

2013

COUNTRIES AT RISK

VIOLATIONS OF TRADE UNION RIGHTS

Countries at risk

Violations of Trade Union Rights

The International Trade Union Confederation (ITUC) is a confederation of national trade union centres, each of which links the trade unions of that particular country. It was established on 1 November 2006, bringing together the organisations which were formerly affiliated to the ICFTU and WCL (both now dissolved) as well as a number of national trade union centres which had no international affiliation at the time. The new Confederation has 315 affiliated organisation in 156 countries and territories on all five continents, with a membership of 175 million, 40 per cent of whom are women. It is also a partner in "Global Unions" together with the Trade Union Advisory Committee to the OECD and the Global Union Federations (GUFs) which link together national unions from a particular trade or industry at international level. The ITUC has specialised offices in a number of countries around the world, and has General Consultative Status with the Economic and Social Council of the United Nations.

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Foreword

“Working people are now in the frontlines of a misguided war on collective bargaining, minimum wages and social protection. These distributive tools, fundamental to reducing growing inequality, threaten the greed of large corporations and those institutions and political forces who put big business before people.” Sharan Burrow (General Secretary, ITUC)

The vast majority of the global population are workers contributing to the well-being of their families and the wealth of their communities and countries. However the world of work is becoming more insecure as unemployment is rising, young people and minority groups are being marginalised and labour rights are under attack. Trade unions channel the collective voice of workers against the current dominance of global corporations and their supply chains. Collective bargaining, when it works effectively, provides a counter balance to the inherent asymmetry between the powerful employer and the individual worker. Unions thus help bring democracy to the workplace. With more than 200 million members, trade unions are the largest and most democratic social movement in the world. Participatory decision making in industrial relations also means that information sharing, transparency and team work can be facilitated. This leads to well informed decision making and higher productivity. It also builds trust between the different stakeholders which is crucial in resolving differences and avoiding conflicts of interests that can provoke costly implementation delays.¹ However, the role of unions is not limited to these aspects- they are also key to overcoming major socio-economic challenges.

Unions reduce income inequality: There has been a dramatic increase in income inequality in the last three decades. This is true in all regions and most countries. Causes of rising income inequality include: increased international trade, technological change, financial market deregulation, tax competition, the diminished role of the State in providing income transfers and social protection, the weakening of labour market institutions and an explosion in precarious work (such as short term contracting and subcontracting). The impact of these various forces is reflected in significant declines in the wage share of national income (and a corresponding increase in the profit share of corporations), widening gaps between those at the top and bottom of the wage distribution and an even larger gulf between the total incomes of the super-rich and very poor.²

Several studies have identified restrictions on the role of unions as being one of the labour market factors contributing to rising income inequality. Indeed, it is widely recognised that strong unions and high collective bargaining coverage help reduce wage inequality and produce a fairer distribution of income.³ Given that globalisation, technological change and several other causes of widening

income inequality are highly unlikely to be reversed, the best and fastest way to re-establish an appropriate income distribution would be through the strengthening of unions and collective bargaining.

Unions defend jobs: Global unemployment reached 197 million in 2012. However, such figures vastly underestimate the real level of labour market distress. Underemployment has increased dramatically and the ranks of discouraged workers who do not qualify as “unemployed” have been expanding rapidly. The evidence shows that countries with a strong legal and institutional framework for trade union rights, and also countries with highly centralised or coordinated bargaining structures, have better labour market performance than other countries.⁴ Strong unions and highly coordinated collective bargaining help boost economic growth and employment and also reduce unemployment. The main path from strong unions and coordinated collective bargaining to desirable economic outcomes flows through higher domestic demand, increased productivity and an enhanced ability to cope with adverse economic shocks. Countries with strong unions, coordinated collective bargaining and sound social dialogue also have the institutional structures to reach consensus and implement comprehensive economic reforms without endangering social cohesion or political stability.⁵

Unions protect the interests of all workers: More than 40 per cent of workers in two-thirds of emerging and developing countries are employed in the informal economy. In Sub-Saharan Africa many countries have informal economies that encompass 80 per cent or more of non-agricultural workers and most sectors of the economy.⁶ Workers in the informal economy are usually excluded de facto from legal protection. This means they are completely deprived of their fundamental rights as workers.

Unions have been attempting to organise informal workers and have had considerable success in some countries. Unions have also implemented national and international campaigns to extend workers’ rights and labour legislation to workers in the informal economy. Unions help build coalitions with informal workers’ associations to strengthen their organising capacity, negotiating power and political influence.⁷ Furthermore, wages and employment conditions set through collective agreements in the formal sector often help to establish an informal “floor” for wages and conditions throughout the economy. Studies have also established that countries with strong freedom of association and collective bargaining rights tend to have a smaller share of informal employment.⁸

Unions are at the forefront of the fight for gender equality: The average gender pay gap has been estimated at 20 per cent and has not diminished in recent years.⁹ But this gap is much higher in some countries. For example, Zambia with

almost 46 per cent has the largest gender pay gap followed by South Korea with 43 per cent.

Unions in numerous countries including Austria, Belgium and Spain have taken direct action for equal pay. A study by the ITUC has revealed that sectors that are traditionally unionised, such as the public sector, tend to have lower gender pay gaps. While sectors with low unionisation rates and low wage levels, such as retail, hotels and restaurants, and agriculture, tend to have relatively higher gender pay gaps.¹⁰ Furthermore, it has been demonstrated that in countries where unions have been able to conduct collective bargaining for a significant proportion of workers the gender pay gap has been reduced.¹¹

Attacks against trade union rights: The importance of unions in protecting the rights and interests of workers and for ensuring participatory solutions to today's major challenges is evident. Clearly defined and coherent international legal instruments protect and promote freedom of association and the right to collective bargaining.¹² Despite this, unions and their members are still exposed to severe violations of their rights. Unions are increasingly under attack, decreasing their membership levels and the ability to effectively promote and defend the interests of workers.

Violence against unions: Genuinely free and independent trade unions can only exist in a climate free of violence, pressure, fear and threats of any kind,¹³ where fundamental human rights are respected.¹⁴ In countries where threats and violence against trade unionists occur, union membership decreases, making it impossible for unions to represent the interests of workers. For example, in Guatemala where 53 trade unionists were murdered during the past six years, only 1.6 per cent of workers are trade union members. Union members have faced violence in 24 out of 87 countries (for which information is available). 18 trade unionists have been killed in Colombia since January 2012.

Denial of civil rights: Where trade unions cannot exercise their fundamental civil liberties - including freedom of speech - they cannot effectively represent the interests of workers by formulating policies on employment. However, in 14 out of 87 countries, fundamental civil liberties have been restricted by the government or employers. For example, in Fiji, recent decrees have required prior approval from the authorities for public meetings, give the government sweeping powers to arrest and detain individuals for exercising their rights and, most recently, have prohibited trade unionists from meaningfully participating in the political process.

Union members face discrimination: Workers who are subjected to discriminatory measures on account of their trade union membership or activities cannot exercise their right to freedom of association. To have a real choice, workers have

to be sufficiently protected against employer interference and discrimination by effective anti-discriminatory measures. Anti-union discriminatory measures include prejudice in employment because of trade union membership or activities,¹⁵ such as dismissal or other aspects of employment. In 46 out of 87 countries workers have been subjected to anti-union discrimination.

Interference in activities: Interference by public authorities and employers makes it impossible for unions to hold activities in order to determine policies and strategies making it very difficult to defend workers' interests.¹⁶ In Zimbabwe, for example, there is regular interference in trade union activities from security forces. This does not allow unions to freely conduct their meetings because members are intimidated by the threat of retaliation for critical statements against the government policies. In Iran, the government has also intervened in trade union activities and has prohibited unions from criticising economic policies- this makes it impossible for unions to bring the voice of workers into the socio-economic debate.

Denial of collective bargaining rights: Collective bargaining is essential for making collective representation effective and improving the living and working conditions of workers.¹⁷ Yet, collective bargaining mechanisms are absent or insufficient in several countries such as Ethiopia where teachers do not have the right to bargain or Hong Kong where the legislation does not provide any guarantees with regard to collective bargaining. In 22 out of 87 countries, employers have refused to bargain with workers in good faith despite an existing legal and institutional framework.

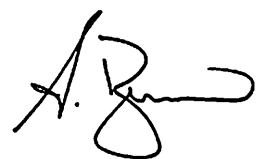
The financial crisis has also had a serious impact on collective bargaining- in particular in Europe where new policies favour enterprise level bargaining. Multi-employer collective bargaining systems and extension mechanisms have been weakened in countries such as Portugal, Greece, Romania, Spain and Italy. Not only have these reforms put barriers to bargaining but they have also had a major impact on trade union strength. It is impossible to have a comprehensive system of enterprise level collective bargaining in countries with a large proportion of small firms unless trade union density is extremely high. Unfortunately trade unions in most countries do not have the time or resources to organise workers and bargaining in a multitude of micro enterprises. In addition, a move to enterprise level bargaining fuels destructive competition over labour costs, puts downward pressure on wages and creates a strong incentive for employers to adopt anti-union practices and disengage from collective bargaining. Based on the trends observed so far, these reforms could potentially lead to the weakening

of collective bargaining in the private sector plus a massive increase in the power of employers to dictate conditions and control workers.¹⁸

Precarious work: It is often alleged that employment protection legislation (which concerns the rules related to dismissal and severance payments) discourages enterprises from hiring new workers because employers will face restrictions and high costs if they need to dismiss workers at a later stage. However empirical studies have repeatedly failed to find a significant relationship between strong employment protection legislation and high unemployment.

Nevertheless governments in the vast majority of countries have been convinced to alter their labour legislation to encourage various forms of precarious work. In virtually all countries, temporary work, agency work, part-time work and other types of informal work are expanding rapidly. For example, 7.5 million people are working under the “mini-job” regime in Germany meaning they can earn up to 450 euro a month without paying tax and social security contributions. Wages can be as low as 3 euro which has recently been criticised by Belgium for undermining EU competition rules. Precarious employment contracts not only have an impact on union membership, but also on the fragmentation of collective bargaining. Given their unstable employment situation and the high risk of dismissal, precarious workers are discouraged from joining unions and being covered by collective bargaining. This means that workers in precarious forms of employment do not have the necessary support to improve their work situation. Insufficient employment protection legislation therefore leads to more precarious work for individual workers and strategically weakens the union movement and its bargaining power.¹⁹

The ITUC has 315 affiliated organisations from 156 countries and a membership of 175 million. We have a responsibility to monitor all violations against unionists and to defend the rights of all working people. The publication provides an analysis of the situation in seven countries where trade unionists are under extreme risk: Zimbabwe, Swaziland, Fiji, Burma/Myanmar, Guatemala, Georgia, and Bahrain. Part II gives an overview of violations of trade union rights reported in 80 countries. Regularly updated information on violations of trade union rights will be publically available from October 2013 on the ITUC website (www.ituc-csi.org).

A handwritten signature in black ink, appearing to read 'A. Burrow', with a stylized, flowing script.

Sharan Burrow, General Secretary

Countries at risk

The ITUC is responding to violations of trade union rights wherever they occur. Trade unions in a number of countries are under extreme risk and thus the ITUC is engaged in a comprehensive and intensive campaign to support their struggle for fundamental rights. Severe attacks on trade unions in Burma/Myanmar, Fiji, Georgia, Guatemala, Bahrain, Swaziland and Zimbabwe have put the existence of trade unions and democratic institutions at extreme risk. Political, trade, corporate and organising campaigns are taking place in these countries. National and international mechanisms are used to achieve changes in law and policy. As a result, the Georgian government is currently reforming its labour code to realise freedom of association and collective bargaining rights. This will allow the Georgian Trade Union Confederation to organise and protect more workers. The Federation of Trade Unions-Myanmar organised more than 18,000 new members within 6 months and the government of Guatemala is now engaging with the ITUC to agree on a comprehensive reform package to improve trade union rights. Nevertheless, major challenges and difficulties remain which are highlighted in the following section in more detail.

ZIMBABWE



To maintain his tight grip on power, Robert Mugabe has not hesitated to attack the political opposition and critical opinions through the security forces and restrictive laws. The trade union movement is the strongest voice against irresponsible and autocratic policies. This comes at a high cost: trade unions are harassed by police and denied registration; activities cannot be carried out without fear; dues are not remitted; legitimate strike action is restricted; and there are serious limitations on collective bargaining.

HISTORIC POWER-SHARING DEAL ON THE SURFACE

The Zimbabwe African National Union – Patriotic Front (ZANU-PF) led by Mugabe refused to admit defeat when on 29 March 2008 it lost elections to the Movement for Democratic Change (MDC). Election results were not published for five weeks, pushing the country into political and economic instability until the conclusion of the Global Political Agreement (GPA). The coalition government subsequently formed did not, however,

reflect the will of the population expressed at the ballot box. The Southern African Development Community's (SADC) failure to emerge collectively as a credible mediator was seen as one of the major causes.

A constitutional referendum and general elections are on the political agenda for 2013. The constitutional referendum took place on 16 March 2013. Then, 94.2 per cent of the voters supported the new constitution which introduces improvements with respect to fundamental civil rights. The Zimbabwe Election Support Network considered the referendum as peaceful which led the European Union (EU) to ease targeted measures it had adopted against 81 officials and 8 companies – not including Mugabe and 10 of his associates. The fact that the draft was only released three weeks prior to the referendum and was not translated into local languages prevented broad and informed consultation. General elections are expected to take place in July 2013. Trade unions and civil society actors are actively promoting free and fair elections but are vulnerable to increased attacks before and after the elections.

RELATIVE ECONOMIC STABILISATION HAS NOT CREATED JOBS

Political instability also had an adverse impact on the economy. Zimbabwe experienced relative economic stabilisation after the establishment of the “inclusive government” in 2009. While Gross Domestic Product (GDP) declined by 17.8 per cent in 2008, 9.38 per cent growth was recorded in 2011 mainly driven by sectors such as agriculture, mining, manufacturing and transport. Foreign direct investment (FDI) has been increasing constantly and now accounts for 4.01 per cent of the GDP.²⁰

But, these improvements have not translated into better jobs. An estimated 84 per cent of the working population (4.6 million) work in informal employment according to a Labour Force Survey carried out in 2011. Furthermore, 52 per cent of the labour force work less than 40 hours a week and is thus under-employed.²¹ Minimum wages are set well below the poverty line (US\$500) and have not been adjusted since 2009. Domestic workers have the lowest minimum wage rate (30 USD/month).²²

Hence, it is not surprising that 39.1 per cent of the population live in multidimensional poverty. Zimbabwe ranks 172 out of 186 countries in the human development index, which assesses development on a long and healthy life, access to knowledge and a decent standard of living.²³ While all other countries improved their human development status, Zimbabwe is one of the two countries which had a lower human development status in 2012 than in 1990.²⁴

FREEDOM OF ASSOCIATION

The initial support given to the establishment of the Zimbabwe Congress of Trade Unions (ZCTU) in 1981 immediately ceased when the union started to criticise the government on socio-economic issues such as the de-regularisation of the labour market and the introduction of the Economic Structural Adjustment Programme (ESAP) in 1991. Today, trade unions are subject to extensive restrictions imposed by law and government policy.²⁵

Political Harassment of Trade Unions and Civil Society

Civil liberties are recognised in principle in the Constitution of Zimbabwe and in the GPA which also refers to freedom of assembly and association.²⁶ However, these rights are severely compromised by the Public Order and Security Act of 2002 (POSA) and the Criminal Law (Codification and Reform) Act of

2006 under which acts and opinions considered detrimental to the public order or interest are punishable by up to five years imprisonment. Police and security forces have extensively used these laws to repress basic civil liberties and trade union rights. United Nations (UN) Special Rapporteurs have expressed serious alarm regarding the increase in attacks against civil society actors, the arrests and use of force against peaceful protesters by the police.²⁷

The communications office of MDC leader Tsvangirai was raided by police on 17 March 2013.²⁸ Human rights lawyer Beatrice Mtetwa, who intervened during the raid, was arrested for obstructing justice and only released on bail on 25 March after an outcry from civil society.²⁹ On 19 February, police announced that it was authorised to seize radios and raid offices of the independent election group Crisis Coalition in search of alleged subversive materials.

ZCTU members are particularly vulnerable to police violence as public perception links them to the MDC, even though it has been repeatedly made clear that while the ZCTU facilitated the formation of the MDC in 1999, the operations and goals of the union are independent.

Restrictions on the Establishment of Trade Unions

While the Labour Act (LA) gives workers the right to establish unions, the Registrar has absolute discretion over registering unions after a 30-day consultation period with all “interested” parties (Article 42). The Minister of Public Service is responsible for the registration of public service workers and has similar excessive discretionary powers.³⁰ The Zimbabwe Metal Energy and Allied Workers’ Union (ZMEAWU) have been waiting a for registration certificate from the public authorities for 7 years. The unions, namely Zimbabwe Ferrow Alloys Workers Union, Zimbabwe Iron and Steel Workers Union, Automotive and Allied Workers Union and Electronics Communication and Allied Workers Union merged in 2007 to form ZMEAWU. The union is also representing 3,000 employees at Zimbabwe Iron and Steel Company now partly owned by New Zimbabwe Steel and the Zimbabwean government.

The National Engineering Workers Union is owed an estimated US\$80,000 by more than 20 companies.

Police Attend and Interfere in Union Activities and Elections

Police and state intelligence services regularly attend and spy on union activities. The law permits public authorities to

annul union elections if they were not considered to have been “properly” conducted or if the results are not considered to be adequately representative of workers’ views. In addition, public authorities may investigate unions without prior notice and question any person on the premises if the union is suspected of not using funds for the interests of its members. These regulations give unrestricted powers to public authorities who do not shy away from abusing them in order to intimidate and compromise trade union activities. For example, police prohibited the celebration of International Human Rights Day on 10 December 2012. On 18 January 2013, two police officers namely constable Torongo and constable Singo from Police Intelligence services (Harare Police Central) came to the ZCTU head office demanding to be part of a meeting that was to be held at ZCTU. Ironically, the ZCTU had no such meeting.

Employers do not Remit Union Dues

The law prescribes that unions and employers may agree on the collection and transfer of union dues - employers violating such agreements may be liable to a fine or imprisonment of up to two years. However, the Minister has the right to interfere with any arrangement if s/he considers this to be in the interest of the workers.³¹ Non-remittance of union dues has become a widespread practice in Zimbabwe and has brought unions into financial difficulties in terms of their activities and their existence. Between February and June 2009 the ZCTU was not able to receive remittances as workers were paid in allowances and in-kind during that period. The Zimbabwe Railways Workers Union, Railway Artisan’s Union, Railway Association of Engineman and Railways Association of Yard operating Staff have not received union dues for over two years. Manufacturers Bata Shoe Company, Superior Footwear and Conte Shoes are also not remitting subscriptions to the Zimbabwe Leather Shoe and Allied Workers Union. The National Engineering Workers Union is owed an estimated US\$80,000 by more than 20 companies.³² Companies in the security sector are also notoriously refusing to either deduct union dues³³ or to remit them to unions.³⁴

“Most politicians are also employers. Weakening unions by not remitting dues serves both their business interests and silences critical voices.”
George Nkiwane (President, ZCTU)

Excessive Limitations on the Right to Strike

Broad categories of workers are excluded from the right to strike: public sector workers; workers in essential services including veterinary services; workers at the Zimbabwe

Revenue Authority; health services; and transport and communication services. Strikes are only permitted with respect to interest disputes but not rights disputes.³⁵ These restrictions greatly limit the possibility of calling a legal strike. Participation in a legitimate but illegal strike can lead to up to five years imprisonment. Police regularly interfere to end strikes. For example, the mining company Renco Mine in Masvingo called the police to end a legitimate and peaceful strike embarked on by its employees in February 2013 concerning non-payment of wages over a 7-month period.

COLLECTIVE BARGAINING

Collective bargaining takes place at enterprise level and industry level. At enterprise level, work councils negotiate collective agreements which become binding after they are approved by 50 per cent of the workers in the bargaining unit. Industry level bargaining takes place within the framework of the National Employment Councils (NEC). In case of conflict between agreements concluded at different levels the provisions which are more favourable to the worker apply. The Ministry of Labour and Social Welfare has claimed that there are 45 NECs. Unions representing at least 50 per cent of the workers can bargain with the authorisation of the Minister.³⁶ Members of the ZCTU have stated that employers often do not recognise their affiliates within the NECs.

Employers Refuse to Bargain in Good Faith

Refusal to bargain in good faith is considered as an unfair labour practice and is prohibited by law (Art.8 (c) LA). Yet, employers frequently abuse institutional weaknesses by creating a deadlock in the bargaining process. This means that the dispute is referred to arbitration and then to court and both fail to come to a decision in a reasonable timeframe, rendering the whole process futile. Unions, especially agricultural workers, have also reported verbal and physical attacks by employers during negotiations. The Motor Vehicle Manufacturers Employers Association has not concluded a collective agreement with the Motor Vehicle Manufacturers Workers’ Unions since 2007. An arbitral award of 2010 in favour of the employees was ignored by the employers. The NEC for the manufacturing industry has become almost dysfunctional because several companies such as Quest Manufacturing and AVM Africa have withdrawn from negotiations.

Interference in Collective Agreements

Collective agreements are legally binding but have to be amended at the request of the Minister if s/he believes it is “unreasonable or unfair.”³⁷ This decision should be left to the

legitimate representatives in the negotiations. Recently, public authorities imposed a fee of 1,000 USD for the registration of collective agreements which is excessive and dissuasive. Furthermore, employers often disrespect collective agreements and court decisions. For example, the Zimbabwe Electricity Supply Authority has refused to comply with the wage increases awarded by arbitration. The company has unilaterally changed provisions of valid collective agreements with regard to pension contributions.

IMPACT

Today the ZCTU represents more than 250,000 workers in a country where the estimated size of the formalised workforce is 606,000.³⁸ The union does not only protect the rights of its members but also of other vulnerable workers. Since 2002, the ZCTU has carried out various initiatives in order to organise workers in the informal economy, in particular by assisting them to establish a national association for the informal economy- the Zimbabwe Chamber of Informal Economy Association. Organising youth and women, who constitute 52 per cent of the population and are often excluded from leadership positions, is one of the key targets. The ZCTU³⁹ propose pro-poor and so-

cially inclusive socio-economic strategy to improve the welfare of all citizens and the recovery of the economy. The union movement plays an active role in promoting free and fair elections through voter education and awareness raising campaigns.

