not permitted to use their assets for political purposes, which are defined as an indirect or direct payment to a political party or “in furtherance of any political object.” This is widely defined to include not only support for candidates, but also holding of political meetings, and distribution of political literature or documents of any kind.

Prior approval needed for international affiliation: Section 76a of the Trade Union Act requires that trade unions seek prior permission from the DGTU before affiliating with any “consultative body...established outside of Malaysia” and that consideration of that application will be subject to whatever conditions the DGTU sees fit to impose.

Restrictions on collective bargaining...

... In the private sector: The Industrial Relations Act excludes hiring and firing, transfer and promotion, dismissal and reinstatement from the scope of collective bargaining. This provision allows employers to get rid of union activists with impunity, and thus serves to intimidate other workers into leaving the union. The IRA also 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 so far.

... In the public sector: 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. Trade unions do not have the right to take their disputes to the industrial court without the specific permission of the King of Malaysia.

The ever present threat of the Internal Security Act (ISA): Under the Act, any person suspected of threatening national security may be detained by the police for up to 60 days without trial, a period during which the person is held incommunicado, with no access to lawyers or to family members. After this initial 60 day detention period, a two year detention order may be issued with the Home Minister’s approval. The detention order is renewable indefinitely. Trade union leaders have been repeatedly threatened in the past with this draconian law.

Application of Employment Act limited to peninsular Malaysia: While the other labour laws apply to the Sabah and Sarawak, the Employment Act which regulates employment, contracts, termination, and minimum standards and conditions of work does not. These two Eastern States of Malaysia have their own State Labour Ordinances on wages and other terms and conditions of work.

TRADE UNION RIGHTS IN PRACTICE

Government interference: Only about 8 per cent of the total workforce is unionised. Unions try to maintain independence from both the government and political parties, but government control is pervasive, even extending to the internal affairs of a union.

Ban on general confederations: Owing to the ban on forming general confederations of trade unions, the Malaysian Trades Union Congress (MTUC), which covers both private and public sectors and has 500,000 members, is not recognised as a trade union confederation in law. Instead, the MTUC is registered under the Societies Act, and therefore does not have the right to conclude collective bargaining agreements, nor to undertake industrial action, but provides technical support to affiliated members.

Union recognition extremely slow: Obtaining a response from an employer to a request for union recognition should take a

maximum of 21 days. However, in reality this takes much longer if a dispute occurs, as it gets taken to the Director General of Industrial Relations (DGIR), the DGTU, then to the Minister of Human Resources, who has the final say, unless that is challenged in the High Court. The High Court is fairly limited, in practice, in its ability to overturn a previous decision. It is not uncommon for recognition claims to take between 18 and 36 months to settle, particularly if a dispute develops. The President of the MTUC noted that some applications are taking as long as three to five years.

Arbitrary refusal of union recognition by Director-General of Trade Unions: In a complaint to the ILO lodged in September 2003, the MTUC listed cases over the previous 36 months in which the DGTU had arbitrarily denied organisational and collective bargaining rights to more than 8,000 workers in the manufacturing companies. At the end of 2006, the MTUC had listed many cases in which the DGTU had refused union recognition.

Employers impose extra restrictions: 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 the managerial and executive category to include supervisors, assistant supervisors, section leaders and lower level supervisory personnel. There has also been a tendency to consider all workers in information technology as being in the "confidential" category, which effectively prevents them from joining the same trade union as the rest of employees. In this manner, employers are able to maintain a series of small-sized, and therefore weaker, trade unions.

Inefficient labour courts: So far, the government has failed to apply any sanctions against employers who have opposed its directives granting trade union recognition or who have refused to comply with industrial court orders to reinstate illegally dismissed workers. In some cases, companies have changed their name or ceased to exist during the court case. At the end of 2005, information from the Industrial Court indicated that there were still 3652 cases in the court that were pending. At the end of 2006 the MTUC President condemned the fact that a significant number of cases filed with the Government in 2003 had still not been referred to the Industrial Court. Furthermore, in other cases, no award handed was down as long as 12 months after completion of the case.

Migrant workers intimidated to not join trade unions:

There are approximately 2.5 to 3 million migrant workers in Malaysia, 1.8 million of whom are documented. However, notices on work permits state that workers who are not Malaysian nationals are not allowed to join associations. Most migrant workers, who come from all over South East Asia and South Asia, work long hours, for very low pay, if any, and are often subject to verbal and physical abuse. The MTUC continually called for migrant workers to be given full rights to associate and form labour unions, and continued to advocate for that right. The system for registering migrant workers also discourages workers from asserting their rights because it grants total discretion to employers to terminate workers for virtually any reason.

Police intimidation: Intimidation and obstruction by police at legally conducted, peaceful pickets has become common. The MTUC has been called in on several occasions to seek the intervention of the Inspector General of Police.

Increasing anti-union activity: There has been increasing union-busting activity in recent years. Notably, the MTUC claimed that former officers of the Department of Trade Unions and the Department of Industrial Relations had been involved in obtaining information, from serving officers, on unions involved in recognition claims and collective bargaining. They then approached the employers with an offer to remove the union, and advice on how to prolong the settlement process.

Employers' challenges to Ministerial orders for recognition of trade unions were often encountered, and numerous cases were pending at the High Courts and Courts of Appeal. The MTUC noted that anti-union employers, including multinational companies, are increasingly choosing this path in order to evade union recognition for five to seven years.

Violations in 2006

Background: In November, the government announced its plan to revise the Employment Act in 2008, ostensibly to provide additional flexibility to employers to retrench workers and to encourage greater foreign investment.

Violent police attacks on union-led rallies: A peaceful protest against government fuel price hikes organised by the MTUC on 26 March in Kuala Lumpur city centre was violently suppressed by the police. A total of 22 protesters, including two minor girls were arrested. Police used batons, dogs, water cannon and mounted police to violently disperse the crowd. Police declared the protest illegal despite being informed of the protest in advance by written letter from the MTUC.

The next day, 27 March, a protest march of 500 members of the MTUC and allied civil society organisations was prevented by the police from presenting a petition protesting the fuel hike to the Prime Minister.

In an incident that became later popularly known as “Bloody Sunday”, another anti-fuel hike protest in the city centre was violently suppressed by police on 28 May. Police again used excessive force against the protesters, which included labour leaders, and caused a number of serious injuries. A total of 20 protesters were also arrested.

Retaliating against union leaders at Universal Cable Berhad: On 19 September, the management of Universal Cable called in local police who arrested nine workers based on company allegations that the workers were involved in stealing company property. In fact, the nine workers were all leading members of the plant-level Electrical Industry Workers Union, and had been playing key roles in organising union activities and pressing workers demands. At year end, a union appeal to the Labour Department was still under consideration.

Six years on at Kaneka – and the union is still not recognised: In 2006 the DGTU turned down a recognition claim by the National Union of Petroleum and Chemical Industry Workers (NUPCIW) at four companies of the Kaneka group. The company’s refusal to recognise the union and the slowness of official procedures meant the application had dragged on for five years, by which time many of the original union members had left. Hence the union no longer had enough members to be recognised.

Classifying workers out of the union at British American Tobacco: Exploiting a loophole in the labour legislation, a new title of “Process Specialist” was given to employees at British American Tobacco previously designated as “Process Technician.” This pseudo promotion stripped 15 British American Tobacco Employees Union (BATEU) members of their right to belong to the union, and prevented another 38 workers from joining the union. The BATEU stands to lose as much as 60 per cent of their membership. An appeal to the Director-General for Industrial Relations against this action was pending at year end.

Fired for distributing union pamphlets – and court agrees!: Three workers at Guppy Plastics Industries were fired by their employer for distributing union pamphlets in the factory during working hours. When they appealed their dismissal as an anti-union action, an Industrial Court ruling in June, concurred with their dismissal on the specious grounds that the information in the pamphlets was not correct.

AmBank yellow union approved by court: In 2006 the National Union of Bank Employees (NUBE) lost a case in the High Court of Kuala Lumpur, seeking a court order to direct the DGTU to de-register a yellow union created by AmBank management. NUBE’s evidence included the fact that management hand-picked the seven AmFinance Employees Union (KEPPA) officers, organised and paid for KEPPA meetings at its various branches, and the General Manager of the AmBank Branch Network required at those meetings that clerical and non-clerical staff sign KEPPA membership forms. Disregarding the evidence of management interference in setting up KEPPA, the High Court ruled based on a narrow technicality and denied the NUBE case.

People’s Volunteer Corps (RELA) attack protesting migrant workers: Migrant workers from India recruited to work for Whitex Garments, JB Automobile Engineering Sdh. Bhd., Sri Sai Construction, and GSM Kajang conducted a one week protest in front of the Embassy of India in Kuala Lumpur to seek support to secure payment of unpaid wages from their employers. On the evening of 28 February, a squad of RELA members raided the encampment, attacking and beating workers with kicks, punches, and batons, and arrested 61 workers who were sent to the Lenggeng detention camp. Eyewitnesses stated that diplomats from the Embassy, who tried to intervene, telling the RELA captain that the men had legal papers and passports, were ignored. A number of the workers were seriously injured. Upon investigation, all 61 workers were found to have valid travel documents and to have entered Malaysia legally.

Retaliation against migrant workers for labour dispute: In April, a group of 68 migrant workers from India involved in a labour dispute with their Shah Alam-based company were fired for asserting their rights. While the proceedings were in court, the employer allegedly called in a RELA squad who placed them in a detention camp for nine days until their legal status could be proven. In July, a gang of hired thugs entered the workers’ dormitory, intimidated the workers, ordered them out of their rooms, and then threw their belongings into the street.

MALTA

POPULATION: 397,000 / **CAPITAL:** Valetta / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

There was little change in Malta where the law still allows for compulsory arbitration in the event of industrial disputes.

TRADE UNION RIGHTS IN LAW

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 Employment and Industrial Relations Act, the government can impose compulsory arbitration in the event of an industrial dispute, leading to a final award binding on all parties. 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.

Public Holidays Act infringes collective bargaining rights: In 2005, the Maltese government amended the Public Holidays Act to remove the right to recover public holidays falling on weekends. Provisions in existing collective agreements on special arrangements for recovering public holidays falling on a weekend became invalid, and future negotiations on the issue were effectively precluded. The ILO's Committee on Freedom of Association concluded that these changes to the Act violated the principles of free collective bargaining and has requested the government to amend section 6 of the Act accordingly.

TRADE UNION RIGHTS IN PRACTICE

Arbitration: 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.

Union assets frozen following strike action: On several occasions government authorities have sought court orders to freeze trade union assets, claiming damages incurred further to industrial action. One such example was the freezing of union assets in 2005 following a dispute between the GWU and the government-owned Malta Shipyards.

Anti-union private sector: The private sector remains anti-union, particularly the micro enterprises employing very few workers.

MAURITIUS

Population: 1,200,000 / **Capital:** Port Louis / **ILO Core Conventions Ratified:** 29 – 87 - 98 - 100 - 105 - 111 - 138 - 182

Violations were reported in the textile industry. Employers refused to recognise union representatives, and a sit-in by workers in a clothing factory was brutally suppressed by the police. The government and the unions have still not reached an agreement on the draft law amending the Industrial Relations Act. Unions fear that changes to the law on wage bargaining will undermine tripartism.

TRADE UNION RIGHTS IN LAW

The Constitution protects the right of workers to form and join trade unions, and this right has been strengthened by the ratification of ILO Convention 87 in February 2005. But there are restrictions. The law gives the authorities the right to cancel a union's registration if it fails to comply with certain legal obligations, including activities that may pose "a threat to public order".

Strike restrictions: The right to strike is recognised under the Industrial Relations Act (IRA), but there are limitations. The IRA imposes a 21-day cooling off period before a 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 any strike illegal that is likely to cause extensive damage to the economy. Unions have demanded that the right to strike also be guaranteed by the Constitution.

IRA Amendment Act undermines bargaining rights: The MLC states that the IRA Amendment Act, adopted in June 2003, restricts the right of public service unions to declare a dispute over pay. The amended Act introduced an "Option Form" to be signed by government employees whereby they agree to abide by the Pay Research Board's recommendations. If they do not agree with the recommendations, they can decide to retain their wages and former working conditions, but the wages will always be inferior. Once the Option Form is signed, however, they will no longer have the right to declare a dispute in the same sector.

Export processing zones: Labour legislation applies in the export processing zones (EPZs), but there are also specific labour laws that condone longer working hours (45 hours a week, plus ten hours compulsory overtime in the EPZs, where required).

Proposed reforms: The government began a labour law reform project in cooperation with the ILO and a White Paper was released in November 2004. However, the government and the unions failed to agree on all the points that would ensure its compliance with conventions 87 and 98. When the opposition returned to power in September 2005, fresh consultations were started. New legislation is expected to be introduced in parliament in 2007. The unions fear it will be more in favour of the employers.

TRADE UNION RIGHTS IN PRACTICE

Tripartite committees abolished: In May the government announced the creation of a new National Wage Council to replace the existing tripartite committees. This council will replace the Pay Research Bureau and the National Remuneration Board. Based on the Singaporean model, it identifies the industries and individual enterprises with the means to increase salaries. The unions are opposed to the idea. They consider it an attempt by the government to dismantle the tripartite committees, while leaving it up to the private sector to decide whether to engage in sector negotiations or not.

