

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN BELIZE

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE
TRADE POLICIES OF BELIZE
(Geneva, 3 and 5 November, 2010)**

EXECUTIVE SUMMARY

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

Belize recognises the right to form and join a union. However, foreigners are not allowed to hold union leadership posts. The right to collectively bargain and strike are also recognised but in practice, exercising these rights is limited due to excessive representation requirements in order to bargain collectively as well as anti-union discrimination, in addition to restrictions to trade union action in a broad range of occupations that are wrongly defined as "essential services".

Although it is prohibited by law, women face discrimination in employment and in remuneration and few women are employed in management positions. Persons who live with HIV/AIDS are also discriminated against in employment. Seventy-seven per cent of the Mayas ethnic group live below the poverty line.

Child labour is illegal and children are not allowed to perform hazardous work. Nevertheless, many children work in informal economic activities, mainly in agriculture (particularly on banana plantations) but also in urban areas as street vendors. Child prostitution is a problem. The government is implementing a 10-year National Plan of Action for Children and Adolescents.

Forced labour and human trafficking are illegal. In practice, trafficking in human beings is a problem and forced labour occurs. The courts usually dismiss trafficking cases and the government has not made significant progress in combating trafficking.

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Introduction

This report on the respect of internationally recognised core labour standards in Belize 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 WTO Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998 and in the Declaration on Social Justice for a Fair Globalisation adopted unanimously by the ILO in 2008.

I. Freedom of Association and the Right to Collective Bargaining

In 1983, Belize 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 right to form and join trade unions is recognised but foreigners are not allowed to hold union leadership posts. The law prohibits anti-union discrimination; however, reinstatement in the event of dismissal for union activities is not provided for, while fines for anti-union discrimination are low. In cases of firing for union activity, workers are able to file complaints with the Labour Department; nonetheless it is difficult to prove that their termination was due to anti-union discrimination.

The Trade Unions' and Employers' Organisations Act recognises the right to collective bargaining only if the union represents 51 per cent of the unit's workers. The Settlement of Disputes in Essential Services Act gives excessive powers to the authorities to refer a dispute to compulsory arbitration. The right to strike is recognised, but it is severely restricted by the same Act for sectors considered to provide "essential services" and includes the banking sector, civil aviation and ports, postal services, social security scheme and the petroleum sector. However this greatly exceeds the ILO's accepted definition of essential services as those "whose interruption would endanger the life, personal safety or health of the whole or part of the population".

Demonstrations and other industrial actions are usually not subject to government repression. However, on February 2, 2009, sugarcane workers refused to lift a roadblock close to the country's second largest town, Orange Walk Town. After an ultimatum from

the Prime Minister expired, the police intervened with violence, causing one death and ten injuries.

The Belize Medical and Dental Union has reported some health sector employers for unfair dismissals and bargaining in bad faith. On 16 June 2009, doctors and medical staff went on strike following the management's dismissal of the medical chief of staff and achieved his reinstatement. On 2 July, the management of Hospital Memorial Karl Huesner and the Belize Medical and Dental Union stopped negotiations because the employers were negotiating in bad faith.

Another problem is that court procedures in cases of anti-union discrimination are slow and cumbersome, meaning that it may take many years before workers' complaints are upheld. In July 2009, the Supreme Court ruled in favour of six workers of the Maya King Banana farm who had been fired in 2001 for attempting to join a union. Belize is making slow progress with regard to promotion of collective bargaining: in 2006 only one agreement was signed, covering approximately 42 workers, while seven agreements were concluded in 2007 in the agricultural, banking and services sectors, covering approximately 779 workers.

Labour legislation applies to Belize's 63 Export Processing Zones (EPZs), but in practice employers prevent the establishment of unions by not recognising them. As a result, there are no trade unions in EPZs.

Belize recognises the right to form and join a union. However, foreigners are not allowed to hold union leadership posts. The right to collectively bargain and strike are also recognised but in practice, exercising these rights is limited due to excessive representation requirements in order to bargain collectively as well as anti-union discrimination, in addition to restrictions to trade union action in a broad range of occupations that are wrongly defined as "essential services".