However, increased attacks on civil society and in particular on trade unions have created an environment of fear which deters workers who want to join unions or engage in trade union activities. Between 2009 and 2010 almost 10,000 members left the ZCTU.⁴⁰ Unfortunately it is not only the security forces which are responsible for the weakening of trade unions. Employers abuse the weaknesses in law and institutions and refuse to bargain with unions. This has a serious impact on the capacity of unions to represent their members in negotiations and to achieve fair agreements. The non-remittance of union dues by employers makes it impossible for the union movement to sustain itself financially. Tripartite social dialogue advocated by the International Labour Organization (ILO) has so far only served as window dressing and there have been no real changes in law and policy. In fact, there is no meaningful consultation on social and economic policies which could improve the situation. In 2013, ZCTU members run a serious risk of being targeted by security forces in the run up to elections.

WHAT NEEDS TO HAPPEN IN 2013?

- The recommendations of the ILO Commission of Inquiry must be implemented in a timely and effective manner.
- Zimbabwe must accept international observers to monitor the entire electoral process.
- Employers must remit union dues.

SWAZILAND



Poverty, inequality and unemployment have reached levels that cost lives in Swaziland. King Mswati III and a powerful political elite appointed by him control and benefit from this situation. To avoid political and economic change that could improve people's lives, the government attacks those who attempt to exercise the right to freedom of association and collective bargaining. Legal gaps are abused to prevent the unification of the trade union movement which could voice criticism and policy proposals more effectively. Strategic fragmentation weakens one of the most effective tools to achieve redistribution of wealth in a fair and socially cohesive manner - collective bargaining.

SOCIO-ECONOMIC CONTEXT

Workers and their families face major socio-economic hardship in Swaziland. The unemployment rate stands at 28.5 per cent and is even higher when including all discouraged workers (40.6 per cent) according to Labour Force Surveys carried out in 2007 and 2010. Despite its diversified production base and skilled labour force, Swaziland's annual growth rate (2.3 per cent) between 2001 and 2011 has been well below the average in sub-Saharan Africa (5.8 per cent annually).⁴¹ Swaziland has also one of the highest inequality rates in the world. The income share held by the highest 10 per cent is

estimated at 40.1 per cent while for the lowest 10 per cent it is 1.7 per cent.⁴² Within this context it is hardly surprising that the national poverty rate is estimated at 63 per cent and 29 per cent of the population lacks food security. Widespread poverty and inequality have a significant impact on health. Life expectancy fell 5.4 years between 1980 and 2012 and was estimated at 48.9 years in 2012. The HIV prevalence rate is the highest in the world. In 2007, it was estimated that 26 per cent of the population aged between 15 and 49 years are HIV positive.⁴³ This has not led King Mswati III, who has absolute discretion over national income, to introduce comprehensive social security schemes. Instead, he has accrued a personal fortune of 100 million USD and is considered one of the richest monarchs in the world.⁴⁴

LAST ABSOLUTE MONARCHY IN AFRICA

Even though a constitution was introduced in 2005, power relations have not changed. Swaziland remains the last absolute monarchy in Africa. King Mswati III appoints the Prime Minister, Cabinet, ambassadors, security chiefs and local chiefs. The judiciary is based on Roman-Dutch law and traditional courts practice customary law under the "Tinkhundla" system. This means that the king, local chiefs and the National Council are governed by customary law and cannot be held accountable

in civil or criminal courts. In any case, the independence of the judiciary is questionable given that all judges are appointed by the king on the recommendation of the Judicial Services Commission.

29 per cent of the population lacks food security.

Political parties are banned⁴⁵ and freedom of speech and assembly are severely restricted by the Public Order Act of 1963 and the Suppression of Terrorism Act used by police and government to silence dissidents. As a result most journalists practice self-censorship. The Public Order Act, 1963 which was enacted by the British colonial authorities gives the police the right to “control and direct the conduct of all public gatherings” or to prevent the holding of public gatherings (Art. 3). The Suppression of Terrorism Act 2008 defines terrorism in very broad terms as “an act or threat of action that involves prejudice to national security or public safety.” Furthermore, the government has absolute discretion over the classification of an organisation as a “terrorist” organisation. This power has been used in order to silence civil society groups by labelling them as “anti-Swazi” or “traitors.” The People’s United Democratic Movement (PUDEMO) is the main opposition party but remains banned under the Suppression of Terrorism Act 2008. Sipho Jele, a political activist, died in police custody in 2010 after being arrested for wearing a T-Shirt of PUDEMO. On 3 September 2012, security forces violently dispersed a rally organised by PUDEMO in Matsapha to draw attention to the lack of democracy in the country.

FREEDOM OF ASSOCIATION

The government aims to undermine the trade union movement by hampering the unification of the unions and by harassing and intimidating workers who want to join unions or engage in union activities.

Until the Trade Union Congress of Swaziland (TUCOSWA) demanded free and fair elections in 2013, instead of arbitrary appointments by the king, the Ministry of Labour and Social Security considered the unification of the labour movement under the federation as an “important milestone in the history of industrial relations and freedom of association in the Kingdom of Swaziland.”⁴⁶ TUCOSWA was registered on 25 January 2012 by the Ministry of Labour and Social Security in accordance

with the Industrial Relation Act. In response to TUCOSWA’s criticism of the absolute monarchy, the Commissioner of Labour and the Attorney General decided to de-register TUCOSWA arguing that the Industrial Relations Act does not provide for the registration of “federations” but of “organisations.” The Industrial Court ruled on 27 February 2013 that the law does not provide for the registration of federations and asked the government to determine a modus operandi for registration together with TUCOSWA. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Committee on Freedom of Association (CFA) urged the government to register TUCOSWA without delay recalling that Article 5 of ILO Convention No. 87 recognises the right of workers’ organisations to establish or to join federations and confederations of their own choosing.⁴⁷ All affiliates of TUCOSWA have petitioned the government to recognise TUCOSWA as their legitimate representative. Yet, the government refuses to meet with TUCOSWA. As a result, there is no national centre recognised by the government of Swaziland since the two national centres that existed before (Swaziland Federation of Trade Unions and Swaziland Federation of Labour) were formally dissolved to give way to the formation of TUCOSWA. Independent workers’ organisations are consequently barred from participating in tripartite statutory bodies for social dialogue. Trade union activities in public places are either prohibited or can only take place with an intimidating police presence.

To mislead the international community, the Swaziland Economic Empowerment Workers Union was recognised as the body that should represent Swazi workers at the ILO. The manner in which the union was established and whether it has any membership remains unclear. Yet, it is evident that it is used to undermine legitimate unions.

The right to strike is recognised in the Industrial Relations Act and the Constitution but is prohibited in practice by the abusive application of the Public Order Act and the Suppression of Terrorism Act. Police use excessive violence to repress any strike that takes place, arresting trade unionists and their leaders and using torture to obtain information. Furthermore, the trade union movement leadership faces civil liability for damages or income losses during a strike.

Security forces prevented protest action on 12 April 2012 on the occasion of the 39th anniversary of Swaziland’s state of emergency. Marches and prayer meetings were dissolved by imposing a ban on gatherings of more than two people. Trade union leaders were arrested and travel bans imposed to stop peaceful demonstrations. The First Deputy President of TUCOSWA, Sipho Kunene, and Second Deputy General Secretary Muzi Mhlanga were both arrested and later released.

Wonder Mkhonza, Deputy General Secretary of the Swaziland Processing, Refining and Allied Workers' Union, Emmanuel Dlamini, Recording Secretary of the Swaziland National Association of Teachers (SNAT), and Sidumo Dlamini, Chairperson of the SNAT's Elections' Committee were arrested, detained and banned from entering Manzini or Mbabane when they tried to attend a meeting of the Conciliation, Mediation and Arbitration Commission. On 12 April 2013, Wander Mkhonza was again arrested in Lavumisa Border gate on allegations that he was in possession of seditious pamphlets belonging to a political organisation.

"We are no longer able to hold meetings or have access to the media. Democratic progress can only be achieved with TUCOSWA."

Barnes Dlamini (President, TUCOSWA)

Armed forces blocked all main roads leading to Manzini to prevent May Day celebrations in 2012. Ten TUCOSWA banners were confiscated and TUCOSWA's second Deputy Secretary General Muzi Mhlanga, and the Hhohho Regional Chairperson of the National Public Servants and Allied Workers Union (NAPSAWU), Oscar Nkambule were arrested and detained.

On 11 July 2012, actions by the National Public Service and Allied Workers' Union (NAPSAWU), the Swaziland Transport and Allied Workers' Union (STAWU) and the Swaziland National Association of Teachers (SNAT) were met with disproportionate violence, including the use of tear gas canisters, batons and rubber bullets. NAPSAWU President Quinton Dlamini was arrested while he was on his way to support the industrial action taken by the SNAT. They were demanding a 4.5 per cent salary increase, which is way below Swaziland's inflation rate, and the withdrawal of the newly-established 14 per cent VAT on a number of commodities. On 13 September 2012, the government withdrew charges against six of the seven suspended teachers who participated in the strike.

On 9 March 2013, police violently stopped a prayer meeting on TUCOSWA's anniversary. Police, carrying batons, took control of the Caritas Centre and stopped a commemoration prayer. The Swazi Government had, without a court order, decided that the prayers, organised by TUCOSWA were illegal because the workers' group was not officially registered with the state. On 1 May 2013, police raided the head offices of TUCOSWA at 8 am, arresting the President of TUCOSWA, Barnes Dlamini, and the 1st Deputy Secretary General, Mduduzi Gina. Their arrest followed that of Vincent Ncongwane, Secretary General of TUCOSWA, Muzi Mhlanga, 2nd Deputy Secretary General, and Jabulile

Shiba, the Deputy Treasurer General, who were all placed under house arrest for the entire day. May Day celebrations organized by TUCOSWA at the Salesian Sports Ground in Manzini were forced to be called off, as police prohibited workers from shouting TUCOSWA slogans or to display TUCOSWA banners.

COLLECTIVE BARGAINING

Institutions established to promote collective bargaining at sectoral level have been weakened as a result of inadequate commitment from government and employers. Collective bargaining at enterprise level is depleted because of the increasing fragmentation of the labour market and employers frustrating good faith bargaining.

Tripartite Wage Councils were introduced to further the conclusion of sectoral level wage agreements. The Minister of Labour and Social Security appoints a chairperson into this body. Proposals are prepared by the social partners and submitted to the meeting. The chairperson has the power to make a deciding vote on outstanding issues. Wage agreements are gazetted as Regulation of Wage Orders and are automatically applicable to all workers in the sector. Wage Councils may only be initiated by the Ministry of Labour and Social Security, which has failed to do so on many occasions arguing that it is too costly. In 2010, there was no wage increase for the agricultural sector, forestry, motor engineering, or transport sector. No Wage Councils have been held for three years to negotiate wages in the commercial, retail and wholesale sector.⁴⁸ There is also an enforcement problem, as grievance mechanisms such as the Conciliation Mediation and Arbitration Commission have been unable to enforce decisions given the backlog of cases at the Industrial Court.

The Industrial Relations Act (section 45) also promotes the establishment of Joint Negotiating Councils (JNC) to bargain over working conditions at the sectoral level. So far, only one JNC was established in the textile industry in 2005 between the Swaziland Textile Exporters Association (STEA) and the Swaziland Manufacturing and Allied Workers Union (SMAWU). But before an agreement could be reached, the STEA disbanded as a reaction to requests by the SMAWU to negotiate pay increases. On the side of the workers, there has been similar fragmentation of unions that has made it impossible to enter into united multi-employer bargaining. However, this is likely to change in the future as the trade union movement is heavily invested in sectoral mergers.

As a result, collective bargaining largely takes place at enterprise level. Agreements concluded at enterprise level can only prevail over sectoral agreements if they provide more favourable conditions to the worker. However, in most sectors, such as textile and apparel industry, the security industry, building and construction industry, employers refuse to negotiate wages at enterprise level. Although the Code of Good Practice obligates employers to declare profits so that workers can engage in well informed negotiations, employers refuse to provide this information. This proves the lack of willingness to negotiate in good faith. Threats to go on strike have failed to give bargaining leverage to unions given the excessive restrictions on the right to strike. Enterprise level bargaining has also been very resource intensive especially because of the increasingly fragmented labour market situation caused by slow economic growth and a shift towards part-time and casual employment. Companies have strategically used legal and institutional inadequacies. For example, Coca Cola, which contributes 40 per cent of the tax income of Swaziland, is using labour brokerage and

subcontracting successfully to avoid collective bargaining with unions.⁴⁹

Trade unions in Swaziland are convinced they can only achieve workers' rights and interests when they stand united. The two national level federations therefore merged in 2012 and have the support of all sectoral federations. Mergers are completed or under way in various sectors. Workers are now collectively fighting for social security, health care, living wage, democracy and better working conditions. Yet, the government, vested with unrestricted political power, puts serious barriers in place to hinder trade unions. The de-registration of TUCOSWA has meant no union activities and meetings can be carried out without fear of interference by police. Policy proposals of workers are never heard at tripartite consultations as TUCOSWA is excluded from participation. Government and employers do not comply with their obligations when it comes to collective bargaining depriving workers of a means to realise their rights and equal income distribution.

WHAT NEEDS TO HAPPEN IN 2013?

- TUCOSWA must be registered.
- Political parties must be allowed to contest during elections.
- The Public Order Act of 1963 and the Suppression of Terrorism Act 2008 must be repealed or amended.

GUATEMALA



Freedom of association has long been denied in law and practice in Guatemala. Over the last 25 years, the ILO, the UN and other international organizations have detailed extremely serious and systematic violations of the right to freedom of association, up to and including death threats and murder. Despite efforts to engage in a constructive dialogue with past governments in order to find solutions to these extremely serious violations, the fact remains that serious violations of the right to freedom of association continue unabated and without meaningful sanction (if any), leading to a situation of near total impunity. Despite many years of promises by successive governments to take the steps necessary to respond to this crisis, the situation has only worsened with each passing year.

Given the brutal anti-union violence and unchecked violations of workers' rights, it is unsurprising that current union membership stands at 1.6 per cent of the working population and that only 17 per cent of the active unions (389) have negotiated and concluded a collective bargaining agreement.

The current government headed by President Otto Perez Molina, sworn into office in January 2012, claims that his administration is different and that he simply needs more time to address workers' concerns. His government established an ILO Decent Work Country Program in the fall of 2012 and signed an agreement with the ILO and ITUC in March 2013 to establish the presence of a high level representative from the ILO and to investigate and prosecute crimes against trade unionists, as well as to negotiate a second agreement to address several additional concerns related to the exercise of freedom of association. However, it remains far too early to ascertain whether

this, like similar agreements signed by past governments, will result in real change or only more broken promises.

A CULTURE OF VIOLENCE: THE MOST DANGEROUS COUNTRY IN THE WORLD TO BE A TRADE UNIONIST

In March 2013 alone, three trade unionists were murdered. On March 8, 2013, Carlos Hernandez, member of the Executive Committee of the Sindicato Nacional de Trabajadores de Salud de Guatemala (SNTSG) and leader in several peasant organizations, was shot dead by two men on motorcycles carrying 9mm firearms. He had received a death threat by phone on February 21. His murder took place just days after the conclusion of an ILO technical mission in Guatemala, which was charged with assessing the current situation of freedom of association in the country. Santa Alvarado, also a member of the SNTSG, was kidnapped after finishing work on 21 March in the kitchens at the national hospital in Totonicapán. She was later found strangled. Kira Zulueta Enriquez Mena, General Secretary of the Sindicato de Trabajadores Municipales de Nueva Concepción in the department of Escuintla, was assassinated at the library where she worked on 22 March.

Unfortunately, these murders are just among the latest in a long history of anti-union violence. In the first three months of 2013, four trade unionists were killed. Since 2007, at least 53 leaders and trade unionists have been killed. Additionally, there have been numerous acts of attempted murder, torture, kidnappings, break-ins and death threats, which have created

a culture of fear and violence where the exercise of trade union rights becomes impossible.

This violence cannot be explained away, as the government often does, as the unfortunate result of the widespread violence in Guatemala. Indeed, much of the violence against unionists has been associated with the development of union activity specifically. The government has heretofore provided scant information to trade unions on the measures taken in any of the cases brought to its attention. Trade unions were surprised to learn of purported progress in a number of cases through the 2013 ILO Committee of Experts Report. The government claims to have issued rulings or made progress in 24 cases, though the report fails to provide any information as to the outcome of those rulings or the status of the cases. Most troubling, however, it claims that the motive in 45 cases was common crime, not union activity. In only 2 cases does the government believe that trade unionism was the motive.

Without further information, it is difficult if not impossible to evaluate any of the government's claims. However, the government's methodology for investigating these crimes has been seriously questioned in the past, as prosecutors had unilaterally determined that crimes were unrelated to union activity prior to any competent investigation having been undertaken. The echoes of Colombia are unmistakable. Nevertheless, the ILO again called on the government "to bring to justice those responsible for the violence in order to counter impunity" and to "ensure the protection of trade unionists under threat of death," among other demands.

A BROKEN AND CORRUPT LEGAL SYSTEM

The labour justice system is fundamentally broken despite millions of dollars in technical assistance and other support from the ILO and various international donors. Thus, workers who are fired for their trade union activity, a frequent occurrence in Guatemala, have no effective remedy. For example, on June 1 2012, the Palo Gordo refinery, one of the few left in the sugar industry, fired 7 of the members of the executive committee of the union, who enjoy immunity from dismissal under law, without cause, and leaving the union without legal representation. In December 2012, in the Bordados Seok Hwa S.A. company, the workers started to build a union. Following the procedure to give notice to the labour inspector, the company immediately stopped giving work to the representatives of the union. In March 2013, the company informed the Labour Minister that it wants to dismiss the union workers and pay the labour liabilities.

While the government recently hired additional inspectors, this is still woefully inadequate given the size of the workforce. Further, inspectors are given few tools necessary to do their work effectively, and have often told workers that they will perform an inspection only if their travel, food and lodging expenses are covered – which means for a poor worker that no inspection is in fact undertaken. On the rare occasion that inspectors carry out their work, they are often denied entry to factories; however, they rarely seek the assistance of police as is their right under law.⁵⁰ Further, inspectors frequently fail to talk with the victims of labour violations, instead reporting the employer's version, and thus issue factually and legally incorrect inspection reports. To date, inspectors have no power to sanction violations of the labour law following a constitutional challenge by the employers' association - Comité de Asociaciones Agrícolas, Comerciales, Industriales y Financieras (CACIF).

Since 2007, at least 53 union leaders and members have been killed.

Labour courts are equally incapable of guaranteeing respect for the labour laws. The number of labour cases filed each year sits at nearly 13,000, with over 5,000 cases of unlawful dismissal. Less than 22 judges are tasked with handling the overwhelming majority of these cases (9,700 in 2010).⁵¹ According to a 2012 study of the labour justice system, from Jan 1st to June 30th, 2012, the labour tribunals of first instance only issued 1255 sentences, with 3679 still pending for that same period. The same report estimates a backlog of 23,444 sentences not rendered since 2005.⁵² With such workloads, final rulings are slow and often delivered long after the remedy could be effective.

Employers often abuse the appeals process, with the acquiescence of the courts, meaning baseless procedural motions draw cases out for several years. Even in those cases where workers are able to get a final judgment, they are rarely enforced. Companies frequently ignore such judgements and courts do little to ensure such orders are enforced using the police powers available to them.⁵³

For example, coffee workers organized with UNSITRAGUA have demanded that their employer, Finca Santa Cecilia, simply pay the minimum wage as guaranteed by law. This case has dragged on for 12 years to no avail. Not only have these workers been denied proper compensation, but many have since been fired for attempting to exercise their rights in this broken system.⁵⁴ Unfortunately, this case is no aberration.

The problems are not only in the private sector. Unionized municipal workers have also faced tough times under the current and past governments. For example, the union in the San José el Rodeo municipality was destroyed when all of the workers belonging to the union were fired on January 16, 2012. In the Guanagazapa municipality in Escuintla, the first act of the new mayor was to fire 250 workers, including those who were forming a union. This union busting has gone unpunished. In several other municipalities, workers faced unilateral changes to their conditions of work and suffered mass layoffs.

THE MAQUILA SECTOR

The government has for decades supported the maquila industry through tax holidays and the systematic failure to enforce its labour laws. Any company exporting more than 51 per cent of their production can be classified as a maquila, thus qualifying the business for significant tax breaks for a 10 year period. Although Article 23 of Decree 29-89 requires these businesses to respect labour law in order to continue to receive tax breaks, this provision is almost never enforced in practice.

The maquila sector demonstrates some of the most difficult conditions for workers. As the High Level Mission reported, citing official statistics, there are 110,000 workers (predominantly young women) who are employed in the roughly 740 enterprises in this sector. However, unions are effectively non-existent - only 6 unions and three collective agreement covering a totally of 4,600 workers. Efforts to organize are quickly and sometimes violently brought to an end through targeted or mass firings, death threats, blacklists, or simply closing the plant (and sometimes reopening elsewhere under a new name).⁵⁵ Union organizing is also intentionally frustrated by in-house subcontracting, where entire workforces are hired through intermediaries so that the true employer is not held legally responsible for the workers. Workers on the same line may be working for different contractors and thus unable to organize together into the same union. The result has been

extremely exploitative work, with low wages, forced and uncompensated overtime and hazardous working conditions.

INTERNATIONAL COMPLAINTS KEEP THE PRESSURE ON

Workers have for over 20 years exhausted nearly every possible international mechanism available. At the ILO, the Committee on Applications of Standards has since 1991 reviewed Guatemala's non-compliance with Convention 87 a total of 14 times (and double footnoted it twice) and 3 times on Convention 98. There have been 93 complaints filed with the Committee on Freedom of Association, with 17 on-going today. There was a high-level mission in 2011, which followed several technical missions in recent years. However, workers have yet to see any meaningful results; indeed, the situation has worsened with each passing year.

In 2008, the AFL-CIO and six Guatemalan unions filed a complaint under the Labour Chapter of the Central America Free Trade Agreement (CAFTA) because of the government's sustained failure to enforce its labour laws, or to investigate violence against trade unionists. As the government of Guatemala had failed to take any meaningful action, the US government finally served its notice of intent to arbitrate the dispute (a first for a labour complaint) in August 2011. However, the government of Guatemala refused to participate in arbitration and raised claims of procedural errors. Since then, the US government sought to reach a negotiated settlement, while keeping arbitration on the table. On April 26, 2013, the United States and Guatemala finally reached an agreement on an Enforcement Plan to address concerns raised in the case. The plan is supposed to be implemented within six months.

