

**INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)**

**INTERNATIONALLY RECOGNISED CORE  
LABOUR STANDARDS IN MAURITIUS**

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

**(Geneva, 23 and 25 April 2008)**

**EXECUTIVE SUMMARY**

**Mauritius has ratified all eight ILO core labour conventions. However restrictions of the principles and rights laid down in those binding international legal instruments are common.**

**Freedom of association and the right to collective bargaining are guaranteed in law, and the corresponding rights also apply to workers in companies located in the export processing zones (EPZs). However the effective exercise of those rights is systematically denied, causing the ILO's supervisory bodies to denounce practices that are in breach of the ratified conventions. National law allows the public authorities to cancel the registration of a trade union and the procedures established in national legislation on the right to strike are too ambiguous, thus preventing the effective exercise of that right. There is still a very low level of collective bargaining in the EPZs, prompting criticism from the ILO which has urged the government to take measures to promote collective bargaining at production centres in the zones.**

**Despite the fact that Mauritian law forbids any form of discrimination on the country's territory, women continue to have an inferior position in society in terms of access to education, employment or government services. Sexual harassment is also common in workplaces. Despite that, complaints are rarely issued to the competent legal bodies. Migrant workers are openly discriminated against as they have much lower wages than Mauritian nationals.**

**The law forbids child labour. The number of inspectors in charge of combating such work is low, however, which makes it difficult to combat this criminal practice effectively. Child prostitution is a problem in the country.**

**Forced or compulsory labour is forbidden by law. However, there are reports criticising the existence of forced or compulsory labour.**

## **INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN MAURITIUS**

### **INTRODUCTION**

This report on the observance of internationally recognised core labour standards in Mauritius is one of the series the ITUC is producing in accordance with the Ministerial Declaration adopted at the first WTO Ministerial Conference (Singapore, 9 to 13 December 1996) and reaffirmed at the fourth Ministerial Conference (Doha, Qatar, 9 to 14 November 2001), at which the ministers stated: “We renew our commitment to the observance of internationally recognised core labour standards.” Those standards were further upheld in the Declaration of the International Labour Organisation (ILO) on Fundamental Principles and Rights at Work, which was adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998.

Mauritius was a founding member of the World Trade Organisation on 1 January 1995. Mauritius participated in the above-mentioned WTO Ministerial Conferences and endorsed the undertakings made at those meetings. Mauritius also supported the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

The ITUC has three affiliated national trade union centres in Mauritius: the Mauritius Labour Congress (MLC) with 30,000 members, the Mauritius Trade Union Congress (MTUC) with 25,000 members, and the National Trade Union Confederation (NTUC) with 59,000 members.

The country’s main import commodities are farm produce and foodstuffs, oil, consumer goods and chemical products, the main import partners being France, India, China and South Africa. The country’s main export commodities are textiles, sugar and fish, with the main export partners being the United Kingdom, France, the United States and Madagascar.

The gross national product of Mauritius in 2006 was estimated at 6.4 thousand million dollars, with agriculture accounting for 5.6%, industry for 26.9 % and services for 67.6%. As the country’s imports reached 3.627 thousand million dollars in 2007, whilst its exports represented 2.475 thousand million dollars, Mauritius’ trade balance was in deficit.

Mauritius is one of the beneficiary countries of the African Growth and Opportunity Act (AGOA) obtaining preferential trade access to the United States, with which Mauritius signed a bilateral trade agreement, the Trade and Investment Framework Agreement (TIFA), in 2006. The country is a member of regional mechanisms for the promotion of economic cooperation such as the Southern African Development Community (SADC) and the Common Market for Eastern and Southern Africa (COMESA). The European Union is presently in the process of negotiation of an economic partnership agreement (EPA) with the East and Southern Africa (ESA) group of countries of which Mauritius is a part, with a view to establishing a new trade relationship compatible with the current WTO legal framework. The European Commission initialled an interim trade agreement with Mauritius on 4

December 2007, including a WTO-compatible framework towards the completion of a comprehensive EPA by the end of 2008. Mauritius is a member of the Indian Ocean Commission and the Indian Ocean Rim-Association for Regional Cooperation with the objective of boosting economic co-operation in the region. Mauritius signed a preferential trade agreement with Pakistan in November 2007.

