

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN EGYPT

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE
TRADE POLICIES OF EGYPT
(Geneva, 26 and 28 July, 2011)**

EXECUTIVE SUMMARY

Egypt has ratified all eight ILO core 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 Egypt 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.

While the uprising of the Egyptian people and the toppling of the former government have paved the way towards enabling free and independent trade unionism, at present the right to organise, collective bargaining and strike are still restricted in law and abused in practice. Exemptions from certain labour provisions in export processing zones, combined with poor enforcement of the law, have resulted in rights abuses and poor working conditions there. Furthermore a law passed by the new government in March 2011 denies the right to strike.

The law does not adequately protect women from discrimination and does not explicitly include a requirement for equality in remuneration. Women's participation in the labour market is low and women face a considerable pay gap. Disabled persons, homosexuals and persons who live with HIV/AIDS also face discrimination in various aspects of employment, including in hiring.

The scope of the Labour Code leaves some sectors unregulated in terms of minimum age and protections against child labour. There are between 2.7 million and 5.5 million working children, amounting to 6 to 13 per cent of children aged 5-14, and the worst forms of child labour are common.

The law prohibits forced labour and trafficking but forced labour is a serious problem. The government has been slow in reacting to cases of forced labour and trafficking.

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Introduction

This report on the respect of internationally recognised core labour standards in Egypt is one of the series the ITUC is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996) in which Ministers stated: "We renew our commitment to the observance of internationally recognised core labour standards." The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998 and in the Declaration on Social Justice for a Fair Globalisation adopted unanimously by the ILO in 2008.

I. Freedom of Association and the Right to Collective Bargaining

Egypt ratified ILO Convention No. 87, the Freedom of Association and Protection of the Right to Organise Convention, in 1957 and ILO Convention No. 98, the Right to Organise and Collective Bargaining Convention, in 1954.

Under the former government there was only one recognised national trade union centre, the Egyptian Trade Union Federation (ETUF), representing 2,980,000 members out of the 25 million workers in Egypt. The ETUF had close ties with the ruling party, controlled the nomination and election procedures for trade union office and exercised control over the financial management of trade unions. The power of decision as to establishment of any new union resided with the ETUF, regardless of the position of the workers at the workplace concerned. As recently as April 2011, the ETUF's President criticised an ILO representative for asserting that workers had the right to form trade unions and to join international labour confederations without restriction.

The first independent trade union, the Real Estate Tax Authority Union (RETA) with 52,000 members, broke away from the ETUF in 2008. The Ministry of Manpower and Migration did not reject recognition but did not grant it either. In 2011, as the former regime started collapsing more workers broke away from the ETUF declaring their intention to form independent unions away from the ETUF, and criticised the government for interference in labour affairs. On 30 January 2011, an independent federation of unions, the Egyptian Federation of Independent Trade Unions (EFITU) was established but it has not yet been legally recognised. On 14 June 2011 the Centre for Trade Union Rights and Workers' Services (CTUWS) launched a lawsuit with the Administrative Court calling for the dissolution of the ETUF and for the state's sequestration of ETUF assets including its headquarters, the Workers' University, and cultural and health care institutes.

At this time, the right to form and join trade unions continues to be severely restricted in law in Egypt. The Trade Union Act does not allow all workers to join more than one organisation. Broad categories of workers, including domestic workers, are excluded from the scope of the Labour Code of 2003 and they do not enjoy the right to collectively bargain or strike. While the 2003 Labour Code (labour law 12/2003) requires dismissals to go through the court, in practice workers have not been protected from anti-union discrimination as employers have been able to dismiss workers without using such procedures. As a result trade union coverage in the private sector is weak and few collective agreements have been concluded.

Collective bargaining is heavily curtailed, especially in the private sector. Employers can avoid collective bargaining and minimum wage requirements, as well as social contributions, without any effective sanction. The Labour Code also allows higher level unions, which have generally been under state control, to interfere in the negotiation process conducted by lower level organisations. The ILO's Committee of Experts for the Application of Conventions and Recommendations (CEACR) has asked for the repeal of the respective provisions of the Labour Code because this practice is "incompatible with the autonomy which must be enjoyed by bargaining parties which, as such, must have the right to free and voluntary negotiation of collective agreements". The Labour Code also prescribes compulsory arbitration procedures. Collective agreements have to conform to the vague public order and general ethics law, the interpretation of which has been on an arbitrary basis. The absence of a bona fide national trade union centre has made it very difficult for workers to settle disputes through collective bargaining; hence, there has been a tendency to resort to protests and strikes.