In June 2012, workers' delegates to the International Labour Conference filed a complaint under the ILO Constitution requesting the establishment of a Commission of Inquiry – the highest level complaint mechanism available at the ILO and reserved for the worst violators.

WHAT NEEDS TO HAPPEN IN 2013?

- Investigate and prosecute violence against trade unionists.
- Strengthen the labour inspectorate.
- Reach a comprehensive agreement with ITUC on issues raised in the Commission of Inquiry complaint.

BURMA/MYANMAR



There have been positive developments in Burma/Myanmar over the past year, though much work remains to be done. In September 2012, the Federation of Trade Unions – Burma (FTUB), now Federation of Trade Unions – Myanmar (FTUM), and its leaders were permitted to return to the country following decades in exile and to continue their trade union activity. FTUM General Secretary Maung Maung has established an office in Yangon and, in roughly six months, the Federation counts over 130 affiliated unions with 18,000 members.

FREEDOM OF ASSOCIATION

The Labour Organizations Law, adopted in October 2011, took effect on March 2012 with the promulgation of implementing regulations. This created a legal framework for the establishment and operation of trade unions – undoubtedly a major step forward from the long-standing situation in which freedom of association was prohibited both in law and practice. A new Settlement of Labour Dispute Law was enacted on March 28, 2012, which now provides rules for the resolution of disputes through conciliation and arbitration, as well as regulating industrial action.

The new laws, while a meaningful improvement, do not however fully afford the rights guaranteed under ILO

Convention 87. The law contains, for example, a minimum membership requirement which is far too high (10 per cent of the workplace), is overly prescriptive on union structure and internal organisation, limits the right to strike, and provides inadequate protection against anti-union discrimination – which is a very serious problem. The constitution also still contains provisions that could undermine the exercise of free association.

In practice, over 400 basic-level unions have been registered in the last year, reflecting a strong demand for a collective voice at work. Workers report, however, that some union organisers and leaders suffer retaliation for their legally-protected activity. Further, the dispute resolution procedures are not always effective in providing the necessary remedies. In particular, the newly established arbitration councils do not yet have the tools necessary to enforce its decisions – especially as to reinstatement. Further, agreements reached between employers and workers through the conciliation process are not always respected and are not enforced as binding agreements.

Recently, when workers attempted to organise unions in four government ministries, the leaders were forcibly transferred to distant locations when the government learned of the union activity. Furthermore, an anti-union memo allegedly had been circulated describing the best methods to avoid a union. The labour ministry had explained that workers had the right

to freedom of association, but other government ministries expressed that this was not their policy. The lack of a clear prohibition in the law regarding anti-union conduct short of dismissal is a serious failing in the new legislation. In private sector manufacturing, sweatshop labour conditions, including excessive hours, low wages and health and safety violations are common. Child labour is also alleged. There are insufficient numbers of labour inspectors, and workers allege that they are subject to corruption by employers.⁵⁶

Workers at the Inlay shoe factory in Bago reported hostility by their employers, including cases of managers physically abusing the workers. Workers were not paid appropriately for overtime, and they were punished by deducting from their wages when they were sick. The workers had initially tried to form a union with 30 workers but were told by the registrar that they would need 300, as the factory employed 3,000 workers. The registrar allegedly called the factory owner, who had then begun to retaliate against the workers who had supported the registration process. Whenever anyone is rumored to be a union activist, they are usually transferred to separate them from their co-workers. Workers were also instructed not to contact outside organisations. Subsequently, it is believed that the company registered their own management-dominated union with only 30 workers.

The Federation of Trade Unions- Myanmar organised 18,000 new union members within six months.

At the Taw Win embroidery factory, workers started to form a union and went on strike over very low wages. The employer agreed to raise the wages but never implemented the agreement. The workers took the case from conciliation to the arbitration council, which ruled that the employer should comply with the agreement. The employer retaliated by finding minor reasons to discipline the workers involved in the complaint. The employer also refused to allow workers to collect dues, claiming that it was not legal. The employer also claimed that the union was not legitimate because of its association with the FTUM.

FORCED LABOUR REDUCED BUT NOT ELIMINATED

In 1997, the ILO established a Commission of Inquiry on Forced Labour, which in 1998 made three specific recommendations to the Government of Burma: to amend its laws, to eliminate forced

labour in practice and to strictly enforce penal sanctions against those responsible. The Government's failure to comply with these recommendations led to the cut-off of ILO technical cooperation in 1999 and, in 2000, a resolution calling on member states to take appropriate measures (sanctions) to bring the country into compliance with its international obligations.

"Let's try to work together to form sustainable investment so we create an ethical economy."

Maung Maung (General Secretary, Federation of Trade Unions - Myanmar)⁶²

Today, the Villages Act and the Towns Act has been amended, which brings the definition of forced labour into line with ILO Convention 29, though the Constitution remains to be amended. The adequacy of the penal sanctions as to civilian perpetrators (one-year maximum) may also be too low. The ILO and the government also adopted in June 2012 a joint strategy to ensure that the government fully complies with the Commission of Inquiry's recommendations by the end of 2015. Since the joint strategy was adopted, the Government and the ILO have engaged in numerous awareness-raising activities, and the Government at the highest levels has made statements to the effect that forced labour must end.⁵⁷

In practice, forced labour is reduced but continues, however, with credible reports of various forms of unpaid forced labour conscripted primarily by the military in 2012-13, particularly in the state Rakhine.⁵⁸ Forced labour is most prevalent in areas where the military is engaged in on-going conflicts, such as Arakan State and Kachin State. This includes, for example, portering, road construction, road-repair and military camp construction, fence building and road clearing and food production for troops.

Impunity remains high for those responsible for forced labour. Penal sanctions for the exaction of forced or compulsory labour have not yet been strictly enforced against military or civilians perpetrators. The Liaison Office report, submitted to the ILO Governing Body in March 2013, notes the prosecution of 329 persons – five under Penal Code and 324 under the military regulations. Those imprisoned for this crime have risen from four to 11 in recent months. However, the ILO Committee of Experts reports that "disciplinary measures have been taken against 166 military personnel and action taken under section 374 of the Penal Code against 170 other government officials and five military personnel." Regardless, from available information, the majority of the penalties imposed appear to be

disciplinary. The Commission of Inquiry had importantly stated in 1998 that, "The power to impose compulsory labour will not cease to be taken for granted unless those used to exercising it are actually brought to face criminal responsibility."

THE ILO RESOLUTION OF JUNE 2012

In June 2012, the Selection Committee passed a resolution terminating the 1999 resolution, which had limited ILO technical cooperation or assistance to forced labour programs and which had prohibited the Government from participating in ILO meetings, symposia and seminars. This was seen as a means both to encourage further reform in Burma and to allow resources to be expended on capacity building on freedom of association. The provision of the 2000 resolution that authorised member states to take appropriate measures was merely suspended for one year to assess the extent to which Burma made progress on the elimination of forced labour. It has an obligation to report to each Governing Body, which in March 2013 will make recommendations as to whether to extend the suspension or terminate the 2000 resolution in June 2013. It is widely expected that the 2000 Resolution will be terminated in June 2013.

OTHER CAUSES FOR CONCERN

Human rights organisations and the United Nations have documented widespread and systematic human rights violations, including war crimes and crimes against humanity, throughout Burma in 2012. In ethnic territories in particular, these include extrajudicial killings, torture, rape, disappearances, forced relocation, destroying water and food supplies and razing villages.⁵⁹ This has created a massive refugee crisis, with hundreds of thousands of internally

displaced persons and a much larger number of refugees in Burma's neighbouring and third countries.

Most recently, ethnic violence in Arakan state largely aimed at the Rohingya, a largely Muslim population effectively denied citizenship under a 1982 law, provoked a deep crisis which threatened the democratic reform process in Burma. Indeed, numerous people were killed, villages razed and thousands displaced internally or into neighboring Bangladesh. Anti-Muslim riots erupted in March 2013 in Meikhtila, in central Burma, leaving at least 40 dead. Attacks subsequently spread to other parts of the country, edging into Yangon.

Land confiscation also remains a very serious problem, as peasant farmers are ejected from their land to make way for new infrastructure projects meant to attract investment.⁶⁰ Indeed, Special Rapporteur Tomas Ojeda recently stated, "Given the expected wave of privatisations and the increase in foreign investment, along with accelerated economic development, there is likely to be an increase in land confiscations, development-induced displacement and other violations of economic, social and cultural rights. Myanmar has an obligation to refrain from and protect against forced evictions from homes and land."⁶¹

Indeed, protests over the expansion of a copper mine, a joint project between the Burmese military and a Chinese weapons manufacturer, turned violent last year. Burmese military used white phosphorous to displace the protestors, leaving dozens injured, some with severe burns. The protestors denounced the "unlawful confiscation" of more than 7,800 acres of land and a large number of forced evictions to allow for the mine's expansion. A parliamentary commission investigating the mine found in March 2013 that the project should continue, even though it would not create local jobs and did not contain adequate environmental protection measures. The report also failed to demand the punishment of those police involved in the violent crackdown.

WHAT NEEDS TO HAPPEN IN 2013?

- Anti-union discrimination of all forms and at all times must be clearly prohibited in law and in practice, with sufficiently dissuasive sanctions.
- Labour laws must be amended to conform with international standards.
- Forced labour must be eliminated as soon as possible.



In December 2006, Commodore Frank Bainimarama came to power through a military coup. Since then, the military has imposed laws by executive decree that have stripped the citizens of Fiji of their basic human rights. One such law includes the widely-condemned Public Emergency Regulations (PER) of 2009, which severely limited rights of speech and assembly and gave the police broad powers to arrest and detain. These decrees typically included a provision exempting them from judicial review. In 2011, the regime took direct aim at the trade union movement both through the use of force and decrees that eliminated or severely weakened fundamental labour rights.

PHYSICAL ATTACKS AND ARRESTS

In 2011, the regime selectively denied requests for meetings, arguing that the convenors were opposed to government policy. In other cases, the police revoked previously-awarded permission and then broke up the meetings. In the most extreme case, FTUC President Daniel Urai and also Nitin Goundar were arrested, detained and charged under the PER for meeting with trade unionists, at the hotel where they worked, to prepare

for collective bargaining. The case remains pending, though the government has yet to produce the required disclosures – including the identity of the accusers. Moreover, the law has since been repealed (though replaced with one that is arguably worse). Trade unionists have been harassed and prosecuted under the criminal code in addition to under the decrees. Daniel Urai currently faces charges under the criminal code for “Inciting Political Violence by Urging to Overthrow Government.” As in his other case, the government has yet to file the necessary disclosures to support its case.

In 2011, Felix Anthony, the national president of the Fiji Sugar and General Workers’ Union (FGSWU) and president of the Fiji Trade Union Congress (FTUC), and the president of the Ba Branch of the FSGWU were abducted, threatened and severely beaten by military officers. The ILO expressed its “deep concern at the numerous acts of assault, harassment, intimidation and arrest of trade union leaders and members for their exercise of the right to freedom of association...”⁶³ In 2012, Mr Anthony filed charges against his attackers, but no action has yet been taken to investigate much less prosecute those responsible.

LABOUR RIGHTS SEVERELY RESTRICTED

The government of Fiji has issued several decrees that sharply curtail fundamental labour rights (and others) in both the public and private sectors. Some of the decrees also eliminate all access to judicial review and redress for past, present and future violations of those rights or to question the legality of the decrees themselves. These sweeping reforms to the labour laws were made without any prior consultation with the relevant trade unions.

Daniel Urai currently faces charges for his legitimate trade union activities.

These decrees include the Employment Relations Amendment Decree of 2011 and the Essential National Industries Decree (ENID) of 2011. The ENID deemed that all companies in the finance, telecoms, civil aviation and public utilities sectors are "essential". Under the decree, collective bargaining agreements were abrogated, some bargaining units were completely eliminated, as they did not meet new minimum membership requirements (75 members), and new elections were held to create new bargaining units. The law also prohibited in practice pre-existing unions from representing their members in bargaining. These measures, as well as the elimination of dues deductions, struck a severe blow to workers' rights and their institutions. Indeed, the continuing effects of last year's Essential National Industry Decree (ENID) are having a devastating and potentially irreversible impact on workers, who have seen hard-fought-for gains in the workplace stripped away. Unions are also seeing the collapse of their membership base and their finances.

Air transportation in Fiji is dominated by Air Pacific. Leaked documents appear to show that Air Pacific hired a US-based law firm to draft the ENID, which the government subsequently enacted. The Transport Workers Union (TWU), which represented cabin crew, baggage handlers and engineers – essentially everyone but pilots – was hit hard by the ENID. Roughly 90 per cent of its members are employed by Air Pacific. Only the cabin crew collectively numbered more than 75 workers; all other groups failed to meet that threshold and were ineligible to form a new bargaining unit. These workers now have individual contracts that were drafted and imposed by management. Dues deduction was also eliminated. Many of these workers later withdrew their membership to the TWU. With the elimination of the non-cabin crew members, the union lost 50 per cent of its members overnight.

The cabin crew have a bargaining unit, which was voluntarily recognised by management. However, under the ENID, the leaders of the bargaining units, including officer-bearers, officers, representatives and executives, must be employed by the designated corporations they represent. Non-employees, i.e., the professional staff of the union, cannot be involved in negotiations with the bargaining unit. Those that run afoul of this provision face steep civil and penal sanctions – a fine of up to \$50,000 or imprisonment of up to five years for individuals and up to \$100,000 for the union. Thus TWU cannot be directly involved in the new cabin crew unit. Air Pacific imposed a new collective bargaining agreement (CBA) which diluted the wages and took back previous gains with regard to overtime pay, meal allowances, clothing allowances, annual leave, sick leave, etc. As per the ENID, the CBA allows for grievances only on terminations – management decides all other matters. Many outstanding grievances over discipline and dismissal were extinguished when the ENID entered into force.

The Air Pacific pilots, with 78 members, signed a contract with Air Pacific after lengthy and difficult bargaining. The situation forced the union to accept major concessions in the new agreement. These include reductions in annual leave, sick leave and the elimination of long service leave. The contract also contains deep cuts to travel and meal allowances which reduce significantly the amount pilots are compensated. Of note, the union bargained with the company on the basis of the old numbers that reflected poor profitability. Just after the agreements were signed between Air Pacific and the various bargaining units, Air Pacific announced greatly improved profits for the company for the previous year. The union believes that the timing of the profit results was intentional and that the union was intentionally misled.

SUGAR MILL WORKERS UNION HIT HARD

From 2009 - 2011, sugar mills were occupied by the military, which assumed control over many aspects of the operations – including human resources. The Fiji Sugar and General Workers Union (FSGWU) reported that the military has the power to fire and discipline workers. The President of the FSGWU - Ba Branch was beaten by military officers on February 18 and on June 22, 2011. In conjunction with the second attack on Mr Khalil, he was suspended from work for two weeks without pay. The military stated that the reason for the transfer was his status as a trade union leader. The president was recently granted asylum in Australia.

On a monthly basis in 2011, the military interrogated the union president, accusing him of sabotaging the Fijian sugar industry. He reported that the soldiers told him that “if you make one wrong move, we will kill you.” In November 2011, management told the president that he would no longer recognise him as the representative of the workers. The grievance machinery and progressive discipline machinery in the CBA was completely ignored. Despite annual wage increases provided for in the CBA, Mr Khalil reports that there have been no wage increases for several years. Cases have been filed over dismissals and other breaches of the CBA. However, these cases are slow to be processed, if ever. The Fiji Sugar Corporation, a government entity which owns the mills, has expressed no interest whatsoever in recognising the union or engaging in bargaining.

Fiji sugar is certified as “fair trade” by Fairtrade International.

CIVIL LIBERTIES UNDER ATTACK

The recently adopted Public Order (Amendment) Decree of 2012 is in many respects worse than the Public Emergency Regulations of 2009. On 5 January, Decree 1 of 2012 was promulgated, amending the Public Order Act of 1969. The decree incorporates and expands many of the powers found in the PER. It creates an expansive definition of “terrorism”, with severe penalties, which could be interpreted to cover just about any organised opposition to the military regime. As before, requests for public meetings will need to be approved by the regime, with seven days’ notice required to seek permission to hold a meeting. However, the penalties now include a sentence of up to five years in prison (up from two years in the PER) for holding a meeting without permission. The police have the power to arrest people without warrant and hold with charge for up to 16 days (up from 10 under the PER) at the direction of the Prime Minister. Another provision states that anyone who makes statements or takes action that the government believes may “sabotage” or “undermine” the economy could face up to 10 years in prison. Fiji’s courts were also divested of jurisdiction to hear any claim challenging any decision by the Prime Minister, police commanders or any public official.

ILO MISSION KICKED OUT OF FIJI

Following the conclusions of the ILO Committee on Freedom of Association (Case No. 2723) as well as the tripartite resolution of the 15th ILO Asia and Pacific Regional Meeting in December 2011, an ILO direct contacts mission was sent to Fiji in Sep-

tember 2012 to verify the trade unions’ complaints regarding the lack of freedom of association. However, the mission was prevented from doing its work on the first day. The government then presented the mission with new and unacceptable terms of reference than those that had been agreed to previously by the government. When no agreement was reached, the regime instructed the mission to leave Fiji immediately. The ILO Director General condemned the expulsion of the mission.⁶⁴ That November, the ILO Governing Body issued a sternly worded resolution condemning the expulsion and urging the government to allow a mission to return before the next Governing Body Meeting.⁶⁵ The regime has so far refused to allow the ILO to return.

UNIONS EXCLUDED FROM POLITICAL PROCESS

In January 2013, the government sought to exclude trade unions from the political process through the promulgation of the Fiji Political Parties Decree. The decree excludes “public officers” from applying for, being a member of, or holding office in a political party. Article 14.2(d) defines “public officer” to include any elected or appointed trade union officer, or officer of any federation, congress, council or affiliation of trade unions. A subsequent amendment to that decree broadened the scope of unionists barred from the political process. Under Art 14.1(c), a trade union official cannot even express support for a political party. If a trade unionist does become an applicant, member or officer, they will be deemed as having resigned from their trade union office under Art 14.5. Anyone defying this decree faces a \$50,000 fine, five years imprisonment or both. The decree also requires that existing political parties that fail to successfully reregister under the decree’s cumbersome new requirements will have their assets confiscated by the government. To date, none of Fiji’s 17 existing parties have been reregistered.

“The Constitution empowers the current regime and future governments to impose laws that could drastically impact rights normally enjoyed by people in democratic states.”

Felix Anthony (National Secretary, FTUC)

The intention of the decree is clear – it seeks to make as difficult as possible the registration of the new political party, announced at the FTUC’s special delegates meeting just days before the decree was issued. While the new party will reflect a broad coalition of civil society, its formation is now led by the

trade union movement. It has also led to the de-registration of other, existing opposition political parties led by trade union leaders.

CONSTITUTIONAL REFORMS

In 2012, the government established an independent expert commission tasked with writing a new draft constitution, taking into consideration views submitted to the commission through hearings and in writing. The commission had received thousands of submissions and released a draft in January 2013. However, the government rejected the draft and destroyed copies which had been prepared by the commission. The promised constituent assembly, which was to review the draft constitution, was never established, in part because the government has refused to recognise any political parties. On March 20, 2013, the Prime Minister issued a new draft constitution. Articles 19 and 20 of the draft, while providing that all persons have the right to associate, to join a union, to bargain collectively and to strike, also includes broad exceptions that could

be invoked to vitiate those fundamental rights by new laws or decrees or to justify existing harmful decrees. Notably, the draft constitution prepared by the independent commission called for the repeal of the Essential National Industries Decree. No such recommendation is found here. Article 55 also elevates to constitutional law the Political Parties Decree, including its language regarding trade unions.

INTERNATIONAL CONDEMNATION

In November 2011, the ILO Committee on Freedom of Association issued a strong rebuke of Fiji's failure to respect freedom of association.⁶⁶ Further, Director General Juan Somavia personally spoke out on Fiji in a very direct statement, urging the government to change its course immediately.⁶⁷ Finally, the United States Trade Representative (USTR) accepted for review in July 2012 a petition under the Generalized System of Preferences (GSP) regarding Fiji's alleged failure to take steps to afford internationally recognised workers' rights based on these facts.

WHAT NEEDS TO HAPPEN IN 2013?

- ILO mission must return to Fiji.
- Charges against trade union leaders must be dropped, and attacks against them must be investigated and punished.
- The labour laws must be brought into conformity with ILO standards.

GEORGIA



For many years, the Georgian Trade Union Confederation (GTUC) has faced sustained and serious acts of repression by the Government of President Saakashvili. In 2006, the Georgian government gutted the Labour Code, in direct contravention of ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise and ILO Convention No. 98 on the Right to Organise and Collective Bargaining – both of which Georgia has ratified. Indeed, that Labour Code established almost complete freedom to fire a worker for no reason whatsoever, denied workers effective protection against discrimination, including on the basis of trade union membership, undermined collective bargaining and eliminated labour inspection, among others. In several cases, trade union activists have been dismissed, and the courts, despite protections in the trade union act against anti-union discrimination, have upheld the sackings on the basis of the 2006 Labour Code. Together, these changes have led to a severe imbalance of power in the employment relationship, to the extreme detriment of workers.

The government also divested the Ministry of Labour of its ability to conduct inspections. It does not have a single person who is responsible for handling anything related to industrial relations (labour disputes, reconciliation, collective bargaining,

relations with trade unions, etc.). Nor does it have anyone responsible for occupational safety and health. Consequently, since 2006 the government no longer inspects workplaces to ensure compliance with the labour code and other laws within its jurisdiction. In general, labour violations are addressed by the parties seeking recourse to the courts. To the extent that inspections are undertaken, they are done by the police who have little if any training in labour law or industrial relations. In its 2010 report, the CEACR notes that “with the abolition of the labour inspectorate by the Labour Code of 2006, there is no public authority to observe the implementation of labour legislation, including child labour provisions” and “requests the Government to envisage the possibility of re-establishing the labour inspection services, including in the informal sector, in order to ensure the effective implementation of the provisions giving effect to the Convention No. 138.”⁶⁸

The 2012 parliamentary election saw the opposition Georgian Dream party, a coalition that is led by billionaire businessman Bidzina Ivanishvili, win 85 of the 150 seats, issuing a stinging rebuke to President Saakashvili’s United National Movement Party. The election signalled a change in the government’s attitude towards trade unions. Long stalled talks on reforms

to the labour law have moved forward and draft amendments developed with input from the ILO are now moving through parliament. The constant pressure from trade unions and foreign governments to respect workers' rights undoubtedly created the political climate for these reforms to be introduced.