## **I. Freedom of association and the right to bargain collectively**

Mauritius ratified ILO Convention 87 (1948) on Freedom of Association and Protection of the Right to Organise on 1 April 2005 and ILO Convention 98 (1949) on the Right to Organise and to Bargain Collectively on 2 December 1969.

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

The law protects collective bargaining and bans anti-union discrimination. 20% of the active population of Mauritius are members of trade unions.

The law guarantees the right to strike. However, the Industrial Relations Act (IRA) sets a deadline of 21 days following compulsory arbitration for holding a strike, which in practice prevents the exercising of that right. It gives the government 21 days in which to respond to any dispute and to refer it to the Permanent Arbitration Tribunal or the Industrial Relations Commission. If the government does not reply within 21 days the strike can be held. The IRA states that participation in an illegal strike is grounds for dismissal. The IRA also allows the Prime Minister to declare a strike illegal should s/he consider that the strike could damage the country's economy. Foreign workers who take part in a strike can be deported.

During 2006 there were a series of reports that workers from China and India who had tried to form a trade union or protest against their employers had been summarily deported.

The unions have demanded that the right to strike be guaranteed by the Constitution. The ILO has reminded the government that any restriction of the right to strike should be accompanied by appropriate, impartial and speedy conciliation and arbitration procedures. It has stressed that the sacking of workers (for taking part in strikes) and the refusal to reinstate them were serious breaches of freedom of association.

The law covers workers in the EPZs, but the unionisation rate is low there. Special laws are applied in some EPZs, such as those providing for longer working hours in the zones (45 hours per week and ten hours compulsory overtime if required). There are reports that some employer-controlled councils are preventing unions from organising workers in companies based in the export processing zones.

It is extremely difficult to approach workers in Mauritian EPZs with a view to organising them in trade unions. Generally, union officials have to wait outside the factory gates to meet workers whom they mostly do not know; in addition, they report that most of the workers are women who are in a hurry to get home to their families. An ICFTU-AFRO<sup>1</sup> mission to Mauritius in February 2004 was informed that the few men the organisers saw were mainly supervisors, who were said to be hostile to unions. As a result, the organisation rate is quite low (less than 12%) in the EPZs across the country. Owing to the lack of effective trade union representation, occupational health and safety hazards are sometimes not addressed in a timely fashion, if at all.

The unions have reported how difficult they find it to approach and organise migrant workers, particularly those from South-East Asia and Madagascar, who tend to have long working hours and to be cut off from other workers. Some of them have intolerable living conditions, sleeping in dormitories on benches without mattresses or in tiny bedrooms housing up to a dozen people. Those who have tried to organise have been summarily deported. It has also been reported that unions are finding it hard to organise workers in the expanding sector of offshore companies.

Violations of workers' rights have been reported recently in the textile industry. Some employers have refused to recognise the union delegates and a wildcat strike in a clothing factory was brutally suppressed by the police. The government and the unions have still not reached an agreement on the draft law amending the Industrial Relations Act. The unions fear that amendment to the law on collective bargaining could undermine the tripartite system.

The Mauritius Labour Congress (MLC) has reported that the draft law amending the IRA, adopted in June 2003, restricts the rights of public sector unions to declare a dispute over pay. The amended Act introduced an "Option Form" to be signed by government employees whereby they agree to abide by the Pay Research Board's recommendations. If they do not agree with the recommendations, they can decide to retain their wages and former working conditions, but the wages will always be lower. Once the Option Form is signed, however, they will no longer have the right to declare a dispute in the same sector.

