

ITUC

ANNUAL SURVEY OF VIOLATIONS OF TRADE UNION RIGHTS 2010

Foreword

Since 2008, the global financial and economic crisis has had a massive impact throughout the world on the level of employment. Tens of millions of jobs have been lost, and many millions more workers are still feeling the threat of unemployment. This in turn has made the central task of trade unions, defence and promotion of workers' rights and decent jobs for all, even more difficult than at any time in recent history. Indeed, in many countries, despite a call by G20 leaders, public authorities and companies have continued to use the crisis as a pretext to weaken and undermine trade union rights.

The ITUC is adamant that the struggle for the universal respect of trade union rights enshrined in the ILO fundamental conventions is needed more than ever before. The ITUC Founding Congress in 2006 mandated the organisation to expose and denounce violations of workers' rights, wherever they occur. The publication of this Survey is an important part of fulfilling that mandate.

This Survey again records an extensive list of violations suffered by trade unionists struggling to defend workers' interests, this year in 140 countries. Other violations remain unreported, as working women and men are deprived of the means to have their voices heard, or fear to speak out due to the consequences to their jobs or even to their physical safety. The Survey provides detailed documentation of harassment, intimidation, persecution and, in the worst cases, murder of trade unionists. Killings of trade unionists actually increased by 30% compared to the previous year.

At least 101 trade unionists and labour activists were murdered in 2009 compared to 76 the previous year: 48 were killed in Colombia, 16 in Guatemala, 12 in Honduras, six in Mexico, six in Bangladesh, four in Brazil, three in the Dominican Republic, three in the Philippines, one in India, one in Iraq and one in Nigeria. Colombia was yet again the deadliest country in the world: 22 of the trade unionists who died were senior trade union leaders and five were women. The rise in violence in Guatemala and Honduras is deeply worrying.

A further ten attempted murders and 35 serious death threats are recorded, again mostly in Colombia and Guatemala. Furthermore, many trade unionists remained in prison and were joined by around hundred others in 2009. Many others were arrested in Iran, Honduras, Pakistan, South Korea, Turkey and Zimbabwe, in particular. The general trade union rights' situation has continued to deteriorate in a number of countries, including Egypt, the Russian Federation, South Korea and Turkey.

Trade union rights continue to be infringed, in many cases with total impunity, and the repression of trade unionists goes on while governments fail to meet their responsibility to ensure that trade union rights are respected and that the people defending these rights are protected. In a number of countries, governments again showed that they are intent on keeping trade unions under their firm control. Anti-democratic forces continued to target union activity, aware that unions are often in the front line in the defence of democracy. This was evident in Honduras during the post-coup violence and in Guinea during a protest demonstration against the ruling junta which turned into a terrible massacre on 28 September.

Numerous cases of strike-breaking and repression of striking workers were documented in each region. Thousands of workers demonstrating to claim wages, denounce harsh working conditions or the harmful effects of the global financial and economical crisis have faced beatings, arrest and detention, including in Algeria, Argentina, Belarus, Burma, Côte d'Ivoire, Egypt, Honduras, India, Iran, Kenya, Nepal, Pakistan and Turkey. Dismissals of workers due to their trade union activities were reported in many countries. In Bangladesh, six garment workers on strike for a pay increase and settlement of outstanding wages died after a police intervention.

Union busting and pressure continue to be widely used by employers. In several countries, companies threatened workers with closure or transfer of production sites, should they organise or join a trade union. Often employers simply refused to negotiate with legitimate workers' representatives while the authorities did nothing. Some labour codes were amended to permit more "flexibility" and to unravel

social welfare systems which often impacted the existing industrial relations systems and thus curtailed trade union rights.

Another negative effect of the economic and financial crisis is that more and more workers are forced into various forms of precarious work. Indeed, the ILO now estimates that 50% of the global workforce is involved in vulnerable work. This affected workers in export processing zones, especially in South East Asia and Central America, domestic workers (especially in the Middle East and South East Asia), migrants as well as agricultural workers. It is worth mentioning that women represent a significant majority of the workforce in these sectors. Furthermore, the growth of informal employment and the development of new “atypical” forms of employment was seen across both regions and industrial sectors. The difficulties these workers face to organise or exercise their trade union rights are directly related to their highly vulnerable position in the labour market.