At the end of 2012, with an improved political climate, workers went back on the offense undertaking strikes against abusive employers. For example, the Poti Port management had destroyed the trade union in 2007 through the mass dismissal of workers based on their trade union affiliation and sealing off the trade union office. The case had been discussed by the ILO CFA which issued critical recommendations urging the government to correct the existing situation. However, the government did nothing to fulfil these obligations. On October 9-10, 2012, dockers went on strike in a dispute over the use of contracted labour, paid 600 GEL (US\$362) per month, significantly less than workers in permanent employment who earned 1,000 GEL (US\$603); both sets of workers have to purchase their own equipment. Following intervention from the trade unions, the employer agreed to enter into negotiations on the second day of the strike. The workers agreed to return to work on 11 October after management said it would consider their grievances, including issues such as pay and working conditions. A trade union structure was then re-established in the Poti Port Enterprise. Having formed the union, the elected committee prepared a list of employee demands and sent an official letter to the management asking to engage in collective negotiations.

About 1,000 teachers were forced to leave the Educators and Scientists Free Trade Union of Georgia or risk being fired.

On October 15, 2012 workers went on strike in the Chiatura mining enrichment plant. The miners said that management had been keeping two sets of books, misreporting workers' wages. Work safety conditions at the mine are very poor and have caused the death or disability of many workers during the last three years. Management at the company have not paid any compensation to any of the families of the deceased, except for funeral expenses, because during the investigation of the facts and causes, the victims were blamed for the accidents. Miners' daily rations include two pieces of bread and two boiled eggs or a cup of yogurt. Workers claim that the food is often spoiled. The miners are subjected to abuse and work under pressure. Mr. Nugzar Joxadze, the director of Itxvizi Mine Factory beat one miner and verbally abused another. A "yellow" union was founded by Mr. Akaki Gurjidge, the General

Manager. This union has supported management activities and has lived off of union membership dues deducted from the miners' salaries, about 15,000.00 GEL a month in total. Since 2010, the GTUC has been trying to create a real trade union in Chiatura and supported the 2012 strikes.

RECENT VIOLATIONS IN PRACTICE:

Union Busting by Government in Metals Sector: Perhaps the most striking recent example of anti-union practices in Georgia is the Hercules Steel case. In September 2011, the governor and dozens of police broke a strike of roughly 150 workers at the Hercules Steel plant in Kutaisi. The workers were forced to return to work or face jail and/or dismissal, and several were forced to sign a document renouncing the union. Those workers went on strike to demand the reinstatement of dismissed trade union leaders and to demand collective bargaining in good faith. Several Indian workers were also employed in squalid conditions, at low pay and had their passports withheld. Some who had requested permission to return home had been denied.

Starving Unions by Cutting off Dues Teachers: After the election of union president Ms Kobakhidze in 2010, the government suspended any cooperation with the union. The government informed schools not to sign the model agreements that the government itself helped to prepare and to prohibit the deduction of dues or even the transfer of funds from personal accounts to the union. In Martvili county, schools had transferred membership dues to the trade union's account. As a result of pressure from the Martvili Resource Centre (a county office of the Ministry of Education and Science (MoES)) on the school principals, the local union was forced by the school principals to return the transferred dues from the bank to the school's accounts.

As a result of international pressure, in late 2011 and early 2012, the MoES held several meetings with the Teachers' Union. During these events, the issue of dues deduction was discussed. However, to delay and block the negotiations, the Minister imposed illegitimate conditions such as the unionisation of one third of teachers in a school. As a consequence, collection of membership dues continues to be done through individual bank transfers which remains difficult. Furthermore, cases of interference in trade union internal affairs such as the obstruction of trade union meetings or in the collection of dues despite agreements are on the rise all over the country. Unionised teachers have been put under pressure to revoke their membership in the ESFTUG under MoES' instructions.

There have also been reports of school principals being put under pressure to stop cooperating with trade unions. As a consequence, teachers do not dare to meet or to join the independent trade unions (including outside the workplace). At the same time, a yellow union, the Educational Professional Syndicate (PES) is given full access to the schools and can freely organise meetings and collect dues. In July 2012, the President of the PES was appointed to a position at the MoES. All this happened despite a letter sent to the MoES by the ESFTUG President in January 2012 informing her about the MoES' readiness to cooperate with the union.

Georgian Railway: On July 29, 2010, the union received a letter from the railway which gave them a five day period to accept a number of items, including the union assuming the costs of medical and other benefits – to the tune of 3.5 million Lari (~ EUR 1.7 ml). The company said that if the proposal was not accepted within 5 days, there would be no further talks. The union began examining the proposal, but the very next day on 30 July 2010, before the union could send its official reply, the company issued a decree by which it unilaterally terminated clause number 3.2 of the agreement, which governed the check-off system. As a result, the deduction and transfer of membership dues to the union's account was stopped. The union went to court to annul the order on August 12. The court ruled against the union.

The union is now going member by member to get agreements to have their dues transferred from their accounts to the union's account. This is a very slow process, and has seriously affected the union's finances. The banks also charge a transfer fee which amounts to 25 per cent of the dues transferred. Many members are also afraid to sign for fear of reprisals as the laws provide no real protection against government/company threats and intimidation.

Government Harassment and Interference in Trade Union Affairs

Education: The harassment and intimidation of the ESFTUG leader Manana Ghurchumalidze led to her resigning and applying for asylum in Canada. ESFTUG members were forced to quit the union and join the yellow union or risk being fired. In Zugdidi (Samegrelo region) almost 1,000 teachers resigned from the ESFTUG in one day alone, and in Kutaisi around 550 teachers left the ESFTUG. The officials in the Ministry tried to urge the newly elected president of the union, Maia Kobakhidze to resign. After she refused, she received anonymous phone calls issuing death threats.

Railway: On 8 April 2011, in Khasuri, Ms Gocha Chubinidze, the head of the Carriage Depot of the Georgian State Railways

advised delegates not to attend the Railway Workers Trade Union Congress and threatened them with dismissal. Also in Khasuri, the Head of the Rail Track Department, Mr Zaza Chkoidze, threatened 8 delegates with dismissal if they attended the Congress. The Head of the Railway Station, Mr Vasil Kurtanidze, threatened one of the 2 delegates with dismissal if he attended the Congress. On the morning of 10 April, when delegates from Khashuri were in the station to attend the Congress, unknown persons came and tried to convince delegates not to go. As a result, some delegates did not go to the congress. Indeed, only 9 delegates out of 24 attended the Congress from that region. Only 15 out of 38 elected delegates from the Samtredia region attended the Congress. In Tbilisi a few days before the Congress the delegates in the Rail-track Department and also in the Carriage-Exploitation Department were threatened by representatives of the Georgian Railway's administration. On June 22, 2011, Merab Targamadze, a board member of the Georgian Railway Workers Union, was fired by the administration without prior notice. In December 2011, under the pretext of a reorganisation, Vitali Giorgadze, one of the most active members of the board of the Railway trade union, was dismissed. Other members of the board were also subjected to continuous pressure and the majority have ceased their activity.

"The labour law only serves the interests of the government and the oligarchs."

Irakli Petriashvili (President, Georgian Trade Union Confederation)

Medical: The hospital sector is now controlled by two companies - JSC Aldagi BCI and JSC GPI Holding. These new owners of privatised hospitals and polyclinics have refused to negotiate with unions and actively intimidate any staff cooperating with trade unions. Many medical workers have withdrawn from trade unions because of a fear of dismissal. 116 trade union organisations (45 per cent) have ceased to exist and membership has fallen by 7,968 (41 per cent). Furthermore, 32 collective bargaining agreements were terminated and not a single new collective bargaining agreement has been concluded. JSC Aldagi BCI has simply refused to recognise the unions. JSC GPI Holding recognises the union but does not negotiate in good faith. Consequently, industrial relations have ceased to function in the hospital sector.

Public Servants: In August 2011, as a result of interference by central and local governments, 14 city and district level organisations of the Public Servants Trade Union ceased to

exist – amounting to a loss of 2,350 members. Territorial agreements in 4 district municipalities were terminated and 4 expired. Only one territorial agreement is now in effect. Earlier in 2011, union members who had recently organised unions at municipal level were forced to sign forms resigning from the union, under threat of dismissal, resulting in the loss of hundreds of members. In private conversations with the union leaders, local authorities admitted that there had been a verbal order from high level government officials to eradicate the local unions.

Telecommunications: JSC Silknet is a telecommunications firm in Georgia. In the past year, the company has dismissed the Chairs of 19 trade union committees in Tbilisi and in the regions. A letter was submitted to the Chair of the Tripartite Social Partnership Committee on July 20, 2012 regarding the dismissals but the case has yet to be reviewed. The Government has used the collective bargaining agreement concluded with this company as an example of successful social dialogue and partnership. However, after the departure of the manager in charge of the negotiations, the situation quickly deteriorated.

The company refuses to engage in any dialogue with the union. In 2012, the number of trade union members in the Communication Sector Workers Union fell by 37.7 per cent.

Precarious Work: In the private sector, 80-90 per cent of contracts are short-term contracts of between 2 and 3 months. However, it is not unusual for workers to work for several consecutive years under such contracts. Employment under short-term contracts has an impact on leave, pension and other benefits. These contracts are also used to discipline workers. Short-term contracts are also found in the public sector, especially for those performing technical work.

The impact on the GTUC over the years has been severe, with the weakening of several key affiliates and the consequent heavy loss of membership and resources. However, due to international trade union pressure and the threat of trade sanctions, as well as elections in Georgia, the GTUC has an opportunity to rebound. The GTUC is actively engaged in the legal reform process and is working to organise new unions and re-establish those who were hit hard by Saakshvili's coalition.

WHAT NEEDS TO HAPPEN IN 2013?

- Labour law must be brought into line with international standards.
- Labour inspectorate must be strengthened.
- Employers must allow for the deduction and remittance of union dues where authorised.

BAHRAIN



At one time, Bahrain provided a hopeful, though imperfect, example in the Gulf region of where a free and independent trade union could be established and operate relatively free of state intervention. The General Federation of Bahrain Trade Unions (GFBTU) formed in 2002 quickly became one of the most vibrant trade union movements in the region. Sadly, this period of relative freedom came to an abrupt end in 2011.

On February 14, 2011, peaceful mass pro-democracy protests commenced across Bahrain. From February 14-17, protests grew remarkably in size, attracting several thousands to join the encampment at the Pearl roundabout, which was the locus of the protests. One protester was killed on February 14, and another was killed at the funeral procession on February 15. The GFBTU urged the government of Bahrain (GoB) to open an investigation into the attacks and to guarantee freedom of assembly and expression. The GFBTU also called on the GoB to commence a national dialogue to address a long list of concerns, including the establishment of a social and economic council, job creation and fair wages – long standing demands of the trade union movement.

On the morning of February 17, security forces moved into the Pearl roundabout and, using tear gas and batons, dispersed the protestors. Tanks occupied the area. Several people were killed and hundreds were injured. To ensure the protection and safety of citizens, the GFBTU called for a general strike starting on February 20, which it suspended that same day after the army withdrew from the streets and guarantees were made to respect the freedom of assembly.

In the following weeks, the demonstrations continued. Trade union leaders and union members took part, demanding economic, social and political reforms. Events took a dramatic turn when, on March 13, state security forces fired tear gas and rubber bullets at protesters in an attempt to clear the sit-ins, with reports of unidentified armed civilians also attacking protesters. Hundreds of protesters were wounded and hospitalised. The following day, the Gulf Cooperation Council Peninsula Shield Forces, consisting mainly of Saudi and UAE troops, arrived in an armoured convoy at the request of the government of Bahrain. On March 15, the King declared a three-month state of emergency under Article 36(b) of the

Constitution, which prohibited most forms of public assembly and related speeches, as well as prohibiting the operation of non-governmental organisations, political societies and unions.

Meanwhile, the GFBTU maintained the general strike largely out of concern for the protection and safety of workers, stressing that the security situation and aggressions against commuting workers did not allow for the resumption of work. After meeting with the Minister of Labour and the President of the Shura Council, who communicated assurances from the Deputy Prime Minister that aggressions against workers would cease and no reprisals would occur, that the checkpoints would ease and security would be provided for national and resident workers, the GFBTU called off the strike on March 23. It urged workers to coordinate with their trade unions and the management of their enterprises to record any safety violations against them and to present them to the GFBTU. It also stressed the need for workers to exert every effort to preserve social and national cohesion and called on management in the public and private sectors to be understanding of the exceptional circumstances and safeguard the rights of all workers. The GFBTU also reiterated the necessity of preparing conditions suitable for genuine dialogue leading to a solution to the crisis.

Around this time, prominent trade union leaders and hundreds of rank and file members were fired; some faced criminal prosecution for their role in organising and participating in strikes and/or demonstrations. In demanding the dismissal of workers who went on trade union endorsed strikes or who otherwise demonstrated for political and socio-economic reforms, largely in state owned or invested enterprises, the government actively worked to intimidate and dismantle an independent, democratic and non-sectarian trade union movement. The government also arrested and prosecuted public sector union members and leaders, including Bahraini Teachers Association (BTA) President, Mahdi Abu Deeb. Months after the demonstrations at the Pearl Roundabout, the dismissals continued. Government workers, especially those in health, education and municipal sectors (which by the nature of their work frequently interface with the public), were suspended or fired for their actual or suspected participation in, inter alia, political activity earlier this year.

657 workers have still not been reinstated after the mass pro-democracy protests.

The unions filed complaints at international level arguing that these actions violated the principles of non-discrimination (based on political opinion) and freedom of association. In April

2011, the AFL-CIO filed a complaint under the US-Bahrain Free Trade Agreement urging the United States to withdraw from the FTA and in the interim to enter into consultations with the government under the FTA's labour chapter to insist that it end its on-going campaign punishing trade union activity and to cease all forms of discrimination against trade unions and union activists. The US government issued its report on the complaint on December 20, 2012, finding that the government had violated the agreement and requesting formal consultations.

At the June 2011 International Labour Conference, worker delegates filed a complaint to establish a Commission of Inquiry under Article 26 of the ILO Constitution against Bahrain for violations of Convention No. 111 on Discrimination. That process paved the way for the ILO Governing Body to adopt a proposal to establish a tripartite committee to review the dismissals referred to in the complaint on November 17, 2011.

In November 2011, the Bahrain Independent Commission of Inquiry (BICI) issued a 501-page report into the February and March 2011 events in relation to international human rights norms. The report confirmed that the dismissals were undertaken in retaliation for participation in demonstrations and legal strikes, that the government created an environment which encouraged the sackings and in some cases directly urged companies to fire employees, that the authorities applied the law in a discriminatory manner, and that the vast majority of the firings were illegal under domestic and international law.

THE SITUATION TODAY

Union Leaders in Jail

On 21 October 2011, the Court of Appeal upheld the guilty verdict issued against the BTA leaders on 25 September 2011 for allegedly attempting to overthrow the ruling system by force and inciting hatred of the regime. The prison sentences were reduced to five years for Mahdi Abu Dheeb and six months for Jalila al-Salman. The lawyers of the BTA leaders filed an objection to the Supreme Court regarding the verdict.

On 7 November 2012, Jalila al-Salman, who had been released on bail, was summoned without explanation to the Investigation Department in Manama to serve the remaining time of her 6-month prison term. She was transferred to the Isa Town Women's Prison. Her lawyer and family were not allowed to accompany or contact her. Jalila al-Salman was finally released from prison on 25 November after serving her prison term. Mahdi Abu Dheeb is still serving a 5-year prison term. A final appeal is still pending.

Reliable reports indicate that both Mahdi Abu Dheeb and Jalila al-Salman were tortured in detention. Dheeb is also suffering from diabetes and high blood pressure, as well as heart and stomach problems.

Workers have not been Reinstated

While the tripartite committee was able to reinstate a significant number of all dismissed workers, according to the GFBTU, as many as 657 workers have still not been reinstated since the 2011 events, including trade union leaders. Furthermore, among those reinstated, some were rehired with inferior conditions and job statuses and on lower pay to those jobs they held prior to their dismissal. The ITUC is working to ensure that all workers are reinstated unconditionally to their previous jobs or, if this is not possible, to jobs with equal status and pay.

New Union Attacks the GFBTU, ITUC and ILO

It is believed that the government has recently backed the creation of an alternative and rival federation, Bahrain Labour Union Free Federation (BLUFF), to undermine the GFBTU as a legitimate, representative and democratic organisation. The BLUFF leadership, with a number of pro-government columnists and pro-government parliament members; has been spearheading a fierce defamation campaign against the GFBTU. These campaigns have accused the GFBTU leadership of treason, defaming Bahrain's image, and of being led by a foreign agenda. Recently, the BLUFF organised a rally outside a UN building in which the GFBTU, ITUC and ILO were denounced. In some cases, collective bargaining with GFBTU affiliates has been stopped without justification and been replaced by negotiations with management-backed trade unions.

Sectarian Discrimination on Rise

With growing regularity, jobs are now being denied to Shias. Some companies, such as Gulf Air, have actually fired Bahraini workers, targeting Shias specifically, under the pretext of restructuring. This was done unilaterally and without prior consultation with the GFBTU. At the same time, the companies are hiring non-Bahrainis and Sunnis with lesser qualifications and announcing new job vacancies. Furthermore, the Government has allegedly pressured many contractors to fire qualified Shia workers by denying them tenders. These violations are continuous and recurrent, and the labour legislation fails to protect workers fired on account of their religion.

Labour Law Reforms

In 2012, the government of Bahrain unilaterally and without notice amended the trade union law in an effort to silence the independent and democratic voice of Bahraini workers, the

GFBTU. These recent amendments mark yet another serious attack on the fundamental rights of Bahraini workers, the passing of which was an obvious (and illegal) act of retaliation by the government for the exercise of trade union activity. The purpose of these amendments is clear – to further undermine the GFBTU and thereby eliminate an important voice for economic and social reform in Bahrain.

The amended articles of the trade union law include:

Article 8(1) requires that trade unions be “similar” to form a union federation. This prohibits the formation of multi-sectoral federations, a move in violation of principles of freedom of association. The ILO Committee on Freedom of Association expressed “deep concern” that the provision was not in conformity with the principles of freedom of association.

“The Arab spring in Bahrain did not lead to democratic reforms nor to the end of an autocratic regime.” Salman Jaffar Al Mahfoodh (General Secretary, the General Federation of Bahrain Trade Unions)

Article 8(3) allows the Minister of Labour to determine which trade union may represent Bahraini workers in international fora and in national level bargaining. These rights belong (as they do in most countries) to the most representative trade union(s) – here the GFBTU. This appears to be an attempt by the government to limit or prohibit the GFBTU from further denouncing government-sponsored violations of trade union rights before the ILO. We fear this article could be used to promote government-backed unions that will parrot a defence of the government's anti-union and anti-democratic policies to the international community.

Article 10 allows for the establishment of multiple unions at company level. Legislation permitting multiple unions in an enterprise is fully consistent with international law. The timing of this reform, however, raises obvious questions about the government's motivations. Indeed, pro-government unions have been registered in workplaces since the law was adopted.

Article 17, includes language barring trade unionists who are held responsible for violations that led to the dissolution of a trade union organisation or its executive council from nominating themselves for membership of the executive council of any trade union organisation for five years from the date of decision

or final judicial ruling on the dissolution of the union. While a law barring the election of a trade union leader convicted of a crime related to his or her integrity, such as corruption or fraud, may be appropriate, this amendment is an obvious attempt

to remove the trade union leadership that participated in the political mobilisation in 2011. If it were used for that purpose, it would constitute a grave violation of the right to freedom of association. The ILO has similarly criticized this amendment.

WHAT NEEDS TO HAPPEN IN 2013?

- Imprisoned trade unionists must be released.
- Employers must unconditionally reinstate all workers dismissed for participating in pro-democracy protests.
- Government must revise the labour law in consultation with the social partners.

Overview of violations of trade union rights

The ITUC established a platform to communicate and raise awareness on violations of trade union rights as defined by ILO Conventions Nos. 87 and 98: the Survey of violations of trade union rights. Trade unions affiliated with the ITUC use the Survey at national level as a reference document when asking governments and employers to respect and promote trade union rights. Advocacy activities of the ITUC are often based on the findings of the Survey. For example, these findings are communicated to the supervisory mechanisms of the ILO that are responsible for monitoring the application of Conventions Nos. 87 and 98. The Survey also informs policy makers, civil society organisations, and researchers.

The methodology is largely based on an assessment of national legislation and case reports communicated by national affiliates. Legal experts identify laws relevant to freedom of association and collective bargaining for each country such as labour laws, trade union laws, industrial relations laws, sectoral laws, constitutions and penal codes. The laws are then analysed for compliance with the rights to freedom of association and collective bargaining. Violations are identified and categorised under consistent, predetermined and clearly defined categories that are based on Conventions Nos. 87 and 98 as well as the principles of application as defined by the ILO supervisory mechanisms. In addition to affiliate reports, a media review is conducted by the ITUC identifying violations in practice. Information collected from both sources is consolidated, summarised and categorised under predetermined and standardised sub-categories.

While the Survey was previously published on an annual basis covering the previous year, the ITUC will now regularly update information on violations. The following section provides an overview of examples of violations endured by working women and men around the world. The complete Survey will be available on the ITUC website (www.ituc-csi.org) from October 2013.

Africa



BOTSWANA

Obstacles to collective bargaining: On 13 March 2012, the Government announced that no collective bargaining agreement would be concluded with the Botswana Federation of Public Sector Unions (BOFEPUSU) in 2012 and 2013. This decision was reversed in May 2012.

Refusal to bargain in good faith: On 23 May 2012, the Botswana Federation of Public Sector Unions (BOFEPUSU) complained that the government had not nominated its representatives to the bargaining council and was thus delaying salary negotiations. The government had also failed to give the unions information on its total workforce and wage bill.

Refusal to recognise unions: The Botswana Technology Centre (BOTEC) refused to recognise the National Amalgamated Local & Central Government Workers Union (NALCGWU) on the grounds that it had previously reached a recognition agreement with the Maranyane Staff Union. On 20 June 2012, the Industrial Court ruled in favour of NALCGWU.



BURUNDI

Suspension of trade union activities: On 8 February 2013, the government suspended the registration of the Syndicat général des commerçants "SGYECO" but repealed this decision on 26 February 2013 after negotiations with the National Independent Human Rights Commission.

Journalists and informal workers are prevented from establishing unions: Journalists have been trying to register their union for more than one year but were refused by the Ministry. Five informal sector unions are waiting for their registration.