Export processing zones: Access for organising in the EPZs is very difficult. In the main, organisers have to wait at the factory gate for workers, who come out in large numbers. The organiser may not know many of them, and most are women rushing to get home to their domestic responsibilities. An ICFTU-AFRO (the African regional organisation of the former International Confederation of Free Trade Unions) mission to Mauritius in February 2004 was told that the few men they saw were mainly supervisors who were said to be hostile to unions. As a result, union membership levels are low in the EPZs (below 12 per cent). Because of the lack of effective union representation, there are cases where health hazards and workplace-related illnesses have not been addressed and rectified within a reasonable time.

Migrant workers: Unions find it difficult to get access to, and organise, migrant workers, particularly those from South-East Asia and Madagascar. They tend to work long hours and be cut off from other workers. These migrant workers are unaware of the laws that protect them and Mauritians and often earn between 2000 and 2500 rupees (\$US 70 to \$US 90) or less, per month. Some of them have intolerable living conditions, sleeping in dormitories on benches with no mattresses, or in tiny bedrooms housing up to a dozen people. Those who do try to organise have been summarily deported.

Similarly, there have been reports of trade unions facing difficulties in organising workers in the growing off-shore business sector.

VIOLATIONS IN 2006

Employer tries to dock union leaders' salary: In April 2006, the director of the Mauritius Revenue Authority (MRA) threatened to drastically cut the salary of Toolsyraj Benyudin, president of the Federation of Civil Service Unions (FSSC) because of his absence from work on trade union business. The right to paid leave for union business is enshrined in Mauritian legislation and ILO jurisprudence. When the government prevented the MRA director from implementing his decision, he proposed limiting Mr. Benyudin's time spent on union business or giving him leave without pay. No agreement had been reached at the time of writing.

Textile workers' protest violently suppressed by the police: On 23 May, policemen armed with shields and truncheons beat female workers from Novel Garments holding a sit-in in the courtyard of the factory in Coromandel protesting against plans to transfer them to other production units. The police also used tear gas to disperse them. Earlier that day, Alain Rey, the financial director of Novel Garments, had called for a meeting between the management and the workers' representatives to announce restructuring in the company. However, Mr. Rey refused to allow the workers' union representative Mr. Faizal Beegun, and their legal representative, Mr. Rama Valayden, to attend the meeting. The management called the police to evict them. This turned the peaceful sit-in into a riot, which was then brutally suppressed by the police.

Employer refuses to recognise workers' representative: Since 2005, the same employer, Novel Garments, has refused to recognise Rama Valayden as the workers' representative, claiming that he did not represent the minimum percentage of workers required. However, there is no minimum percentage set by law.

Anti-union campaign at textile company: Firemount Textiles of Mauritius continues to refuse to recognise the Textile, Garment and Manufacturing Workers' Union in spite of the fact that it represents half of the workforce. Management has

also been waging an anti-union campaign, telling workers not to join the union and preventing the union from recruiting workers outside the factory at lunchtime.

Deportations of protesting foreign workers: There were reports during the year that Chinese and Indian workers who had tried to organise or protest against their employers had been summarily deported.

MOZAMBIQUE

POPULATION: 19,400,000 / **CAPITAL:** Maputo / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

Mozambique is developing a draft Labour Code that would be a marked improvement on existing law, although it would still fall short of international labour standards.

TRADE UNION RIGHTS IN LAW

Review of labour law: A draft Labour Code was sent to Parliament in June 2006. It recognises the right of public servants and state officials in the public administration to organise, and covers the central institutions of the public administration, local state bodies and authorities, public institutions and other subordinate or dependent institutions. However it excludes firefighters, members of the judicial authorities and prison guards from the right to establish and join organisations.

Non-compliance with international labour standards: The ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has observed that the draft Code in its Section 189 provided for compulsory arbitration in case of essential services, however this included services not essential in the strict sense of the term, such as postal services, the petroleum sector, meteorological services, and loading and unloading of cattle and perishable goods. The provisions in the code concerning the right to strike also need to be amended to bring it up to ILO standards, removing the time limit on the right to strike and ensuring that responsibility for declaring a strike illegal lies with an independent authority.

Furthermore, the CEACR has noted that although the draft Code prohibits acts of anti-union discrimination and acts of interference, it did not provide sufficiently dissuasive sanctions and requested that they be included. The CEACR also requested that the draft law allow public servants who are not engaged in the administration of the State to bargain collectively.

TRADE UNION RIGHTS IN PRACTICE

Employers block union activity: The OTM-CS has in recent years reported frequent trade union rights' violations by employers who try to stop the unions from protecting their workers, and do not comply with collective agreements or with state legislation to protect them from being sacked. Union officials are threatened with dismissal, and union members have been dismissed under false pretences. Employers also carry out misinformation campaigns about unions and prevent organisers from entering premises to carry out recruitment campaigns.

Laws preventing public meetings without written permission hinder trade unions' ability to operate freely.

Unionists discriminated against in export processing zones: Unionists face discrimination and unfair dismissal, and workers are dismissed for going on strike. Collective agreements are not respected, nor is the principle of equal pay for equal work.

NAMIBIA

POPULATION: 2,000,000 / **CAPITAL:** Windhoek / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-105-111-138-182

The law still limits the right to strike and during the year there were cases of employers suspending and dismissing striking workers. One union leader reported receiving death threats for organising a demonstration over pay demands.

TRADE UNION RIGHTS IN LAW

Workers are free to form and join trade unions, and the law provides for collective bargaining. The right to strike is recognised, including in the EPZs, although workers in essential services are excluded.

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: In October 2006, it was reported that a draft of a new Labour Bill amending the 2004 Labour Act had been prepared. The government announced that it would be tabled in Parliament during the 2007 session and would become operative in June 2007. "It will also contribute greatly to the prevention and resolution of labour disputes" claimed the Labour Minister. According to the Minister, the new bill was the product of extensive preparation and stakeholder consultation and reflected a broad consensus.

TRADE UNION RIGHTS IN PRACTICE

Restrictions on union organising: Although farm and domestic workers make up a sizeable portion of the Namibian labour force and are covered by the Labour Code, employers still intimidate them when they try to organise trade unions. The Metal and Allied Workers' Union (MANWU) has reported that its members are not allowed to organise during working time.

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

VIOLATIONS IN 2006

Spar supermarket group suspends striking workers: In April 2006 Ongwediva Continental Spar, a foreign-owned supermarket, suspended 30 workers after they staged a strike that the company described as illegal. A spokesperson for the workers reported that the strike was legal since prior notice had been given. The spokesperson said that workers were demanding better salaries, pension and death benefits, and overtime payment. Spar management, the Namibia Food and Allied Workers' Union (NAFAU) and the regional labour office in Oshakati were to meet with the workers.

Human rights organisation criticises government for discriminating against independent unions: In November 2006 the National Society for Human Rights, an independent monitoring and advocacy organisation, criticised the government for discriminatory practices against the independent Trade Union Congress of Namibia (TUCNA). According to the organisation, various administrative bodies continued to marginalise trade unions that were not affiliated with the ruling SWAPO (South West Africa People's Organisation) party. Only representatives of the National Union of Namibian Workers (NUNW), affiliated with the ruling party, were serving as members of the Board of Directors of the Social Security Commission and the Government Institution Pension Fund. Only members of NUNW had been part of a presidential visit to China and Singapore.

Union leader facing death threats: The Secretary General of the Namibia Nurses Union (NANU), Abner Shopati told national media in December 2006 that he had received death threats on his mobile phone, after organising a demonstration of nurses over pay for working on Sundays and public holidays.

Nigeria

POPULATION: 130,200,000 / **CAPITAL:** Abuja / **ILO CORE CONVENTIONS RATIFIED:** 29 - 87 - 98 - 100 - 105 - 111 - 138 – 182

Unions reported attempts to interfere in their activities during the year, while collective agreements were disregarded by both public and private sector employers. Strike action is still curtailed by the very strict conditions imposed by law. It was hoped that the creation of a new Industrial Court would expedite legal proceedings on labour matters.

TRADE UNION RIGHTS IN LAW

Excessive membership requirements: 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 still remain. At least 50 workers are needed to form a trade union, an excessive requirement by international standards.

New National Industrial Court: In June 2006 the National Industrial Court Act, 2006 was passed. The new Act gives the National Industrial Court (NIC) exclusive jurisdiction to determine all civil cases relating to industrial disputes and labour matters, making it a superior specialised court. The new NIC would mean that labour matters would no longer be subject to the congestion of the nation's regular court and thus go a long way to accelerate trials on labour matters.

Trade Union Amendment Act 2005: The Trade Union Amendment Act was passed in March 2005. It retains the NLC as a central labour union but gives other trade unions the freedom to federate and form umbrella unions, and makes union membership voluntary. While such freedom is in principle to be welcomed, it was widely believed that one of its main aims was to weaken the cohesion and unity of the trade union movement, and in particular the Nigeria Labour Congress (NLC).

Previously, freedom of choice was restricted by the stipulation in the Trade Unions Act that no trade union could be registered to represent employees where a trade union already existed.

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 Nigerian Security Printing and Minting Company, the Prison Service and the Central Bank of Nigeria.

Protection against anti-union discrimination: Only unskilled workers are protected by the Labour Act against anti-union discrimination by their employer.

Right to strike undermined: The 2005 Act sets out strict conditions that trade unions and labour federations must meet before they can embark on a strike. The law specifically prohibits trade unions or registered federations of trade unions from compelling anyone to strike, and stipulates that during strikes unions must not block airports nor obstruct public highways, institutions or premises of any kind. There is a fine of N10,000 (US\$77) or six months' imprisonment for illegal strike action. These provisions make it extremely difficult to carry out a normal strike picket.

In addition, the Act prohibits and criminalises strikes which are deemed to be about disputes of interest or any strikes about economic issues (in order to prevent strikes that unions have organised in recent years over government decisions to raise the price of petrol).

The Act also includes a strike ban in the essential service sectors, which according to Nigerian law, include public transport and education, which are outside the ILO definition of essential services.

Unions must also give 15 days notice for a planned strike. The Trade Disputes Act further limits the right to strike by imposing compulsory arbitration, with a penalty of a fine or six months' imprisonment for anyone failing to comply with the award issued by the National Industrial Court.

Collective bargaining rights restricted: In the private sector, collective bargaining rights are restricted by the requirement for government approval. Every agreement on wages must be registered with the Ministry of Labour, which decides whether the agreement becomes binding according to the Wages Board and Industrial Councils Act. It is an offence for an employer to grant a general or percentage increase in wages without the approval of the Minister (according to the Trade Disputes Act) - which is contrary to the principle of free collective bargaining.

Export processing zones (EPZs) – anti-union decree: 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 Act prohibits strikes and lockouts for a period of 10 years after a company begins its activities in a given EPZ.

TRADE UNION RIGHTS IN PRACTICE

Right to organise undermined ...: The government has become increasingly hostile to the labour movement. Employers also show their hostility by intimidating workers to leave the union, while some refuse to recognise trade unions, and sack workers’ representatives for their trade union activities. The growing use of casual labour, notably in the oil industry, also makes it more difficult for unions to organise and protect their rights.

...and the right to strike: The government accepts collective bargaining, but generally does not honour the agreements made, leading to many strikes. Prior police permission is required, but is rarely given. The use of security forces to intimidate, harass and arrest strikers, often accompanied by the use of violence against trade unionists prior to or during strikes or protests, seriously undermines the right to strike.

VIOLATIONS IN 2006

Background: Violence in the oil-rich but poverty-stricken Niger Delta region continued in 2006. In September 2006 the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) and the National Union of Petroleum and Natural Gas Workers (NUPENG) held a three-day strike to protest against the escalation of violence since rebel groups in the region began to target oil workers and lack of security. National and expatriate oil workers have been kidnapped and killed, including a Nigerian trade unionist with PENGASSAN who was murdered as he was about to be released by a militant youth group in Bayelsa State. The union member was abducted while in the presence of state officials.

Interference in union affairs: In January 2006 the Nigeria Labour Congress (NLC) made public recent attempts by various private and government agencies to impose Pension Fund Administrators (PFAs) on workers, under threat of various sanctions.

Collective Agreements not honoured: In March 2006 NUPENG warned that it would resort to strike action if ChevronTexaco and of its contractor, US-based Elper Engineering did not live up to the terms of a collective agreement put in place five years previously, on back wages and severance pay. According to NUPENG the two companies had granted the contractual obligation to only a few workers, but had denied it to most.

Also in March, the National Executive Council of the National Union of Electricity Employees (NUEE) considered strike action after the management of Power Holding Company of Nigeria (PHCN) had unilaterally shifted the date of a collective agreement.

Academic union protests attacks on its autonomy: In April 2006 the Academic Staff of Universities Union (ACSU) reported it would strike over under-funding of universities and government challenges to the union’s autonomy, notably previous arrests of several professors while striking.

PAKISTAN

POPULATION: 161,100,000 / **CAPITAL:** Islamabad / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

Pakistan’s highly restrictive labour laws, combined with a near total lack of law enforcement, permitted unmitigated attacks by employers and state enterprises managers against trade union rights. Despite standing promises to the ILO, the government made no progress in amending its laws to bring them into compliance with international standards and continued to exclude workers in many economic sectors from exercising their rights. The Sindh provincial government outlawed unions for teachers, and several state enterprises and military controlled companies continued to bar unions.