II. Discrimination and Equal Remuneration

Belize ratified both ILO Convention No. 100 on Equal Remuneration and Convention No. 111 on Discrimination (Employment and Occupation) in 1999.

The constitution provides for equal opportunities and treatment for men and women in employment. However the law does not explicitly prohibit discrimination in employment. The Equal Pay Act stipulates equal remuneration for "equal work", and not for "work of equal value" as designated according to Convention No. 100. The law establishes that "only male public officers contribute to the Widows' and Children's Pension Fund and therefore the pension is paid only to their wife and children under the age of 16 and those children pursuing full-time education. Husbands and children of female officers would not benefit from these provisions as female officers do not contribute to the fund."

The law prohibits sexual harassment in employment and sets penalties for offenders.

In practice, women's participation in the labour force stands at 58% that of men. Women's unemployment rate stands at 18.6 per cent, whereas men's rate is at 8.4%. Women's pay is at 52 per cent of men's, and women tend to be more concentrated in low-wage and low skilled jobs. However women and men have the same literacy rate, and more than twice as many women than men enrol in tertiary education.

The country's population comprises four major ethnic groups. The indigenous Mayas, comprising 11 per cent of the population, are the most discriminated against, including in terms of employment access and participation in highly paid jobs. The incidence of poverty is highest among the Mayas and 77 per cent live below the poverty line.

Persons with disabilities are covered by the constitutional provisions on discrimination. However there is no information on possible discrimination against disabled persons in employment.

It is reported that persons who live with HIV/AIDS are discriminated against in employment. In this regard, the government is trying to change societal norms through public education.

In Belize, it is illegal to be a homosexual person and homosexuals do not openly state their sexual orientation. In this context, it is obvious that homosexuals who admitted their orientation would be discriminated against in employment.

Although it is prohibited by law, women face discrimination in employment and remuneration and most women are employed in low-skilled jobs with few women in management positions. Persons who live with HIV/AIDS are discriminated against in employment.

III. Child Labour

Belize has ratified ILO Convention No. 138, the Minimum Age Convention and Convention No. 182, the Worst Forms of Child Labour Convention, both in 2000.

The law prohibits the performance of work by children younger than 12 years of age. This does not apply to children of any age for admission to family farm work with state authorisation. Children between 12 and 14 are allowed to work after school hours in light work for a maximum of two hours between 6 a.m. and 8 p.m. in work that is not likely to cause injury with permission from the Labour Commissioner and with the consent of his/her parents. The minimum age for admission to hazardous employment is 18 but the law does not cover self-employed children. The law also provides a general prohibition for children working overtime. For violation of the child labour laws, fines and a two months imprisonment are established.

The Criminal Code prohibits prostitution only for female children; however, the government reports to the Committee of Experts on the Application of Conventions and Recommendations that it applies the law for both male and female children. The Criminal Code does not specifically apply to offences related to pornography or pornographic performances by a child under 18.

Child labour occurs, especially in family enterprises and farms, particularly in banana plantations. In cities, children usually work as street vendors and shoe polishers. According to 2001 data, 6.1 per cent of Belizean children work: 8.1 per cent of boys and 4.6 per cent of girls. More than half of them work in agriculture and one third of them in services. According to a 2003 study by the ILO, half of the boys who work do so in hazardous forms of labour. Child prostitution is a problem.

Belize is implementing a 10-year National Plan of Action for Children and Adolescents with a view to amending legislation and agency regulations to better address child labour, increase awareness and build up capacity of the competent law enforcers. Belize also participated in the ILO/IPEC project on sexual exploitation from 2002 to 2009. The project achieved the withdrawal of 713 children and the prevention of engagement to commercial sexual exploitation of another 657 children. Other objectives of the project were the promotion of legal reform and capacity building for combating the worst forms of child labour and eradicating child labour. ILO/IPEC's project in Belize is funded by the USA, Spain and Canada.

