

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN BARBADOS

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE
TRADE POLICIES OF BARBADOS**

(Geneva, 17 and 19 September 2008)

EXECUTIVE SUMMARY

Barbados has ratified the eight core ILO labour Conventions. However in view of restrictions on the trade union rights of workers, discrimination, and other legal restrictions, further measures are needed to comply with the commitments Barbados accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO Declaration on Fundamental Principles and Rights at Work.

Barbados has ratified both the ILO Convention on the Right to Organise and Collective Bargaining and the ILO Convention on Freedom of Association and Protection of the Right to Organise. However employment legislation in Barbados is not in conformity with these standards as under the law, employers are not legally obliged to recognise trade unions and anti union activities by employers are not prohibited. But in practice workers are usually able to exercise their rights to organise and to bargain collectively.

Barbados has ratified the ILO core Conventions on Equal Remuneration and Discrimination. However the government's efforts to tackle gender discrimination in employment and remuneration need to be strengthened so as to improve the position of women in the labour market. Reliable gender-segregated data on wages are lacking. The situation of migrant workers needs to be seriously looked at. The government's efforts to tackle discrimination against HIV-AIDS infected persons on the labour market are welcome and need to be pursued.

Barbados has ratified the ILO core Convention on the Worst Forms of Child Labour as well as the Convention on Minimum Age. However there are important shortcomings in the current legislation on the prohibition of child labour in Barbados. The government should strengthen the legal protection of children and young persons from hazardous work. However while systematic monitoring of child labour is lacking, child labour is not a widespread phenomenon in Barbados.

Barbados has ratified the ILO Convention on the Abolition of Forced Labour and the Convention on Forced Labour. Although forced labour is not a widespread phenomenon in Barbados, there is reliable evidence of trafficking in human beings for the purpose of prostitution and domestic work. The exploitation of workers particularly in the garment and construction industries is a source of great concern.

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN BARBADOS

Introduction

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

The ITUC affiliate in Barbados is the Barbados Workers' Unions (BWU) which has a membership of 25,000 persons covering all areas of employment in Barbados: Agriculture, Tourism and Restaurant Services, Transport (Road, Sea and Air), Government and Statutory Boards, Banking and Insurance, Manufacturing and Industry, Construction, Commerce and General Services.

Since achieving independence in 1966, Barbados has transformed itself from an economy dependent on sugar production into an economy based on tourism and the offshore sector. This upper middle-income economy has developed over three decades to achieve a relatively well balanced objective of growth and social development. The offshore financial services sector, launched in 1985, has become the country's second biggest source of foreign exchange after tourism. In 2006 agriculture accounted for about 6%, industry for 16% and services for 78% of GDP.

Barbados experienced little growth in the 1980s and had a recession in the early 1990s when sugar and tourism earnings slumped. For the rest of the 1990s the economy improved, driven by tourism and construction. After a recession over 2000-03 the economy rebounded to grow at about 4% per year with an official unemployment rate estimated at 10.7% in 2007.

Total exports were estimated at 385 million US dollars in merchandise and 1.41 billion dollars in commercial services in 2006 while total imports were at 1.586 billion dollars.

The main exported goods are chemicals, sugar, manufactured goods including electrical components and rum. Main imports are consumer goods, food/beverages, machinery, construction materials and fuels.

Other CARICOM countries, the USA and the UK are the main trading partners for exports. The USA and Trinidad and Tobago, other CARICOM countries and the UK are the main sources of imports.

Barbados is a member of the Caribbean Community and Common Market, CARICOM, which has signed a free trade agreement with Costa Rica, Dominican Republic, Colombia, Cuba and Venezuela. An Economic Partnership Agreement with the EU is about to be signed. Free trade

agreements with Canada, the US and Mercosur have been contemplated. Further, Barbados has several bilateral tax treaties, mostly aimed at removing double taxation on companies that operate in the Barbados economy.

I. Freedom of Association and the Right to Collective Bargaining

In 1967, Barbados ratified both ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise and Convention No. 98 on the Right to Organise and Collective Bargaining.

The constitution provides for freedom of assembly and association. However under the law, employers have no legal obligation to recognise trade unions. This is in contravention of international labour standards, and the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has on many occasions asked the government to put its legislation in conformity with the Convention. In its 2007 observation the CEACR noted the lack of progress made by the Government on this issue. Although employers do not need to recognise trade unions, in practice many do so when a significant proportion of the workforce wants to be represented by a registered union. In some cases however employers have fought union recognition.