TRADE UNION RIGHTS IN LAW

Restrictions on freedom of association: Article 17 of the Constitution of Pakistan states: “Every citizen shall have the right to form associations or unions, subject to any reasonable restriction imposed by law”. However, restrictions under law are expansive, unreasonable, and clearly in violation of ILO Convention 87 ratified by the government. The 2002 Industrial Relations Ordinance (IRO) remained in force, as the government once again failed to fulfil promises to the unions, the ILO, and the international community to amend the law to bring it in line with international standards.

Many sectors excluded: The IRO 2002 only covers industrial workers, and only those producing goods or services for sale. Thus many sectors are excluded and workers in them may not form unions or bargain collectively. The list of excluded industries and enterprises includes the railways, ports, security printing facilities, oil and gas industries, post and telecommunications, the Pakistan Television and Pakistan Broadcasting companies, civil aviation, fire fighting, agricultural workers, teachers and education institution workers, hospitals, clinics, and nursing homes, non-profit organisation workers, and security/watch services at energy or transport facilities. Supervisory and managerial personnel are also all excluded.

The IRO also contains a special provision that allows the government to restrict associational rights of any category of workers by declaring them to be “servants of the state.”

There is a legislative barrier to registration owing to the wide powers given to the Registrar of Trade Unions who can refuse or cancel a union’s registration.

IRO fails to protect workers: Section 46(5) in the IRO 2002 sets out that the Labour Court may order an award of compensation (12 to 30 months’ wages) in case of wrongful termination in lieu of reinstatement of the worker. This enables employers to sack “troublesome” workers, such as trade union representatives, with impunity.

The IRO also restricts the possibility of seeking interim relief from the National Industrial Relations Commission (NIRC) or the Labour Court against unfair labour practices. Furthermore, the penalties imposed on trade union representatives found guilty of unfair labour practices are comparatively heavier than those imposed on employers.

Reform of labour laws – workers still waiting: During the year, the government again failed to change the IRO in line with international labour standards despite promises to the ILO. Nor has it made any progress in consolidating the over 60 laws covering labour issues into six core laws beyond the IRO promulgated in 2002.

However, without adequate prior consultation with the trade unions the government did make unilateral changes to five different labour laws, effectively increasing hours of work and further weakening labour protection. The amendments were made using the Finance law in a procedure that unionists called legally dubious. A separate classification of “contract workers” who are not eligible for overtime pay raised significant concerns among unionists that employers may accelerate the re-classification of permanent workers (with full union rights) to more vulnerable “contract workers.”

Strike limitations: There are many legal obstacles to the right to strike. For example, it takes a least one month before a strike can be legally declared. The period for bilateral dialogue between management and the union is 15 days. Where settlement is not reached, the conciliation procedure also lasts 15 days. Cooling off periods also must be observed before a legal strike can be held.

Leaders of legal strikes are protected in law from retribution.

Employers engaged in serious anti-labour practices are liable to fines, but not imprisonment.

The government has the right to ban any strike that may cause “serious hardship to the community” or prejudice the national interest. The government may also put an end to any strike that has lasted for more than 30 days. The 1999 Anti-Terrorist Ordinance codifies the crime of a “terrorist act”. This includes “acts of civil commotion” which carry a penalty of imprisonment for terms ranging from seven years to life, as well as fines. Illegal strikes, go-slow actions, and picketing are also considered as forms of “civil commotion” under this Ordinance.

Collective bargaining: Industrial workers may elect representatives to act as collective bargaining agents and legal unions generally have the right to bargain collectively. Every collective bargaining agent is required to affiliate with a federation at the national level that is registered with the National Industrial Relations Commission.

Limited rights in public sector: The Civil Servants Act, 1973, sets the terms and conditions of employment for this category of public sector workers. These employees may not engage in collective bargaining. Their organisations do not have the

right to be fully independent and merely exist as associations, not trade unions. The Act does not allow civil servants to form and join trade unions, to draw up their constitutions and rules, or to organise their administration, activities and programmes without previous authorisation.

The 1952 Essential Services Maintenance Act (ESMA) covers 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. The ESMA provides for up to one year's imprisonment for anyone who contravenes the ban.

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, for example, are considered civil servants, while many railway lines are classified as "defence installations", and consequently their workers as defence personnel.

The ESMA also restricts collective bargaining. In sectors covered by ESMA, wage levels are decided by special tripartite wage boards. Decisions of these boards, which usually were not acceptable to unions, can only be appealed to the NIRC.

In November 2001, the government amended the Civil Servants Act to prevent public sector workers from appealing to the National Industrial Relations Committee and labour courts against dismissal, and to prohibit any court intervention in such matters. This applies to almost two million workers.

No freedom of association for airline, or electricity workers: In various state enterprises, the government and military continually demonstrated an anti-union bias by either banning trade unions outright, or petitioning to revoke the union registrations. Trade union rights have been suspended at Pakistan International Airlines Corporation and at the Karachi Electric Supply Corporation (KESC). The Pakistan National Shipping Corporation, Army Welfare Sugar Mills, and the Karachi Shipyard and Engineering Works were the latest examples of the government's action against unions (see section on Violations).

Restrictions in banking sector: Amendments to the Banking Companies Ordinance in 1997 state that a worker cannot become a union member or official in a banking institution unless he or she is employed by the bank in question, thereby restricting the right of union members to choose who will represent them. They also stipulate that no officer or member of a trade union in a banking institution shall use any bank facilities including a car or telephone to promote trade union activities. Similarly, trade union activities are restricted in office hours. Any person violating such provisions shall be liable to a fine or imprisonment of up to three years, or both. Restrictions have also been imposed on the collective bargaining rights of banking staff.

Export processing zones (EPZs): There are a total of 22 EPZs established under the authority of the Export Processing Zones Authority of Pakistan (EPZA).

The ESMA prohibits workers in EPZs - who could otherwise have come under the IRO - from forming or joining unions, bargaining collectively or striking. They have no protection against employer interference or anti-union discrimination. The Export Processing Zones Act of 1980 also provides for notifications to exempt the zones from coverage under the major labour laws.

The government reported in 2002 that it had authorised the EPZA to frame draft legislation, and that draft labour laws were being finalised by the authority. However, no further details have been forthcoming. However, the EPZA advertises on its website that one of the incentives for investors is "production-oriented labour laws to be solely regulated by the Authority".

Code of Criminal Procedure: Section 144 of the Code of Criminal Procedure makes any gathering of more than four people subject to police authorisation. Hence it can easily be used against any trade union gathering.

TRADE UNION RIGHTS IN PRACTICE

Employers circumvent legislation: Employers artificially promote workers to managerial status, usually without the concomitant salary increase, so that they no longer qualify for union membership. Employers often strongly resist the unionisation of their employees, with management resorting to intimidation, dismissal and blacklisting. Moreover, if an employer is opposed to the formation of a union, the procedures for union registration and the appeals process can take many years.

However, there was some hope for workers when in June 2005, the NIRC overturned a government notification of April 2004, through which over 700 members of the House Building Finance Corporation Workers' Union were restrained from carrying out trade union activities after being promoted to assistant managers. The council found that the nature of their job had not changed, and they were therefore deemed to be workmen.

Strikes: The rare strikes that do occur are, given the complications attached to organising a strike, usually illegal and short. They are often broken up by police and used by employers to justify dismissals.

Weak labour law enforcement by state governments: The Factories Act of 1934 provides for inspection of enterprises, but this authority has been increasingly assumed by state governments. Unionists report that the net result has been that labour inspections are hardly ever performed and the employers are able to violate key provisions of the law on wages and conditions of work with impunity.

Anti-union discrimination in banks: According to United Bank Employees' Federation union members have been ruthlessly victimised by the management of banks, particularly in United Bank Limited (UBL). In recent years hundreds of trade union leaders have been dismissed under the terms of the Banking Companies (Amendment) Act, 1997 in what the Federation believes is an attempt 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.

Women: Rubina Jameel, President of the Working Women's Organisation (WWO) reported in 2004 that women trade union activists face accusations of "bringing dishonour" on their families if they try to organise women workers. Ms Jameel herself has been criticised by religious groups for "corrupting women" and being "against Islam" because of her work.

VIOLATIONS IN 2006

Background: President Pervez Musharraf continued to controversially serve concurrently as President and Chief of the Army. Human rights monitors and international human rights groups reported disappearances, use of torture against suspects by police, and a climate of impunity marked by close connections between influential elites and local authorities. However, one bright spot was the passage of the Women Protection Law in December which ended the most abusive sections of the Hudood Ordinances which among other things provides for imprisonment of women for alleged adultery.

Banning teacher unions in Sindh province: On 21 July, the Education and Literacy Department of the Sindh provincial government abruptly banned unions or associations among teachers and all other employees under the authority of the Education Department. The order affected over 400,000 teachers and education personnel at the provincial and district level. The order was formally approved by the provincial Governor of Sindh, and provided for disciplinary actions up to dismissal from the civil service, for any teacher found to be involved in union activities. The Sindh Professors and Lecturers Association (SPLA) and the Government Secondary Teachers Association (GASTA) immediately filed no less than four petitions challenging the order with Courts, and launched a campaign against the order.

The Sindh Government moved quickly to enforce its anti-union order by taking an array of punitive actions against the leaders and activists of the teachers' unions. A total of 34 teachers were immediately served with 'forced leave' orders, effectively suspending them indefinitely without pay. Another 150 teachers were threatened with dismissal, while many others faced various forms of harassment.

On 22 August, about 2000 members of teachers unions in the province, grouped under the banner of the Sindh Employees Alliance (SEA), held a major protest against the order in front of the Karachi Press Club. More teachers would have joined, but they were barred by police who engaged in preventive detention of teacher leaders from the districts of Sukkur, Hyderabad, Dadoo, and other parts of the province to prevent them from travelling to Karachi to join the demonstration. When the marchers began to move towards the Governor's House, the provincial police attacked the peaceful demonstration with batons and tear-gas, injuring six teachers. Another 45 protesting teachers were arrested and hauled away to jail. The Sindh Government then proceeded to file criminal cases of rioting against a number of the teachers involved, using this charge as justification for their dismissal.

The Sindh High Court ruled on 12 December that the government ban on teachers' organisations was contrary to constitutional guarantees of freedom of association. The court further overturned the punitive actions, including termination notices, taken by the Education Department against teacher union activists and those involved with the legal petitions. The Education Minister immediately stated the intent of the Sindh Government to appeal to the Supreme Court of Pakistan. The petition was filed and was under consideration by the courts as the year ended.

Coca-Cola uses outsourcing to undermine the union: Coca-Cola has a long record of anti-union activity in Pakistan and uses a mixture of tactics, including harassment and dismissals of union leaders and casualisation of the workforce, to achieve

its goals. In years past, workers report that unions at Coca-Cola plants in Lahore and Gujranwala were busted, and in 2006, management turned its attention towards the Coca-Cola Beverages Staff and Workers Union which represents workers at the Coca-Cola Beverages Pakistan Limited (CCBPL) factory in Karachi. Management notified the union that it was planning to outsource all 29 union jobs in the maintenance and transportation sections. The union strongly opposed this move, and made clear its plans to use planned bargaining for a collective agreement in 2007 to limit management's power to continue casualising the workforce. On 9 December, management responded by unilaterally terminating 150 CCBPL permanent workers, including the union President, Vice-President, Treasurer and one additional union committee member.

When the union resisted this move, and rejected the severance package offered by the factory, the management rolled out an expanded "voluntary retirement" scheme. The union sought and obtained an interim court order on 23 December, barring management from conducting dismissals or other actions regarding employment until 8 January. However, CCBPL management blatantly violated this court order and continued to pressure union members to take the severance pay through a mixture of 'captive audience' meetings between senior supervisors and individual workers, and information distributed to the workforce. As the year ended, the union was preparing to file a contempt of court petition against CCBPL.

Banning trade unions at the behest of the Pakistan military: The Registrar of Trade Unions of Sindh banned the trade union at Karachi Shipyard and Engineering Works (KSEW) on 26 August at the request of the Federal Minister of Defense Production, stripping 3,000 workers of their right to freedom of association. The ban effectively short-circuited union bargaining efforts with KSEW management over a number of pending union demands. The clear prior intent of the Ministry of Defence Production to bust the union was evident from 5 August, when the Ministry unilaterally ordered a change in status for the KSEW from a private company to "public limited company", despite the fact that an estimated 80 per cent of KSEW's production goes to private sector concerns. The result of this change was to make the company more directly vulnerable to government intervention in labour affairs. Not surprisingly, the Ministry cited this change in status when issuing its banning order against the union. At the end of the year, the ban was still in place with little likelihood of any change.

Pearl Continental Hotel – some union victories but management hostility continues: The Pearl Continental Hotel Employees' Trade Union, the legally recognised representative of workers at the five-star Pearl Continental Hotel in Karachi, claimed several important victories during the year in its efforts to compel management to recognise the union. The biggest victory was the final dismissal by the Labour Court of the hotel management's legal case filed in 2002 seeking the cancellation of the union's registration. In May, the Labour Court ordered the hotel to reinstate union leader Mohammed Ashraf with full back pay and benefits more than four years after he had been fired. Despite these victories, the core issue – union recognition and negotiation of a collective bargaining agreement – continues to be denied by hotel management six years after the union was organised. Meanwhile, in July at the sister Pearl Continental Hotel in Lahore, the Labour Court ordered the conditional reinstatement of the union President, Nasir Aman Sindhu. His permanent reinstatement was pending appeal at the Punjab High Court at the time of writing.

