

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

**INTERNATIONALLY RECOGNISED CORE
LABOUR STANDARDS IN URUGUAY**

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

(Geneva, 25 and 27 April, 2012)

EXECUTIVE SUMMARY

Uruguay has ratified all eight core ILO labour Conventions. In a number of areas, further measures are needed to comply with the commitments Uruguay 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.

The law provides for the rights to organise, collective bargaining and strike. Some employers have sought to weaken collective bargaining by refusing to negotiate or by not implementing the collective agreements.

The laws protect women, disabled persons, ethnic minorities and other frequently disadvantaged groups from discrimination. However, women face a 10 per cent pay gap and are twice as likely to be unemployed as men. Afro-Uruguayans also face discrimination in employment; as a result many live in poverty.

The laws regulate child labour and prohibit its worst forms, but the law enforcement agencies lack resources to effectively implement the law. Child labour occurs.

Although special provisions prohibit forced labour and trafficking, the judicial system usually convicts offenders under other laws which carry lesser sentences. Forced labour and trafficking occur in Uruguay.

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN URUGUAY

Introduction

This report on the respect of internationally recognised core labour standards in Uruguay 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.

There is one trade union centre in Uruguay, the PIT-CNT, which has grown significantly during the phase of democratic government since 2006. Its purpose is both to improve workers' living and working conditions in the short term and to work on transformational change to achieve integrated development by means of changing the productive matrix to achieve advanced industrialisation, improving wealth distribution and deepening democracy in the country.

I. Freedom of Association and the Right to Collective Bargaining

In 1954, Uruguay ratified both ILO Convention No. 87 (1948), the Freedom of Association and Protection of the Right to Organise Convention and ILO Convention No. 98 (1949), the Right to Organise and Collective Bargaining Convention.

The Constitution and law provide for freedom of association. Civil servants, employees of state-owned enterprises and private enterprise workers may form and join unions. A 2005 law protects union leaders and negotiators from workplace discrimination. The law requires employers to reinstate workers dismissed on grounds of union membership or activity and to pay compensation to such workers, although Uruguay still needs to ratify ILO Convention 158, Termination of Employment (1982) which prohibits dismissal without due cause. The Ministry of Labour's Collective Bargaining Division investigates anti-union discrimination complaints and judicial mechanisms resolve workers' complaints against employers.

The right to collective bargaining and the right to strike are recognised by law. Collective bargaining is conducted by branch of activity and tripartite Wages Councils set the minimum wage and working conditions for each category of workers. However, the ILO has received a complaint from a number of employers' organisations that oppose the principle of compulsory tripartite private sector collective bargaining at the branch level, and has advised them to maintain social dialogue with regard to collective bargaining.

That recommendation has not been welcomed by the business chambers involved in the complaint. Trade unions consider strongly that an obligation to discuss and negotiate, though not to reach agreement, needs to be maintained. At the same in order to attain changes in working conditions it is essential that there be agreement.

In essential services the government has powers to compel workers to work during a strike if they perform an essential service which, if interrupted, “could cause a grave prejudice or risk, provoking suffering to part or all of the society”.

All labour legislation covers the workers employed in the eight special export zones. There are, nevertheless, no unions in these zones.

In practice, employers do not always respect legal procedures. Recently, employees of the multinational security companies Prosegur, G4S and Securitas as well as local security companies’ staff held public demonstrations to demand compliance with the law on the creation of Wage Councils.

Some companies have been reported for making use of anti-union practices and for discriminating against union members. For instance, several companies that provide raw materials to the Finnish cellulose factory UPM have failed to respect wage agreements with workers and have dismissed union members. Prosegur, a security company, imposed a heavier workload on unionised workers than on the rest of its employees. The company also delayed the payment of wages and some workers reported that their salaries were reduced due to the system used for recording working time.

Some companies refuse to negotiate collective agreements. For instance, between August and October 2011, workers in public and private banking took part in a series of strikes to demand the negotiation of a collective agreement that had been refused to them since December 2010. The unions were successful in bringing management to the negotiation table and an agreement was signed. In November 2011, metalworkers, members of UNTMRA, went on strike for 25 days after the refusal of employers working together in the “Cámara metalúrgica” to negotiate a collective bargaining agreement under the Wage Councils for 10 months. As a result of that pressure, the Cámara finally negotiated with the unions. In October 2011, the workers of the Evangelical Hospital affiliated to the Uruguayan Health Federation (FUS) decided to occupy the premises of the hospital for 24 hours to protest at management’s refusal to negotiate a new collective agreement. The workers returned to work pending a final resolution to the dispute.