In May 2006, the government announced the creation of a new National Wages Council (NWC) to replace the existing tripartite committees. This council would replace the Pay Research Bureau and the National Remuneration Board (NRB). Based on the Singaporean model, it identifies the industries and individual enterprises with the means to increase salaries. The unions are opposed to the idea. They consider it an attempt by the government to dismantle the tripartite committees, while leaving it up to the private sector to decide whether or not to engage in sectoral bargaining.

In April 2006, the director of the Mauritius Revenue Authority (MRA) threatened to drastically cut the salary of Toolsyraj Benydin, president of the Federation of Civil Service Unions (FSSC) because of his absence from work on trade union business. The right to paid leave for union business is enshrined in Mauritian legislation and ILO jurisprudence. When the government prevented the MRA director

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<sup>1</sup> ICFTU-AFRO was the African Regional Organisation of the former International Confederation of Free Trade Unions.

from implementing his decision, he proposed limiting Mr. Benydin's time spent on union business or giving him leave without pay.

On 23 May 2006, policemen armed with shields and truncheons beat female workers from Novel Garments holding a peaceful sit-in in the courtyard of the factory in Coromandel protesting against plans to transfer them to other production units. The police used tear gas to disperse them. Earlier that day, Alain Rey, the financial director of Novel Garments, had called for a meeting between the management and the workers' representatives to announce restructuring in the company. However, Mr. Rey refused to allow the workers' union representative Faizal Beegun and their legal representative Rama Valayden, to attend the meeting. The management called the police to evict them. This turned the peaceful sit-in into a riot, which was then brutally suppressed by the police. Since 2005 the same employer, Novel Garments, has systematically refused to recognise Rama Valayden as the workers' representative, claiming that he did not represent the minimum percentage of workers required. However, there is no minimum percentage set by law.

In another case of anti-union discrimination, Firemount Textiles of Mauritius refused to recognise the Textile, Garment and Manufacturing Workers' Union in spite of the fact that it represented half of the workforce. The management waged an anti-union campaign, telling workers not to join the union and preventing the union from recruiting workers outside the factory at lunchtime.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) is continuing to express its firm hope that any new laws will explicitly ban interference by employers' organisations in the activities of workers' organisations and also set up rapid appeal procedures, supported by sufficiently dissuasive sanctions, as a means of guaranteeing protection from such interference.

The CEACR is concerned at the reported low level of collective bargaining in the Mauritian EPZs. The committee therefore urges the government to indicate in its next report the measures that have been taken to promote collective bargaining in the EPZs sector.

The CEACR has been pointing out for several years that the submission of any labour dispute to compulsory arbitration is left up to the minister's discretion. The CEACR maintains that to be compatible with the convention the provisions on compulsory arbitration should only be used for "essential services" in the strict sense of the term (that is, services the interruption of which could endanger the life, personal safety or health of the whole or part of the population).

**Conclusions:** *Mauritius has ratified the two conventions protecting freedom of association and collective bargaining. However, in practice restrictions on the principles and rights contained in that international legislation are common. For instance, national law grants the public authorities too much power in this area, including the right to cancel a trade union's registration under various arbitrary pretexts. The right to strike is recognised in Mauritian law, however the procedures in place prevent the effective exercise of that right. The grounds for declaring a strike illegal are too ambiguous, leading the ILO supervisory bodies to call on the*

*government to amend the current legislation. The law applying to export processing zones includes several elements and exceptions that go beyond the law prevailing elsewhere in the country. The level of union membership remains very low in companies located in the EPZs, owing to the obstacles imposed by employers. The CEACR has renewed its request to the government of Mauritius to take measures to promote collective bargaining in the export processing zones and remains concerned at the low level of union membership in those areas.*

## **II. Discrimination and Equal Remuneration**

Mauritius ratified Convention 111 (1958) on Discrimination in Respect of Employment and Occupation as well as Convention 100 (1951) on Equal Remuneration for Men and Women Workers for Work of Equal Value on 18 December 2002.