Busting unions and beating workers at state-owned sugar mills: A peaceful protest organised outside the Sindh Provincial Assembly in Karachi by workers from two closed-down state-owned sugar mills (located in Dadu and Thattah) of the Sindh Sugar Corporation was viciously attacked by police with batons on 11 May. Union leaders and rank and file worker activists were arrested, and the protest encampment broken up. The protest was part of a hard-fought campaign by the two unions over the closures and subsequent layoffs, which finally resulted in an agreement with the government on alternative employment.

Meanwhile, the anti-union campaign by management at the Army Welfare Sugar Mills, which operates directly under the jurisdiction of the Army Welfare Trust (AWT) of the Pakistan military continued. After the union refused management demands to dissolve the union (based on an order from the AWT), management filed a petition to de-register the Army Welfare Sugar Mills Workers Union. The Sindh Labour Court rejected the petition of the management, but management appealed the decision to Sindh High Court which reversed the Labour Court ruling and revoked the union's charter. The union was awaiting the results of its appeal at the Supreme Court at the time of writing.

Pakistan National Shipping Corporation (PNSC) shuts out the union: The state-owned PNSC has conducted a continuous campaign of harassment against the All Pakistan Seamen's Workers Union (APSWU), seeking both to intimidate and punish union leaders and consistently refusing to bargain with the union. The PNSC fabricated charges of misconduct and indiscipline against six APSWU leaders in the PNSC for their activities, leading to their suspension and barring them from working on ships in Pakistan for three years.

During the year, the PNSC also sought and used legal injunctions to prevent the APSWU from boarding PNSC ships to meet with its members. Rather than bargaining, the PNSC filed a legal challenge to the status of the APSWU as the workers representative. Management's challenge was denied in June by the National Industrial Relations Commission – but despite the ruling little changed, and at the end of the year, PNSC was continuing to bar APSWU from having access

to seafarers on PNSC ships.

Pakistan International Airlines (PIA) continues to refuse unions: Another four unionists were suspended by Pakistan International Airlines in March for distributing union literature. Pakistan Chief Executive Order no. 6/2001, which suspended the status of all the unions in PIA and abrogated the agreements between PIA management and unions, continued in force in 2006. Appeals by the unions to rescind the order, and enter in negotiations have been completely ignored by the government and PIA management. Two trade union leaders dismissed for their union activities in 2005 remained out of work. In May, as a final course of action, the eight unions at PIA, supported by the International Transport Workers Federation (ITF), called for a world-wide boycott of PIA until management and the government respect union rights. Six of the suspended trade unionists were permitted to return to work in December, but the PIA's clear policy of anti-union discrimination remained in force.

Brick kiln unions organise against bonded labour – but face restrictions: The Pakistan Bhatta (Brick-Kiln) Workers Union (PBWU) organised protests in March against the efforts of the brick-kilns to continue the peshgi bonded labour system, despite a ruling by the Supreme Court that has outlawed this work arrangement. The workers were also protesting the actions of many of the kiln owners who had shut down their factories, effectively locking out the workers, for a month to pressure the government to take action against the PBWU. Government authorities in Lahore denied the PBWU's request for a protest permit, while in Toba Tek Singh district of Sindh province the police banned the rally. Pakistan NGOs estimate that between 1.5 to 2 million workers are caught in bonded labour systems, many of them in brick production in Sindh province, where threats and financial vulnerability strip the workers of their right of association and power to organise and bargain collectively.

Liaquat National Hospital – union registration still denied: The Liaquat National Hospital Workers' Union (LNHWU) continued to be denied registration on the grounds that the Hospital was a charitable institution. In fact the hospital had long ceased (in 1990) to be a charitable institution and was run on a commercial basis. The 75 union members who had been forced to resign their jobs remained out of work and during the year continued to be harassed by management, who used all possible means to keep union officials away from the hospital. Management even worked with local authorities to file trumped up charges against the unionists in the local courts. All the office bearers were subsequently acquitted by the magistrate of the criminal charges filed by the management, which has since appealed that decision. The union's court appeals against the illegal dismissals and the failure to register the union have met with continual delays.

SINGAPORE

POPULATION: 4,400,000 / **CAPITAL:** Singapore / **ILO CORE CONVENTIONS RATIFIED:** 29-98-100-138-182 (105 – Denounced)

Several restrictions in the labour law are outdated and not applied in practice; unions have asked for the law to be revised in order to reflect that. Under a legislative amendment introduced in 2004, union members no longer have the power to accept or reject collective agreements negotiated between their representatives and the employer. They do, however, retain the power to vote their union leadership out of office.

TRADE UNION RIGHTS IN LAW

Private sector – limitations on the right to organise: The Constitution gives workers the right to join trade unions in the private sector, although the Trade Unions Act makes an exception for uniformed personnel. Any group of seven or more prospective members can form a union, which is acceptable by international labour standards. However, parliament may impose restrictions on the formation of a union on the grounds of security, public order or morality.

Formation is also 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. Trade unions must also submit new rules, or alterations to their existing rules, to the Registrar for approval within seven days of the rule change. The Registrar has the right to refuse the rule change if in the Registrar's discretion the rule change is either unlawful or "oppressive or unreasonable."

Public sector: The Trade Unions Act still prohibits government employees from joining trade unions, although the law gives the power to the President of Singapore to make exceptions from this provision. The Amalgamated Union of Public Employees (AUPE) was granted such an exemption, and its scope of representation has expanded over the years to

cover all public sector employees except the most senior civil servants. In addition to AUPE, 15 other public sector unions, including public employees paid on a daily rate, are exempted.

Interference in internal trade union affairs: The Trade Unions 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.

Trade union members who are under 21 years of age also need prior written approval from the Minister to serve as a trustee or executive of a trade union.

Despite the fact that Singapore has an increasingly multinational work force, the Trade Unions Act bars any person “who is not a citizen of Singapore” from serving as a national or branch officer of a trade union unless prior written approval is received from the Minister. The Act also stipulates that a foreign national cannot be hired as an employee of a trade union with prior written agreement from the Minister. Similarly, a foreign national is forbidden to serve as a trustee of a trade union without the Minister’s written permission.

The Act also limits what unions can spend their funds on, and prohibits payments to political parties or the use of funds for political purposes.

Collective bargaining rights restricted: Under an amendment to the Trade Unions Act adopted on 20 April 2004, union members no longer have the power to accept or reject collective agreements negotiated between their union representatives and the employer. The change in the law was in direct response to a dispute involving the pilots’ union, Airline Pilots Association – Singapore (ALPA-S), described in the 2005 Survey. The NTUC, however, notes that union members retain the power to vote out their leaders by secret ballot during elections at the union delegates’ conference, or at an extraordinary meeting called by members. The amendment also does not preclude union leaders from consulting their members to secure a mandate on terms of the collective agreement that are acceptable to them, at any time before the executive committee reaches agreement with the management. Union members are also not precluded from demanding that their unions reflect their views before making any proposal or concluding a collective agreement. Both happen in practice.

Restrictions on the right to strike: To call a strike, 50 per cent plus one of all the trade union’s members must vote in favour, rather than the internationally accepted standard of over 50 per cent of those actually taking part in the vote. Workers in “essential services” are required to give 14 days notice to an employer before taking strike action, although strikes are prohibited in some essential services such as water, gas and electricity.

There is no specific legislation which prohibits retaliation against strikers.

Collective bargaining – court can reject agreements: Collective agreements between labour and management are renewed every two to three years, although wage increases are generally negotiated annually. Guidelines for negotiations are recommended by the National Wages Council, which includes labour, industry and state representatives. The aim of the council is also to provide a means by which labour can influence government policy on wage-related issues.

Collective agreements must be certified by the tripartite Industrial Arbitration Court (IAC) before they come into effect. The IAC can refuse certification on the grounds of public interest, although in practice it has never refused to certify a collective agreement for this reason. Certification protects union members, in that a certified agreement is legally binding to both the employers and the union. Transfers and lay-offs are excluded from the scope of collective bargaining, although unions have the right to ask for the reasons behind the retrenchment and are not precluded from negotiating compensation for workers in such cases.

Disputes can be settled by means of consultations, negotiations and conciliation through the Ministry of Manpower, where the procedures are clearly laid down by the Industrial Relations Act. If conciliation fails, the parties may submit their case to the IAC. 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, although this provision of the law is rarely invoked.

The last time it was invoked was in 2004, when the Minister of Manpower compulsorily referred a dispute between the Singapore Industrial and Service Employees Union (SISEU) and a textile company to the IAC over the management’s delay in concluding a collective agreement.

Increased representation for executives: Trade unions succeeded in getting the Industrial Relations Act amended in July 2002, to allow rank-and-file unions to represent executive employees in disputes concerning dismissal, retrenchment benefits and breach of individual contract. This amendment does not affect the right of executives to form their own unions.

TRADE UNION RIGHTS IN PRACTICE

With the exception of five unions representing about 2,400 workers, the rest of the country's 64 unions are affiliated with the National Trades Union Congress (NTUC), a labour congress closely linked to the ruling People's Action Party (PAP). During the 2006 elections, a number of NTUC labour candidates ran for Parliament on the PAP ticket, and all were successfully elected. The recently retired Secretary General of the NTUC serves as the Chairman of the PAP, a post which he also held while still active in the NTUC, and the current NTUC Secretary General and Assistant Secretary General are also members of the PAP Central Executive Committee. The current NTUC Secretary General holds a seat in the Cabinet as a Minister in the Prime Minister's Office. The NTUC-PAP relationship, which dates back to founding of the NTUC in 1961, is described as "symbiotic" and was formally endorsed in 1980 at the NTUC Ordinary Delegates Conference. It was publicly reaffirmed in December 2004. At the end of 2006, 22 newly elected MPs from the PAP were appointed as advisors to unions affiliated to the NTUC.

Union leaders are elected through secret ballot.

Restrictions not applied: Practice suggests that many of the laws are outdated, as in reality many of the potential restrictions are not applied.

The unions have called for these outdated restrictions to be removed from the country's legislation.

Strikes: The government's tight rein on industrial action, and the tradition of non-confrontational industrial relations, has meant that there have been only two recorded days of strike action since 1978.

Migrant Workers: Foreign domestic workers have little opportunity to organise to defend their rights or demand improvements in their conditions of work. However, the NTUC reports that it does seek to advocate for their rights through its Migrant Workers' Forum.

SOUTH AFRICA

POPULATION: 45,300,000 / **CAPITAL:** Pretoria / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

The use of disproportionate force against striking workers continued in South Africa, as several strikers were left seriously injured after police intervention. A union leader who had led a three month strike was shot and killed on his doorstep.

TRADE UNION RIGHTS IN LAW

Freedom of Association: The law provides for freedom of association. All workers, with the exception of members of the National Intelligence Agency (NTA) and the Secret Service are allowed to join unions and are protected against unfair dismissal. Employers can, however, lay off workers on the grounds of "operational requirements".

Collective bargaining: The law provides for collective bargaining rights and organisational rights, such as trade union access to work sites and the deduction of trade union dues. The law contains provisions to encourage collective bargaining in small businesses, and among home workers and workers in the informal economy. Unions can seek redress in the courts for unfair dismissal.

In May 2006 the South African National Defence Union (SANDU) lodged an appeal with the Supreme Court of Appeal on an on-going case on whether the South African National Defence Force (SANDF) is under duty to bargain collectively with SANDU.

Right to strike: The right to strike is recognised for all workers including those in the public sector, provided they do not work in essential services or the security forces. This right is undermined by the legal right of employers to hire replacement workers during a strike.

TRADE UNION 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 difficult because union organisers are considered trespassers on private property. Workers who try to form or join trade unions face intimidation, violence and dismissal.

Increasing anti-unionism: There is a growing climate of anti-union repression. Employers and the government have both prevented strikes by obtaining a court order that declares them 'illegal', thus forcing strikers back to work. On some occasions rubber bullets and live ammunition have been used against strikers both by government and employers' forces.

In March 2006 the Communication Workers Union (CWU) threatened to take Telkom to court after the parastatal communications company reportedly tabled a plan to give improved profit-sharing only to workers who did not participate in a two-day strike in March.

VIOLATIONS IN 2006

Background: There was an unprecedented level of industrial unrest during the year. In September 2006 the South African Reserve Bank reported that the number of strikes in South African industry had reached a ten-year high, with a total of 1.6 million working days lost to strikes in the first half of 2006.

Trade unionists seriously injured by police: In April 2006, 46 trade unionists and union leaders were arrested by police at the Pongola crossing with Swaziland, following a peaceful demonstration in solidarity with Swazi workers and calling for full democratisation in Swaziland. Police use of excessive force left eight trade unionists hospitalised with two having suffered serious injuries.

Union leader shot dead at his home: In April 2006 Sibongile Tutu of the South Africa Transport and Allied Workers (SATAWU) was shot and killed when he answered his front door in Langa, Cape Town. Tutu had been in charge of co-ordinating striking guards in Langa during a violence-plagued three-month strike by security guards.

Police fire on striking workers in Cape Town: In July 2006 Cape Town police opened fire on strikers employed by Lithotech Africa Mail and arrested more than 200 of them. COSATU issued a press release condemning the action and supporting the call from the Chemical, Energy, Paper, Printing, Wood and Allied Workers' Union (CEPPWAWU) to ensure the safety of striking members "from the brutality of the police who are abusing their power." Four workers were hospitalised.