In the public sector, collective agreements are negotiated in the National Wages Council which has been criticised for shortcomings, including for failing to carry out a comprehensive salary review.

The right to strike is under severe restriction and legal strikes are virtually impossible. The union must indicate the planned duration of the strike beforehand and then the call to strike must be approved by two-thirds of the ETUF's board. Moreover, the law prohibits strikes while collective bargaining agreements are in force or during the mediation and arbitration process.

Strikes are prohibited in essential services. In Egypt, essential services exceed the ILO's definition as "those the interruption of which would endanger the life, personal safety or health of the whole or part of the population".

In practice, Egyptian workers have not stopped protesting since the massive strikes of 2006. Striking at the workplace could be dangerous due to excessive police violence and therefore the workers have often taken the protests to the streets, where it is harder for the authorities to mistreat or conceal them. Nonetheless, the authorities have taken all possible measures to restrain unauthorised strikes. Among many similar cases, a military court tried eight workers from Helwan Military Factory in August 2010 on

charges of halting production, striking and “disclosing military secrets”. The workers were protesting against factory conditions following another worker’s death. The court sentenced two workers with suspended prison sentences, fines and disciplinary measures against another three.

The provisions of the 2002 Special Economic Zones Law exempt newly established investment companies from legal provisions on the right to organise. Reports show that many labour regulations are poorly enforced and that anti-union acts are rife. Many accounts show that union organisers face harassment, intimidation and administrative penalties in their efforts to organise workers. Workers’ rights in export processing zones are also abused by employers’ practices; as in the Tenth of Ramadan City Zone where before starting employment, workers have been forced to sign letters of resignation, blank cheques, and the so called “application 6” stating that the employer has fulfilled all their obligations towards the worker so that they can then be fired at the employers’ convenience. Consequently, working conditions in export processing zones are poor and workers’ rights are abused.

On March 24, 2011 the government introduced Law 34/2011 banning strikes and demonstrations that hinder production in any workplace. On 29 June 2011 a military court handed down suspended sentences of one year in prison to five workers who had carried out a sit-in protest in front of the Egyptian oil company Petrojet, along with about 200 colleagues. Petrojet had claimed they were temporary workers, even though some had been working there for 10 years, and refused to rehire them. Security guards for the oil ministry detained the five protestors and assaulted and beat them inside the ministry’s building, before calling the military police to arrest them.

Summary

At present the right to organise, collective bargaining and strike remain restricted in law and abused in practice. Exemptions from certain labour provisions in export processing zones, combined with poor enforcement of the law, have resulted in rights abuses and poor working conditions there.

II. Discrimination and Equal Remuneration

In 1960, Egypt ratified ILO Convention No. 100 on Equal Remuneration and ILO Convention No. 111 on Discrimination (Employment and Occupation).

The law prohibits discrimination in employment on various grounds, including gender. Nonetheless, the law does not provide for “equal remuneration for men and women for work of equal value”. According to an Individual Direct Request of CEACR, “the members of the National Wages Council (NWC), which determines the structure of wages, do not have adequate knowledge of the concept of “work of equal value” and a training session is being prepared in this respect for all the persons concerned.” Furthermore, the anti-discrimination provisions of the Labour Code do not cover all

aspects of employment: they only prohibit discrimination in terms of wages and termination of employment. The government has also enacted a list of work prohibited to women. There is no law prohibiting sexual harassment at the workplace but such cases are prosecuted under other laws.

In practice, by government and independent statistics women's participation in the labour force is about 22 per cent. The number of women employed in managerial functions is seven times lower than men. Women occupy 19 per cent of private sector jobs and 29 per cent of those in the public sector. According to government statistics from 2007, women in the private sector earned 90 per cent of men's weekly wages and in some sectors, including construction, women even earned more than men. However, this most probably resulted from a situation of a very few women occupying higher level positions in male dominated sectors. Given that the participation of women in the private sector is very low, the CEACR "considers that it is difficult to assess accurately the existing gender remuneration gap and have an adequate picture of wages differentials", indicating that these figures are not reliable. According to the World Economic Forum's statistics, women receive 80 per cent of men's earnings.