In other cases, companies do not comply with signed collective agreements. In December 2011, the Medical Union of Uruguay (SMU) held a series of strikes in both the public and private sectors, to demand compliance with the collective agreements signed in 2009 and the working conditions.

Summary

The law provides for the rights to organise, collective bargaining and strike. Some employers have sought to weaken collective bargaining by refusing to negotiate or by not implementing the collective agreements.

II. Discrimination and Equal Remuneration

In 1989, Uruguay ratified both ILO Convention No. 100 (1951), Equal Remuneration and ILO Convention No. 111 (1958) on Discrimination (Employment and Occupation).

The law prohibits discrimination based on race, gender, religion and disability as well as on other grounds. Equal remuneration between men and women for work of equal value is provided by law. The law prohibits sexual harassment at the workplace and stipulates sanctions for offenders. The government implements a National Plan for Equal Rights and Opportunity aiming at improving the position of women in the Uruguayan society. A Tripartite Committee on Equal Opportunities and Employment is mandated to deal with unequal remuneration and other gender issues in employment.

In practice, 35 per cent of women do not participate in the labour force. Women face a 10 per cent gender pay gap as well as unemployment rates much higher than men. For instance, female youth unemployment is 31.5 per cent, while for young men unemployment is 18.9 per cent. About 40 per cent of senior and managerial positions are occupied by women.

The Ministry of Labour and Social Security has announced its intentions to take measures that would improve women's position in employment in 2012. In January 2012, the law 18868 that prohibits pregnancy tests of employees went into force. The government is also preparing measures to improve the leave for maternity and breast feeding, to establish a National Care System, to train the women to carry out high-skilled workers' tasks and have higher wages. Furthermore, after three years of provisional implementation in four public companies the "Quality Management with Gender Equality" was adopted by the Ministry of Labour. The programme aims at increasing women's presence in the labour force. The programme seeks to provide more opportunities for women, improve working conditions for women and ensure the respect of women's rights.

The law protects persons with disabilities from discrimination and mandates access to buildings. However, disabled persons have reported various cases where the government failed to effectively implement these provisions. The provision on the accessibility of buildings is not enforced.

About 10 per cent of the population is Afro-Uruguayan. Many Afro-Uruguayans perform unskilled work and 43 per cent of them live in poverty. Afro-Uruguayans are

significantly underrepresented in managerial and senior positions in public and private sector. The adoption of a decree establishing a Commission to Promote Ethnic-Racial Equity in Employment is pending.

Many laws recognise the rights of lesbian, gay, bisexual and transsexuals LGBTs but isolated cases of discrimination in employment have been reported.

There were few HIV/AIDS workplace programmes. Also, there have been reports of societal discrimination against persons living with HIV/AIDS.

Summary

The laws protect women, disabled persons, ethnic minorities, LGBTs and persons who live with HIV/AIDS from discrimination. However, women face a 10 per cent pay gap and are twice as likely to be unemployed as men. Afro-Uruguayans also face discrimination in employment; as a result many of them live in poverty.

III. Child Labour

Uruguay ratified ILO Convention No. 138 (1973), the Minimum Age Convention, in 1977, and ILO Convention No. 182 (1999), the Worst Forms of Child Labour Convention, in 2001.

The law protects children against exploitation in the workplace, including a prohibition of forced or compulsory labour. The Ministry of Labour and Social Security is responsible for enforcing it. The law prohibits minors under the age of 15 from working, and this is generally enforced in practice. Minors between the ages of 15 and 18 require government permission to work. Such permission is not granted for dangerous, fatiguing, night work or other hazardous work. All workers under the age of 18 must undergo a physical examination to identify job-related physical harm. Children between the ages of 15 and 18 may not work more than 6 hours per day within a 36-hour workweek and may not work between 10 p.m. and 6 a.m. Permission to work is only granted to minors who have completed nine years of compulsory education or who remain enrolled in school and are working to complete compulsory education.

However, child labour occurs in Uruguay. In rural areas, children work in farms where they may deal with dangerous pesticides and heavy loads. In urban areas children work as street vendors, car washers, beggars and waste pickers.

Enforcement of the laws is difficult due to lack of resources and because most child labour occurs in informal activities. INAU, the National Institute for Adolescents and Children and the general labour inspectorate locate the workplaces and conditions of work in which children or young persons are employed. INAU implements policies to prevent and regulate child labour and provides training on child labour issues. It is also responsible for processing work permits on a case-by-case basis and under no

circumstances may it allow the employment of a child or young person under 18 years of age in hazardous work. INAU works closely with the Ministry of Labour and Social Security to investigate complaints of child labour and with the Ministry of Interior to prosecute cases. However, INAU has only five inspectors covering the entire country and a single office worker responsible for registering the collected information.

