

INTERNATIONAL

union rights

Volume 21 Issue 4 2014

INTERNATIONAL CENTRE
FOR TRADE UNION RIGHTS

ICTUR



Focus on the right to strike

- The crisis at the ILO continues
- There are now in Europe clear attempts to dissuade people from participating in protests

Oh unions,
how do we love thee?

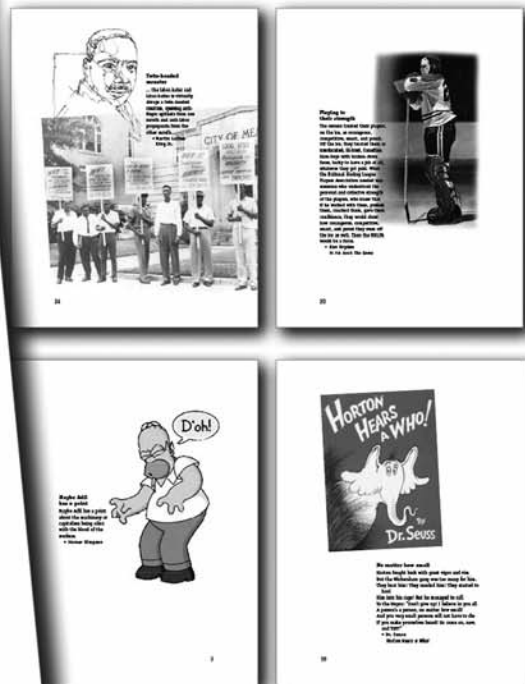
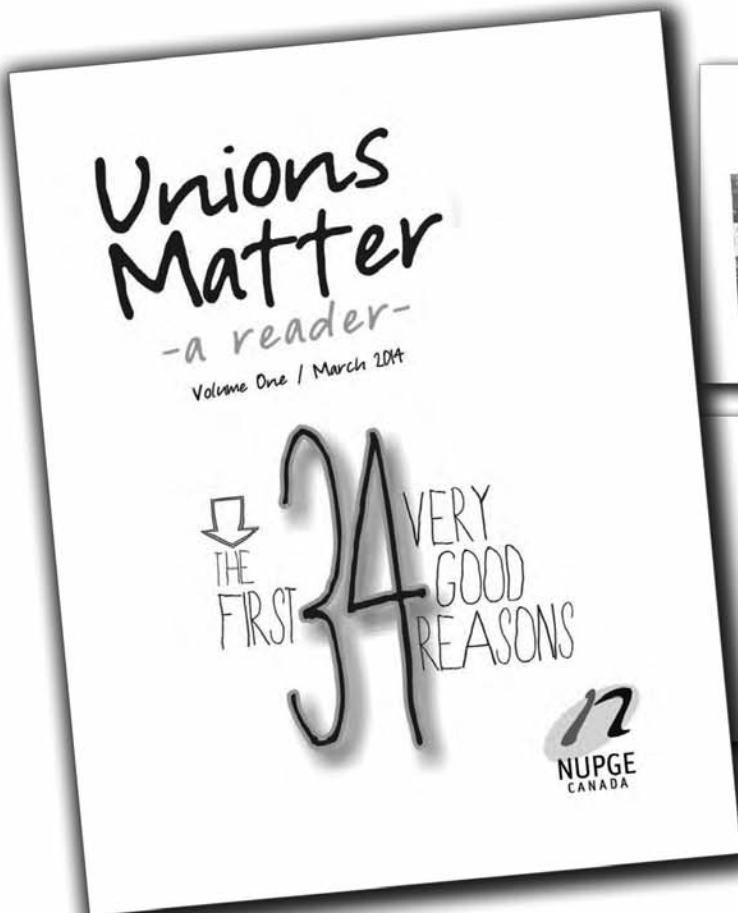
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● Centro Internacional para los Derechos Sindicales
● Centre International pour les Droits Syndicaux

INTERNATIONAL union rights

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Editorial: the right to strike

This edition of *IUR* returns to the theme of the right to strike just 18 months since we covered this very subject in *IUR* 20.2. The reason for this rapid recycling of the theme is that the right to strike – which our Guest Editor Sandra Vermuyten calls ‘the only effective democratic right’ available to workers in persistent conflict situations – has been under sustained attack throughout this time. Attacks on the right to strike are apparent in the international human rights system due to an ongoing argument raised by the Employers Group within the ILO. In an article looking back over the past two years I outline developments in the ongoing dispute at ILO, while Ruwan Subasinghe of the ITF says that the Employers are trying ‘to undermine the authority of the ILO’s supervisory mechanisms’ and concludes that ‘there can be no compromise on the right to strike’. While the process of negotiation and the struggle to gather support for an application to the International Court of Justice has not provided any quick fixes it does now appear that the Workers have commitment to finding a clear legal resolution to the problem, they are now strongly backing a reference to be made to the ICJ, with Employers so far resisting this solution, and Governments divided.