The law forbids any form of discrimination. The law also forbids sexual harassment. However, that practice is common in workplaces. Women have an inferior position in society and the workplace, despite the theoretical equality of access to education, employment and government services. In the agricultural sector the law protects women from carrying articles above a fixed weight, however employers set wages based on the weight that a woman can carry over a given period of time. As a result, women working in the agricultural sector are discriminated against and paid less than their male colleagues working in the same sector.

Many migrant workers are not informed of the laws that provide them with the same level of protection as Mauritian nationals and hence they often earn between 2000 and 2500 rupees (70 to 90 dollars) less per month in companies located in the country's EPZs.

The law forbids discrimination against people with disabilities. It does not, however, require the adaptation of workplaces to make them accessible to disabled people and, as a result, many disabled workers cannot obtain certain jobs.

The CEACR has renewed its request to the government of Mauritius to establish the principle of equal pay for men and women for work of equal value in both law and practice.

The CEACR has asked the government to provide information about the activities of the Division responsible for combating sexual discrimination and of the Ministry of Labour, the practical measures that are being taken to eliminate sexual harassment at work, in both the public and private sectors, and the complaints of sexual harassment that have been received by law courts.

The CEACR has requested the government to provide more information about the measures taken by the National Committee on Human Rights and its Division in charge of combating sexual discrimination to implement the provisions of the convention. It has asked for information concerning the nature and the number of complaints about discrimination that have been submitted to the Supreme Court and

the Industrial Tribunal. The CEACR has urged the government to explain how the labour inspectorate is enforcing the national legislation and the provisions in the convention.

**Conclusions:** *Mauritian law forbids any form of discrimination. However, occupational discrimination does exist and sexual harassment is a common practice in workplaces. Women have an inferior role to men in Mauritian society, despite theoretically equal access to education, work and government services. Migrant workers are openly discriminated against in companies in the export processing zones and have much lower wages than Mauritian nationals. The CEACR has been continuing to press the government to take measures to guarantee the principle of equal pay for men and women and to act on the many complaints submitted to the competent legal bodies regarding the criminal practice of sexual harassment.*

### **III. Child labour**

Mauritius ratified Convention 182 (1999) on the Worst Forms of Child Labour on 8 June 2000 and Convention 138 (1973) on the Minimum Age for Admission to Employment on 30 July 1990.

The law bans child labour and provides for free, universal and compulsory education for all children up to the age of 16. The law stipulates that any actions harmful to the health, safety or moral wellbeing of children are criminal offences. The Ministry of Labour, Industrial Relations and Employment is responsible for enforcing the laws prohibiting child labour.

However, the government has not managed to enforce these laws. The number of inspectors in charge of combating child labour is low, which makes it difficult to combat this practice effectively.

Consequently, child labour is found in informal economic activities as street vendors and in workshops, restaurants and small enterprises. Child prostitution is a problem in Mauritius.

The CEACR has reminded the government of Mauritius that based on the convention, young people of 16 and older may be allowed to undertake dangerous activities provided that their health, safety and moral well-being are fully protected and that they receive adequate specific training in the relevant type of work. The CEACR has renewed its urgent request that the government of Mauritius take immediate measures to raise the minimum age at which young people may be allowed to work with dangerous machines to 16, again provided that their health and safety are fully protected and that they receive adequate training in the particular type of activity.

The CEACR has reminded the government of Mauritius that pursuant to Convention 182, the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances are examples of the worst forms of child labour and must be banned for all children under the age of 18.

The CEACR has therefore renewed its request to the government of Mauritius to step up its efforts to improve the situation and immediately to take the measures needed to ban the sexual exploitation of people under 18 for commercial purposes. The Committee has called for adoption of the measures needed for ensuring that people who use, procure or offer children for sexual exploitation face legal proceedings and that sufficiently effective and dissuasive sanctions are applied.

