

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS

REPORT FOR THE WORLD TRADE ORGANIZATION (WTO) GENERAL COUNCIL REVIEW OF THE TRADE POLICIES OF EGYPT

(Geneva, 20 and 22 February 2018)

EXECUTIVE SUMMARY

The Arab Republic of Egypt is a member of the International Labour Organization (ILO). It joined in June 1936. Egypt has ratified all eight (8) fundamental Conventions of the ILO including Freedom of Association and Protection of the Right to Organise; Right to Organise and Collective Bargaining; Equal Remuneration; Discrimination (Employment and Occupation) Convention; Forced Labour; Minimum Age and Worst Forms of Child Labour.

WTO Ministerial Declarations on respect for internationally recognised core labour standards which are equally reflected in the ILO's Declaration on Fundamental Principles and Rights at Work, its 2008 Social Justice Declaration and the latest Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy enjoins Egypt, as a signatory to these commitments, to take concrete measures, in law and practice, to adhere to these core standards.

The report reveals violations and restrictions on the right to freedom of association and the right to collective bargaining, discrimination, forced labour, child labour and the lack of the rule of law.

The new trade union law (Law 213/2017), approved by the Egyptian Parliament on 5 December 2017 and signed by President Abdel Fattah el-Sissi on 18 December 2017, undermines freedom of association, the right to organise and operate a free and independent trade union and the right to freely engage in collective bargaining.

Existing laws and practices tackling human trafficking and the worst forms of child labour, prevalent incidence of child labour, discrimination in treatment on social security, religious-based discrimination, and forced labour in public service fall short of requirements under core labour standards.

In view of the restrictions, attacks, breaches and Egypt's failure to fully fulfill its commitments, further measures are needed to ensure compliance with WTO recognised internationally core labour standards.

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS

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 Declarations adopted by the World Trade Organization (WTO) starting with the first Ministerial Conference (Singapore, 9-13 December 1996) in which Ministers stated: "We renew our commitment to the observance of internationally recognised core labour standards."

To promote international development policy coherence, these standards were further upheld in the International Labour Organization (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, in the Declaration on Social Justice for a Fair Globalisation adopted unanimously by the ILO in 2008 and Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy adopted by the Governing Body of the ILO at its 329th Session (March, 2017).

The ITUC affiliate in Egypt is the Egyptian Democratic Labour Congress (EDLC), which is an independent trade union centre with a growing membership formed following the "January 25 Revolution" in Egypt.

I. Freedom of Association, the Right to Organise and the Right to Collective Bargaining

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

On 5 December 2017, the Parliament passed the new Trade Unions Act (Law 213/2017), signed by President Abdel Fattah El Sissi on 18 December 2017, to replace the Trade Union Act No. 35 of 1976. This new law is a step backwards for workers' rights and freedoms and excludes free and independent trade unions from representing the genuine economic and social interests of members towards the development of Egypt.

Prior to the passage of the new Trade Union Act, independent trade union organisations, most of whom gained legal personality after the January 25 Revolution in 2011, raised alarm that the draft law, in effect, rolled-back the freedoms and rights gained since the revolution. It is unsurprising therefore that reports reveal that in 2017 alone there were about three hundred and ninety-nine (399) incidents of violence, intimidation and retaliatory attacks against workers, leaders and members of free and independent trade unions perpetrated by State functionaries¹. These attacks included imprisonment,

¹ See report by Centre for trade Union & Workers services on 'Trade Union Freedoms Squeezed between The Governmental Oppression and the Severity of the Law', July-December, 2017.

military-style trials², indiscriminate and arbitrary terminations and transfers, arbitrary closure of trade union offices, freezing of bank accounts of independent trade unions, among others, with about seventy (70) union leaders prosecuted³.

For example, in May 2017 the government banned Labour Day celebrations due to alleged terrorist threats. Still in May 2017, three unionists were arbitrarily dismissed by Sinmar Chemical and Petrochemical Factory in Port Said for expressing solidarity with an injured colleague whose medical bills the employer had failed to cover claiming that the health insurance of the staff had been exhausted⁴. On 4 June 2017, thirty-two workers of Tourah Cement Company were sentenced to three (3) years in prison for a purported illegal protest⁵.