Anti-union discrimination: Trade union members were dismissed by the Sosuno company because they took part in a strike.



CAMEROON

Violence against trade unionists: On 8 November 2012, approximately 500 members of the Musicians' Union of Cameroon (SYCAMU) were brutally attacked by police in Yaoundé. Artists, including 85 year old Anne-Marie Nzié, known as the "Queen of Cameroonian Music" were dragged to the floor and beaten. Sixty-three musicians were arrested and held for hours before being released. SYCAMU members were protesting that a new agreement for the payment of royalties to artists has not been properly enforced.

Anti-union discrimination: Since May 2012, management of the company Orange, targets trade union leaders who have received notifications with unilateral changes to their employment contracts.

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 of the unfairly dismissed workers.

Sanctions for trade union activities: The Labour Code imposes heavy fines for trade union activities before registration. At the same time the registration of trade unions is subject to previous authorisation by the public authorities.



CHAD

Denial of freedom of expression and imprisonment of unionists: The Union des Syndicats du Tchad (UST) wrote a petition criticising President Idriss Déby for corruption and impoverishing the population. François Djondang, Michel Barka and Younous Mahadjir were charged with defamation. Jean-Claude Nékim was also charged with defamation when he wrote about this incident in the N'Djaména BiHebdo newspaper. On 18 September 2012, the court of first instance condemned François Djondang, Michel Barka and Younous Mahadjir to 18 months imprisonment and a fine of 1.5 million CFA francs

(2,290 EUR) for having committed a hate crime. While they plan to appeal this decision, the independence of the court has been put into question as its members were changed by a decree on 17 September 2012.

Collective agreements are not respected: The government unilaterally terminated a national minimum wage agreement for the public sector on 28 November 2012. The Government and the UST had signed a Memorandum of Understanding and an agreement on 11 November 2011.



COTE D'IVOIRE

Imprisonment of trade unionist: Basile Mahan Gahé was freed from prison in December 2012 after 18 months in detention in Boundiali. Gahé is the General Secretary of the national trade union centre Dignité. He resumed his trade union duties on 9 March 2013.

Refusal to bargain in good faith: In January 2013, public sector workers filed a collective strike notice when the minister for the public sector and administrative reform refused to bargain in good faith. The workers are demanding a wage increase and the payment of allowance arrears that have been held back for more than 20 years. They are also asking for an improvement in family allowances, housing benefits and transport allowances.



DJIBOUTI

Intervention in strike actions and anti-union discrimination: Dock workers who had gone on a legitimate strike were detained for 10 days. 9 union members and one union leader were dismissed as a result of the strike.

Intimidation of trade union leaders: Police are constantly watching the house of the General Secretary of the Union

of Djibouti Workers. The General Secretary's family received frequent threats and had to move to Ethiopia.

Occupation of trade union office: The office of the Union of Djibouti Workers was occupied for one year by the Youth and Sports Ministry.

No access to effective systems to remedy violations: Union lawyers are intimidated by threats so that unions have limited access to lawyers to defend their cases in court.

Infringements of basic freedoms: The General Secretary of the Union of Djibouti Workers was stopped from traveling to Geneva in June 2012 by the President of Djibouti.

Workers are excluded from freedom of association: Workers in companies such as Machida Transit and taxi drivers were prevented from establishing a union. Civil personnel in the French army were prevented from joining a union.

Promotion of yellow unions by the government: The government is providing financial resources to yellow unions which are represented in tripartite bodies and at international level.

Union accounts have been frozen: The government is a shareholder in many banks and has frozen unions' accounts and prevented unions from receiving external funds.



DEMOCRATIC REPUBLIC OF THE CONGO

Anti-union discrimination: In July 2012, five trade union delegates who had been dismissed from the Société Nationale d'Assurance were reinstated. Management had categorically refused to bargain with workers.

In March 2013, Jean Ngandu, regional Deputy Secretary of the Confédération Démocratique du Travail was dismissed for his trade union activities.

The Union Nationale des Travailleurs du Congo reported that public authorities fail to respond to anti-union discrimination.

Remittance of union dues: Despite collective agreements with respect to union dues, employers often do not remit union dues or only remit parts of it.

Refusal to bargain in good faith: The Union Nationale des Travailleurs du Congo has reported that while employers agree to bargain they put pressure on the unions to replace bargaining agents and threatened not to continue negotiations unless they did so.

Legal restrictions: The Labour Law excludes civil servants from the right to collective bargaining. Foreign workers must be resident for twenty years before they are eligible to become trade union leaders.



ETHIOPIA

Teachers and civil servants are excluded from the right to freedom of association and collective bargaining:

The Labour Proclamation does not grant the right to freedom of association and collective bargaining to teachers and civil servants. The National Teachers' Association applied for registration more than three years ago but remains unregistered. Several trade union leaders and members were imprisoned.

Excessive list of essential services: Article 136 of the Labour Proclamation includes transport as an essential service. This means that workers at Anbessa City Bus and Ethiopian Airlines are excluded from the right to strike. Trade unions that carry out a strike in an essential service can be dissolved by the public authorities.



GHANA

Discrimination against union members and leaders:

Jonas Koranteng-Smart from the Union of Industry, Commerce and Finance Workers (UNICOF) affiliated to the Ghana Trades

Union Congress was dismissed on 5 June 2012 for sending an email to unionised staff about the discussions of the 38th Annual General Meeting of the Merchant Bank Ghana.

Fifteen workers at Mobicrane Limited, an oil and gas service provider based in Takoradi, were dismissed in February 2013 for attempting to join the General Transport and Petroleum and Chemical Workers Union.

No effective remedy for violations: Despite a decision by the National Labour Commission, the Merchant Bank Ghana failed to reinstate Jonas Koranteng-Smart.

Exclusion of workers from the right to join a union: The Financial, Business and Services Employees Union (FBSEU) submitted the rules and constitution of its Standing Negotiating Committee to the Parliamentary Service Board. The Parliamentary Service Board refused however to register the rules and constitution arguing that workers of the Parliamentary Service did not have the right to join a union. The FBSEU petitioned the National Labour Commission which then asked both parties to sign the rules within 21 days. The Parliamentary Service Board failed to comply with the order and hence the Commission filed an enforcement process in the High Court. The matter is before the courts.



GUINEA

Violence against trade unionist: On 19 March 2012, the Assistant General Secretary of the Confédération Nationale des Travailleurs de Guinée (CNTG), Mr Kader Aziz Camara and his family were the victims of an armed attack at their home in Conakry. The assailants were in military uniforms and armed.

Insufficient legal protection against anti-union discrimination: No dissuasive and deterrent penalties are tied to Article 3 of the Labour Code which provides that no employer may take account of trade union membership and workers' trade union activities in making decisions about recruitment, performance and distribution of work and termination of the employment contract.

Attack on trade union premises: On 22 March 2013, trade union premises in N'Zérékoré were raided by unknown

persons. There was considerable material damage and a large sum of cash and other items were stolen.



KENYA

Anti-union discrimination: In September 2012, more than 100 nurses were sacked at the Moi Teaching and Referral Hospital for participating in a strike. The names of those dismissed were pinned on notice boards at the hospital and the nurses were asked to pick up their dismissal letters from the institution.

Arrest of trade union leader: In October 2012, Francis Atwoli, the General Secretary of the Central Organisation of Trade Unions (COTU) was arrested for contempt of court. The High Court imposed a fine of Sh 500,000 for disobeying a court order to stop a strike. Atwoli had refused to stop the strike because the workers had complied with the legal notice period.

Exclusion of nurses from the right to form a union: The Kenya National Union of Nurses won a case against the Permanent Secretary for Medical Services with the Industrial Court holding on the 28 December 2012 that nurses have both the right to join a union and the right to strike. Relevant ministries were instructed to meet and negotiate with the nurses and to reach a consensus within seven days. However, the Public Service Commission dismissed nurses who had participated in the strike in relation to the dispute, including for example those at Kakamega Provincial General Hospital. In February 2013, the Industrial Court issued another ruling on reinstatement and payment of pending salaries.



MAURITIUS

Anti-union discrimination: The employment contracts of 37 female workers at the La Colombe Centre were amended after they joined a union. The amendments included the withdrawal of the right to paid annual leave, overtime pay and work schedule changes.

Refusal to bargain in good faith: In April 2012, the Mauritius Sugar Producers' Association (MSPA) refused to negotiate with the trade unions' Joint Negotiating Panel (JNP) on working conditions in the sugar industry. In a letter sent to the JNP on 13 March 2012, the Director of the MSPA argued that the request to open negotiations on the introduction of a pensionable allowance (of 2,000 Mauritian Rupees, i.e. about 50 EUR) and the creation of a Human Dignity Fund should be decided at company level.

On 29 January 2013, the Mauritius Institute for Training and Development Employees Union (MITDEU) protested against the suspension of its President. The MITDEU challenged the legality of the suspension which they considered unjustified, arguing that the Mauritius Institute for Training and Development did not even have a director or a board, and that the disciplinary committee that took the decision was therefore unlawful.



NIGERIA

Refusal to recognise unions in free zones: The National Union of Petroleum and Natural Gas Workers (Nupeng) and Petroleum and Natural Gas Senior Staff Association of Nigeria (Pengassan) reported that of the 123 companies in the free zones, only 5 had allowed the unions to organise workers and at all 5 companies, union leaders have been victimised and dismissed. In January 2013, Nupeng and Pengassan issued notice of a 3-day strike to start on 13 February if dismissed shop floor union leaders were not reinstated and union rights established in all companies in the free zone. The Minister of Labour and Productivity, Chief Emeka Wogu, agreed together with the Oil and Gas Free Zone Authority (OGFZA) and the unions that companies would be given 90 days to comply with provisions in the law that require companies to allow for unions to be put in place.

Arrest of trade unionists: In March 2012, trade union leader Bayo Akende was arrested by the Oyo State Government over allegations of mobilising workers against the government. Police Commissioner Tambari Yabo Mohammed considered his trade union activities as a breach of public peace.



SIERRA LEONE

Violence against trade unionists: In January 2013, police opened fire on workers protesting against the non-payment of bonuses, for an end to racism, and improved conditions at Sierra Leone's largest diamond mine in Koidu. Two workers were killed.

Violence and interference in the right to organise: In April 2012, workers protested over pay, conditions, and right to organise in Bumbuna. It was reported that police fired bullets and teargas canisters indiscriminately at the protesters leaving one woman dead and at least six injured. In June 2012 Sierra Leone's Human Rights Commission announced an inquiry and recommendations for prosecution.

Public authorities refuse to grant workers of African Minerals Limited the right to belong to the union of their choice. All workers are assigned to one union. The Ministry of Employment, Labour and Social Security cancelled the registration certificate of the Mining and Allied Services Employees Union for no tangible reason and by extension the bargaining certificate, thereby making it redundant.

Employer refusal to deduct union dues: African Minerals Limited refuses to deduct union dues from workers' salaries in violation of national labour laws. The Ministry of Employment, Labour and Social Security has not reacted to this violation.



SOUTH AFRICA

Threat against trade unionist: In December 2012, a gang of heavily armed thugs came to the home of the General Secretary of the South African Transport and Allied Workers Union (SATAWU). He was not at home but police investigation established that the gang had been acting on instruction with an intention to harm and possibly assassinate him.

Police violence: More than 800 farm workers took part in the protest in Nkqubela, Robertson in January 2013. However, shortly into the protest police officers arrived on the road with guns and opened fire on the protesters forcing them back into their communities where police continued to fire at the people. Several people were wounded in this latest incident of police brutality and the Human Rights Commission has been contacted to look into the matter.

On 16 August 2012, the police opened fire while trying to disperse a group of striking mineworkers in Nkaneng, killing 34 and wounding 78. The workers had been carrying knobkerries, pangas, sticks, and iron rods. The strike which began on 10 August was in relation to pay increases.



TANZANIA

Anti-union discrimination: In December 2012, the management of Kampala International University (KIU) at the Dar es Salaam campus dismissed 40 staff members who recently joined the Research, Academic and Allied Workers' Union (RAAWU). Since November 2012, staff members have been on strike demanding payment of their salaries which were last paid in October 2012. After RAAWU successfully opened a branch, the university's manager provided letters of termination to 40 union members who were mostly employed as teaching staff and had joined the RAAWU one week earlier. RAAWU is pursuing legal action over the terminations.

Violence: On 26 June 2012, Steven Ulimboka, chair of the Medical Association of Tanzania, was kidnapped at gunpoint by five men. He was taken to a forest on the outskirts of Dar es Salaam, where he was beaten and tortured. The abduction occurred during an industrial dispute between doctors at public hospitals and the Government. On 22 June 2012, Ulimboka declared a nation-wide strike of doctors, ignoring a court order to return to work, to demand better pay and working conditions.

Arrests and threats: In July 2012, police arrested members of the Tanzania Teachers' Union (TTU) participating in a strike. Other teachers, administrators and union leaders received threats from authorities that they would be arrested and prosecuted. The government refused to negotiate with the TTU over the release of the workers. On 2 August 2012, the High Court

declared the July strike unlawful. On 9 January 2013, the TTU filed proceedings in the Court of Appeal.



ZAMBIA

Violence against trade unionists: In February 2013, the government seized Collum Mine over poor working conditions and violations of trade union rights. There has been frequent industrial unrest since the mine was privatised in 2003. In October 2010, 13 mineworkers were injured when two managers at the mine opened fire on striking workers. Charges against the two managers were later dropped by the State. A pay dispute at the mine in 2012 after government raised the minimum wage resulted in a spontaneous protest by workers during which a Chinese supervisor was killed and another was injured.

Anti-union discrimination: In February 2012, the Mopani Copper Mines (MCM) dismissed 19 miners, including a union official from the United Mineworkers Union of Zambia (UMWUZ), for allegedly inciting miners to protest after the company awarded its employees a 17 per cent salary rise. UMWUZ stated that the union official who had been fired was merely there to tell the workers to resume work.

Americas



ARGENTINA

Compulsory conciliation: Public authorities regularly intervene in labour disputes that affect subway services. In August 2012, public authorities in Buenos Aires terminated a collective dispute by issuing a resolution ordering compulsory conciliation.

Interference in trade union activities: In August 2012 the Government of Buenos Aires issued a resolution requiring all municipal workers' unions to request a permit to conduct meetings, reserving the authority to assess the appropriateness of what is done outside working hours.

Police intervention: Police in the province of Salta violently repressed workers at Ingenio San Martín del Tabacal who were demonstrating in front of the workplace. In August 2012, the police action included intervention in the Villa Las Rosas neighbourhood, where the repressive forces entered workers' homes and fired tear gas which also affected their families. A two year old girl was injured by police buckshot. In recent years the company has practiced anti-union dismissals and intervened in the union elections.



BRAZIL

Arrest of trade unionists: In February 2012, the government of Bahia and Rio de Janeiro States refused to negotiate with striking police officers and fire fighters. Demonstrations were criminalised and several leaders were arrested. In Brazil, fire fighters and police officers are military personnel and as such are forbidden from organising in trade unions or engaging in industrial action.

Restriction of pickets: In November 2012, public health workers in the State of Santa Catarina went on strike for over 30 days to demand salary increases. An official order by the public prosecutor determined that industrial action could involve up to 70 per cent of workers and that pickets could only

occur 200 metres away from workplaces and without the use of communication material such as banners or leaflets.

Violence against trade unionists: In January 2013, Cicero Guedes, a leader of the Movimento dos Trabalhadores Rurais sem Terra (MST) was ambushed and killed near a sugar cane industrial complex. A former sugar cane cutter, he was cycling home from a meeting to negotiate a solution to the disputes between rural families and the Usina Cambahyba, a complex of seven farms totalling 3,500 hectares.



CANADA

Interference by public authorities in migrant workers' right to freedom of association: Migrant workers of Mexican origin employed at Floriala Farms and Sidhu Nurseries near Surrey, British Columbia under Canada's Seasonal Agricultural Worker Programme have been warned by their consulate about visiting union-run support centres in the Lower Mainland of British Columbia. At a 2012 hearing before the B.C. Labour Relations Board the Mexican government successfully claimed sovereign immunity, a view now being appealed by the United Food and Commercial Workers before the B.C. Supreme Court.

Interference by employers: Wal-Mart closed a branch in Jonquière, Quebec because of a potentially successful organising drive by UFCW Canada. In November 2012, the Supreme Court of Canada indicated that it would hear UFCW's appeal.

Interference in strike action: In June 2012, the Federal government moved quickly to introduce back-to-work legislation to end a strike by 4,800 members the International Brotherhood of Teamsters against Canadian Pacific Railway.

In March 2012, the Federal government referred two Air Canada labour disputes involving pilots (Air Canada Pilots Association) and ground crews (International Association of Machinists and Aerospace Workers) to the Canadian Industrial Relations Board, a move that effectively blocked work stoppages and forced the employees back to work. In both cases, the Board subsequently sided with the employer. This followed two other actions: (i) in June, 2011, the government announced its intent to introduce back-to-work legislation to end a legal strike of Air Canada's 3,800 sales and service agents (Canadian Auto

Workers Union), forcing the union and employer to resolve differences within a few days, or face a legislative resolution; and (ii) in October 2011, a dispute involving Air Canada flight attendants (Canadian Union of Public Employees) was immediately referred to the Canada Industrial Relations Board by the Federal government to prevent the employees from exercising their right to strike.



COLOMBIA

Murder of trade unionists: At least 18 unionists were killed in Colombia and 359 received death threats in 2012.

In July 2012, Eder Tomás Cárdenas Chitiva, a union leader of SINDISPETROL, was murdered in the town of Paratebueno, Cundinamarca. He was part of a group of workers of the Spanish group Masa Acciona, who staged permanent assembly to press for the initiation of negotiations. According to union representatives, since the beginning of the permanent assembly, workers have begun to receive death threats from criminal armed groups.

Interference by employers and anti-union discrimination: The telecommunications giant, Claro, is well known for its union busting activities in Colombia. At Comcel, a branch of the conglomerate, there is no trade union. In Telmex-Colombia, also part of the Claro group, the union (SintraTelmex) has only 190 affiliated workers. Despite the fragile situation of SintraTelmex, the company has implemented a series of anti-union measures including the dismissals of union leaders.

After being ordered to reinstate workers unlawfully dismissed for creating a union, Fundación Universidad de Antioquia reinstated them in junior positions and separate from each other in the campus.

In March 2013, about 400 sugar workers affiliated to Sintrai-nagro declared a strike at the La Cabaña Mill, located in the Cauca region after the dismissal of about 100 union members and the murder of Juan Carlos Pérez, one of its most distinguished union leaders.

Refusal to bargain in good faith: When retail workers at Sodimac – a distributor of building materials – created a union

(Sintrasodimac), the company immediately began a policy of harassment and also attempted to impose a parallel collective agreement to discourage union affiliations.

In the port of Buenaventura, Tecsa, a contractor of the Port Authority, refused to engage in negotiation with the union who demanded equal pay and the hiring of outsourced staff who had been for the company for over 5 years. Tecsa dismissed 117 outsourced workers who demanded to be hired directly. They were unionised and African-Colombians.

Collective agreements are disrespected: In the town of Pereira, in November 2012, six Multiservicios workers— a municipal company in liquidation — started a hunger strike to prevent the dismissal of 200 workers in violation of their collective agreement.



COSTA RICA

Anti-union discrimination: In January 2012, the president of the Finca Monte Providencia union and members of parliament in Costa Rica denounced labour rights violations in pineapple plantations belonging to the Standard Fruit Company. Pineapple workers in the Huetar North, Caribbean and South Zone districts were unfairly dismissed, particularly those attempting to join a union or those disabled by work-related accidents.

Intervention in union premises: In March 2012, 56 judicial investigation representatives and several riot police, all of whom were armed, forced their way into the offices of the Sindicato de Trabajadores de JAPDEVA y Afines Portuarios (SINTRAJAP). The block in which the union's facilities are located in the port of Limon, was cordoned off and citizens were prevented from entering the building. The unionists were held in the office and were then, one by one, taken into custody in the area outside the cordon.

Collective agreements are disrespected: In January 2013, the government attempted to introduce a new bill to eliminate extra salary benefits for teachers and other public sector workers in violation of collective agreements negotiated decades ago by unions. The Public Sector Salary Bill would affect benefits bonuses that are exclusive to educators such as annuities and extra pay for work outside of the classroom.



DOMINICAN REPUBLIC

Threat to intervene in strike action: When the Federación Nacional de Transporte Dominicano (FENATRADO), a union of truck drivers, stated that it would go on strike on 8 May 2012, 12 days before the general elections, the Central Electoral Board threatened to use the armed forces to transport the materials to be used in the elections. Fenatrado president Blas Peralta said the Government owes the union approximately DOP 300 million. This debt has been outstanding for over six years.

Anti-union discrimination: 84 Haitian coconut peelers were dismissed from the coconut farm Coquera Kilómetro 5, after trying to form a union. Rafael Emilio Alonso Luna, the owner of the plantation refused to give severance pay to the workers. The workers filed a complaint with the Labour Court in San Cristobal.



ECUADOR

Anti-union discrimination: Public services at the Social Security Institute (IESS) and in several public hospitals were privatised, resulting in lower wages and worse working conditions for workers. At the Baca Ortiz Hospital in Quito, more than 200 unionised workers were sacked when services were outsourced to private companies.

Union members in banana plantations in Guayas and Los Rios provinces were subjected to anti-union discrimination by employers. In September 2012, 159 workers were abruptly dismissed simply for forming a union.

Around 80 Aerolane/LAN Ecuador workers were sacked in January 2012; 49 of them were union members, two were on the board of the recently established Sindicato de Trabajadores de Aerolane (SITA).



HAITI

Anti-union discrimination: Garments factory MGA-Gloria Apparel learned about the formation of a union on 27 January 2013 during a training session on collective bargaining organised by Better Work, which was attended by both union representatives and management. On February 4, the eleven workers were dismissed without cause. The average seniority was two years. It was later claimed that they were dismissed for poor performance and quality, in spite of the fact these same workers had been commended on December 20 for their good productivity.

Interference by employers: Members of FENATCO (Fédération nationale des travailleurs en constructions) denounced that unionised Haitian workers were discriminated against in hiring processes for large reconstruction building projects in favour of non-unionised labourers from the Dominican Republic.

Collective agreements are not respected: A collective agreement signed between garment factory Pinehurst Manufacturing and the union SITRAPINEHURST stipulating the reintegration of unfairly dismissed workers were not only breached by the company, but several union members were dismissed soon after it was signed.