**Conclusions:** *Mauritian law bans child labour. However the number of inspectors in charge of combating child labour is low, which prevents effective punishment of this criminal practice. Child prostitution is also a problem in the country. The CEACR has called on the government of Mauritius to raise the minimum age at which young people may be allowed to carry out dangerous tasks and activities to 16, and to take immediate and concrete measures to eliminate the sexual exploitation of children.*

#### **IV. Forced labour**

Mauritius ratified ILO Convention 105 (1957) on the abolition of forced labour together with ILO Convention 29 (1930) on forced or compulsory labour on 2 December 1969.

The law bans forced or compulsory labour but there are reports of the existence of that practice. The law also bans trafficking of human beings and imposes 15-year prison sentences for trafficking of people. However, there are reports denouncing the forced prostitution of children. Some of those reports testify that girls are being forced by their families to work as prostitutes in brothels.

The CEACR has recalled that Convention 182 states that the trafficking and sale of the services of children is one of the worst forms of child labour, and that the Member States must take immediate and effective measures to ensure the prohibition and elimination of the worst forms of child labour as a matter of the utmost urgency. The Committee has therefore urged the government to take the necessary measures to ensure that all aspects of trafficking of children, such as the recruitment, transporting, transfer and housing of children for purposes of exploitation, and particularly sexual exploitation, are banned and that adequate penalties are imposed through national legislation.

**Conclusions:** *Forced or compulsory labour is banned by Mauritian law. However, there are reports of the existence of that practice, for example through families forcing young girls into prostitution. The CEACR has renewed its request to the government of Mauritius to take measures to combat this criminal practice and to punish those who commit it.*



## CONCLUSIONS AND RECOMMENDATIONS

1. As a member of the ILO, Mauritius must observe and implement the recommendations of the ILO supervisory bodies.
2. The government of Mauritius must observe the principles of ILO conventions 87 and 98 and amend the country's legislation to bring it into line with these binding international conventions that it has ratified. The Industrial Relations Act (IRA) is in particular need of reform in order to comply with the principles of freedom of association and the right to collective bargaining.
3. As recommended by the ILO, the government must take measures to ban interference by employers' organisations in the activities of workers' organisations, supported by sufficiently dissuasive sanctions.
4. The government of Mauritius must do more to promote collective bargaining in enterprises in the export processing zones and ensure that the rights contained in ratified conventions 87 and 98 are observed in the production centres located there.
5. The Mauritian authorities should use the country's security forces for the purpose of ending the democratic exercise of the right to strike only as a last resort and only in those cases stipulated by law, for instance where a real and imminent threat to national security and public order is involved.
6. The law of Mauritius must be amended to withdraw the right of the Prime Minister to declare a strike illegal should s/he consider that the strike can damage the country's economy.
7. Positive discrimination measures should be envisaged for granting women the role they deserve in society, as well as legislative changes to ensure the full application of the principle of equal pay for men and women for work of equal value in both law and practice, and measures to make the law against sexual harassment effective.
8. The government of Mauritius must ensure that migrant workers receive equal pay to that of Mauritian nationals and that they are fully informed of their rights.
9. Amendments to the law are needed to make it a legal requirement of employers to adapt their buildings to make them accessible to disabled persons.
10. The government of Mauritius must without delay increase the number of inspectors responsible for combating child labour.
11. As recommended by the ILO, the authorities of Mauritius should take stronger measures against the sexual exploitation of people under 18 and that all

aspects of trafficking of children are banned and adequate penalties imposed under national legislation.

12. In line with the commitments undertaken by Mauritius at the WTO Singapore and Doha Ministerial Conferences and with its obligations as a member of the ILO, the government of Mauritius must provide regular reports to the WTO and the ILO on legislative and implementation programmes with regard to all the core labour standards.
13. The WTO should draw to the attention of the authorities of Mauritius 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 Mauritius 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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