Where legislation protects some trade union rights, this often comes with restrictions. Fundamental rights remain restricted for many categories of workers, including public employees in several countries. Severe restrictions or outright prohibition of strikes also exists in a large number of countries. Furthermore, complex procedural requirements, imposition of compulsory arbitration and the use of excessively broad definitions of “essential services” provisions often make the exercise of trade union rights impossible in practice, depriving workers of their legitimate rights to union representation and participation in industrial action.

2009 was the 60th Anniversary of the ILO Convention on the Right to Organise and Collective Bargaining, 1949 (no. 98). Countries such as Canada, China, India, Iran, the Republic of Korea, Mexico, Thailand, the United States and Vietnam have still not ratified it. Thus, approximately half of the world’s economically active population is not covered by the Convention. Even when ratified, implementation of this vital Convention is frequently weak. Respect for the rights to organise and bargain collectively are crucial to restoring purchasing power and economic growth around the world, and governments must act to ensure that these rights are respected in law and in practice. The alternative is greater inequality, and deeper recession.

The free exercise of fundamental trade union rights by independent trade unions is also essential to the functioning of a democratic society and to a global economy based on social justice. The ITUC will continue to fight for the protection of these rights, and bring support and solidarity to the men and women who risk their jobs, their freedom and even their lives to defend workers’ rights.

Africa

Trade unions in Africa suffer from a general lack of respect for their organisations and their activities, both from employers and the authorities. This seriously hampers the free enjoyment of trade union rights. Demonstrations and strikes are often dispersed by the police, who often resort to violence. Sometimes trade union leaders are targeted directly, as shown by the assassination attempts on three union leaders in Burundi and Chad.

Violent repression of striking workers marked the year in South Africa. On several occasions, police and security guards fired at striking workers, most of whom were protesting about pay issues. During the year, a total of 16 workers were reported as having been injured.

Teachers in both Algeria and Kenya organised mass rallies connected to their struggle for better working conditions. In both countries, activists were injured in clashes with the police and many were arrested, and in Kenya, the Teachers’ Service Commission (TSC) subsequently ordered 90,000 teachers in senior and managerial positions to leave the teachers’ unions.

In Egypt, the Real Estate Tax Authority Union (RETA) officially became the first independent union in over 50 years to be established in the country. However, since its inception, the union has suffered from interference in its internal affairs, with its members being intimidated, harassed and even assaulted, whilst the Egyptian Trade Union Federation, which is the only legally recognised national trade union centre and has close ties to the ruling party, has tried to pressure the authorities into withdrawing the recognition of the union.

Zimbabwe's abysmal record of violence and repression of trade unions and their members caused the ILO to send a Commission of Inquiry to the country in February. During the year, trade unionists continued to be harassed by the police and supporters of Robert Mugabe's ZANU-PF party, whilst mass dismissals of striking workers took place, numerous unionists were arrested, several workers were severely beaten by the police while others were shot, and one union leader's home was raided. Trade unions are the butt of constant harassment and repression in Swaziland, where the State of Emergency has been in force for over 35 years. Arrests of union leaders and beatings of protesters are not uncommon. Violations of human and trade union rights are also a matter of serious concern in Sudan. The law only allows one trade union federation, which is controlled by the government and engages more in disciplining workers than protecting their interests. Unionists who operate outside the official union live under constant fear, and 2009 saw no improvement of the situation.

Fundamental trade union rights are guaranteed in many countries' constitutions on the African continent. However, the practical implementation of the provisions is anything but thorough. Social dialogue is often limited or non-existent and the demands of workers and their representatives are frequently ignored or rejected by employers or the authorities throughout the region. Furthermore, even where a collective bargaining agreement has been concluded, it is often not honoured. This problem applies in particular to countries like Cameroon, Côte d'Ivoire, Kenya, Liberia, Nigeria and Tanzania. The authorities also discriminate against independent or representative unions. In Benin, for instance, the government has favoured "patriotic" trade unions and associations and has refused to consult with the representative organisations. Unions have been unduly denied registration in Algeria, Swaziland and the Central African Republic, whilst in Equatorial Guinea the refusal has been systematic.