Outside the ILO the right to strike is also under attack as Jesús Gallego of Spain and Jan Buelens and Joke Callewaert of Belgium tell us from what

is starting to look increasingly like an anti-democratic crack down on key forms of social participation. There seems to be a movement, Buelens and Callewaert argue, ‘to deter people from taking part in social action and frighten them’. Such deterrents include excessive violence or the threat of it, but are accompanied by an ideological campaign that seeks to portray strikes and demonstrations not as expressions of popular democratic social participation but rather as forms of insidious dissent, even casting the vocalisation of criticism as ‘practically criminal’. In Spain a similar process is underway, though it appears to be more greatly entrenched: the Government, Gallego tells us, is ‘criminalising the right to strike and to demonstrate’. Threatening sentences are being passed against pickets and trade unionists face ‘sentences aiming at discouraging workers from mobilising’.

Also in this edition Pascal Lokiec returns to expand on a theme he has previously raised with *IUR*, that of the far-reaching transformations occurring in French labour law and industrial relations in which the focus is moving away from an industrial relations system ‘based on State interventionism’ towards a more adaptable system of deregulation and individualisation that is ultimately posing a ‘severe’ challenge for unions. And also returning to an issue he has raised before in these pages is Dave Smith who exposes yet another murky layer in the scandalous blacklisting episode in which the employment prospects of thousands and thousands of construction workers were scuppered after an industry associated body recorded their involvement with trade union and labour movement activities.

We are also pleased to feature a report from Jeremy Anderson of the ITF, who gives us an insight into how global unions are studying how labour rights are handled across complex supply chains in which products move through sorting hubs, warehousing operations, and docks, involving more than a dozen different groups of transport workers as the travel across the globe. And finally Steve Grinter, formerly of the ITGLWF, updates us on the efforts that have been made over the past two years to address safety and union rights in the garment sector of Bangladesh.

Daniel Blackburn, *Editor*

Next issue of *IUR*

Articles between 850 and 1,900 words should be sent by email (mail@ictur.org) and accompanied by a photograph and short biographical note of the author. Photographs illustrating the theme of articles are always welcome. All items must be with us by 20 February 2015 if they are to be considered for publication in the next issue of *IUR*.

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Crisis at the ILO and PSI Campaign for the Right to Strike

Since the International Labour Conference ('ILC') in June 2012, the Employers' Group has persisted to deny that the right to strike forms part of ILO Convention 87, thus undermining decades of jurisprudence of the application of international labour law. In 2014, The Workers' Group unanimously rejected the demands of the Employers' group. The conflict over the right to strike has since been referred to ILO's Governing Body.

In June 2014, the Executive Board of Public Services International expressed deep concern with the continuous attacks on trade union and worker's rights. PSI strongly refutes the suggestion that limitations to collective bargaining are acceptable under any circumstances. As public services unions, we are committed to protect citizens and users by ensuring they always have access to quality public services, included through regulating essential services.

But when a conflict persists workers have only one effective democratic right: the strike.

Trade union rights violations in the public sector have become a daily occurrence and even more so – these are systemic violations that are not the exception, but the rule. Many governments have already introduced the worst private-sector practices in public sector employment conditions and today 50 percent of public service workers are in precarious employment, a majority of whom are women. A full-time job with a decent wage and full social security coverage is again a distant dream for millions of workers.

Therefore freedom of association and the right to collective bargaining is at the core of many of struggles that we are supporting. In the last year, PSI has denounced trade union rights violations in countries all over the world, including in Algeria, Botswana, Chile, Colombia, Croatia, Ecuador, Egypt, Fiji, Georgia, Greece, Guatemala, Honduras, Jordan, South Korea, Lebanon, Paraguay, Peru, Swaziland, Turkey, Tunisia, Portugal and others.

An attack on the social model

In 2014, we are experiencing the persistence and worsening of a major crisis of the social and economic model on a global scale. Changes are occurring in a very dynamic and often dramatic way. While in some BRIC countries large groups of the population are improving their lives, the Western world is living the biggest social crisis since the Great Depression, but both are faced with aggressive policies that attack trade unions and workers. All over the world, the gap between the richest and the poorest is widening.

We note a concerted attack on the public sector on a global scale, through austerity measures

and privatisation weakening trade unions and workers' rights. In fact, while in most of the emerging economies PSI affiliates still have to fight to obtain full recognition of union and workers' rights, in other countries the austerity policies producing cuts in public spending are forcing PSI members into defensive battles against the rise of unemployment, privatisation of public services, the reduction of welfare provisions and wage cuts.

Whereas until recently most European Union countries could boast of best practices on social dialogue and collective bargaining, this trend is now changing rapidly. Governments use the arguments of international financial institutions to dismantle labour relations where it hurts most for future generations: in the public sector. Instead of using collective bargaining as a means of achieving greater efficiency and better management of the enterprise or public institutions, top-down decisions are pushed through that leave no space for negotiation.