The law does not prohibit discrimination on the grounds of disability while it reserves 5 per cent of all public sector positions for disabled persons. There is no information about the application of this requirement. Disabled persons faced discrimination in employment, particularly in hiring. The government worked with UN and aid organisations in delivering job-training programmes to persons with disabilities.

Homosexuality is not prohibited in Egypt but reports show that homosexual persons faced societal discrimination in the workplace.

Persons who live with HIV/AIDS face significant social difficulties in society and in the workplace. In 2006 the Egypt Business Coalition, comprising mostly multinational enterprises, adopted HIV/AIDS workplace programmes.

Summary

The law does not adequately protect women from discrimination and does not explicitly include a requirement for equality in remuneration. Women's participation in the labour market is low and women face a considerable pay gap. Disabled persons, homosexuals and persons who live with HIV/AIDS also face discrimination in various aspects of employment, including in hiring.

III. Child Labour

In 1999, Egypt ratified ILO Convention No. 138 on the Minimum Age and in 2002, Convention No. 182 on the Worst Forms of Child Labour.

The Child Protection Law of 2008 sets the minimum age for admission to regular work at 15 years of age and for seasonal work at 13 years of age. Children may not work more than six hours per day, with an hour's break, and may not work overtime, night, or on holidays. The Labour Code of 2003 permits the employment of children as young as 12 years old as apprentices under conditions. However, domestic servitude and family enterprises are not included in the Labour Code's scope and the Code explicitly excludes children working in agriculture. Children are not allowed to perform hazardous work and a list of such occupations has been enacted by a Decree of the Ministry of Manpower and Migration.

According to recent estimates and studies there are between 2.7 million and 5.5 million working children, amounting to 6 to 13 per cent of children aged 5-14. More than 70 per cent work in agriculture, seasonally or year-round. Sometimes children working in farms have to deal with pesticides and work long hours in extreme temperature. Male children most commonly work in home workshops, construction, textiles and carpet factories and in car repair, whereas girls usually work in domestic servitude. Uncorroborated reports show that worst forms of child labour are used in brick kilns, glass makers and leather shops as well as in limestone quarries. There are an estimated 200,000 to one million street children in Egypt who are vulnerable to the worst forms of child labour, including sexual exploitation and forced beggary.

The Labour Inspectorate undertakes inspections for child labour in registered establishments; however, inspections in informal activities are ineffective. Many inspectors do not have knowledge of the appropriate treatment for child labour violations and sometimes the fines imposed are not deterrent. The General Committee for Child Protection implements the National Child Labour Strategy which aims at identifying and monitoring children at risk of exploitive labour. In 2009, steering committees were established in all governorates with a view to monitoring the problem at local level. It was claimed in the CEACR report of 2010 that the implementation of the Strategy had resulted already in "the reintegration of 122 children into basic education, the enrolment of 109 children in literacy classes, the provision of social and health services to 789 children, the signing of 428 apprenticeship contracts, and the holding of awareness-raising sessions for 515 children", as well as the withdrawal of 23 children from the worst forms of child labour. The states also implement awareness raising campaigns.

Summary

The scope of the Labour code leaves some sectors unregulated in terms of minimum age and protections against child labour. There are between 2.7 million and 5.5 million working children, amounting to 6 to 13 per cent of children aged 5-14, and the worst forms of child labour are common.

IV. Forced Labour

Egypt ratified ILO Convention No. 29, the Forced Labour Convention, in 1955 and ILO Convention No. 105, the Abolition of Forced Labour Convention in 1958.

Egyptian law prohibits forced labour. The 2010 Anti-trafficking Law prohibits all forms of human trafficking and stipulates stringent penalties of from 3 to 15 years' imprisonment and fines.

In practice, forced labour and trafficking are problems in Egypt. Individuals from Asia and Africa are forced into labour, especially women in domestic servitude. Reports show that domestic workers face confiscation of their travel documents, withholding of wages, long hours and abuses, including physical violence.

Several reports reveal grave problems in the Sinai Peninsula close to the border with Israel, where traffickers systematically exploit hundreds of Sub-Saharan individuals. Asylum seekers and migrants mostly from Eritrea and Sudan are held captives, often in chains, and they are forced into manual labour for up to 12 hours a day or night in the construction sector. The workers are reported to face daily violence and even torture. Female victims undergo sexual abuse or may be forced into domestic work for the traffickers. The traffickers ask for ransom from the workers' relatives in their home countries or smuggle them to Israel and, in the meantime, force them into labour. Although the government claims that it takes sufficient measures to crack down on organised crime, human rights NGOs criticise the authorities for neglecting the problem and responding slowly. Furthermore, the authorities have denied access to the UN High Commissioner for Refugees (UNCHR) to the area.