Anti union activity by employers is not prohibited. This is another contravention of Convention No 98 whose article 1 guarantees workers adequate protection against acts of anti-union discrimination, in taking up employment and throughout the course of employment, including at the time of termination, and covers all measures of anti-union discrimination such as dismissals, demotions, transfers and other prejudicial acts. In practice workers who are wrongfully dismissed can apply to the courts and may be awarded compensation, but are rarely reemployed. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) has on many occasions requested the Government to take the necessary measures to ensure that its legislation provides adequate protection against all acts of anti- union discrimination as well as adequate and dissuasive sanctions. Up to this date the government has failed to act in a satisfactory way.

Despite these legal shortcomings workers have generally exercised their rights to organise and bargain collectively although there are some examples of workers being sacked or discriminated against for their trade union related activities. Since 1993 a series of protocols has provided for increases in wages, based on productivity, as well as wider issues such as job security, the industrial relations environment, HIV/AIDS policy and service excellence. The fifth prices and incomes protocol was signed by government, private sector and union representatives in 2005.

With regard to the right of workers to strike, the law provides for such rights for private and public sector employees, but workers in essential services may only strike under certain circumstances and after following prescribed procedures.

Section 4 of the Better Security Act of 1920 stipulates that any person who wilfully broke a contract of service or hiring, knowing that this could endanger real or personal property is liable to a fine or up to three months'

imprisonment. The ILO CEACR has advised the Government to amend this section so as to eliminate the possibility of invoking it in case of future strikes, with the possible exception of those in essential services in the strict sense of the term. Up to now the government has failed to do so.

There are no export processing zones in Barbados.

Conclusions

Employment legislation in Barbados is not in conformity with ILO standards as under the law, employers are not legally obliged to recognise trade unions and anti union activities by employers are not prohibited. However in practice workers are usually able to exercise their rights to organise and to bargain collectively.

II. Discrimination and Equal Remuneration

In 1974, Barbados ratified both ILO Convention No. 100 (1951) on Equal Remuneration and ILO Convention No. 111 (1958) on Discrimination (Employment and Occupation).

Section 23 of the Barbados Constitution provides that no law shall make any provision that is discriminatory either of itself or in its effect and that no person shall be treated in a discriminatory manner by any person by virtue of any written law or in performance of the functions of any public office or any public authority.

There is no significant gender difference in boys' and girls' enrolment rates in primary and secondary education.

However on the labour market, women are overrepresented among the unemployed and they tend to be concentrated in low-skilled, low-paid jobs. The government reports that the number of women hired by the police force, as well as for other jobs traditionally held by men, continues to increase. But the Minister of Social Transformation has also acknowledged that there is a persistence of violence and discrimination against women and girls that is largely due to cultural mindsets.

There is no reliable data on the gender pay gap. The Barbados Government's 2004 job evaluation exercise in the public sector was criticised by trade unionists for having omitted the gender perspective.

The law does not deal with sexual harassment which is reported to be a problem at the workplace. Women are often afraid of reporting sexual harassment because of retribution. Draft legislation on sexual harassment is under negotiation.

There are reliable reports alleging that migrant workers are discriminated against on the labour market, some of them receiving less than the minimum wage. The government should further investigate the situation of migrant workers in the country. Indeed, the government has produced a draft protocol on migration which provides for managed migration within a decent work context and is under discussion with the social partners.

The government implements programmes designed to discourage discrimination against HIV/AIDS-infected persons. In December 2007 the International Labour Organisation (ILO) completed a three-year programme to reduce risk behaviour among targeted workers and to reduce employment-related discrimination against persons with HIV/AIDS. The business community, trade unions, and the national AIDS Commission are working together on initiatives to combat HIV/AIDS discrimination in society and at the work place.

There are no laws that specifically prohibit discrimination against persons with disabilities in employment, education, or the provision of other state services, other than constitutional provisions asserting equality for all. In practice persons with disabilities face some discrimination.

Conclusions

The government's efforts to tackle gender discrimination in employment and remuneration need to be strengthened so as to improve the position of women in the labour market. Reliable gender-segregated data on wages are lacking. The situation of migrant workers needs to be seriously looked at. The government's effort to tackle discrimination against HIV-AIDS infected persons on the labour market are welcome and need to be pursued.

III. Child Labour

In 2000 Barbados ratified both ILO Convention No. 138 (1973), the Minimum Age Convention and Convention No 182 (1999), the Worst Forms of Child Labour Convention.

The law provides for a minimum working age of 16 but only in industrial undertakings and ships. In order to comply with the provisions set out in the ILO core Conventions, the government of Barbados should amend the Employment Act so as to extend the coverage of its minimum age of 16 for admission to employment to all undertakings.