The right to strike is frequently infringed in practice. Workers regularly suffer from retaliation for having participated in strikes, which are often broken up by the police. In Côte d'Ivoire, for example, the authorities took repressive measures against thousands of striking dock workers, leaving 60 people injured, several of them seriously. Strikers were also assaulted in other countries including Ghana, Morocco, Nigeria and Tanzania. Nearly 700 workers were arrested during the year for participating in legitimate trade union activities, mainly in Algeria and South Africa.

South Africa

Population: 50,100,000

Capital: Pretoria

Workers exercising the right to strike were heavily penalised during the year. There were also repeated incidents of the police firing rubber bullets and tear gas at strikers taking part in pickets and protests, often resulting in injury. Trade union rights are protected by law though the right to strike is weakened by the employers' right to hire replacement workers.

Trade union rights in law

Trade union rights are guaranteed in law. All workers, with the exception of members of the National Intelligence Agency and the Secret Service, are allowed to join unions and are protected against unfair dismissal, and unions can seek redress in court for such dismissals. The law contains provisions to encourage collective bargaining in small businesses, and among home workers and workers in the informal economy.

Furthermore, the right to strike is recognised for all workers including those in the public sector, provided they do not work in essential services or the security forces. However, that right is undermined by the legal right of employers to hire replacement workers during a strike.

Trade union rights in practice and violations in 2009

Background: The ruling African National Congress (ANC) won the April general elections, pledging in its manifesto to make decent work the central focus in all of the party's economic policies. Public prosecutors dropped corruption charges against ANC leader Jacob Zuma, who was officially chosen as the country's president by the newly-elected parliament in May. After the economy went into recession for the first time in 17 years, Mr Zuma announced a 2.4bn rand (USD 300m) relief scheme in August for workers facing redundancy. The new government faced a wave of public sector strikes and violent unrest in the townships.

Strikers injured by rubber bullets: Four South African Transport and Allied Workers' Union (SATAWU) members participating in a truck drivers' strike sustained minor injuries after they were shot at by police. Petros Tshabalala, 24, said he was hit by a rubber bullet after his arrival at Beyers Naude Square in Johannesburg on 8 April to listen to a report-back on the talks between unions and representatives of the road freight industry. Bernard Molokomme, Stanley Mthimunya and Aron Khanyeza also sustained injuries during the shooting and went to hospital for treatment. Tshabalala said the incident took place just after a man had his car keys snatched from him. "The police took him to safety. Then they shot us," he said. Tshabalala said he was told that the police contingent were angered by an attack on one of them by a lone man wielding a stick. Shortly before this incident Satawu provincial secretary Xolani Nyamezele had strongly condemned other violent incidents during the truck drivers' strike.

Anti-union practices at fruit company: On 24 June the Fruit and Agricultural Workers Union (FAWU) called a strike at Expo-Frut/UNIVeG in Piketberg in frustration over the management's continued undermining of collective agreements. Workers also claimed that management had asked them to resign from the union, that shop stewards were being victimised, with some receiving written warnings, and that there were constant attempts at union bashing. The matter was referred to the Commission for Conciliation, Mediation and Arbitration (CCMA).

Police open fire on striking municipal workers: Police fired stun grenades, rubber bullets and teargas into a crowd of between 100 and 200 striking municipal workers in Plettenberg Bay town centre on 4 August at the start of a countrywide strike by the South African Municipal Workers' Union (SAMWU). The march was followed closely by a strong police contingent who opened fire after a few strikers sat down in the street on the return leg of the march. The chairman of the Congress of South African Trade Unions' (COSATU) Plett branch, Dumisane Mnweba, who was leading the marchers, said the police action was unprovoked. Police claimed later they fired in retaliation at stones thrown at them. Vincent Sawule was hit twice in the back and an elbow by rubber bullets and Washington Nkumada in the leg. Sean Lose's arm was burnt by a thunderflash.

Shop stewards suspended after striking over health and safety: The South African pulp, paper, and woodlands company Sappi instigated disciplinary proceedings against 19 shop stewards and 23 other workers at the Enstra mill in Gauteng province. The paperworkers were charged with inciting three safety strikes on 5 May, 8 May, and 28 May at the 700-worker mill near Johannesburg. The incident started when shop stewards from the Chemical, Energy, Paper, Printing, Wood, and Allied Workers Union (CEPPWAWU), intervened to prevent a worker from cleaning in a part of the mill where a piece of equipment normally performs. When shop stewards protested that the worker had been assigned to an unsafe task, management hardened its position and the safety strikes began. The case was seemingly resolved when agreement was reached in August. The workers concerned were given short suspensions without pay and warning letters that remained in effect only until the end of the year. However the employer then proceeded to retrench workers in September, claiming it was due to the economic downturn. The union felt the nature and timing of the retrenchments suggested they were in retaliation for the strike. According to CEPPWAWU more than 376 workers at Sappi's Ngodwana plant in Mpumalanga were facing possible retrenchments, pending consultation procedures. The union also said its members had faced a high level of disciplinary actions since the suspension of the strike.