Police chief shoots at workers: In November 2006 the South African Municipal Workers' Union (SAMWU) accused the Ekurhuleni police including its chief, Robert McBride, of firing rubber bullets at protesting municipal employees who were calling for him to be suspended. SAMWU branch secretary in East Rand (Johannesburg) Koena Ramatlou told media that ten protesting workers had been injured. The Ekurhuleni metro police alleged the union march was illegal.

SRI LANKA

POPULATION: 19,400,000 / **CAPITAL:** Colombo / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

While unions' hard work to organise in Sri Lanka's three export processing zones (EPZs) resulted in progress, often employers still refused to recognise unions or bargain with them, and provoked confrontations leading to strikes and lock-outs. The government retains absolute discretion to impose an expansive definition of 'essential services' on any economic sector, thereby criminalising strikes and other trade union actions. Worryingly, the Supreme Court intervened in a major labour dispute involving the Sri Lanka Port Authority, significantly restraining unions' ability to act in support of demands to the SPLA management.

TRADE UNION RIGHTS IN LAW

Freedom of association and collective bargaining: All workers have the right to form and join unions, including public sector workers, with the exception of members of the armed forces and police officers, who are not entitled to unionise, and

staff in the judicial service, prison officers and agricultural corporations who should have the right to organise according to international standards. Public service unions are not allowed in law to form federations.

A minimum of seven workers is required to found a new union. The Industrial Disputes Act grants compulsory recognition to any union which represents over 40 per cent of workers at any given workplace. The government has consistently failed to take any significant steps to reform the Act in line with ILO recommendations. The Act prohibits employers from sacking a worker because of their union activities.

Young workers can be employed from the age of 14, but are not permitted by law to join a union until they are 16 years old.

Broad definition of essential services and draconian penalties against strikes and industrial action: The Public Security Ordinance, and the Emergency (Miscellaneous Provisions and Powers) Regulation No. 01 of 2005 which implements it, allow the President to ban any organisation that he thinks is impeding, obstructing or delaying the production and delivery of an “essential” service.

On 3 August 2006 the Ordinance and the Emergency Regulations were amended to expand on the number of services defined as essential, adding to a specific schedule of sectors which was already far beyond what the ILO considers as ‘essential’ industries. Further to protests by Sri Lankan trade unions and their international supporters, in a further amendment to the regulation promulgated on 29 September 2006 the long list of essential services was replaced by a broad, unrestricted definition. The Regulations allow the President to designate as “essential” any service “which is of public utility or is essential for national security or for the preservation of public order or the life of the community and includes any department of the government or branch thereof.” To make such a declaration, the President only needs to order the restriction to be issued in the government gazette.

The result is that there are essentially no limits whatsoever on the President’s powers to impose new, draconian restrictions on any sector of the economy that he deems appropriate.

The Ceylon Workers’ Congress (CWC) reports that these regulations have so far never been invoked. The government claims they were introduced to counteract terrorist activities.

Collective bargaining – denied to public sector workers: The law provides for the right to collective bargaining, but this right is denied to public sector workers.

Export processing zones: The law grants workers in Sri Lanka’s export processing zones (EPZs) the same rights to join unions as other workers.

TRADE UNION RIGHTS IN PRACTICE

Weak enforcement of union recognition law: The recognition of unions for collective bargaining purposes is dogged by excessive delays. Employers tend to delay the holding of union certification polls for a long time, and use this time to identify, victimise and, frequently, fire the union activists concerned. As a result, workers are afraid of being identified with the union, and the union loses the poll. The Department of Labour has recently sought to address the problem, issuing instructions in 2004 to labour officers on the implementation of the law and where pro-active measures are to be taken to hold polls to prevent any delays in the process.

Alternatively, employers change their workforce figures to ensure the 40 per cent recognition target is not met, for example in the case of Lanka Walltiles Ltd.

Victimisation of union activists: The 1999 Industrial Disputes (Amendment) Act, which is supposed to protect workers against acts of anti-union discrimination in taking up employment and in the course of employment, has not been effectively applied and the maximum penalty of US\$250 is not a strong enough deterrent. Since the Act was adopted, many serious cases have been reported of anti-union discrimination and non-recognition of trade unions.

The Labour Department often fails to file complaints against employers alleged to have engaged in unfair labour practices. Such offences are tried before a Magistrate’s Court and only the Labour Department can submit cases. There is no time limit on bringing cases to court, hence they can be delayed until the union has been weakened and disbanded. According to the Labour Department, there are “instructions” for filing complaints within 30 days, but these are not enforceable.

Collective bargaining: There are relatively few bargaining agreements in the private sector compared to the total number of enterprises and unions.

Public Sector Federations tolerated: In practice the legal provision preventing the federation of public sector unions is not invoked, and there are currently seven public sector federations. They do not engage in collective bargaining, however.

EPZs – a history of anti-unionism: There have been widespread violations of trade union rights in Sri Lanka's Free Trade Zones. The zones are managed by the government's Board of Investment (BOI), which sets wages and working conditions and has a history of discouraging union activity. In the past, union members have faced intimidation, and new workers have been warned not to join unions. Labour representatives say that the Labour Commission, under pressure from the BOI, has failed to prosecute employers who refuse to recognise, or enter into collective bargaining with, trade unions.

Employees' councils: Employees' councils are structures funded by the employer, without the workers needing to make contributions. This gives them an advantage over unions, which rely on membership dues. This consideration inevitably influences the choice of workers. They have been promoted by the BOI as a substitute for trade unions. In theory their role, according to the BOI, is to promote "the effective participation of employees in the affairs of the enterprise through consultation." In reality, the great majority of companies do not have employees' councils, as these councils tend to be created primarily as a barrier, or a last defence, against an attempt by workers to set up a trade union.

Improvements since Jaqalanka ...: The Free Trade Zone and General Service Employees' Union (FTZGSEU) reported that, since the bitter, but ultimately successful, battle for union recognition at Jaqalanka Ltd, it has been able to organise workers in factories in the zones. It says a number of its branch unions have been recognised, including those at Jaqalanka Ltd, Jaqalanka International and Gartex Ltd.

...but anti-union attitudes persist: Anti-union attitudes persist, however. The National Association for Trade Union Research has pointed out that the BOI guidelines revised in 2004 do not reflect all the ILO recommendations. For example, it is the BOI that convenes the first meeting of the elected Council, and facilitates the conduct of elections.

Forming trade unions is still difficult in the zones, and some employers are still trying to undermine the formation of unions. In 2005, only eight factories had recognised unions representing their work forces, out of the approximately 200 enterprises in the EPZs.

VIOLETIONS IN 2006

Background: Sri Lanka slid back into full civil war, with the break-down of talks between the Liberation Tamils of Tiger Eelam (LTTE) and the hard-line government of Prime Minister Mahinda Rajapakse. Attacks on senior figures in the government, including a suicide bombing attempt on the Army Commander, by the LTTE were met with increased government attacks on Tamil areas in the North and East of the country.

Supreme Court interference in union rights: Starting in March, the Sri Lanka Ports Authority (SLPA), a state enterprise engaged in all aspects of port operations under the authority of the Ministry of Ports, refused to bargain in good faith with a coalition of 14 unions making demands on wages and benefits. The unions finally decided to initiate a trade union action, working according to the specific terms of the contract only and refusing additional work demanded by the employers. The Minister of Ports responded by publicly stating on 19 July that the government would not negotiate with the unions. Soon thereafter, an employer group, the Joint Apparel Association Forum (JAAF), file a petition with the Supreme Court claiming the trade union action constituted an infringement of their right to "lawful occupation". The Court accepted the case and on 25 July issued a restraining order forbidding the trade union's actions until 27 November. The Court ordered the police and military to take immediate steps to ensure the trade unions' complied with the decision. The unions filed a complaint with the ILO.

Arresting journalists for meeting with trade union: The Free Media Movement, an affiliate of the International Federation of Journalists, reported that two journalists were detained by Army soldiers on 5 November for meeting with picketing workers of the Sri Lanka Telecom headquarters branch. The Army then sent the journalists – Saman Janaka and Jayasiri Wikramasigna of the newspaper *Sathdina Sinhala* – to the local police who intensively interrogated them, destroyed their film and pictures of the union pickets, and held them for five hours without charge until their editor personally gave verbal assurances to the police to secure their release.

Prima fires striking workers: After a series of futile negotiations with Prima management over failure to provide salary increments to employees, the Inter Company Employees Union (ICEU) went on strike on 20 March. The next day, the company fired 1600 workers. The union sought to continue discussions, but reported that management would only agree to reinstate those fired workers who agreed in advance to a 40 per cent salary decrease.

Protesting workers beaten at Dye-In Sri Lanka: After the Dye-In factory in Galle province fired three women leaders in

January who led worker protests over management's failure to pay a New Year's bonus, the workers went out on indefinite strike in front of the factory. As the strike continued, police threatened workers with 14 day jail sentences if they did not end their protest and disperse. Finally, on 5 February, the workers reported that police, backed up by local thugs hired by management, attacked the protest to ostensibly allow a truck with finished goods to leave the factory. Police used batons to severely beat the workers, sending seven of the striking workers to the hospital with serious injuries.

Still no justice for workers at Global Sports Lanka/North Sails: The 207 workers of Global Sports Lanka (formerly North Sails), who were fired for trade union activities in 2002, spent another year out of work, while court cases filed by 38 of these workers seeking reinstatement continued to grind on. In early 2006, the ITGLWF filed a complaint against the company with the Australian National Contact Point for the OECD Guidelines for Multinational Enterprises.

Freezing out the union: The CWC reports that Ceylon Cold Stores Ltd refused to allow 124 CWC members to hold an annual meeting to elect union officials on company premises, despite being a representative union, and disregarding past practice.

SWAZILAND

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

In the words of Jan Sithole, General Secretary of the Swaziland Federation of Trade Unions, Swaziland excels in both ratifying international conventions and violating them in practice.

TRADE UNION RIGHTS IN LAW

State of emergency still in force: The State of Emergency, introduced in 1973, suspended constitutional freedoms. A new national constitution was signed into law in 2006, entrenching the political status in force since 1973, which invests all power in the King's hands, bans opposition political parties and meetings, and gives the government the ultimate executive, judicial and legislative authority.

Many legal restrictions: The current Industrial Relations Act (IRA) allows workers to form trade unions, to draw up their own constitutions, and to negotiate their terms and conditions of employment. Police officers are not allowed to form unions.

However, unions must represent at least 50 per cent of workers in a workplace to ensure recognition, (an unreasonably high percentage) and failure of this test leads to recognition being dependent on the employer's goodwill. There is also no effective protection for trade unions against employer interference.

There is no right to form unions in the export processing zones (EPZs).

Strike action virtually impossible: The procedure for announcing a strike is long, lasting up to 74 days, and the procedures for voting on strike action are complex, thus making legal strikes virtually impossible. Should a strike take place, the trade union faces civil liability for any damage caused during a strike.

The IRA prohibits protest actions in "essential services," which include police and security forces, correctional services, fire fighting, health and many civil service positions.

Government fails to fulfil its promise to bring in improved labour legislation: Repeated government assurances to the ILO that it will amend its legislation to bring it in line with international labour standards have so far proved meaningless.

TRADE UNION RIGHTS IN PRACTICE

Attempts to discredit union leader: The trade unions, in particular the national centre, the Swaziland Federation of Trade Unions (SFTU), face fierce government attacks. The SFTU General Secretary, Jan Sithole, has become a hate figure for the regime, with smear campaigns against him, imprisonment several times in recent years and death threats to him and his family.

Government policy: The regime has turned a blind eye as employers pursue casualisation and deregulation policies which have resulted in many skilled employees (who are largely trade union members) losing their jobs. The effect of such policies in the sugar processing and hotel sectors has been to weaken the trade unions.

Export Processing Zones: Workers who become shop stewards or join a union are fired on the spot. Anyone taking part in a strike is also dismissed, even if the action is legal. Some employers use physical punishment as a disciplinary measure in the textile sector, which is illegal, but the employers are not sanctioned.

Thanks to the pressure brought to bear by the US union centre AFL-CIO, which is able to press for the withdrawal of Swaziland's preferential access to the US market under the Generalised System of Preferences, improvements have been secured in the labour legislation, but they still need to be put into practice. Any improvements in the working conditions of EPZ workers are attributable to the auditors sent by the buyers and not the government's labour inspectors.

Numerous violations in Chinese textile factories: Violations are common in Chinese-owned companies, and appear to be committed with the collusion of government authorities. Violations include the refusal to recognise unions; surveillance of activists both in and outside workplaces by hired security staff; victimisation of activists and representatives and known union members; a ban on workers gathering in groups during breaks, and physical assaults by security guards.

VIOLATIONS IN 2006

Background: Following the passing of the new Constitution, which consolidates the country's absolute monarchy, 20 pro-democracy activists, led by the Congress of South African Trade Unions (COSATU) were attacked with rubber bullets and arrested on 12 April during a protect blockage of the border between the two countries. Eight protestors were injured. They were eventually acquitted on 22 August. The majority of Swazi live in rural areas and tend to support the monarchy.

Union official harassed by police after HIV/AIDS workshop: Shadrack Masuku, education officer for the Swaziland Manufacturing and Allied Workers' Union (SMAWU), was interrogated by police on 18 January after he had attended an HIV/AIDS workshop organised by Southern African trade unions for "hanging out with foreigners".