Casa Comercial Mathews, a Caterpillar subsidiary, dismissed 100 members of the SITRACCMA union in a clear breach of the collective agreement. The dismissed workers refused to accept an order to be transferred to a different branch of the same company. The clear objective of the changes was to destabilise the union.

Violence against workers: In the Bajo Aguán Valley, 57 rural workers have been murdered since 2009 for opposing forced evictions by large landowners who want to increase the cultivation of African palm trees. Any popular uprising is brutally repressed amid impunity and a growing criminalisation of protest and social struggle.

Interference in union rules: The Ministry of Education has directly interfered in union rules by demanding that union leaders not seek election after two mandates.



HONDURAS

No free time accorded to trade union leaders: In 2013, the Ministry of Education forced trade union leaders in the education sector (COLPROSHUMAH, COPRUMH, PRICPHMA, COLPEDAGOGOSH) back to work and denied them their right to free time for trade union activities.

Threats and harassment of union members: Soon after the Canadian company Gildan Activewear bought the garment factory Star in El Progreso city, union members were reportedly harassed and threatened by management personnel. Non-unionised workers were encouraged to spread rumours about an imminent closure due to the presence of the trade union.

Union leaders in the education sector have also received threats by telephone and have been followed by cars without licence plates.

Complaint Filed Under Trade Agreement: On March 26, 2012, the AFL-CIO and 26 Honduran unions and NGOs submitted a detailed complaint under the labour chapter of the Central American Free Trade Agreement alleging that the government of Honduras failed to enforce its labour laws relating to freedom of association, the right to bargain collectively, child labour, wages and hours of work and occupational safety and health. These violations took place in the apparel sector, agriculture and port sectors. The US government has initiated an investigation but has yet to issue a report.



MEXICO

Refusal to recognise unions: Governmental agencies such as the Federal Electoral Institute and other public bodies systematically refuse to recognise unions.

Obstacles to collective bargaining: 90 per cent of collective agreements are signed by protection-contract unions estab-

hed by employers and corrupt organisations with the aim of preventing bargaining in good faith.

One of the most serious violations occurred with the telecommunications company Atento Servicios concerning a contractual entitlement trial filed by the Sindicato de Telefonistas de la República Mexicana in order to invalidate the protection contracts. The trial was reportedly rigged.

Refusal to consult unions and anti-union discrimination:

The case of the Sindicato Mexicano de Electricistas (SME) workers is still unresolved. In 2009, the Fuerza y Luz company was closed down arbitrarily and without consultation. This is considered as an open attack on one of the most important unions in Mexico. The SME has fought to get those workers reinstated ever since. In January 2013, the Supreme Court ruled that there was no obligation to re-employ the dismissed workers.

PKC Workers Sacked for Organizing Independent Union:

Since 2011, PKC, a Finnish auto-part supplier, has produced wire harnesses for the North American auto market. The company employs 5,500 workers. It fired more than 100 unionists, including the entire union executive committee, in December 2012. They were fired for campaigning for the election of an independent trade union, the National Union of Mine and Metalworkers at their plants in Ciudad Acuña, Mexico. Ten of the union leaders refused severance pay and are fighting for their reinstatement and to establish a democratically elected union at the plant. In January, they went on a week-long hunger strike outside the plant.



PANAMA

Arrest of trade union leaders: In 2012, following protests by workers worldwide about the presence of President Ricardo Martinelli at the 101th ILO Conference, a warrant was issued for the investigation of the three Panamanian union leaders present at the Conference. During the judicial process, the government leaked several accusations against the leaders to the press in violation of due process rights.

Collective agreements are disrespected: In violation of a collective agreement, the banana producer, Grupo San Bosco

closed down two large plantations, falsely claiming bankruptcy, leaving more than 70 workers affiliated to the Sindicato Industrial de Trabajadores de Productores Bananeros Independientes (SITRAPBI) out of work.

Denial of fundamental civil rights, police brutality, and arrest of trade unionists:

Protests in October 2012 against a law to sell land within the Colón Free Zone resulted in the death of at least three people, including a young boy. The community was deeply worried that the sale would result in the loss of an important source of income for the area. Residents formed a united front, including various community groups and trade unions. The government responded by unleashing a brutal wave of repression resulting in the deaths. In solidarity, trade unions demonstrated across the country. Again, the government responded by hiring thugs to break up the protest and vandalise buildings. Several trade unionists were arrested. The law was eventually repealed.



PARAGUAY

Intervention in collective agreements: More than 90 per cent of collective agreements in the public sector are not recognised due to arbitrary interference by the Secretary for the Civil Service (Secretaría de la Función Pública).

Anti-union discrimination and refusal to bargain in good faith:

Granja Maehara S.A. dismissed workers for creating a union. Subsequently, the unionists were arrested by police for protesting in front of the company's facilities.

The meat company Industria Paraguaya Frigorífica S.A. (IPFSA) dismissed union leaders and members and has refused to negotiate a collective agreement.

The security company Prosegur dismissed 325 workers after the creation of a union and refused to bargain with the union.

The company Grupo La Victoria dismissed workers and union leaders after the creation of a union.

The Banco Regional SAECA refused to sign a collective agreement with the union.

Obstacles to the right to strike in practice: An administrative act by the Ministry of Labour suspended the right to strike by unions in the Ministry of Finance and in the Judiciary. The Ministry of Labour does not have this authority.

Acts of interference in strike action: The wire company Alambra SA hired staff to replace workers on strike in the city of Capiatá, near the capital Asunción. Labour inspectors have confirmed that substitutes were used by the company but took no further action.



PERU

Anti-union discrimination: The Spanish telecommunications company Telefónica has systematically dismissed workers attempting to form a union in several of its subcontractors. One of the main cases happened with the Telefónica subcontracting company ITETE SA that dismissed all workers affiliated to the union SITENEL.

Fidel Polo, Legal Defence Secretary for the Sindicato de Trabajadores de la Sociedad Agrícola Virú (SITESAV) and Deputy General Secretary of the Federación Nacional de Trabajadores de la Agroindustria y Afines (FENTAGRO), was dismissed after appearing on a local television programme speaking out against working conditions in the Peruvian agricultural export industry.

Recognition of union for collective bargaining: The beverage company AJE failed to recognise the Sindicato Nacional de Trabajadores de Bebidas, Ventas y Afines (SINTRABVA) for collective bargaining. The company refused to attend meetings convened by the National Authority for the Prevention and Resolution of Conflicts. As a result the union called a national strike which was regarded as illegal by the Minister of Labour.



TRINIDAD AND TOBAGO

Illegal lock-outs by employers: Despite a reinstatement order by the court, the company Petrotrin refused to allow some members of the Oilfields Workers' Trade Union to report for work on 23 March 2013. The workers had been suspended for participating in a protest in front of Tower D of the Port-of-Spain International Waterfront Centre. The situation was resolved when the union complained to Petrotrin's President.

Interference in trade union activities: Orville Carrington, the Vice President of the Trinidad and Tobago Unified Teachers Association (TTUTA), was barred from entering the Ministry of Education for negotiations for having allegedly used threatening language. The union argued that the real reason for this order was to interfere with its right to represent the interests of workers in all workplaces.

Workers excluded from the right to strike: Members of the teaching service and employees of the Central Bank are prohibited from taking industrial action, such action being subject to a penalty of up to 18 months' imprisonment.



USA

Prohibition of demonstrations: Workers in the U.S. are restricted in their ability to engage in picketing and other forms of protest on employers' property. The law also prohibits secondary picketing and limits picketing which has the object of organising workers or obtaining recognition from the employer. In January 2013, the United Food and Commercial Workers Union and its community affiliate, Our Walmart, which had engaged in nationwide demonstrations at Walmart stores protesting about the retaliatory action taken against Walmart workers who had spoken out for better pay, fair schedules and affordable health care, had to disavow any intent to represent Walmart workers and promise not to picket for a period of 60 days to forestall the government from going to court to obtain an injunction to stop the demonstrations.

Prohibition of publications: Under U.S. law unions have no right to maintain their own bulletin boards in employer workplaces and the employer is not required to allow the union to post notices on its bulletin boards unless it permits workers to use the bulletin boards to post other, non-work-related material. Employers may also establish rules prohibiting the distribution of union literature in work areas, even if the employer itself distributes materials in those areas. Although workers generally have the right to distribute news and leaflets in non-work areas, these rights are frequently violated during union organising campaigns.

Exclusion of workers from the right to freedom of association and collective bargaining: In the private sector, managerial and supervisory employees, independent contractors and domestic workers have no right to form or join a union, nor do agricultural workers except in a small number of states. These excluded categories of workers constitute approximately 15 per cent of the private sector workforce. In the public sector, workers cannot be prevented from or punished for forming or joining organisations of their own choosing, including unions. However, as noted below, more than 7 million federal, state and local government employees, representing more than a third of the public sector workforce, do not have the right to bargain collectively—an essential corollary of the right to form unions.

Employers threaten workers who want to join unions:

A recent academic study found that in 57 per cent of the campaigns surveyed, workers were threatened that their workplace would shut down if they chose to be represented by a union, and that in 47 per cent of campaigns they were threatened with a loss of wages or benefits. 64 per cent of campaign workers were interrogated about how they and other workers were going to vote and 14 per cent were put under surveillance by their employer. To intimidate workers, 21 per cent of employers called in police to do walkthroughs in the work place, and 14 per cent bring in security guards or put up security fencing. Most egregiously, workers were dismissed in 34 per cent of the campaigns.

Employers refuse to bargain with representative unions:

Under U.S. law, even after a majority of workers have voted for union representation, an employer can challenge the results of the election by refusing to bargain and thereby obtaining a court review of the election. Employers commonly use this tactic in first contract situations to delay bargaining even where there is no meritorious basis for challenging the election results.



VENEZUELA

Refusal to bargain in good faith: In January 2012, a group of 600 workers employed at Polar accused the company of blocking salary discussions during collective bargaining.

Attempted violence against union leader: On 21 May 2012, an armed assailant entered the EFE ice cream factory (part of the Polar group) in Caracas and asked to see Abraham Rivas, General Secretary of the Sindicato Nacional de Trabajadores Socialistas de Productos EFE and also General Secretary of the recently created Federación Nacional Clasista de Trabajadores de Alimentos, Bebidas, Conexos y Afines (FENACTRALBECA), which organises workers in 21 different companies belonging to the Polar Group. The workers became suspicious and when they called the National Bolivarian Guard it was revealed that the man had been hired to carry out an attack on Abraham Rivas.

Interference in the right to elect workers' representatives: In February 2012, Elio Sayago was dismissed from his position as worker-president at the state aluminium company CVG Aluminio del Caroní S.A. (CVG ALCASA) and replaced by Angel Marciano.

Asia and the Pacific



AUSTRALIA

Conservative state governments impose further restrictions on the right to bargain collectively and to take industrial action:

Governments in New South Wales (NSW) and Queensland have passed laws to benefit the state governments in their roles as employers by deliberately restricting the rights of their employees in the public service. In NSW, laws have always prohibited public servants (including teachers, police and nurses) from striking, but provided for arbitration of wage claims by an independent workplace tribunal. During the year, the conservative government passed a law allowing the government to dictate the wages of over 300,000 workers, without the obligation to bargain and without the right to strike. An appeal of this legislation by the NSW public sector unions to the High Court was unsuccessful.

In Queensland, the Government has passed laws which remove important protections for state public sector workers with respect to termination, change and redundancy that exist in collective agreements and awards and render unenforceable any existing restrictions on the use of contractors. These laws come at a time when the government is laying off tens of thousands of workers. New laws also impose requirements on the industrial tribunal in Queensland to take into account the state's financial position and fiscal strategy when determining public sector wages and conditions by arbitration. The laws introduce limitations on the right to bargain collectively and take industrial action, including requirements for protected action ballots, provisions enabling an employer to submit a ballot directly to employees, and new powers for the Minister to terminate industrial action on a number of grounds.



BANGLADESH

Violence and interference in strike action: On 30 January 2012, at least 40 workers were attacked and injured by company security guards from Rashida Knitting and Ware Limited and Megha Textile Ltd in the Ishwardi Export Processing Zone

when they protested against dismissals without prior notice and non-payment of annual leave.

Violence and interference in collective bargaining: On 12 February 2012, the President and the General Secretary of the Coats Bangladesh Ltd. Employees Union (CBLEU) attempted to enter negotiations regarding an industrial dispute at the Tejgaon Industrial Area in Dhaka. Management confiscated their mobile phones and forcibly detained them over night.

Murder of trade unionists: Aminul Islam, an organiser at the Bangladesh Center for Worker Solidarity, was found dead in April 2012. In 2010, he had been arrested and tortured by police and intelligence services.

Violence and interference in demonstrations: On 13 May 2012, workers employed at the Ha-Meem Group protested about management violence against workers. Police intervened in the demonstrations which led to the injury of at least 100 workers.

At least 100 garment, knitting and packaging factories in Ashulia were shut for a day on 11 June 2012 after hundreds of workers of Artistic Design, a packaging factory in the Ha-Meem Group located in Narasinghapur, staged a demonstration demanding a pay rise. Thousands of workers from garment factories along the highway stretching from Narasinghapur to Banglabazar joined the demonstration. The police attacked the workers with batons to free the road leaving 10 people injured.

In July 2012, three workers who had participated in demonstrations demanding pay rises were shot by the security forces.

On 16 September 2012, police fired rubber bullets and tear gas at tens of thousands of garment workers who were demonstrating in a key industrial area outside Dhaka, demanding a reduction in working hours. Two policemen and about 50 workers were injured during the clashes.



CAMBODIA

Acts of anti-union discrimination: 67 workers were dismissed from Siem Reap's Angkor Village Hotel and Resort

for having tried to form a union. The arbitration council and provincial court ruled in favour of their reinstatement.

Physical assaults against trade unionists: A gunman opened fire into a crowd of over a thousand garment workers who were demonstrating in favour of better working conditions, wounding three. The alleged perpetrator Chhouk Bandith, governor of the Bavet region, was charged with "unintentional injury." However, he remains free and there appear to be no efforts to prosecute him for these crimes. Two men have been imprisoned for 20 years for the murder of Chea Vichea, former leader of the Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC). However, the trial was deeply flawed and few believe that Sok Sam Oeun and Born Samnang are actually guilty of the crime.

Sanctions against strike action: In September 2012, Rong Cchun, President of the Cambodia Confederation of Unions (CCU) as well as of the Cambodian Independent Teachers' Association (CITA), was charged with inciting Tai Yang Factory workers in Ang Snuol to go on an illegal strike. 4,000 Workers had gone on strike after management had refused to negotiate with them.



CHINA

Labour law reform: China still does not have a national law on collective bargaining. In its place, local legislation has been passed since 2010 to enable the government and the trade unions to establish a collective wage mechanism. To date, 25 provincial and municipal governments have introduced local legislation on collective wage negotiation.

Workers in the state and public sector excluded from collective bargaining: The local legislation on collective wage negotiations does not cover employees in the State Owned Enterprises, the public service units (PSUs), or employing units for the party and civil servants.

60 million agency workers excluded: All the local wage negotiation legislation excludes agency workers. The only exception is Wuxi city in Jiangsu province, which allows the agency workers to take part in the collective negotiation with the company where they work. Although there is no provision

barring agency workers from joining a trade union in Chinese law, they are allowed to join the trade union only in the agency company as stated in the All-China Federation of Trade Unions (ACFTU) Directive passed in 2009.

Dismissal of Strikers is not deemed an Unfair Labour

Practice in China: On 28 December 2011, all the workers from Shihe Wood (Shanghai) staged a three-day strike to demand that management negotiate a settlement plan for the layoffs. The management put up a warning on 29 and 30 December requesting that workers return to work and subsequently fired 400 workers. Some of them took the company to court for illegal dismissal demanding compensation. Yuan, one of the plaintiffs, lost the case in the Court of First Instance and then in the intermediate court on 24 August 2012. Yuan was condemned for having broken company rules prohibiting absenteeism for three days, as well as participating in an illegal strike and inciting others to strike.

Coercing strikers to return to work: Flextronics's factory in Shenzhen demanded that strikers sign a no-strike agreement before they were allowed to return to work. The management posted a warning letter on 30 October 2012 declaring that they would dismiss all workers who refused to return to work on 31 October 2012 for violating the company code and the Labour Law and offering a cash reward of RMB 200 to those who had not participated in the strike.



HONG KONG

Lack of legal protection: There is no law in Hong Kong to mandate bargaining or consultation with the trade unions on employment relations and conditions.

Refusal to bargain in good faith: The Vitasoy company has refused to bargain with the Vitasoy Employees Union with regard to wage setting mechanisms. The company does not want to participate in regular negotiations with the union.

Refusal to recognise unions for bargaining: The Union of Hong Kong Dockers (UHKD), which represents 1,500 dock workers in the Hong Kong Container Terminal, is not recognised by the owner of the terminals and the contractors for bargaining purposes. The subcontracted workers went on strike in March

2012 to push for a raise of around 20 per cent from the 55 Hong Kong dollars hourly wage they make.

Exclusion of workers: A. S. Watson & Company Limited Hong Kong is increasingly turning employees into self-employed contractors to avoid legal obligations with regard to the payment of benefits. The Hong Kong Confederation of Trade Unions stated that this has a serious impact on representativeness for bargaining purposes.



INDIA

Discrimination against trade union leaders and refusal to bargain in good faith:

In March 2013, workers at the Mahindra & Mahindra's Nashik factory went on a tool-down strike in reaction to the suspension of their union's General Secretary, Pravin Shinde who had been on hunger strike to press for the renewal of the wage agreement which ended in February. Wage negotiations between union and management lasted for six months. However, despite several rounds of talks, the wage agreement was not renewed.

When the Milk Food Factory Workers Union demanded the reduction of working hours from 16 to 8 hours without loss of pay and job security, management at GlaxoSmithKline's (GSK) Horlicks factory in Nabha adopted discriminatory measures against union members. In April 2013, false charges were filed against trade union members, 300 workers had their wages cut without justification and court injunctions were filed to stop trade union meetings.

Backlog of labour cases: In March 2013, the Labour Ministry reported that a total of 13,525 cases were pending in labour courts across the country. The highest number of pending labour cases is in Ahmedabad with 2,194, followed by Jabalpur with 1,914.

Picket restrictions: In February 2013, The Karnataka High Court ordered Karnataka Petroleum and Gas Workers' Union not to instigate any action within a 500 metre radius of three LPG bottling plants owned by the Indian Oil Corporation Limited in Bangalore, Shimoga and Belgaum.

Prohibition of strikes: In February 2013, Goa's state government prohibited strikes in any form in all transport services carrying passengers or goods by land or water under the Goa Essential Services Maintenance Act.



JAPAN

Interference by employers: American Apparel closes stores wherever unions are able to effectively negotiate with management. In September 2012, a store in Tokyo was closed after the union successfully argued for the reinstatement of a worker who had been unfairly dismissed. While management agreed to reinstate the worker it decided to close the store without providing any further justification.

Public sector workers do not have the right to strike: The National Public Service Law and the Local Public Service Law provide that public employees who incite strike action can be fined, sentenced to up to three years' imprisonment, dismissed, reprimanded with a pay cut or disciplined. The police, prison staff, Japan Coast Guard personnel and members of Japan's Self-Defense Forces do not have the right to organise.



INDONESIA

Police intervention in demonstrations: Mr. Suprpto, one of the leaders of the Konfederasi Serikat Pekerja Indonesia (KSPI) at plant level, was stopped from holding a speech when the police intervened and used rubber bullets against workers who were demonstrating against outsourcing and low wages. Mr. Suprpto, Mr. Yoni Mulyono, and Mr. Gagan Setiawan were hospitalised as a result of the attack.

Trade unionists being charged for carrying out legitimate activities: Workers protesting in front of a factory were attacked by a group of unknown persons. When the company security guards did not react, Eddy Irawadi, a union leader, ordered the closure of the production line in order to avoid further attacks. The employer filed a complaint against the union because of the work stoppage.

Collective agreements are disrespected: In March 2013, security workers at PT. Tanjungenim Lestari Pulp and Paper (PT TEL) went on strike when PT. Tangkas decided to outsource operations of PT TEL in violation of a valid collective agreement.

Anti-union discrimination: In November 2012, management of the paper company PT Kertas Leces in Probolinggo terminated the contract of Djody Soegiharto, coordinator of the department of organising and recruitment at the Federation of Indonesian Pulp and Paper (FSP2KI). In February 2012, management accused him of defamation when he displayed banners at the factory premises demanding the payment of pending salaries and benefits.



KOREA (REPUBLIC OF)

Previous authorisation requirements: The Korean Government Employees Union (KGEU) has been refused registration three times.

Direct discrimination against trade union members and leaders: 137 KGEU members have been dismissed for their trade union activities. The KGEU President and Secretary General were dismissed on the grounds that they are leaders of an illegal organisation.

165 public enterprise workers who are members of the Korean Federation of Public Sector and Transportation Workers' Unions (KPTU) were dismissed in retaliation for legitimate union activities. Many of these workers, including 96 members of the KPTU-affiliated Korean Railway Workers' Union faced reprisals due to their opposition to public sector privatisation and other actions taken to defend quality public services. Others were fired in an effort to prevent legitimate efforts to improve poor working conditions.

Interference by employers: Hanjin has formed a “yellow” union to lure members from the Korea Metal Workers Union (KMWU). This situation drove Choe Kang-seo, Deputy Organising Director of the KMWU Busan Regional Branch Hanjin Local to take his life.

Exclusion of workers from freedom of association: The Jaeneung Educational Institute has deterred its employees from joining unions using methods such as dismissals and cancellation of collective bargaining agreements in February 2013.

Government moves to deregister teachers’ union: The Ministry of Employment and Labour, upon a January 2013 request from the Ministry of Education, Science and Technology (MEST), threatened to cancel immediately the registration of the Korean Teachers and Education Workers Union (KTU) if it did not amend its constitution. Currently, the KTU Constitution allows dismissed workers to remain members of the union, which is allowed under international law but prohibited under Korean law.

Interference in trade union activities and administration: E-Mart Co. Ltd. systemically attempted to undermine the organisation of the union, such as illegally using workers’ resident registration numbers to check if they had joined the union.



MALAYSIA

Refusal to recognise unions: In March 2013, the Workers Union of the West Territory Electronic Industries picketed outside the Human Resources Ministry to protest against their employers’ refusal to acknowledge the existence of unions in their respective companies. Union president Wan Noorul Azhar Mohd Hanafiah said the companies arbitrarily bust unions by sacking the presidents, threatening union members and forming in-house unions.