In addition to concerns raised by the ITUC, the ILO Committee of Experts on Application of Conventions and Recommendations (CEACR) referred to conclusions and recommendations of the Committee on Freedom of Association (CFA) in which the CFA⁶ was expressing its expectation that the draft trade union law will “guarantee comprehensive and effective protection against anti-union discrimination of all leaders and members of the new independent unions”.

The ILO Tripartite Committee on Application of Standards (CAS) discussed the non-compliance of the draft Trade Union Law to core labour standards at its 106 session expressing regret that such discrepancies remained and restating its expectation that the new law will allow all trade unions to freely undertake trade union activities and exercise their rights⁷.

Despite these clear and straightforward recommendations and an ILO contact mission to Egypt, the new law retained restrictions on international affiliation of trade unions, discrimination in treatment of trade unions and burdensome threshold requirements for trade union formations, all of which have the effect of killing-off existing independent trade unions. Violence against leaders and members of free and independent trade unions continue.

On 3 February 2016, the body of Italian PhD student Giulio Regeni was found in a ditch on the outskirts of Giro murdered. Giulio was doing research into independent trade union movements in Egypt and had just published an article on workers’ strikes in Egypt and the search for trade union unity in Nena News. The government of Egypt remains uncooperative on the issue and has failed to account for the murder. The ITUC is deeply concerned that the murder bears the hallmark of the Egyptian security services⁸.

The right to organise and collective bargaining exist in law in Egypt. However, this same law attacks and undermines freedom of association in law and practice. It treats similarly situated trade union

² On 22 October 22, Prime Minister issued an order referring all protest, strikes and sit-ins to state security courts. See <http://arabtradeunion.org/en/content/egypt-union-petroleum-workers-refuses-refer-strike-and-demonstration-cases-state-security>

³ See report referenced in 1 supra

⁴ See report at <http://arabtradeunion.org/en/content/egypt-chemical-factory-arbitrarily-dismisses-three-workers>

⁵ See report at <http://arabtradeunion.org/en/content/egypt-security-forces-arrest-protesting-workers>

⁶ See Case No. 3025 (375th Report of the CFA, paragraph 201-210)

⁷ See CAS deliberations at

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3330989

⁸ See story at <https://survey.ituc-csi.org/Egypt.html?lang=en#tabs-3>

organisations unequally giving advantage to government-favored unions. The law does nothing to address the blatant interference in trade union administration and the criminalisation and securitisation of legitimate trade union activities, which are inconsistent and non-compliant with international labour standards and international human rights law.

II. Discrimination

The Arab Republic of Egypt ratified both ILO Convention No. 100 on Equal Remuneration and ILO Convention 111 on Discrimination (Employment and Occupation) in 1960.

The ILO CEACR in 2017 found practices of religious discrimination, unequal treatment of public service employees and lack of measures to ensure equal opportunity for men and women in the workplace.

The Committee observed that a March 2009 Administrative Court decision required people of the Bahá'í faith to obtain identity documentation and birth certificates that do not mention their religious affiliation whereas the other majority religions had their affiliation stated on their identity documentation – this exposed adherents of the minority religion to discrimination⁹.

Under its Social Insurance Act, foreign nationals entitled to social security payments but whose countries do not have bilateral agreements with the Egypt have a burdensome procedure and requirements for accessing their pensions. Additionally, not all foreign nationals with the right to work in the country are allowed to join the national insurance system. It is restricted for foreign nationals who have a contract for one year and more¹⁰.

The Social Insurance Act discriminates against foreign workers depending on whether the government has reciprocity arrangements with beneficiary's government.

The Labour Code, which applies to all workers, does not apply to public officials. The CEACR expressed the need for the Government to show that rights and protections for all workers in Convention 111 applied to public sector workers. It noted that the government ought to provide effective protections against discrimination for public officials and to provide information on specific measures taken to promote and ensure equality of opportunity and treatment. Also, the ITUC has called for workers in Free Trade Zones to enjoy equal coverage and protection under the Labour Code.