Police officer on indefinite suspension for trying to form union: On 21 February, Alpheous Mhlanga, a serving police officer, was suspended indefinitely on half pay for "professional misconduct", after he tried to register the Swaziland Police Association as a union. Mhlanga attempted to form the union on the ground that banning security force members from joining an organised labour group conflicts with the rights of workers under the new constitution.

TANZANIA

POPULATION: 38,400,000 / **CAPITAL:** Dodoma / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

The government Registrar still has considerable powers to interfere in trade union affairs. Strong restrictions on the right to strike in the private sector remain, making it almost impossible to stage a legal strike, and strikes are entirely forbidden in the public sector. No collective bargaining is allowed in the civil service.

TRADE UNION RIGHTS IN LAW

Excessive power of Registrar: The Trade Unions Act allows workers to form trade unions but contains several restrictions on trade union rights. Trade unions must have at least 20 members to register, and unions must register within six months of being established. Those that fail to do so are subject to (unspecified) sanctions.

A union has to provide the Registrar with annual lists of its membership and financial audits and the Registrar can suspend a union if public security or public order are endangered. Trade union affiliation to other organisations can be annulled if it was obtained without government approval or if the union is considered to be to an organisation whose remit is broader than just employer-worker relations.

The government also prescribes the terms of office of trade unionists. Failure to comply with government requirements is subject to fines and/or imprisonment. In any given trade union, only one union leader may be employed full time to carry

out 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 severely restricted: Workers can go on strike, but must go through a series of 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. Strikes are forbidden if the government considers they endanger the life and health of the population, and the law has now broadened the category to cover almost 50% of all services, including fire fighting, civil aviation, telecommunications, health services and associated laboratory services and electricity. Strikes in other sectors may be either temporarily or permanently banned after a complicated investigation process.

Collective bargaining is recognised in law. Collective agreements must be submitted to the Industrial Court for approval and may be refused registration if they do not conform to the government's economic policy.

Collective bargaining forbidden in the public service: According to the 2002 Public Service (Negotiating Machinery) Bill workers in the public services do not have the right to collective bargaining. In addition the government sets wages for employees of the government and state-owned organisations. There is also a minimum membership requirement of 30 people for a union to be registered, excessive by international standards. It prevents strikes by "staff grade officers", which include heads of public learning institutions. A system of compulsory arbitration at the authorities' discretion, decides conditions and terms for public service employees. This effectively amounts to a strike ban.

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

Greater restrictions in Zanzibar: There are far greater restrictions on trade union rights in Zanzibar than in the rest of the country. There is a minimum membership requirement of 50 people before registration can go ahead and the Registrar has considerable powers to restrict registration, for example, if he or she does not agree with the union's provisions. Trade union officers must have a sufficiently high literacy level. The High Court can interfere in trade union affairs by appointing the Registrar to act as a trade union liquidator.

The law prohibits all workers from going on strike.

There are three export processing zones on the mainland, where working conditions are comparable to those outside the zones. There are two EPZs on Zanzibar, where there were unconfirmed reports of trade union rights violations.

TRADE UNION RIGHTS IN PRACTICE

Privatisation – workers' rights ignored: Employees in the privatised industries are denied freedom of association and the right to collective bargaining, and face long hours, compulsory night shifts, job insecurity, low pay and forced overtime. There are reports that some employers were deducting union dues from workers' pay but were either sending it to the unions after long delays or simply keeping hold of the money.

Difficulties in organising legal strikes: Workers tend to stage illegal wildcat strikes and walkouts because of the lengthy and cumbersome requirements for calling a legal strike.

Medical practitioners: The government pardoned and rehired 224 of the medical personnel it sacked in November 2005 for striking for better pay and working conditions. However it said that in future it would dismiss any striking medical practitioners.

VIOLATIONS IN 2006

Barclays Bank obstructs union organising: During 2006 Barclays Bank managers tried to prevent its workers becoming unionised by refusing to meet union officials or to grant them access to the workplace to meet workers. Managers in Barclays' subsidiary, the Amalgamated Bank of South Africa (ABSA), which acquired the National Bank of Commerce (NBC) in Tanzania, took similar measures to prevent unionisation of NBC workers.

After a series of industrial actions, Barclays' and NBC's management finally agreed to sign collective agreements with the Tanzania Union of Commercial and Industrial Workers (TUICO).

TRINIDAD AND TOBAGO

POPULATION: 1,300,000 / **CAPITAL:** Port-of-Spain / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111- 138 -182

There was no change in Trinidad and Tobago, where strong restrictions, including heavy penalties, are imposed on the right to strike.

TRADE UNION RIGHTS IN LAW

The 1972 Industrial Relations Act (IRA) allows workers to form or join unions of their own choosing and establishes the right of collective bargaining. The law also provides for the mandatory recognition of a trade union when it represents 51 percent or more of the workers in a specified bargaining unit, once this has been verified by the Registration, Recognition and Certification Board (R.R.C.B). Teachers and public servants are excluded from the scope of the Act, but are covered by separate legislation.

Heavy limitations on the right to strike: Industrial action is strictly regulated by the IRA which stipulates that strikes may only be over unresolved "interest" disputes, i.e. concerning the formulation of terms and conditions of employment. Strikes are banned in essential services, which are too broadly defined by ILO standards, including, for example, the public school bus service. Strikes can also be prohibited at the request of one party, if they are not declared by a majority union or when the government considers that the national interest is threatened. There is a penalty of up to six months' imprisonment.

Members of the teaching service and employees of the Central Bank are prohibited from taking industrial action, with a penalty of up to 18 months' imprisonment.

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. Furthermore, collective agreements must be for a maximum of five years, and a minimum of three years, making it almost impossible for workers on short-term contracts to be covered by such agreements.

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

TRADE UNION RIGHTS IN PRACTICE

The government has consistently refused to amend its legislation on essential services and collective bargaining to bring it into line with ILO Conventions.

Despite the restrictions on the right to strike, there were a number of industrial disputes during the year.

There have been problems over union recognition, due to the slowness with which the Registration, Recognition and Certification Board operates. Trade unions have called for a revision of the legislation on this but so far without result.

UGANDA

POPULATION: 27,600,000 / **CAPITAL:** Kampala / **ILO CORE CONVENTIONS RATIFIED:** 29 - 87 - 98 - 100 - 105 -111 - 138 - 182

Four new labour laws were introduced during the year, removing the most serious limitations on freedom of association. In practice, employers in several sectors are still reluctant to recognise unions and the government does not always enforce the law.

TRADE UNION RIGHTS IN LAW

New laws remove barriers to organising: In March 2006 four labour reform bills were passed, namely the Employment Act, the Occupational Safety and Health Bill, the Labour Union Bill, and the Labour Dispute Bill, all of which significantly improved labour laws concerning workers' rights. The Labour Union Act (LUA) repeals the Trade Union Act of 2000, and with it the requirement of a minimum of 1,000 employees, representing 51 percent of the workforce in order to form a union. The LUA does not specifically recognise the right to collective bargaining.

The law bars employers from interfering in the worker's rights of association and makes it a criminal offence for an employer to obstruct this right. Anti-union discrimination by employers is prohibited, and the right to strike is recognised.

Labour Disputes: The Labour Disputes (arbitration and settlement) Bill, passed by Parliament in March 2006 (and awaiting assent by President Museveni at the end of 2006) provides for the fast resolution of labour disputes and elevates the Industrial Court to the status of the High Court.

However, Section 27 of the Act empowers the Minister of Labour to refer a dispute to the Industrial Court if either side does not comply with the recommendations of a board of inquiry. This is tantamount to imposing compulsory arbitration, according to the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR), which has called for the Act to be amended.

TRADE UNION RIGHTS IN PRACTICE

Weak enforcement: In practice the government does not always enforce the law making it an offence to obstruct union organising. Employers in the fish industry for example were not penalised for prohibiting workers from joining a union. Similarly, the government has not enforced the rights of some employees to join unions in newly privatised industries and factories.

Hostile employers: Several companies operating in hotel, textile, construction and transport sectors continue to be hostile to trade unions and refused to recognise and negotiate with them. Such incidents are often not investigated by the government authorities.

No collective bargaining in the public service: No public service unions, including medical staff and teachers, were allowed to negotiate their salaries and employment terms during the year. The government fixed the terms and conditions for all civil service workers.

UNITED KINGDOM

POPULATION: 60,200,000 / **CAPITAL:** London / **ILO CORE CONVENTIONS RATIFIED:** 29-87-98-100-105-111-138-182

Collective bargaining came under attack at the Wal-Mart-owned supermarket chain ASDA which offered financial incentives to workers to renounce their rights, and at a packaging company which dismissed workers for refusing to sign individual contracts. The number of new union recognition agreements fell and sympathy strikes were still against the law.

TRADE UNION RIGHTS IN LAW

Freedom of Association: The Trade Union and Labour Relations Consolidation Act (TULR(C)A 1992) sets out most trade union rights, including the right of workers to form and join trade unions of their choice. The Employment Relations Act (ERA) 1999 also contains provisions governing trade union rights. In 2004, a further Employment Relations Act was introduced which, strengthened existing legislation and created new protections.

Statutory recognition: Employers with 21 or more employees must recognise unions that can prove that a majority of employees want a union to represent them. A trade union may apply to the Central Arbitration Committee (CAC), a statutory body, for formal recognition, and the CAC has the power to compel an employer to recognise a union for the purposes of collective bargaining. Support for recognition must be shown either by majority membership, or via a workforce ballot, in which 40 per cent of those eligible to vote must vote in favour. A union has to show at least 10 per cent membership in the bargaining unit to trigger a ballot. Collective agreements are voluntary agreements, and are not legally binding. Trade unions have traditionally supported the voluntary approach.

The ERA 2004 protects workers against being offered incentives by their employer not to be a member of a trade union,

not to take part in the activities of or make use of the services of their union, and not to give up having their terms and conditions of employment determined by a collective agreement negotiated by their union. Workers are also protected against dismissal or other forms of reprisal for making use of the services of their trade union. These rights were effectively used in a case involving the retailer ASDA, which in 2005 sought to induce workers to opt out of collective bargaining arrangements. In early 2006 the court required the employer to pay £850,000 in compensation. The Act strengthens the role of unions in grievance and disciplinary hearings by giving the workers the right not only to be accompanied, but also for the union representative to speak on the worker's behalf, a point which had been unclear under the ERA 1999. This rule applies even if there is no trade union at the company where the employees work (a provision already contained in the old Act).

Lack of protection for employees of small firms: Companies employing fewer than 21 workers are excluded from the statutory recognition provisions of the ERA.

Information and consultation rights: The 2004 ERA empowers the government to make Regulations to implement the European Union's Information and Consultation Directive. Employees will have the right to be informed and consulted about all decisions affecting their employment, failing which employers will face fines of up to £75,000.

Strikes allowed – with limitations: Strikes must be confined to workers and their own employers, the dispute must be wholly or mainly about employment related matters, and the decision must be based on a secret ballot of the workers concerned. If striking workers are dismissed within 12 weeks of taking part in a legal strike, they can claim unfair dismissal. In most instances, after the end of a 12 week or longer period, where there has been a lock out, employees can be fired legally for participating in lawful strike action. However, the ERA 2004 places increased duties on employers to try to resolve the dispute, through conciliation. Failure to do so can mean that dismissals after the protected period are unlawful.

Secondary picketing and sympathy strikes still outlawed: Secondary picketing was prohibited by the 1990 Employment Act, and there is no immunity from civil liability for workers taking part in sympathy strikes.

Insolvency laws: Under current insolvency law, unscrupulous businessmen can sack workers, declare their companies bust, buy up the assets and then restart trading without having to pay the sacked workers a penny.

Trade Union Freedom Bill - greater protection of right to strike: Further to a resolution adopted at its 2005 Congress, the national trade union centre, the Trades Union Congress (TUC) is seeking the adoption of a Trade Union Freedom Bill. The proposals in the bill include improved protection from dismissal for workers taking part in industrial action, simplification of the complex regulations governing strike ballots and notices, strengthening the bar on the use of agency workers to replace striking workers, revising the law on industrial action injunctions and modernisation of the definition of an industrial dispute. The TUC notes that despite important changes in industrial relations law since 1997, UK trade unions members have fewer rights to take industrial action than in 1906 when the current system was introduced.

TRADE UNION RIGHTS IN PRACTICE

The most outstanding feature of the statutory trade union recognition scheme has been a significant increase in voluntary agreements, although even today only about one third of the workforce are covered by collective agreements, about half the European average.

Anti-union tactics: The report, "Modern Rights for Modern Workplaces", released by the TUC in September 2002, details a number of tactics used by hostile employers during a recognition claim, which includes "setting up an in-house staff association, placing workers under surveillance as they walk past union organisers outside the workplace, issuing threats that they will close or re-locate the business rather than face recognition, packing the bargaining unit with new temporary employees before the ballot, packing union access meetings with management personnel, giving workers the option of going home early when there is a union meeting organised, dismissing activists or declaring their jobs to be redundant, intimidating workers on a one to one basis and 'encouraging' workers to sign personal contracts before or after recognition."

The TUC also published a survey on employer responses to union organising in November 2003. A small minority of employers have used US consultants to successfully resist unionisation. Employers wishing to resist unionisation adopt a number of tactics, ranging from victimisation and dismissal of union activists, denying access to the workplace, discouraging membership and circulating anti-union literature, through to increasing pay and setting up new consultative mechanisms. As a result of TUC campaigning, new laws prohibiting the use of unfair practices by employers or unions came into effect in 2005. There were renewed examples of such practices in 2006 however (see Violations below).