The government implements a National Plan of Action on the Employment of Children in the Worst Forms of Hazardous Work. In 2008, the Committee for the Elimination of Child Labour (CETI) proposed the creation of a committee to deal with the issue of children working in dump yards. The Ministry of Social Development, the INAU and the municipal authorities are carrying out work to help children currently working in rubbish tips.

The government devoted a day to raising awareness for child labour and introduced the methodology of the ILO programme “Supporting children’s rights through education, the arts and the media” (SCREAM) designed to raise awareness and provide training to social workers and others.

Summary

The laws regulate child labour and prohibit its worst forms but the law enforcement agencies lack resources to effectively implement the law. Child labour occurs.

IV. Forced Labour

Uruguay ratified ILO Convention No. 29 (1930), the Forced Labour Convention, in 1995 and ILO Convention No. 105 (1957), the Abolition of Forced Labour Convention in 1968.

The Penal Code prohibits all forms of forced labour and since 2008 the immigration law prohibits all forms of trafficking. For trafficking, the laws stipulate penalties of 4 to 16 years of imprisonment and for cases of forced labour the penalties vary from 2 to 12 years imprisonment.

Reportedly, the courts do not yet make full use of the Penal Code and the immigration law and in some cases they punish offenders under other laws, for instance the law on exploitation in prostitution, which carry much lesser sentences. In 2010, the Penal Code and the immigration law were not used at all in convictions of traffickers and offenders of the forced labour legislation. The reason for this is that there are only two judges who are specialized in organised crime law in the capital and not all trafficking and forced labour cases are referred to them.

Forced labour and trafficking occur in Uruguay. Most victims are women and girls trafficked for the purpose of commercial sexual exploitation. Foreign workers are

trafficked in Uruguay and subsequently they are forced into labour in fisheries and in agriculture.

Summary

Although special provisions prohibit forced labour and trafficking, the judicial system usually convicts offenders under other laws which carry lesser sentences. Forced labour and trafficking occur in Uruguay.

Recommendations

1. The government should ensure that employers comply with the procedures of Wage Councils, and should enforce the signed collective agreements.
2. The government should undertake a programme of measures to lower female unemployment.
3. The government should take measures to ensure accessibility to buildings and address all cases of discrimination against persons with disabilities.
4. The government should promote equal opportunities for Afro-Uruguayans.
5. The government should provide training to judges on the use of the anti-trafficking provisions of the immigration law and the provisions of the Penal Code on forced labour. The judges should ensure that the offenders receive stricter penalties.
6. In general, the government should build 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.
7. The WTO should draw the attention of the Uruguayan 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 Uruguay in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

References

Amnesty International, *Amnesty International Annual Report 2011 - Uruguay*, 13 May 2011, available at: <http://www.unhcr.org/refworld/docid/4dce15312.html>

Freedom House, *Freedom in the World 2011 - Uruguay*, 12 May 2011, available at: <http://www.unhcr.org/refworld/docid/4dcbf50e8.html>

ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), Reports, Individual Observations, general Observations and Direct Requests, 2009-2011

ILO, Ratification of Core Labour Standards

Infobae, “Empleados públicos uruguayos no quieren una jornada laboral de 8 horas”, January 22, 2012, available at: <http://america.infobae.com/notas/42578-Empleados-publicos-uruguayos-no-quieren-una-jornada-laboral-de-8-horas->

Information System on International Labour Standards, Reports requested and received on General Survey on Labour Relations (Public Service) and Collective Bargaining: Uruguay, 28 Feb 2012

International Trade Union Confederation, *2011 Annual Survey of violations of trade union rights - Uruguay*, 8 June 2011, available at: <http://survey.ituc-csi.org/Uruguay.html>

Prensa Latina, “Uruguay for Increased Female Presence in Labor Market”, January 14, 2012 available at: http://www.plenglish.com/index.php?option=com_content&task=view&id=468092&Itemid=1

United States Department of Labor, *2010 Findings on the Worst Forms of Child Labor - Uruguay*, 3 October 2011, available at: <http://www.unhcr.org/refworld/docid/4e8c399327.html>

United States Department of State, *2011 Trafficking in Persons Report - Uruguay*, 27 June 2011, available at: <http://www.unhcr.org/refworld/docid/4e12ee39c.html>

United States Department of State, *2010 Country Reports on Human Rights Practices - Uruguay*, 8 April 2011, available at: <http://www.unhcr.org/refworld/docid/4da56d779b.html>

World Economic Forum, Global Gender Gap Report, 2011 available at: <http://www.weforum.org/issues/global-gender-gap>