Child labour is illegal and children are not allowed to perform hazardous work. Nevertheless, many children work in informal economic activities, mainly in agriculture, but also in urban areas as street vendors. Child prostitution is a problem. The government is implementing a 10-year National Plan of Action for Children and Adolescents.

IV. Forced Labour

Belize has ratified Convention No. 29, the Forced Labour Convention and Convention No. 105, the Abolition of Forced Labour, both in 1983.

Forced labour is prohibited by law. Cases of forced labour are reported to occur in Belize but it is not considered to be a widespread problem. In recent years, ten adult males were rescued from forced labour.

The Trafficking in Persons Prohibition Act of 2003 outlaws trafficking and establishes penalties of imprisonment for a period of between one and five years, or to a fine of \$10,000. However, usually cases of trafficking in human beings are handled by lower courts and often they are dismissed. There have been no convictions for trafficking since 2005. The US Department of State Trafficking Report states that "an NGO reports that some officials may have accepted bribes to ignore potential trafficking activity." In

2009, the authorities undertook five operations targeting suspected trafficking, but there have been no prosecutions as they found no crime.

Many persons from Guatemala, Honduras and Mexico migrate to Belize looking for work and it is reported that sometimes women are forced into prostitution when they arrive.

The government provides training to police and immigration officials, labour inspectors and social workers on human trafficking. Victims of trafficking have been incarcerated until their identification as victims, after which they were placed in protection programmes. The government provides residence and work permits to victims of trafficking and provides legal, health, and rehabilitation services in two government-funded shelters. However, the number of persons that have received assistance is small. The Belizean authorities have worked with Mexico for repatriating victims of trafficking. The government is implementing a multilingual campaign on anti-trafficking, held a workshop on the issue in 2009 and cooperates with international organisations and NGOs; however, their efforts chiefly target trafficking for prostitution and not other forms of forced labour.

Forced labour and human trafficking are illegal. In practice, trafficking in human beings is a problem and forced labour occurs. The courts usually dismiss trafficking cases and the government has not made significant progress in combating trafficking.

Recommendations

1. Labour law should be amended in order to provide for reinstatement in the event of dismissal for union activities and to significantly increase the fines for anti-union discrimination. Court procedures in cases of anti-union discrimination should be expedited significantly, in view of the current multi-year delays.
2. Foreigners should be allowed to hold union leadership posts.
3. The requirement of 51 per cent representation of a union in order to be recognised as a bargaining unit should be amended in line with ILO jurisprudence relating to freedom of association.
4. The “essential services” list should be amended in line with the ILO definition so that only truly essential services are covered.
5. The government should take measures through inspections and other procedures in Export Processing Zones in order to ensure that trade unions are able to take up their right to organise.
6. The government should implement an action programme comprising measures to improve women’s participation in the workforce and women’s access to high skilled and better paid jobs, and thus close the gender wage gap.
7. The government should take measures to improve the employment and income situation of Mayas and thus close the wage gap between Mayas and other ethnic groups.
8. The Equal Pay Act should be amended in order to stipulate equal remuneration for “work of equal value” as it is designated in Convention No. 100.
9. The government needs to take measures to tackle discrimination in employment and other aspects of life against persons who live with HIV/AIDS and implement, or assist the implementation of, workplace HIV/AIDS programmes and work-schedules for such persons in the public and private sectors.
10. The government should take measures to ensure that homosexuals do not face discrimination in employment and other aspects of life.
11. The child labour law should apply to all employment activities including family farms and self-employed children.
12. The Criminal Code should be amended in order to prohibit prostitution of male children and to establish offences related to pornography or pornographic performances by a children.
13. Cases of trafficking in human beings should be handled by courts with relevant expertise. The authorities should more actively prosecute and convict traffickers.
14. The government should investigate and prosecute allegations that officials may have accepted bribes to ignore potential trafficking activity.
15. In line with the commitments accepted by Belize at the Singapore and Doha WTO Ministerial Conferences and their obligations as members of the ILO, the

government Belize should provide regular reports to the WTO and the ILO on their legislative changes and implementation of all the core labour standards.

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

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