Employer resistance to union recognition: A study published in April 2006 by the TUC and the Labour Research Department shows that it has become increasingly difficult for unions to secure recognition from employers. From November 2004 to October 2005 there was a significant fall in the number of trade union recognition agreements, to 61 new deals covering 12,000 employees over the 12-month period, compared to 179 deals covering 20,000 workers the previous year. The study also shows that unions were fighting hard for recognition, with the number of campaigns for recognition agreements rising sharply.

Sympathy strikes: The legal ban on secondary picket and sympathy strikes is enforced, as two British Airways employees found to their cost. They were dismissed for gross misconduct after going on strike in 2005 on support of workers sacked during a dispute with the airline's catering company Gate Gourmet. A third BA employee was given a final written warning, suspended for one month and deprived of staff air travel privileges. Although these dismissals may have been lawful under UK laws, they were in breach in international standards.

VIOLATIONS IN 2006

Financial incentives to give up collective bargaining rights: In February 2006 the supermarket chain ASDA, owned by the notoriously anti-union US multinational Wal-Mart, was found guilty by an employment tribunal of offering financial incentives to employees to give up their right to collective bargaining. A collective agreement covering workers at the ASDA depot in Washington, Tyne and Wear was signed between the employer and their union, GMB, the general workers' union federation, in 2004. In January 2005 the company offered workers a pay rise of 10 per cent if they agreed to give up their union membership (and hence their collective bargaining rights). ASDA was ordered to pay 2,500 pounds compensation to each of the 340 workers concerned. In its judgement, the employment tribunal described the literature used by ASDA to persuade workers to leave the union as "very hostile to trade unions and highly disparaging of the process of collective bargaining". The materials were produced by the public relations company Portland PR, hired by ASDA to run what the GMB described as a union-busting campaign.

ASDA reneges on collective agreement: In April 2006 the GMB reached an agreement with ASDA covering full union recognition, bargaining rights and access for the union at all its distribution depots, and union access in its 302 stores. The GMB already had collective bargaining rights in nine of the 20 depots. The supermarket chain later claimed however that the deal was to set up a national negotiating committee for all the depots, but that it did not go so far as to extend collective bargaining to all 20 sites. Union sources believed that ASDA had come under pressure from parent company Wal-Mart to renege on the agreement. The GMB subsequently balloted for industrial action and the dispute was settled leading to the establishment of a national framework for collective bargaining and a rolling out of local collective bargaining where a majority of employees call for it in a ballot.

Unionists dismissed in attack on collective bargaining rights: Ten members of the manufacturing workers' union AMICUS were sacked by the packaging company Chesapeake for refusing to sign individual contracts. When the company proposed to end the collective agreement by moving all staff to individual contracts, the union's members overwhelmingly rejected the proposal. The company then by-passed the staff bargaining unit and intimidated staff into signing individual agreements. Those who refused to sign by the deadline set by the company were sacked. In December workers at the company's Bradford and Newcastle sites voted to go on strike in response to the sackings.

ZAMBIA

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

There were several incidents during the year of repression against trade union action. Workers at a Chinese-owned mine were shot and wounded for going on strike, while the state electricity company called in the police who reportedly arrested and imprisoned striking workers. The company dismissed the strike leaders. There was increasing concern over the behaviour of foreign owned companies, particularly those under Chinese ownership.

TRADE UNION RIGHTS IN LAW

Restrictions on the right to join and form unions: Workers have the right to join and form trade unions. In 2005 the Home Affairs Minister announced that police officers would no longer be allowed to join a trade union.

All unions must be registered, but must have at least 25 members to be registered and, in principle, there can only be

one union per industry.

Anti-union discrimination is prohibited by law, which provides for redress, including reinstatement for workers fired as a result of union activities.

Collective bargaining is recognised and in the private sector is carried out through joint councils. Civil servants negotiate directly with the government.

Restrictions on the right to strike: Workers have the right to strike, except those engaged in essential services, which exceeds the ILO definition by including fire fighting, sewerage, and certain mining operations.

Workers enjoy certain legal protections against an employer's retribution for strike activities. However, the right to strike is subject to so many procedural requirements that it is near to impossible for workers to hold a legal strike. As a result, no legal strikes have been held in Zambia since 1994.

The Industrial and Labour Relations Act empowers a police officer to arrest someone without needing a warrant, if they are believed to be on strike in an essential service or are likely to damage property. Police can impose a fine and up to six months' imprisonment. The ILO has said that this punishment is disproportionate and has asked the government to amend it.

Revisions of labour laws: The government has been requested by the ILO for many years to amend the law to remove the above-mentioned restrictions and bring it into line with the principles of freedom of association. The Government indicated in 2006 that its Technical Tripartite Committee had amended its industrial relations law and that the amendments were awaiting adoption by the Tripartite Consultative Labour Council and adoption by parliament.

TRADE UNION RIGHTS IN PRACTICE

Anti-union discrimination prevalent: Anti-union discrimination continues to exist, against public and private sector workers, and the procedures for legal redress are often not effective due to a lack of resources. Many officials of municipal workers' trade unions have been dismissed for union activities and the government continues to deem strikes by workers in local government to be against the public interest.

Private sector employers artificially divide workplaces in order to keep the number of workers below the minimum threshold of 25 workers, so they will not be compelled to recognise a union. There were reportedly plans to lower the threshold to 15.

The Zambia Congress of Trade Unions (ZCTU) has reported a steadily deteriorating situation for basic workers' rights in the private sector, including in multinationals present in the country. New workers in some private sector companies, particularly multinationals, are asked to sign a statement choosing a job over a union. Those who are not prepared to give up their right to unionise are not hired. There is particular concern about the behaviour of Chinese multinationals in the country and their failure to respect the rights of Zambian workers.

Increasing reluctance to bargain: While collective bargaining is relatively widespread, national and municipal authorities have been increasingly reluctant to bargain with their employees or their union. Disputes drag on for many months, with consistent allegations of bad-faith bargaining being levelled against the authorities, resulting in the workers going on protracted strikes, deemed illegal due to the restrictive legal requirements.

But some transport workers' unions still barred: The United Transport and Taxis Association, the Bus Driver and Motor Taxis Association and the Passengers' Transport Association, deregistered in 2003 for allegedly promoting anarchy, remained deregistered.

Casualisation of labour makes organising difficult: In recent years, there have been reports of companies increasingly employing casual labour, paying workers at probationary rates despite their having been working for a number of years. The Shoprite chain of shops has been one of the worst culprits, and a survey by the Zambia Congress of Trade Unions (ZCTU) showed that the company is increasingly using casual workers, and that every time a permanent worker is fired, s/he is replaced by a casual worker without any benefits. After six months a worker automatically becomes permanent but employers often fire workers before the six months have been completed. Contracted workers are not entitled to any

benefits. The authorities say they are revising labour laws to curb casualisation (short-term contract work).

VIOLATIONS IN 2006

Background: President Levy Mwanawasa, head of the Movement for Multiparty Democracy (MMD) won a second and final five-year term of office in the September 2006 presidential elections. During the electoral campaign opposition candidate Michael Sata of the Patriotic Front strongly criticized Chinese-run businesses in the country, including the mining sector, accusing them of profiteering instead of investing, and of neglecting the safety of Zambian workers.

Casual workers at ZESCO's Kafue Gorge Power Plant Project jailed after going on strike: In early January, police arrested and, according to media reports, imprisoned 30 casual workers at the Kafue Gorge project of the Zambian state electricity company ZESCO who had gone on strike. Yotam Mtayachalo, General Secretary of the National Energy Sector and Alliance Workers (NESAWU) explained that they were protesting because many casual workers in ZESCO were getting low salaries that are never paid on time.

Dismissal and suspension of union leaders by ZESCO criticised: In February 2006, ZESCO fired NESAWU President Peter Chupa, along with several branch leaders, and cancelled the legitimate union responsibilities of NESAWU General Secretary Yotam Mtayachalo. ZESCO's retaliatory measures against NESAWU had intensified since the company withdrew the union's recognition agreement in April 2005. ZESCO workers in Kitwe went on strike to protest against the dismissal and suspension of their union leaders. ZESCO's Public Relations Manager Monica Chisela denounced the strike as a violation of labour laws, since essential workers had no right to protest or go on strike.

Striking Chambishi copper mine workers shot by management and police: According to Albert Mando, General Secretary of the National Union of Mining and Allied Workers (NUMAW), workers at the NFC Africa copper mine, a Chinese-owned operation in Chambishi, north-eastern Zambia, were shot and wounded by both the police and Chinese management during a strike in July. The workers had gone on strike over reports that management was going to renege on an agreement for a wage increase.

National law on unionisation of workers flouted by Trentyre Zambia: The National Union of Transport and Allied Workers (NUTAW) reported that Trentyre Zambia, a subsidiary of Tredcor Zambia Limited (owned by Goodyear Tire & Rubber Company) was deliberately avoiding the law permitting the registration of unions that have more than 25 workers. According to NUTAW Deputy General Secretary Andrew Banda, 34 workers had applied for membership of the union in May 2006, but upon receipt of the letter of intent to enter into a recognition agreement, in July 2006 the company declared four workers redundant, and forced another seven workers to resign from the union, bringing the total number of workers to under twenty-five. NUTAW reported the violation to the Labour Commissioner in August 2006.

Zambia United Local Authority Workers Union complains about unfair suspension of union leaders: In December 2006 Glandson Chunga, President of the Zambia United Local Authority Workers Union (ZULAWU) reported that Ndola City Council had suspended union leaders and threatened them with dismissal for carrying out their union duties and speaking to fellow workers during a meeting.

Government interference in finance workers' union: At the end of December the Zambia Union of Financial Institutions and Allied Workers (ZUFIAW) re-elected Ms. Joyce Nonde as ZUFIAW General Secretary unopposed. However the Labour Commissioner, Mr. Noah Siasimuna, insisted that he could not declare Ms. Nonde the winner due to a pending court case. Mr. Robert Simeza, the lawyer for ZUFIAW, firmly denied that there was a court case which barred Ms. Nonde from standing for any position. The Labour Commissioner left the Congress without conducting elections for the remaining positions.

ZIMBABWE

Population: 12,900,000 / **Capital:** Harare / **ILO Core Conventions Ratified:** 29 - 87 - 98 - 100 - 105 - 111 - 138 - 182

Trade union rights and the human rights of trade unionists continued to be trampled on by the Robert Mugabe regime in Zimbabwe. Throughout the year there were arbitrary arrests, seizure of materials, and threats and harassment of union organisa-

tions and their leaders. The most serious violation occurred in September, when security forces responded to a union demonstration with mass arrests and severe beatings of union leaders, drawing international condemnation. President Robert Mugabe was widely quoted in the media condoning the police brutality and suggesting the trade unionists had deserved to be beaten.

TRADE UNION RIGHTS IN LAW

Draconian” legislation: The Labour Relations Amendment Act (LRAA) came into effect on 7 March 2003. While it pays lip service to the existence of trade unions, in general, it makes it very difficult for trade unions to exercise their rights and has been described as “draconian”.

Technically, the Act does give private sector workers freedom of association, the right to elect their own representatives, and to join unions without prior authorisation. It allows for multiple unions per industry, provided that each is registered with the Ministry of Public Service, Labour and Social Welfare (MPSLSW).

The 2005 Labour Amendment Act gives the Registrar the power to supervise the election of officers of workers’ and employers’ organisations, set aside elections, and postpone or change the venue of an election.

Organising is allowed in Export Processing Zones (EPZs).

Labour Amendment Act removes trade union rights for public sector workers: The Labour Amendment Act excludes public sector workers from protection under labour laws by placing them under the Public Service Act, which does not provide for the right to form and belong to trade unions, collective bargaining, strikes, or alternative dispute resolution mechanisms.

Collective bargaining – agreements subject to government approval: The LRAA recognises the right to collective bargaining. However, the 2005 Labour Amendment Act, in its sections 25, 79, 80 and 81, gives the Minister of Labour the power to approve collective bargaining agreements, register and publish them – contrary to promises made by the government at the International Labour Conference in June 2004 that these sections would be repealed. The Act also states that collective bargaining agreements should provide for measures to combat workplace violence. The Zimbabwe Congress of Trade Unions (ZCTU) believes this could be used to criminalise industrial action.

Collective bargaining is not the exclusive prerogative of trade unions, as workers’ committees may also bargain at company level. The law encourages the creation of these committees in enterprises where less than 50 per cent of workers are unionised. They exist in parallel with trade unions, hence creating the potential for employers to undermine the unions by pitting the workers’ committees against them. Their role is to negotiate on shop floor grievances, while trade unions are supposed to focus on industry level issues, notably wages, and negotiate through National Employment Councils - where they exist. The workers’ committees meet with representatives of management to discuss workplace issues in a Works Council.

Works Councils have to be approved by the Ministry of Labour. The National Employment Councils must submit their agreements to the Registrar for his or her approval, and they can be vetoed if they are deemed harmful to the economy.

If 50 per cent or more of employees are union members, there is no parallel body, as the workers’ committee becomes the trade union committee.

Barriers to the right to strike: Although the LRAA recognises the right to strike, there are many procedural hurdles, including the fact that more than 50 per cent of the employees must vote for a strike, followed by a 30 day conciliation period and possible referral to binding arbitration and then a 14 day advance notice period. The sum effect of all these delaying tactics is that it is practically impossible to organise a legal strike.