The national legislation does not provide for a list or a definition of hazardous work in the sense of the Convention. Further, to be in conformity with the Convention, the minimum age for hazardous employment should be set at 18 years old. This is also relevant for the current legislation applicable to situations of procuring minors to have sexual relations which covers only children up to the age of 16 years.

Education is free, compulsory, and universal until the age of 16. The government estimates that 98% of children between the ages of five and 16 attend school, with no significant gender differentiation.

The Labour Department carries out some inspections at the workplace during which compliance with the law on minimum age is checked. Usually the inspectors would take legal action against an employer who is found to have underage workers.

However there is no systematic government monitoring of child labour in Barbados. In its 2005 rapid assessment of the situation of child labour in the Caribbean, the ILO found that, although there are sound systems in the areas

of education, health, welfare and social services, children are involved in a variety of activities that are suggestive of child labour and the worst forms of child labour. Most cases were found in low-income communities and in informal economic activities. Officials of Ministries of Labour have acknowledged that the Labour Inspectorates in the region are under-resourced and focus their investigations on the formal sector and in particular the industrial sector, where there is no known evidence of child labour.

Conclusions

There are important shortcomings in the current legislation on the prohibition of child labour in Barbados. The government should strengthen the legal protection of children and young persons from hazardous work. However while systematic monitoring on child labour is lacking, child labour is not a widespread phenomenon in Barbados.

IV. Forced Labour

In 1967, Barbados ratified Convention No. 29, the Forced Labour Convention as well as Convention No. 105, the Abolition of Forced Labour.

Forced and compulsory labour is prohibited by the Constitution and under the Employment Act. There are no reports demonstrating that forced or compulsory labour practices occur.

Trafficking in human beings however is reported to be a problem in Barbados. In 2005 an assessment carried out by the International Organisation for Migration (IOM) stated that persons are trafficked to work as prostitutes and as domestic workers. According to the report there is also definite labour exploitation of migrants in the construction and garment industries.

In March 2007 security forces dismantled a human trafficking network destined for Barbados, which involved victims of human trafficking as young as 13 and 14 years old. Also in March 2007, a court convicted an India-based construction company for trafficking foreign workers.

The IOM report notes that in cases where trafficking may have occurred, the government typically deports the victims and fails to investigate or prosecute the alleged traffickers. The government has no dedicated facilities to assist victims.

Conclusions

Although forced labour is not a widespread phenomenon in Barbados, there is reliable evidence of trafficking in human beings for the purpose of prostitution and domestic work. The exploitation of workers particularly in the garment and construction industries is a source of great concern.

Recommendations

1. The government of Barbados needs to put its legislation in conformity with ILO Conventions on trade union rights and ensure that employers have a legal obligation to recognise trade unions and that legislation provides adequate protection against all acts of anti-union discrimination as well as adequate and dissuasive sanctions.
2. The government of Barbados should amend section 4 of the Better Security Act of 1920 so as to eliminate the possibility of invoking it in case of strikes, with the possible exception of those in essential services in the strict sense of the term.
3. The government's efforts to tackle gender discrimination in employment and remuneration need to be strengthened so as to improve women's position on the labour market.
4. The government of Barbados needs to provide reliable gender segregated data on wages.
5. The government of Barbados should seriously investigate the situation of migrant workers and take any necessary steps to improve their situation.
6. The government of Barbados needs to pursue its efforts to tackle discrimination against HIV-AIDS infected persons.
7. The government of Barbados needs to protect disabled persons against discrimination both in law and in practice.
8. The government of Barbados needs to amend its Employment Act Chapter 346 to extend the coverage of its minimum age for admission to employment to all undertakings
9. The government of Barbados should strengthen the protection of children and young persons by prohibiting children under the age of 18 from engaging in hazardous work. It should determine, in consultation with the social partners, a comprehensive list of hazardous occupations and activities.
10. The government of Barbados should establish systematic monitoring of child labour with special attention to informal economic activities and low-income communities.
11. The government of Barbados should strengthen its legislation to tackle trafficking in human beings
12. The government of Barbados should ensure that migrant workers' rights are effectively enforced.
13. In line with the commitments accepted by Barbados at the Singapore and Doha WTO Ministerial Conferences and its obligations as a member of the WTO and the ILO, regular reports should be provided to the WTO and the ILO on legislative and implementation programmes with regard to all the core labour standards.

14. The WTO should draw the attention of the authorities of Barbados to the commitments the country undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. The WTO should request the ILO to intensify its work with the government of Barbados in these areas and provide a report to the WTO General Council on the occasion of their next trade policy review.

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