Police shoot and injure protesting communication worker: A member of the Communication Workers' Union (CWU) was injured by police during a peaceful march. The incident occurred on Friday 4 September as CWU members employed by the Post Office were marching to the High Court. The court was due to hear an application for an interim interdict to stop the Post Office strike, called over pay inequalities. Plain clothes police officers fired rubber bullets striking one of the marchers, Zodwa Maduna, injuring her in the arm. She was taken to hospital by ambulance. COSATU said the march had been peaceful and orderly that there was no justification for the attack. There was more shooting

when the marchers assembled, again peacefully, at the CWU Provincial Office for a report-back from their officials.

Workers shot during wage demonstration: Guards from the “Red Ants” private security company shot five municipal workers and a security guard during a wage demonstration at the Tembisa Civic Centre in Ekurhuleni by the South African Municipal Workers’ Union (SAMWU) on Thursday 10 September. It was not clear whether rubber bullets or live ammunition were used. Some 280 rubbish collectors had been on strike since 21 August over bonus payments, salary scales and annual leave, after management had failed to implement an agreement concluded in 2007 and again in June 2008. SAMWU spokesman Mokoena Ramotlou reported that the demonstration had been peaceful when the security guards attacked. A municipal spokesman said the municipality was investigating circumstances which led to the incident, adding that the Red Ants were called in by the municipality to ensure stability. The six injured people were taken to hospital.

Striking parking attendants sacked: Over 160 car park attendants in Cape Town protested in September at being dismissed for protesting at the mistreatment of a colleague. Nokulunga Zonke, 20, was fired by the company’s director in July for failing to meet her targets, and ordered to remove her uniform there and then, even though she only had her underwear on underneath. The company was under new management, and each car park attendant had to generate ZAR 500 a month, or be dismissed. A colleague who saw her being stripped radioed other attendants who rushed to picket outside the office. Those who took part were later fired for holding “an illegal strike”.

Striking clothing workers arrested: Approximately 140 clothing workers taking part in a legal wage strike organised by the Southern African Clothing & Textile Workers Union (SACTWU) were arrested on the morning of 17 September in Johannesburg. The workers were peacefully picketing in front of clothing factories in support of their wage demands when the police arrived. According to SACTWU, its members offered to disperse, but before they could do so, police started firing teargas and rubber bullets and arresting the picketers. Louisah Modikwe, a SACTWU organiser, was hit and manhandled by a police officer. Another worker was taken to hospital. Most of the arrested workers were women, and they were later released without charge. The dispute was resolved and the strike ended on 8 October.

Union recognition obstructed: Over 40 of the 60 workers at Austro Wooding Machine and Tools in Roodepoort voted to join the National Union of Metalworkers of South Africa (NUMSA). The NUMSA organiser then approached the company to ask for recognition and other organisational rights as laid down in the Labour Relations Act (LRA). The employer did not respond and so the union took the matter to the Commission for Conciliation, Mediation and Arbitration (CCMA). The employer then failed to attend the dispute hearing at the CCMA. The workers finally voted to go on strike on 9 November in support of their demands for union recognition. The response of management was to issue notice of a lockout and employ replacement labour.

Striking hotel workers arrested: Over 30 members of the South Africa Commercial Catering and Allied Workers Union (SACCAWU) were arrested in the course of a dispute with Sun International South Africa. Other workers were continuously provoked, harassed and subjected to all sorts of racial insults from the police and private security firms as the attempts to break the strike continued. The dispute began on 4 December after negotiations on wages and working conditions broke down. The union reported that the hotel management had negotiated in bad faith, continuously derailing the negotiations. Negotiations resumed during the strike but just as it appeared that an agreement had been reached, the company reverted to its pre-strike position as a final position. The dispute had not been resolved by the end of the year.