Violence and discrimination against women persist. The officer appointed by the Ministry of Interior to deal with violence and discrimination against women, Brig. Gen. Nahed Salah, a woman, is reported to have “urged women to avoid talking or laughing loudly in public and to be cautious about how they dress to avoid street harassment¹¹”

Women wanting to pursue professional careers and integrate in the workplace continue to face obstacles. There remains the need to provide protection against violence against women including

⁹ See CEACR comments at

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3302615

¹⁰ See comments at CEACR at

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3079345:NO

¹¹ See Human Rights Watch report at <https://www.hrw.org/world-report/2017/country-chapters/egypt#6e1aab>

protection against sexual harassment and to create spaces for increasing women's participation in the labour market, especially the formal economy. The tendency and practice to carve out no-go professions or vocations for women were highlighted by the CEACR report discussed at the 106th session of the International Labour Conference¹².

III. Child Labour and Its Worst Forms

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

In a 2010 National Child Labour Survey by the ILO and the Central Agency for Public Mobilization and Statistics of Egypt, about 1.59 million children aged 5 to 17 years engage in child labour¹³. Twenty – one (21) per cent of them are women and the remaining seventy-nine (79) percent are boys. More critical is that almost fifty (50) per cent of child labour is in hazardous wage work. Over sixty per cent work in agriculture and close to eighteen percent work in industrial undertakings. In spite of the deep concern this situation raises for social and economic development for Egypt, the government is yet to show concrete results from measures taken¹⁴. Real labour inspections of the situation are non-existent. Consistent and systematic commitment appear absent. The ILO CEACR highlighted the gender gap in the enrolment of girls in school given the fact that ninety-six (96) per cent of out-of-school children between the six (6) and eleven (11) are girls¹⁵.

The government has rolled out programs to address child labour, but the commitment of the government is lacking, so there are no impactful results and outcomes to show in the face of the pervasive and threatening nature of the situation.

IV. Forced Labour

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

The restrictions on the right of military personnel and public service workers in general to leave the service deserves mention¹⁶. This raises concerns with the protection of workers in public service. In the same vein, the penal code sections 124, 124A and C, and 374 permit compulsory labour as a punishment for public employees who participate in a strike¹⁷. Such employees could be imprisoned for

¹² See 7 supra

¹³ See report on 2010 National Child Survey of Egypt at <http://www.ilo.org/public/libdoc/ilo/2012/469638.pdf>

¹⁴ See comments of CEACR at

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3186142:NO

¹⁵ See comments of CEACR at

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3186219:NO

¹⁶ See comments of CEACR at

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3186054:NO

¹⁷ See comments of CEACR at

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:3253337:NO

up to one year. The CEACR has made it clear that these provisions are inconsistent with ILO standards and are conducive to the exaction of forced labour.

Recommendations

1. The government must publish the report on the investigations into the gruesome murder of Giulio Regeni, the PhD student doing research into the independent trade union movement in Egypt.
2. The government must return the country to a culture of democracy, respect for human and labour rights and the rule of law instead of the current security-climate of governance in a culture of fear and silence.
3. The government must commence genuine social partner consultations on implementation of all ILO advisory comments on the social and economic situation in Egypt.
4. The government should amend the law to de-criminalise trade union activities and labour matters including strikes.
5. The government should create an enabling environment for free and independent trade unions to represent the genuine interest of their members including removing the threshold requirement for forming trade unions.
6. The government should repeal provisions in the new trade union law that interfere with trade union administration and ensure that trade unions members are those to whom their leaders are accountable including financial accountability.
7. The labour code of Egypt should allow public employees full rights to organise and undertake trade union activities without fear of imprisonment.
8. Transfers and lay-offs should be included within the scope of collective bargaining.
9. The government should commence tripartite consultations towards the promulgation of a comprehensive law that prohibits gender-based discrimination and that stipulates the principle of equal remuneration for work of equal value and this should be enacted.
10. The government should enact a specific law that prohibits sexual harassment and violence at the workplace and establishes penalties and complaints procedures.

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