The Director General of Trade Unions (Ministry of Human Resources) can refuse to register a trade union without giving any reason for the refusal and can withdraw registration, and is thus given very broad discretion in deciding these matters. Unions that do not register, or whose registration has been denied or withdrawn, are considered illegal organisations. The decisions by the Director General of Trade Unions (Ministry

of Human Resources) and the Minister of Human Resources cannot be appealed to any Court.

Minimum wage agreements are disrespected: 2,000 foreign workers at a textile and polyester manufacturer in Negri Sembilan and a furniture maker in Johor went on strike in March 2013 to protest that foreign workers do not receive the minimum wage. The protesters returned to work following intervention by officials from the Human Resources Ministry and representatives of the foreign missions of Bangladesh, Vietnam and Nepal.



PAKISTAN

Dismissal for strike action: More than 400 young doctors who had participated in a strike to protest about criminal cases lodged against their colleagues in the wake of the Gujranwala DHQ hospital incident were dismissed. Chief Minister Shahbaz Sharif had promised to withdraw the actions against the young doctors at a meeting with representatives of the Young Doctors Association Punjab at his Model Town residence on 18 February 2013. However, Jinnah Hospital refused to reinstate 200 doctors — 55 Medical Officers, postgraduate trainees and house officers — despite written orders from the health authorities.

Anti-union discrimination: In April 2013, management of Kraft Foods Pakistan locked out members of the Cadbury Pakistan Progressive Employees Union and attacked union leaders when negotiation over wages, benefits and job security reached a deadlock. Disciplinary action against union leader Muhammad Saleem was initiated in order to dismiss him, in violation of a valid collective agreement.

Police intervention in strike and refusal to bargain: In March 2013, police raided the Pearl Continental hotel in Karachi and arrested 50 union members and leaders participating in a sit-in strike. Criminal charges were filed against union leader Ghulam Mehboob who was detained for 14 hours. Management refuses to bargain with the union and to attend conciliation hearings.



PHILIPPINES

Anti-union discrimination: The President of the Hong Kong-Shanghai Banking Corporation Employees' Union (HSBCEU), a vocal critic of HSBC's outsourcing programme was dismissed as a result of his criticism of management.

On 15 January 2013, union officials from the PMI Faculty and Employees Union Alberto Porlacin, Joseph Nelson Sarabia, Violeta Dano, Nelson Estano, Victorino Cabalit, and Joel Langcamon were dismissed by PMI- Bohol Colleges. There was no valid justification for dismissal. The termination came after the union engaged in negotiations over issues such as benefits, work schedules, and grievance procedures. PMI-Bohol Colleges increased security and threatened the leader of the Student Body Council with dismissal should he support the strike which was announced as a result of the dismissals.

Interference in collective bargaining: The HSBCEU was banned from entering the HSBC premises when negotiations with respect to a new collective agreement were about to start.

Imprisonment of union leaders: Two union leaders have been charged with "revolting" against the government and were imprisoned on 29 April 2012. Unions organised a protest on 18 January 2013 to protest against the systematic imprisonment of union leaders.

Interference in strike action: The President and the Ministry of Labour can ask the police and military to enforce a return-to-work order under the Assumption of Jurisdiction Order.



SINGAPORE

Intimidation and harassment: On 26 November 2012, 100 Chinese bus drivers organised a strike demanding equal pay and payment for overtime work. The Singaporean authorities decided to deport 29 of them and prosecute five others. Four of them were released on bail, while one was convicted and

received a six week prison sentence. The four drivers who were released on bail, as well as human rights defenders assisting them, reported being followed by Singapore's internal security department on several occasions over the two months that followed. They filed a police report on the matter in January 2013, but no action was taken to stop the intimidation. Two of them also reported that they had been ill-treated. The government argued that the work stoppage was an illegal strike in an essential public service. However, the ILO has determined that bus transportation is not an essential service.

Excessive legal restrictions on the right to strike: The prerequisites for calling a legal strike are excessive. The majority of all union members must vote in favour of it in a secret ballot (Art. 27 Trade Union Act). The law imposes fines and imprisonment for participation in strikes or pickets (Art. 27 Trade Union Act; Arts.5-6, 9 Trade Disputes Act; Art.9 Criminal Law).



SRI LANKA

Discretionary determination of essential services: The Public Security Ordinance and the Emergency Regulation No. 01 of 2005 which implements it, allow the President to ban any organisation that s/he considers to be impeding, obstructing or delaying the production and delivery of an "essential" service.

Refusal to bargain in the education sector: In November 2012, the Ceylon Teachers' Union (CTU) stated that the Ministry of Education was refusing to negotiate with workers over wages and budget allocations for the education sector.

Threats against trade unionists: In January 2012, Ranjan Jayalal, a trade union leader affiliated to Sri Lanka's power sector, reportedly received death threats. He received calls on his mobile phone from an anonymous caller threatening to kill him and his family if the trade union action in the Ceylon Electricity Board was not stopped.

Anti-union discrimination: When the Joint Trade Union Organisation at the Ceylon Electricity Board went on strike because of a dispute over a pay rise for executive grade employees, 10 workers who had participated in the strike were dismissed.

In August 2012, management issued a notice saying that all workers who go on strike would be dismissed.

Labour Law Falls Short of ILO Minimum Standards: Unfair labour practices such as anti-union discrimination are tried before the Magistrate's Court; however, only the Ministry of Labour can make a complaint to the Magistrate's Court. The only option available to unions to expedite the process is to obtain a writ from a higher court, a time-consuming and expensive legal exercise. The Ministry of Labour has brought few cases before the Magistrate's Court since the law was introduced. The ILO has reiterated that trade unions should have direct access to the courts.

Rights Violated in EPZs: Workers' rights continue to be routinely violated in EPZs. In many cases, union activists and members are suspended, demoted or terminated. In other cases, employers have promoted non-union employees councils as a way to avoid or to weaken unions. When complaints of labour violations are brought before the appropriate governmental authorities, unions allege that employers rarely attend the hearings and, when they do, they frequently violate the terms of settlements and/or arbitration awards.



TAIWAN

Industrial relations context: 84 industrial unions were registered in 2012. Trade union density is 34.9 per cent.

Anti-union discrimination: A union officer at Yung Hwa factory owned by Kayaba Industry Co. Ltd and four union officers at Taiwan Airport Service Co. Ltd were dismissed by their employers in January and June 2012. The Council of Labour Affairs ordered the reinstatement of the dismissed workers, but management is not complying with this decision.

Exclusion from the right to collective bargaining: In January 2012, the Department of Labour in Taipei City declared that Master/PhD candidates employed as research and teaching staff by the National Taiwan University did not have the right to pursue collective bargaining with the National Taiwan University (NTU) because they did not have an employment relationship with the NTU. The Council of Labour Affairs asked the Department to review its decision in November 2012.

Although the revised Labour Union Act has no restriction prohibiting agency workers from joining or organising a trade union, the Collective Bargaining Act has no provision including agency workers under the scope of a collective agreement.



THAILAND

Refusal to bargain and anti-union discrimination: On 24 December 2012, management at Electrolux announced unilateral wage increases without engaging in negotiations with the Electrolux Thailand Worker's Union. Requests to negotiate wages were disregarded. In January 2013, management repeatedly asked workers to refrain from engaging in union activities insisting that the unilateral wage increases determined by management were appropriate. During a meeting with management on 11 January 2013 the union President Phaiwan Metha was forcefully removed from the meeting and sent home. Management explained to the workers that he had been dismissed. In response to this unjustified dismissal, workers refused to return to work. Electrolux retaliated by forcibly detaining workers for more than 6 hours on the company lawn before dismissing 129 workers.

Sanctions and anti-union discrimination: On 28 July 2011, Thailand's Central Labour Court upheld the State Railways of Thailand's (SRT's) dismissal of seven State Railway Union of Thailand (SRUT) leaders and also ordered the seven to pay the authority THB15 million (USD500,000) in compensation for damages resulting from a 2009 strike. The court found the defendants guilty of inciting workers to go on strike, disrupting train services and causing SRT serious financial damage. The seven union SRUT leaders are President Mr. Sawit Kaewwan, Vice-presidents Mr. Phinyo Rueanphet, Mr. Banchong Bunnet, Mr. Thara Sawaengtham, and Mr. Liam Mokngam, Secretary Mr. Suphichet Suwanchatree, and Director of Education Mr. Arun Deerakchat. On 16 March 2012, the court reversed the reinstatement decision and held SRUT had incited unrest among SRT workers and caused damage by staging unlawful industrial action. The SRUT has filed an appeal with the Supreme Labour Court.

Europe and Central Asia



ALBANIA

Tripartite social dialogue: The government has excluded the Confederation of Trade Unions of Albania (KSSH) from its delegation to the ILO Conference in 2012 and 2013. The KSSH stated that it is also regularly excluded from meetings of the National Labour Council which also does not take KSSH proposals into consideration. Hence the KSSH declared that it would boycott the National Council of Labour and bilateral and tripartite activities.

Insufficient legal protection against anti-union discrimination: In cases of anti-union discrimination, the Labour Code provides for compensation and requires that the termination of a union official must have prior consent from the union. However, the remedy of reinstatement is only made available to public administration employees.

Restriction of collective bargaining: The Labour Code (Art. 161) only permits the conclusion of enterprise or branch level collective agreements. No national level collective agreements have been concluded.



BELARUS

Anti-union discrimination: In Mikashevichi, employers and local authorities pressure members of the newly formed independent union at RUPP "Granite" Company to leave the union. Union leaders are subjected to continuous harassment and denied legal redress. Oleg Stakhaevich, chairman of the independent union, and his deputy, Nicholai Karyshev, were unlawfully dismissed.

In 2012, employers continued to harass members of the independent unions at "Belshina" Company in Bobruisk and OAO "Oil Refinery" in Mozyr. Members are forced to resign from their unions as their employers threaten to not extend their fixed term contracts or confirm their professional skills.

For the first time in the 20 year existence of the union, white collar workers were forced to resign from the Independent Union of Miners (NPG) at OAO “Belaruskali” Company.

Lack of access to remedies: The Government of Belarus has failed to investigate numerous claims about workers being prevented from engaging in labour actions or blocked from participating in strikes.

Intervention in trade union activities: It has been reported that the Bobruisk tractor parts plant employer denied the Belarusian Free Trade Union (SPB) entry to the premises. For 6 months, Mikhail Kovalkov, who is the leader of the SPB has not been allowed to enter the workplace to meet with union members. SPB members are not allowed to use the company's sports and fitness complex. However, the complex is available for use by all members affiliated to the official Federation of Trade Unions of Belarus (FPB).

Refusal to bargain in good faith: For over 18 months, the employer at OAO “Naftan” Oil refinery has refused to sign the collective agreement negotiated with the independent union.



BELGIUM

Consultation with unions: The newly-formed government introduced major pension and unemployment benefit reforms without consulting trade unions. Only after a general strike was held on 30 January did the government agree to hold consultations.

Refusal to bargain in good faith: In September, employers' organisations deliberately delayed negotiations over the bi-annual discussion (2013-2014) on social security benefits.

Unreasonable time-limits for bargaining: As a result of pressure exerted by employers' organisations, the government set a time limit of January 2013 for bargaining on overtime and working hours.

Restrictions of strike pickets: The European Committee of Social Rights declared that the restrictive interpretation of the right to strike by civil courts limited strike actions and was a violation of the European Social Charter.

Interference in strike action: Police used water cannons to disperse workers who were striking because of announced mass dismissals at Arcelor Mittal (Liège) in January 2013.

Infringements on the right to freely organise activities: Arcelor Mittal (Liège) security guards have been using pen cameras to spy on trade union meetings since 2008.

Sanctions for strike action: Public authorities interpret the “municipal administrative penalty” broadly and use it to restrict trade union activities. 20 trade unionists were forced to stop distributing leaflets in front of the Delhaize supermarket in Antwerp when they were threatened with administrative penalties on 8 October 2012.

Exclusion of subjects from collective bargaining: In November 2012, the government asked the social partners not to agree on wage increases for 2013-2014.



BULGARIA

No adequate legal protection: The law does not provide adequate protection against acts of interference by employers. Strikes are hindered by excessive legal prerequisites requiring the majority of all workers in an enterprise to vote in favour of strike action (sec. 11 (2) Collective Labour Disputes Settlement Act). Civil servants do not have the right to collective bargaining or the right to strike. Railway workers are also excessively restricted in their right to strike as the law establishes broad minimum services in railway services. Sec. 51 Railway Transport Act of 2000 determines that workers must provide the population with satisfactory transport services corresponding to no less than 50 per cent of the volume of transportation that was provided before the strike.

Refusal to bargain in good faith and anti-union discrimination against union leaders: “Toplofikatzija – Sofia” SA failed to renegotiate a collective agreement in good faith with the Independent Trade Union Organisation of Energy Workers. The Chair of the union at the enterprise has been dismissed in order to exclude her from the collective bargaining process. In addition, the Chair of the union has been denied access to the company premises for meetings with union members.

The company “Brikel” has been refusing to bargain with the Independent Trade Union Organisation of Energy Workers and imposes the payment of an association fee. This issue has been raised with the labour inspectorate.

Attacks against union premises and property: In response to a strike, the Federation of the Railway Workers has been denied access to its offices by “Holding BDZ”. Subsequently, union property, including the Chair’s telephone, was seized by the employer without its consent.



GERMANY

Refusal to bargain: In April 2013, 97 per cent of Vereinte Dienstleistungsgewerkschaft members voted in favour of strike action at the Amazon plant in Leipzig. Management repeatedly refused to start wage negotiations and encouraged its employees to join work councils rather than trade unions. The company has 1,200 permanent and 800 temporary workers in Leipzig.

Exclusion of workers: Workers employed in churches and Christian welfare organisations are excluded from the right to bargain and the right to strike.

Interference in strikes: In June 2012, the Damp Hospital group dismissed 1,000 workers to undermine strike action in relation to a labour dispute. Management justified the dismissal by saying the workers “failed to comply with their contractual obligations.” A minimum service agreement is in force and 48 hours’ notice must be given in advance of a strike.



CROATIA

Discrimination against union members: On 24 December 2012, Zagreb Holding dismissed Dario Rastovcan, a shop steward from the Autonomous Trade Union of Workers in Public Utilities and Housing Services of Croatia who had been raising violations of rights guaranteed by law and by collective agreements.

Legislative changes have restricted trade union rights:

In 2012, legal amendments have been adopted that have introduced representivity criteria for bargaining purposes. The new criteria favour “vocational” unions which are guaranteed automatic entry into the negotiation committee. This could encourage the creation of numerous vocational unions and cause fragmentation. The procedure for determining representativeness is too long and complicated and causes a backlog for collective bargaining.

Government cancels Basic Collective Agreement: On 17 September 2012, the Croatian Government cancelled the Basic Collective Agreement that provided benefits for officials and employees in the public sector after negotiations with unions broke down over wage cuts proposed by the Cabinet. The decision to cancel the collective agreement took effect on 17 December 2012.



GREECE

Legal changes: Law 4046/2012 was adopted in February 2012 and determines that from April 2013 “until the completion of the fiscal adjustment programme” the minimum wage will be reduced by 22 per cent in general and by 32 per cent for young people under 25 years of age. Law 4093/2012 provides that the marriage bonus (10 per cent) contained in the national collective labour agreement will no longer be included in the minimum wage.

Interference in strike action: In February 2013, the government invoked emergency laws to force striking seamen back to work. Seamen were demanding more than six months’ worth of pay arrears and the signing of collective agreements with the ferry companies. Thousands of demonstrators converged on the country’s largest port to protest against the order, while the

country's two main unions declared a day-long regional strike in the greater Athens area in solidarity with the seamen.

In January 2013, the government forced an end to a nine day transport strike. The union representing the Athens' metro workers called the strike in opposition to wage reductions which were demanded by the Troika (European Commission, IMF, European Central Bank). Other transport workers joined the strike before the government used the threat of mass arrests and police units to force people back to work. The metro workers began the strike in opposition to plans to bring them under a civil service wage structure.



ITALY

Anti-union discrimination: 12 workers who had participated in a protest in front of the gates of the IKEA plant in Piacenza were dismissed in November 2012. Nine of them are members of the Confederazione dei Comitati di Base (COBAS). Following negotiations management stated that the workers would not be dismissed but transferred to another branch. Violent protests had taken place at the plant in October and November when police intervened to stop the workers blockade in front of the company. The protests were against wage inequality, excessive workload, unpaid wages, and anti-union discrimination.

In June 2012, a labour court ruled in favour of 145 members of the Federazione Impiegati Operai Metallurgici (FIOM) - Confederazione Generale Italiana del Lavoro (CGIL) who had not been reemployed by FIAT since the company began to reallocate jobs to the factory in Pomigliano. Not a single member of FIOM was among more than 2,000 newly hired employees at the Pomigliano factory. The court ordered FIAT to stop its discriminatory behaviour and in future to provide for 8.9 per cent presence of FIOM members in the workforce. In addition FIAT will have to pay compensation of 3,000 Euros to each of 19 workers who filed the suit.



KAZAKHSTAN

Interference by employers: In January 2013, the Trade Union of Mining & Metallurgy Workers of Republic of Kazakhstan (TUMMWK) reported that Kazakhmys, a copper mining company in Kazakhstan, is forcing TUMMWK members to quit their union and to join the company-controlled one.

The company has also forbidden the sending of union dues directly from workers' salaries to TUMMWK's account, completely paralysing the Kazakhmys branch of the union.

Lack of due process rights: On December 6 2012, Asel Nurghazieva was detained in the western city of Aqtau when she filed lawsuits on behalf of the citizens claiming police abuse during last year's unrest in the western town of Zhanaozen.

Denial of fundamental civil rights: Ever since the killings in Zhanaozen in December 2011 where the police shot 12 workers, public authorities have targeted leading oil workers and opposition activists who supported the strikers. 13 people who had assumed active roles in the strike, including the most outspoken oil workers received prison sentences from 3 to 7 years in June 2012. During the trial both the defendants and witnesses testified to being tortured.

Introduction of restrictive legislation: In March 2013, the government announced that a new labour law will be introduced in 2013. The draft reveals that the law will restrict the right to freedom of association and collective bargaining. According to the bill, unions can only negotiate on behalf of their members if they have affiliated organisations in more than half of the country's 14 regions as well as in the capital Astana and financial centre Almaty. This would be difficult for unions in the oil and mining industries, which are concentrated in the west and north-central parts of the country, respectively.



LATVIA

Anti-union discrimination and disrespect of a collective agreement: Port managers in Liepāja dismissed 10 members of the Liepāja Port Staff Professional Organisation accusing them of theft after failed attempts to breach the union's collective agreement by trying to force them to accept different wage levels. However, under Latvian labour law, a trade union member cannot be dismissed without prior approval from the union. By September 2012, the court had rejected seven applications from the employer to dismiss the workers and deemed one suspension illegal.

Intimidation of trade union members by the employer:

Aero navigational service provider SJSC "Latvian Air Traffic" - invited air traffic controllers in small groups to the management office and asked each of them about his or her membership in the trade union, and whether he or she agrees with the complaint previously addressed and sent to the Minister for Transport signed by the trade union chairperson Mrs. Ausra Straume.

Anti-union discrimination against trade union leaders: In March 2012, Ausra Straume was suspended from her air traffic controller duties and was prohibited from entering and residing at the premises of SJSC "Latvian Air Traffic". Disciplinary investigations against her did not reveal any infringements of labour discipline. She was suspended for three months and was restricted in carrying out her functions as chairperson of the Latvian Air Traffic Controller's Trade Union as she had limited access to the union premises. On 13 March 2012 the employer issued an order prohibiting A. Straume from entering the company premises without special permission from the employer.

Collective agreements are disrespected: In April 2012, the Latvian Post and Telecommunications Workers' Trade Union (LSAB) elected a representative to the board of the private pension fund as agreed in paragraph 109 of the collective agreement between LSAB and Latttelcom. However, during the meeting of JSC "First Closed Pension Fund" stakeholders on 24 May 2012, Lattelecom nominated two employer representatives. The LSAB representative was thus excluded from further board participation.



MONTENEGRO

Anti-union discrimination: Workers employed at the Barkli Montenegro Hotel Otrant in Ulcinj went on strike on 4 May 2012 after they had not received their salaries for 17 months. Even though the strike was peaceful four trade union members were arrested and released after the intervention of the President of the municipality trade union. The court dismissed charges against the trade unionists.

Insufficient legal protection for anti-union discrimination:

The Labour Act of 2008 does not specifically provide for dissuasive sanctions against anti-union discrimination for trade union activities by trade union members who are not trade union representatives.



POLAND

Infringements on the right to freely elect representatives:

The Slowinski Park Narodowy (Slowinski National Park) refused to appoint Tadeusz Pietkun, Deputy President of the Slupsk Region of NSZZ "Solidarność" to the social commission even though he had been nominated by the union.

Anti-union discrimination: In October 2012, Plati Polska Ltd. terminated Danuta Lipinska's, trade union leader and member of the Enterprise Commission of NSZZ "Solidarność" contract on disciplinary grounds. The company also prohibited the shop steward from contacting union members during working hours even when it did not interfere with production.

In June 2012, the Director of the Fiscal Inspection Office in Warsaw asked the Minister of Finance to dismiss Mr. Tomasz Ludwinski, Chair of the Council of the National Section of Fiscal Employees of NSZZ "Solidarność" for his legitimate trade union activities which were considered as a violation of the basic duties of the civil service.

Interference by employers: Ewa Kazanecka, shop steward of NSZZ “Solidarność” in City Waterworks Bydgoszcz, was offered a promotion so that she would reduce or cease her union activities. Management also hired a private investigator to investigate the union in October 2012.

Physical violence against trade union leaders: Tomasz Ziolkowski, Deputy Regional President of NSZZ “Solidarność” in the Czeszochowa Region, was physically assaulted by the security guards of the Independent Medical Centre “Amicus” when he tried to hand in a petition in June 2012.

Refusal to bargain in good faith: EuroBank S.A. refused to give spending reports to “Solidarność” which makes it impossible for the union to evaluate the economic state of the bank for bargaining purposes.

Infringement of the right to organise trade union activities: The Euro Bank S.A. prohibited union officials of “Solidarność” to freely choose experts and to use the intranet for disseminating information. The office offered to the union is 168 km away from the place where the union activities take place. The office is administered by the employer who has full access to it.