The Labour Amendment Act also does not include provisions to prohibit employers from hiring replacement workers in the event of a strike. The Act also includes a section that enables employers to sue workers for liability during unlawful strikes, with penalties ranging from fines to imprisonment or both.

Strikes are prohibited in essential services. The definition of “essential” goes far beyond anything envisaged by the ILO, and includes railway engineers, electricians, transport and communications’ employees, veterinary services and pharmacies. The Minister can decide what constitutes an essential service, and so declare that any service or industry is essential and thus impose a strike ban. Those taking part in an illegal strike face harsh prison sentences of up to five years.

Repressive legislation: The 2002 Public Order and Security Act (POSA), which inter alia bans any public gatherings held without police permission. This has been used to obstruct trade union activities and harass trade unionists. Under the Act, people found guilty of disturbing the peace, security or public order, or of invading the rights of other people, are liable to a maximum Z\$100,000 fine and/or imprisonment for up to ten years. In addition, organisers of public gatherings must apply for permission at least four days in advance.

The Miscellaneous Offence Act carries less severe penalties. It is often used when charges of a public order offence cannot stand up in court. Blocking a public thoroughfare, for example, is an offence under this Act.

TRADE UNION RIGHTS IN PRACTICE

Intimidation: In practice, members of independent trade union organisations face harassment and intimidation from government forces and it is extremely difficult for them to carry out any trade union activities. Although the High Court ruled in April 2002 that the ZCTU does not need permission from the police to hold private meetings, the police have continued to interfere with its meetings.

“Illegal” strikes: The excessively complicated mechanisms for organising a legal strike means that many unions give up trying to organise a legal strike, and instead resort to “illegal” stoppages or stay-aways.

Splinter unions: The Zimbabwe Federation of Trade Unions (ZFTU) is a government created labour body designed to undermine and weaken the ZCTU. The ZFTU works closely with the ruling ZANU PF and has created splinter unions in every sector of the economy. In some cases ZFTU unions have coerced workers, telling them they have to join their union if they want to keep their jobs. The ZCTU reports that some of its members have been assaulted for wearing ZCTU T-shirts.

VIOLATIONS IN 2006

Background: President Robert Mugabe’s government continued its assault on the media, the political opposition, civil society activists and human rights defenders. Peaceful protests were often violently disrupted by police, and hundreds of demonstrators including students and trade unionists were arrested, taking advantage of repressive legislation. The government also attacked the remaining independent press through a wave of criminal prosecutions and arrests.

Armed police raid trade union offices in January: On 10 January armed police raided the offices of the Zimbabwe Congress of Trade Unions, confiscating computer discs and files. The government said it had launched an investigation into allegations of financial mismanagement by trade union leaders and the raid was a first step. ZCTU President Lovemore Matombo said it was a political move to silence the union by discrediting its leadership.

Labour activist expelled from Zimbabwe in March: On 1 March South African labour activist Pat Horn was expelled from Zimbabwe. She was to facilitate an educational activity on the ‘decent work agenda in the informal economy’ at the ZCTU Silver Jubilee School. The police also had tried to interfere with the activity itself.

Two other labour activists expelled in March: Also in March the government continued with its crackdown on the unions by deporting two visiting consultants from the Dutch trade union Federatie Nederlandse Vakbeweging (FNV). They had come to evaluate a ZCTU activity financed by the FNV.

Trade unionists refused entry into the country in May: International guests invited to participate in the ZCTU’s Sixth National Congress, held on 19 May in Harare were prevented from entering the country.

Mrs. Alice G. Siame, a consultant working for the Norwegian trade union confederation LO, and a Zambian national, entered Zimbabwe on 16 May, but was then escorted by force to Harare Airport where she stayed overnight. The following morning she was put on a plane to Johannesburg, South Africa. The LO Norway’s Programme Officer for Africa, Nina Mjønberg, was also denied entry under the Immigration Act and was forced to return on the same plane she arrived with.

Jan Mahlangu from South Africa and Wiep Basie from Holland were also denied entry.

Zwelinzima Vavi, the General Secretary of the Congress of South African Trade Unions, (COSATU), who was invited as a guest of honour to the ZCTU Congress, was also banned from entering Zimbabwe. On the same occasion, he was labelled a security threat and declared persona non grata, permanently preventing him from entering Zimbabwe.

ZCTU accused in June of violating foreign currency regulations: In June a Zimbabwe government investigator accused the ZCTU of violating foreign currency regulations, a move seen as part of a new crackdown on President Robert Mugabe’s critics. According to the state-controlled Herald newspaper, the probe had revealed that the labour movement had “flouted foreign exchange control regulations and provisions in its constitution.” Labour leaders have denied the allegations, saying the charges were part of a campaign by the government to suppress its opponents. “There is no doubt that this is part of a harassment campaign to keep pressure on civic society,” said Lovemore Madhuku, chairman of the political pressure group National Constitutional Assembly (NCA).

ZCTU offices raided in Chinhoyi in July: On 28 July, police raided the ZCTU Northern Regional Office in Chinhoyi, 100 km from Harare, and confiscated 2,000 flyers for ZCTU's campaign against high taxation in Zimbabwe.

ZCTU union flyers again confiscated in August: On 8 August, Michael Kandukutu and Wilson Kambanje, ZCTU staff from the Northern Regional Office, were taken for questioning by police and told they were going to be charged under the Criminal Law Act No. 23 of 2004, for having information (the flyers) that was wrong and could incite public violence.

ZCTU union leaders arrested in August: On 15 August ZCTU General Secretary Wellington Chibebe, travelling by car with his family from Masvingo, was arrested at a roadblock at Waterfalls Police Station, on the Mazorodze Road, and detained. The police reportedly stopped the car to search for cash, as part of a campaign to fight hyperinflation by searching for and confiscating money – which is illegal and being challenged in the courts. Excessive violence was used against Mr. Chibebe in front of his family, when he protested against its illegality.

The police manipulated the charges against Mr. Chibebe, accusing him of common assault against a policeman, under section 176 of the Criminal Law (Codification and Reform) Act Chapter 9:23. He was released on Z\$2 million bail and ordered to appear in court on 4 September 2006. The case was later postponed to 7 September because a lawsuit had been filed before the Supreme Court as to whether the Criminal Law (Codification and Reform) Act was in conformity with the Constitution.

The day Mr. Chibebe was released, ZCTU National Organiser Leonard Gwenzi was arrested carrying Z\$200,000 as he returned to ZCTU offices following a series of trade union workshops throughout the country. Mr. Gwenzi was later released without charges and the money returned after the Zimbabwean Reserve Bank acknowledged that he was carrying ZCTU funds.

Nationwide mass arrests before and during planned protests on 13 September: On 13 September the Zimbabwe Congress of Trade Unions planned to protest against hyperinflation, estimated to be the world's highest at 1,200 percent, and to demand higher incomes linking the minimum wage to the Poverty Datum Line, lower taxes, better access to antiretroviral drugs needed for combating the HIV/AIDS epidemic, and a stop to the harassment of workers in the informal economy. The protest had been announced beforehand and the police informed of planned routes. The government warned that the protest was deemed illegal as such issues were to be dealt with under the Tripartite National Forum. Routes planned for the protest as well as assembly points were blocked in many cities and ZANU PF militia wearing party regalia moved from point to point in Harare, intimidating people. After the march had lasted ten minutes trade unionists were asked to stop, then to sit down, and finally ordered onto trucks and taken to detention centres.

Trade union leaders were detained and interrogated throughout the country on the day of the protest and the day previous to the march. In some cases they were assaulted by police, in others, they were threatened or intimidated. ZCTU leaders were arrested in their homes and offices. In Masvingo and Mutare, ZCTU offices were blockaded and/or sealed closed by the army and police forces. There was repression against trade unionists and other civilians throughout Zimbabwe including in Harare, Chitungwiza, Plumtree, Gwanda, Hwange, Bulawayo, Beitbridge, Masvingo, Mutare, Chinhoyi, Kariba, Gweru, Shurugwi, Gokwe, Kwekwe, and Chegutu. In total 265 union protesters were arrested on 12 and 13 September.

Union leaders severely beaten on 12 and 13 September: In Harare, those arrested on 13 September 2006 included ZCTU President Lovemore Matombo, First Vice President Lucia Matibenga, and General Secretary Wellington Chibebe. Union members were taken to Matapi Police Station in Mbare where they were pushed and kicked into the prison then severely beaten inside the prison cells. Matombo and Chibebe could not manage to stand after the assaults and were soaked in blood; Matibenga had feet so swollen she could no longer walk.

The union leaders were at first refused medical attention and were denied access to a lawyer. On 14 September, the ZCTU members were to be transferred to Harare's Central Police Station but after spending the night the station refused to keep them due to their injuries, and insisted on receiving a report on who had assaulted them. The three were transferred back to Matapi, then transferred to hospital and only examined by physicians 36 hours after the beatings.

More information on the beatings was reported later through their lawyer Aleck Muchadehama. Chibebe had to be operated on and had a court hearing held for him on 16 September at his hospital bedside. On 15 September, 29 activists and leaders arrested in Harare were brought to court, and six of them had an arm in a sling due to injuries sustained under police custody. They were all charged under section 37 of the Criminal Law (Codification and Reform) Act, according to which it is an offence to act in a manner likely to cause public disorder. They were released on bail of Z\$ 20,000 each, told to report each Friday at the Harare Central Police Station before going on trial on 3 October. Trade unionists in other ZCTU districts were also beaten and had to receive medical attention. Lawyers for the jailed Zimbabwe labour and opposition officials said injuries included broken arms, legs, ribs, and head injuries.

The Zimbabwe Association of Doctors for Human Rights (ZADHR) issued a medical report confirming that 15 were

assaulted while in police custody. "These were injuries consistent with beatings with blunt objects, heavy enough to cause fractures (nine fractures in seven individuals) to hands and arms, and severe and multiple soft-tissue injuries to the backs of the heads, shoulders, arms, and buttocks and thighs," the ZADHR said in a statement.

Union leader detained at the Harare International Airport: ZCTU Assistant General Secretary Japhet Moyo was detained and interrogated for two hours at the Harare International Airport on 19 September. He was accused of having organised the 13 September protests and then of leaving the country to disseminate lies about Zimbabwe. Moyo was reportedly ordered not to talk about the incident since it was "just a routine security check."

Trade unionists refused entry on International Day of Action on Zimbabwe: On the International Day of Action on Zimbabwe on 22 September, against the torture that took place on 12 and 13 September, a four-person labour delegation of the USA AFL-CIO constituency group Coalition of Black Trade Unionists led by AFL-CIO Vice President William Lucy was refused entry into Zimbabwe.

Mugabe condones assault on trade union leaders: On 25 September Mugabe told media that the police were right in using violence against the trade union members. "The police had reason to deal severely with the ZCTU leaders during their manifestation, because they wanted to take the law into their hands... it is not possible to have a situation where people decide to sit down in non-authorised places and when the police try to chase them away they say no... when the police say move, move. If you don't move, you invite the police to use force." Mugabe also said that "some people are now crying foul that they were assaulted, yes, you get a beating."

September break-in at the office of the ZCTU General Secretary: On 29 September the office of ZCTU General Secretary Wellington Chibebe were broken into by unknown assailants. Only a phone handset and a fax machine were missing, suggesting that specific information had been sought.

Journalists' union threatened with inquest into "anti-government propaganda" in October: On 3 October the media reported that the governmental Media and Information Commission had requested the Ministry of Information to begin an investigation into the Zimbabwe Union of Journalists (ZUJ) for "anti-government propaganda."

Trial of 31 ZCTU activists repeatedly postponed: On 3 October the Zimbabwe Congress of Trade Unions reported that a Harare magistrate postponed the trial of 31 ZCTU activists arrested on 13 September for taking part in the mass action, after a request from the ZCTU lawyer who said those injured were not yet fit to stand trial while others were still recuperating. They were no longer required to report to the police every Friday. On 17 October, the trial was postponed again, to 30 October. In early November the trials were once again postponed to 4 December, and then on 7 December, they were postponed till 26 March 2007.

The government threatened to remove union leaders in October: On 29 October Robert Mugabe's nephew Leo was reported to be moving a motion in Parliament that would seek the removal of ZCTU leadership for "unethical conduct... and for abandoning its core business of representing workers to pursue politics." A ZCTU official commented this was part of the government's intimidation tactics and part of a programme to further reduce the democratic space.

Government says use of force justified: In response to expressions of concern by the International Labour Organisation about the beatings of officials and members of the Zimbabwe Congress of Trade Unions on 13 September, the government said that labour leaders had been trying to violently overthrow President Robert Mugabe. Permanent Secretary of the Labour Ministry Lancaster Museka said union leaders had no right to engage in an illegal demonstration, and the alleged attempt to unseat the Mugabe government justified the use of force against the protest leaders.

Security agents seize donated radios: In December 2006 the Progressive Teachers Union of Zimbabwe (PTUZ) reported that police and suspected agents of the Central Intelligence Organisation had been seizing radios donated to union members. The PTUZ had distributed the solar-powered radios to members in remote parts of the country to allow them to listen to independent news broadcasts from outside Zimbabwe. PTUZ General Secretary Raymond Majongwe told media that the union planned to take legal action to recover the radios.