Child prostitution also occurs in Egypt in the form of "summer marriages" or "temporary marriages". Families give young girls for a temporary marriage with a man who is willing to pay. In 2010, the former government made efforts to fight this crime and succeeded in investigating 50 cases and convicting 29 offenders.

The government does not make use of a victim identification and referral procedure to trace victims among vulnerable groups. Furthermore, the assistance offered to victims is low.

Summary

The law prohibits forced labour and trafficking but forced labour is a serious problem. The government has been slow in reacting to cases of forced labour and trafficking.

Recommendations

1. The government must repeal Law 34/2011 that criminalises protests and strikes that hinder production in any workplace.
2. The Labour Code of 2003 should be amended in order to cover domestic workers, workers in family enterprises and other workers currently excluded from its scope.
3. The government must repeal Law 35/1975 and issue a new trade union law in conformity with ILO standards,
4. The freedom to form and join unions should be promoted by simplification of rules and by strong provisions to protect workers from anti-union discrimination and so provide greater freedom to establish unions.
5. Strict penalties should be prescribed for avoiding or breaching collective bargaining procedures, for not meeting minimum wage requirements and for not paying social contributions. Instead the government should establish a minimum wage policy and revise wages policy in general, and reform health insurance and social security laws, secure the system's financial stability, ensure the contributions of all parties and improve the services they provide.
6. The government should promote collective bargaining as the main procedure for settling labour disputes and deciding wages and conditions. Recourse to arbitration and mediation should be possible only through mutual agreement.
7. The Labour Code should prohibit higher level unions from interfering in the negotiation process conducted by lower level organisations.
8. The requirement that collective agreements have to conform to the public order and general ethics law is too vague and should be repealed.
9. The strike procedure needs to be simplified and excessive requirements such as announcement of the duration prior to the strike and for the strike to be approved by two-thirds of the ETUF's board should be abolished. Strikes should not be restricted during the collective bargaining procedure.
10. The state should redefine essential services on the basis of the ILO stipulation of "those the interruption of which would endanger the life, personal safety or health of the whole or part of the population".
11. The provisions of the 2002 Special Economic Zones Law should be revised to eliminate differentiation between national labour laws and the laws of the Special Economic Zones. The authorities should take measures to ensure the enforcement of labour laws in Special Economic Zones and Export Processing Zones.
12. The law should give explicit expression of "equal remuneration for men and women for work of equal value".
13. The government should take urgent measures to improve women's participation in the workforce and to close the gender wage gap.

14. The anti-discrimination provisions of the Labour Code should be amended in order to cover all aspects of employment.
15. The government should repeal the list of work prohibited to women.
16. A special law should cover sexual harassment, including at the workplace, and the complaints mechanism should be made more visible. The government should raise awareness of the issue and inform women and men of the complaints mechanism.
17. The law should prohibit discrimination on the grounds of disability, sexual orientation and HIV status.
18. The state should implement campaigns to change societal attitudes towards disabled and homosexual persons as well as persons who live with the HIV/AIDS.
19. The government should promote HIV/AIDS workplace programmes.
20. The exclusion of domestic servitude and family enterprises from Labour Code's scope creates problems with regard to the application of child labour protection and should be corrected. The Code should explicitly include children working in agriculture.
21. The list of hazardous occupations where child labour is prohibited should be determined after meaningful consultations with the social partners.
22. The authorities should undertake large scale investigations into child prostitution in the form of "temporary marriages", actively prosecute offenders and ensure adequately deterrent penalties for those convicted.
23. The government should establish an official victim identification and referral procedure to trace victims among vulnerable groups.
24. The government should dramatically increase the funds for trafficking and forced labour victims and provide assistance of better quality.
25. In general, the government should build up its law enforcement and judicial capacities in order to monitor and enforce labour laws, including legislation on violations of trade union rights, discrimination, child labour and forced labour and trafficking, and start punishing those who commit such crimes.
26. The Labour Inspectorate need to be adequately funded and the inspectors should be properly trained.
27. The WTO should draw the attention of the Egyptian authorities to the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. It should request that the ILO intensify its work with the Government of Egypt 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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