PORTUGAL

Restriction of the extension of collective agreements: On 31 October 31, 2012 a Resolution no. 92/2012 of the Council of Ministers ended the practice of the erga omnes extension of sectoral collective agreements. Collective agreements can now only be extended if 50 per cent of the employers in the sector are signatories and the competitiveness of the sector is assured.

The Ministry of Labour and Social Solidarity did not extend collective agreements from June 2011 onwards. Collective bargaining coverage has decreased by half and only covered about a quarter of the workforce in 2012.



ROMANIA

Troika attempts to undercut legal reforms: Prime Minister Emil Boc and his cabinet had to resign in February 2012 because of public protests against austerity measures which included amendments of the Social Dialogue Act without consulting the social partners. When the new government expressed the need to amend the Social Dialogue Act in order to strengthen social dialogue, the IMF and the European Commission intervened in November 2012. Their demands include the limitation of the number of persons who are to be protected from anti-union discrimination or retaliatory firing “to an appropriate number and timeframe,” and a more restrictive regulation of the right to strike.

Excessive representativity requirements for bargaining: Collective agreements can only be negotiated in workplaces where there is a minimum of 21 employees.

Exclusion of certain matters from the scope of bargaining: In the public sector the following subjects are excluded from the scope of collective bargaining: base salaries, pay increases, allowances, bonuses and other staff entitlements which are fixed by law.



RUSSIA

Anti-union discrimination: Bashneft, one of the largest oil companies in Russia, threatened workers who intended to join unions with dismissal. This led to hundreds of workers leaving the Russian Chemical and Allied Workers’ Union (RCWU).

Mr. Morozov and Mr. Kolegov, two trade union leaders employed at Heineken Joint Breweries were dismissed for protesting against contract and agency labour. The Prosecutor’s Office deemed their dismissal unlawful and ordered management to reinstate them.

Refusal to bargain in good faith: The Benteler Company refused to bargain with the ITUA when the union refused to sign a non-disclosure agreement which would have prevented it from informing its members about the bargaining process.

Bashneft systematically refused to engage in collective bargaining with the RCWU. As a result of a solidarity campaign management recognised the union on 5 March 2013.

Acts of interference by employers: Benteler offered a significant premium payment to workers who had not participated in strikes.

Violence against union leaders: Valentin Urusov, a miner and a trade union leader from Yakutia in Russia's north-eastern territory was arrested under the pretext that he was dealing in drugs. He was tortured and then sentenced to six years imprisonment. He was released in March 2013.

Interference in trade union administration: On 20 March 2013, the Prosecutor visited the headquarters of the Interregional Trade Union of Autoworkers (ITUA) in Saint Petersburg asking for a full list of ITUA activities in 2011 to 2013, a list of all ITUA members, various financial documents, publications, and bank account listings.

Inference in trade union activities: In January 2013, the Prosecutor declared that the ban on public activities at the Peugeot-Citroen plant was illegal. Management had prohibited the ITUA from distributing union leaflets among workers leaving the plant after their shift. Security guards physically attacked them and detained them in the parking lot.



SPAIN

Labour market reforms: Unions have participated in strikes to protest against the austerity policies which have a negative impact on the middle and working classes. In early 2012, a new labour law was introduced that makes it easier and cheaper for employers to employ and dismiss workers. Other recent labour law reforms in Spain include reducing early retirement and partial unemployment benefits.

Arrest of trade unionists: On 18 February 2013, police used truncheons to beat union workers striking at Madrid's international Barajas airport. It was the first day of a one week strike over Iberia airline's decision to cut over 3,800 jobs and reduce salaries. Hundreds of striking workers protested, chanted and whistled at Barajas' Terminal 4 and approximately 2,000 people demonstrated outside the terminal. One group staged a sit-in and other protesters marched 8 kilometres around Barajas. Police forcefully threw some workers out of the terminal and arrested at least 5 protesters. Both air stewards and ground staff employed by Iberia participated in the strike.

On 29 March 2012, Spain's two main trade unions, the UGT and CCOO, held a general strike over labour law reforms which make it cheaper for employers to hire and fire workers. According to official figures, the police arrested 176 protesters and 104 people were injured.



TURKEY

Interference in trade union premises: On 25 March 2013, the head offices of Liman-Is, the National Port and Land Stevedores Union of Turkey and of Genel-Is were raided by security forces. Serious damage was done to the building gateway, entrance door and accounting office door.

Anti-union discrimination: In March 2013, the courts found that four DHL workers had been dismissed because of their trade union activities. DHL has also been accused of actively supporting unions which are more favourable to management in order to undermine existing independent unions.

By January 2013, the Tekgida-Is union had recruited a significant number of workers at the East Balt company, the key supplier to McDonald's restaurants, as trade union members. When Tekgida-Is applied to the Labour Ministry for a bargaining certificate in January 2013, management started to dismiss union members. Only after the union threatened to place pickets in front of McDonald's restaurants did management reinstate the dismissed trade union members.

Four trade union members were dismissed from their positions at ISMACO because of their trade union membership. Management said that it does not want union representation. The

Deri-ls union has been picketing against this decision since December 2012.

Refusal to recognise unions for bargaining: The textile companies DESA and the ISMACO refuse to recognise unions in their companies and to enter in a dialogue with trade union members. In January 2013, IndustriALL Global Union and Deri-ls lodged a series of demands to DESA which were dismissed.

Imprisonment of trade unionists: In February 2013, police arrested 169 members of the KESK union. This is the third operation against KESK trade unionists in 12 months. Police arrested 73 members in two previous operations in February and June 2012. The trade unionists are accused of being engaged in Kurdish groups.



UKRAINE

Anti-union discrimination: Mr. Andriy Kudelya, the head of the primary trade union "Justice Protection" was dismissed when he was in the process of filing a dispute on behalf of "Metro Cash & Carry" workers with the National Service of Mediation and Conciliation in October 2012.

Interference in trade union activities: Mr. Zavgorodniy R.V., Chairman of the primary trade union of workers in foreign enterprises "Coca-Cola beverages Ukraine Limited" was not permitted to take leave in order to attend an educational seminar provided for KVPU members in April and August 2012.

Interference in trade union premises: The management of the "Novodruzhivska" mine of OJSC "Lesechanskvugillya" informed the plant level union in July 2012 that it could not use its premises anymore and that Chairman Marchenka should no longer be its representative.

Infringement of collective agreements: In November 2012, the state enterprise "Selidovugillia" violated the sectoral collective agreement between the Ministry of Energy and Coal Mining Industry of Ukraine and all-Ukrainian trade unions in the coal mining industry by reducing and transferring staff to other work places.

Refusal to bargain in good faith: Members of the NPGU were forced to go on unpaid leave when they tried to negotiate

a collective bargaining agreement with the management of the "Sadova" mine in October 2012.

Violence against trade unionists: In October 2012, Valentyna Koroba, the head of the Free Trade Unions of Entrepreneurs of Ukraine was physically attacked by Natalia Boitchenko, manager of the market where she works.

Suspension of trade union activities: The activities of the Confederation of Free Trade Unions of Ukraine (KVPU) in the Zaporozhja Oblast region were prohibited by the Zaporozhja Regional Administrative Court on 18 December 2012 because the union did not provide its tax declaration on time.



UNITED KINGDOM

Legal restrictions on strike action: The procedures for calling a legal strike are long and very technical. Unions must give notice to the employer of the intention to hold a ballot, of the results of the ballot, and of the intention to strike. An employer can seek an injunction against a union before a strike has even begun if the union fails to properly observe any of these steps. Political and solidarity strikes are prohibited.

Legal amendments: On 25 March 2013, the House of Lords debated the amendment of the Crime and Courts Bill which would prevent over 3,000 civil servants working for the National Crime Agency from taking strike action in the future.

Anti-union discrimination: In February 2013, the Metropolitan Police announced that it would carry out a major investigation with respect to allegations that the police colluded with the blacklisting of construction workers. The investigation is to be supervised by the Independent Police Complaints Commission. The decision to hold the investigation follows mounting evidence that both the police and the security forces were involved in the blacklisting of construction workers via the Consulting Association.

In January 2013, the government announced that it will introduce further limits to compensation for unfair dismissal.

Interference in collective bargaining: In January 2013, the University of Exeter offered a 2 per cent pay increase but only if staff agreed to withdraw from national pay bargaining.

Middle East and North Africa



 ALGERIA

Travel bans against trade unionists: The Algerian authorities prevented a delegation of 96 trade unionists and civil society activists from crossing the border into Tunisia to attend the World Social Forum in March 2013. The only reason given by border police in Annaba was that the trade unionists were on a list of people banned from leaving Algeria because of “unrest”.

Interference in trade union activities and harassment by police: North African trade unionists visiting Algeria to take part in the first North African Forum to Fight Unemployment and Precarious Work were harassed by police. Police raided the hotel where the trade unionists were staying and proceeded to arrest five Moroccans, three Tunisians and three Mauritians, including two women. They were then driven directly to the airport and deported from the country. The trade unionists detained were due to take part in a meeting at the Maison des syndicats. Police surrounded the trade union premises early in the morning and prohibited any attempt to access or vacate the building.

Anti-union discrimination: In March 2013, nine trade union members were dismissed from their positions according to SNAPAP when they started to call a series of strikes from January onwards. The latest strikes were scheduled for 25, 26 and 27 February but were declared illegal by the Court of Algiers.

Arrest and sanctions against trade unionists: In October 2012, Yacine Zaïd, International Union of Food Workers representative in Algeria, was sentenced by the court in Ouargla on Monday, 8 October, to a six-month suspended prison sentence and a fine of 10,000 dinars (about 100 euros). Accused of “insulting a police officer,” he had been taken into custody for one week.

Abdelkader Kherba, member of the national committee for the defence of unemployed workers and members of the LADDH (Algerian league for the defence of human rights), was arrested while he was taking part in a peaceful demonstration organised by the National Justice Federation, an affiliate of the Syndicat National Autonome des Personnels de l’Administration Publique (SNAPAP).

In February 2012, 40 unionised contract teachers affiliated to the SNAPAP were arrested including the President and General

Secretary of the National Council of Contract Teachers. The trade unionists had protested in front of the presidential building against a series of tough measures for teachers being taken by the National Education Minister.



EGYPT

Legal reforms: In December 2012, the new Constitution entered into force. While it recognises the right to freedom of association (Article 52), it severely restricts the extent to which unions are free to organise their structures by providing that only one union may be allowed per profession (Article 53).

Discrimination against trade union members: On 16 September 2012, Rashad Shabaan and Aly Hassan Kenawy were dismissed after participating in a sit-in when Al-Ameriya Spinning and Weaving Company did not pay their wages. The court asked the company to reinstate them and to pay their wages.

Arrest and detention of trade unionists: On 24 September 2012, seven nurses employed at Zagazig University Hospital were arrested for having called a strike after wage negotiations with the director of the hospital failed. Four nurses were released and the other three remained in jail for 4 days under investigation: Ashraf Abdel Monem, Mohamed el Sayed and Ayman Almaz.

Interference in demonstrations: Security forces arrested 14 taxi drivers who demonstrated in front of the General Administration of Traffic at Salah Salim Street calling for lower taxes and fines imposed on taxi drivers on 3 October 2012. Ten of them were released on the same day and the other four were released on bail the next day.

Employers disrespect collective agreements: Nile Spinning and Weaving Company refused to pay wage increases that had been agreed in a collective agreement in July 2012. 34 of the workers who went on strike against this violation were dismissed.

Interference by employers: Ataef Mohamed, President of the Independent Regional Federation of the Independent Unions in South Egypt and responsible for CTUWS Office in Naji' Hamady,

was transferred to a different workplace, 60 kilometers away from his house without any justification on 11 November 2012.

Interference in trade union premises: The chief detective of the Gena company entered the offices of the Independent Union of the Railway Workers by force and threatened to dismiss members of the executive board if they took strike action.

Interference in collective bargaining: The worker's spokesperson in ABB Arab Contractors Electrical Industries was forced to resign when he tried to conduct negotiations between the company and workers regarding mass dismissals on 15 January 2013.



IRAN

Reform of the Labour Law: The Labour Law of Iran offers different types of contracts from which employers and workers can freely choose. In reality, 70-80 per cent of Iranian workers are working on temporary contracts without any job security. The reform bill is even more generous to employers and talks about daily and hourly work contracts.

Imprisonment of trade union leaders: Last April, more than 50 teachers and educational workers were in detention or were summoned and awaiting their court hearings related to "national security" or "union activities". 46 journalists were imprisoned and are still in various jails across the country. The jail terms range from 6 months to 19 years and the charges range from "Insulting the supreme leader" to "Assembly and collusion with the intent to disrupt national security" or "Moharebeh (waging war against God), propagating against the regime", and even "Anti-state charges related to work in documenting violations of human rights".

Mohammad Tavakoli, Secretary of the Kermanshah Teachers' Guild Association was arrested in February 2013 and recently sentenced to exile from his home province. Previous harsher cases include the earlier detention of teacher Abdolreza Ghanbari who was tortured, ill-treated and for a long time denied access to a lawyer. Mr. Ghanbari was tried unfairly by the Tehran Revolutionary Court in January 2010 and sentenced to death for 'Moharebeh'.

Shahrokh Zamani, a labour activist, was arrested on June 7, 2011, sentenced to 11 years in prison, and transferred to various prisons, and is now banned from face-to-face visitations and phone calls.

On 15 June, 60 members of the Coordinating Committee to Help Form Workers' Organisations and a number of labour activists were arrested in Karaj. The detainees were transferred to Rajai Shahr prison where some were reportedly beaten and ill-treated.

Infringement of the right to freedom of expression: In June 2012, the Ministry of Industry, Mining, and Commerce sent a letter to trade unions and associations involved in the production and distribution of goods, banning them from giving interviews to the media about inflation rates.



Labour Law Restricts Trade Union Rights: Because the government has still not passed a new labour code, the previous law (No. 71 of 1987), which effectively outlaws independent labour unions, remains in effect today. This law effectively abolished the right to collectively bargain and the right to strike. All public sector workers (the majority of formal sector workers in Iraq at the time) were reclassified as "civil-service" and prohibited from unionisation in accordance with the Trade Union Organisation Law 52 of 1987. Workers' committees could be formed in the private sector, but only in worksites employing more than 50 workers. This represented approximately 8 per cent of the workforce in Iraq at the time. By law, these workers committees were required to affiliate with the state-controlled federation of workers. A process has been on-going for several years to revise the labour law and trade union law, but has yet to produce new legislation.

Anti-union discrimination: Under existing legislation, workers in the public sector, including the state-owned oil companies, are not allowed to form trade unions. Workers that do organise protests are threatened with arrest and relocation. Despite the threats, worker actions have taken place throughout the main oil producing regions of the south. The authorities forcibly relocate trade union leaders in the oil industry from

their regular jobs in order to remove them from their members and sources of protest.

Charges against trade unionists: Hassan Juma'a Awad, Chairman of the Federation of Oil Unions, was charged with organising an entirely legitimate strike at the Southern Oil Company in March 2013.

Restriction of fundamental civil liberties: Eight Southern Oil Company workers have been summoned to the General Inspector's Office in the Ministry of Oil in order for the Ministry to investigate their role in recent demonstrations in Basra, where workers engaged in a peaceful protest.



Lack of consultation with unions: On 19 February 2012, Israel Railways signed an outsourcing agreement with the Canadian railway car manufacturer, Bombardier Inc., without the approval of Histadrut or the head of the Israel Railways workers' committee.

Anti-union discrimination: On 6 June 2012, Clal Insurance Enterprises Holdings Ltd. CEO, Shy Talmon, warned employees not to join a union. He pointed out that "a collective agreement has many disadvantages: it creates uniformity in job conditions, which makes it difficult, and sometimes impossible, to compensate employees on a personal basis based on performance".

On 21 October 2012, it was reported that Tel Aviv's municipal bike rental service Tel-O-Fun terminated the contract of a union leader and interrogated workers on whether they were attempting to join a union.



JORDAN

Collective agreements are disrespected: In March 2013, Jordan Press Foundation employees went on strike asking management to honour a collective agreement concluded two years previously on an annual salary increase.

Exclusion from the right to bargain: Public and municipality employees cannot bargain collectively. Domestic servants, gardeners, cooks, and agricultural workers are not granted the right to bargain collectively.

Legal reform: In August 2012, around 80 workers and union representatives gathered outside the Parliament in Abdali on a Sunday to protest about the exclusion of the 2010 amendments to the Social Security Law from the agenda of the legislative session. Electricity Workers' Union President Ali Hadid said that the government had broken a promise that officials had made to them at a meeting in February following a 250-person demonstration against the temporary Social Security Law.



KUWAIT

Threats to terminate employment for participating in union activities: Threats to terminate workers for participating in union activities were made by the chief of the highest legislative body of the Kuwaiti Government. In March 2012, a senior state official, Al-Saraawi, head of the Religious Edict and Legislation Department, suggested that protesting workers from the Customs Department and Kuwait Airways be dismissed en masse for participating in a week long work stoppage. Al-Saraawi stated that the government may take disciplinary measures against workers whose strike has a negative impact on the interests of the public. Abdurrahman Al-Sumait, Head of the National Union of Kuwait Workers and Employees, expressed his disappointment at the statements which violate international obligations signed by Kuwait.

Insufficient legal protection against anti-union discrimination: Labour Code (Act No. 6 of 10 February 2010) provides that workers shall not be dismissed on the basis of their trade union activities. But the law does not protect workers from acts of discrimination or interference by employers or the authorities.

Restriction of fundamental civil liberties: Article 104 of the Labour Act prohibits unions from interfering in political, religious and sectarian issues. Ministry of Justice Workers Union Chairperson Ahmad Al-Mutairi warned that unions would engage in civil disobedience if the government went ahead with its plan to activate Article 104. Al-Mutairi warned that all public utilities would be disrupted if the government dissolved any union.

The Kuwait Trade Union Federation (KTUF) has called for national dialogue to address the growing crisis in the country between various segments of society. Political opposition has attempted to mobilise around the jailing of three former MPs for three years for insulting the Emir. Labour unions have rejected calls for demonstrations launched by the opposition.



MAURITANIA

Interference in the election of representatives: When workers did not vote for the candidate favoured by Mauritanian Airlines International for the work council on 21 January 2013, management started to adopt discriminatory measures against workers. The fixed term employment contracts of ten workers were not renewed.

Interference in strikes: Capital Drilling dismissed workers who had participated in a strike and stated that it would reinstate the workers if they left the union and agreed to work under a fixed term contracts rather their previous permanent contracts.

Wage deductions for union membership: A department of the Ministry for Fisheries and the Marine (CASAMPAC) deducted overtime pay from workers who had engaged in trade union activities. The Confédération Générale des Travailleurs de Mauritanie claims that the purpose of the deductions is to put pressure on workers to withdraw their union membership.

Violence and murder of unionists: In July 2012, workers at MCM, a mining company, went on strike when the employer violated the collective agreement. Security forces intervened in the strike killing Mohamed Ould Mechdhoufi, injuring several workers and arresting union leader, Uthmaan ould Kreivit.



MOROCCO

Imprisonment of trade unionists: In February 2013, Said Elhairech, the General Secretary of the Moroccan Ports Union, was given a one year prison sentence by the Criminal Court of First Instance in Rabat, which charged him with participating in obstructing freedom of action according to article 288 of the Moroccan Criminal Code. Mohamed Chamchati, the General Secretary of the Moroccan merchant seafarers' union, was also arrested in June 2012 on charges linked to the cessation of operations at the Comarit-Comanav company.

Violence against trade unionists: On 12 January 2013, members of the Confédération Démocratique du Travail (CDT) who were protesting against 300 unfair dismissals from the Beler Karam Palace and Iminish Karak hotels and the Ozagar mining site were attacked by police. Several people were injured in the attack, including Omar Ouboho, the General Secretary of the local union.



PALESTINE

Anti-union discrimination: In March 2013, the Deputy Minister of Education Muhammad Abu Zeid announced that teachers who participate in a strike will be subjected to a special schedule to make up for lesson time lost in strikes.

Compulsory arbitration: The Ministry of Labour can impose arbitration, and trade unions can face disciplinary action if they do not accept the outcome of that arbitration.

Travel ban imposed on union leaders: On 28 February 2013, 28 union representatives were prevented from travelling via Rafah International Crossing Point to a series of meeting held by the Executive Committee of the Palestine General Federation of Trade Unions under the auspices of the ILO in Egypt. The Internal Security Service said that the union representatives were not permitted to travel.



QATAR

Freedom of Associated Limited for Qataris and Non-Existent for Migrant Workers: Today, migrant workers comprise roughly 94 per cent of Qatar's workforce, equal to about 1.2 million workers. That figure continues to rise, as workers are recruited in vast numbers, largely from South Asia, to build infrastructure and stadia for the 2022 World Cup. Like many other migrant workers in the Gulf region, they face severe, discriminatory policies and practices that violate their fundamental human and labour rights, including the right to freedom of association. Even Qatari nations have only limited rights in this regard.

Numerous workers are precluded from forming or joining a union due to categorical exclusions in law. The labour code contains two kinds of exclusions. First, the code states that none of its provisions apply to workers in the following categories: Government/Public workers; Armed Forces, Police, and workers employed "at sea"; Casual Work (defined as less than four weeks); Domestic Worker (including drivers, nurses, cooks, gardeners, and similar workers); Family members of an employer' and Agriculture and Grazing workers. Secondly, the law forbids non-Qatari workers from membership in a labour organisation, thus excluding more than 90 per cent of the total workforce in the country.

In addition to the categories of workers excluded from the law, Article 12 of the Act (which outlines the rights of employees to join unions) does not apply to enterprises with less than 100 Qatari workers. Workers in an establishment can form only a single "workers organisation". Additionally, all worker organisations must affiliate to the "General Union of the Workers of Qatar". Section 5 of the law deals extensively with the disciplinary power of employers, yet nothing in the subsequent

articles mentions any form of protection for workers engaging in union activity.



TUNISIA

Workers excluded from collective bargaining: Workers in export processing zones and domestic workers are excluded from the right to bargain collectively.

Death threats against unionists: The Secretary General of the Union Générale Tunisienne du Travail (UGTT) has been the subject of death threats. The union suspect that Salafists groups are behind the threats since they are constantly accusing the UGTT of hampering economic development.

Prohibition of demonstrations: The Ministry of the Interior regularly prohibits demonstrations on Avenue Bourguiba in Tunis.

Interference in union premises: The Headquarters and the regional offices of the UGTT have been damaged by unknown persons. The UGTT suspects the League for the Protection of the Revolution. Even though an investigation commission was set up in December 2012, no report has been presented because of pressure exerted by the ruling party on the commission.

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