The types of measures adopted by governments include: wage freezes or cuts for public servants (25 percent in some cases and more than 20 percent in others); reduction in public employment by as much as 15 or 20 percent, sometimes through redundancies linked to the dissolution of many semi-public enterprises, public bodies and agencies, or through non-replacement of retired public servants; pushing back the retirement age; and freezing or cutting pensions and benefits in the event of redundancy.

More importantly, these cuts have a much wider impact on living standards and the potential of employment of future and current generations, for example by cutting child care for working women. Moreover, privatisation and corruption go hand in hand. When services become too expensive for people, they find other ways to procure them. Collective bargaining can assist effectively in the fight against corruption and in the promotion of equality.

It is also essential to be prepared to undertake intensive tripartite social dialogue so that exceptional measures - which must be only temporary - are not consolidated and to review the adjustments made during the crisis, once the economic situation improves. The danger that we are now being faced with is that antisocial decisions are being pushed through opportunistically beyond the scope of anti-crisis measures.

The recommendations by the ILO Committee on the Application of Standards ('CCAS'), directed at EU, IMF and World Bank, concerning the need for effective consultations with workers' organisations and the need to fully take into account the obligations of States concerning ILO Conventions, are particularly important in this context.

Until recently most European Union countries could boast of best practices on social dialogue and collective bargaining, this trend is now changing rapidly



SANDRA VERMUYTEN is Equality and Rights Officer with Public Services International in Ferney Voltaire

Anti-social decisions are being pushed through opportunistically beyond the scope of anti-crisis measures

The transposition of fundamental trade union principles and rights set forth in the ILO Constitution of 1919 and the Declaration of Philadelphia into international labour conventions has been no easy task and has taken a considerable time. Today, these principles remain as relevant as they were a century ago, both for the private and public sector.

Public service must be effective and efficient to ensure the exercise of rights and improve citizens' quality of life by guaranteeing public safety, education, health, social security, culture, access to housing, law enforcement in the numerous areas of competence of the public service, as well as being a vital factor in sustainable economic and social development, the well-being of workers based on fair conditions of employment, and the progress of sustainable enterprises.

This objective requires the provision of high-quality services by public institutions – which are often highly complex – as well as sufficiently qualified and motivated staff and a dynamic and politically neutral public management with administrative ethos and deontology, which combat administrative corruption, make use of new technologies and are founded on the principles of confidentiality, responsibility, reliability, transparent management and non-discrimination, both in access to employment and in the provision of benefits and services to the public.

Rights that support social justice

PSI underlines that the right to strike is directly linked to freedom of association. All too often, this right is denied to public sector workers, due to broad definitions of so-called essential services. Governments that willingly thwart negotiations should be held accountable. The demarcation line between consultation and negotiation is not always clear and often consultation in good faith may result in a more satisfactory outcome than purely formal collective bargaining with no genuine desire to achieve results. It is therefore the spirit in which the parties act that is decisive. In systems that have opted for consultation and where the right to strike is recognised, consultation processes may result in genuine negotiations when trade unions are sufficiently strong since, once a strike breaks out, the dispute has to be resolved.

This is a clear indication of the need to extend the right to strike to all workers in the public sector. Governments have often tried to be 'creative' in their interpretation of these standards, by expanding the notion of essential services and others that reduce the impact of collective bargaining or the right to organise, besides committing outright violations of human rights and fundamental workers' rights. Unions around the world have made use of the supervisory mechanisms of the ILO to fight such violations, protect workers and build a stronger union movement, including in the public sector.

In these turbulent times, it is important to remember that lasting peace can only be based on social justice, which is why we need to maintain these institutions and make sure that their authority is not eroded. Conventions 151 and 154, whether in unitary or federal States, apply in

particular to civil servants engaged in the public administration, such as public servants in ministries and other similar government bodies, as well as their auxiliary staff and all other persons employed by the government.

Unions often have little confidence in dispute settlement mechanisms, as they are not impartial given the fact that they are often set up or managed by public institutions. A lack of remedies, i.e. the lack of judicial review, runs against the basic guarantees of a fair procedure and is often not foreseen. In any case, PSI strongly encourages its affiliates to use all legal resources available.

Moreover, some governments flout the principle of trade union representativeness for purposes of collective bargaining, giving preference to organisations close to the government. Many allegations of violations of trade union rights submitted to the Committee on Freedom of Association since its inception in November 1951 shows that the restriction of civil and political freedoms is one of the major causes of freedom of association violations. All such acts of violence and violations also affect public employees.

Building democracy and social justice is one of the priorities of our affiliates in countries where union rights are attacked, or where the changes of regime foster the hope of democratic reforms and peoples' participation, such as in large parts of the MENA region. Civil and political rights are undeniably interlinked with trade union rights and no social justice can prevail without democracy which is what our members in Algeria and Egypt demand.

Governments persist in interfering in trade union activities by arresting trade union leaders and members, such as in Turkey, using the pretext of criminal activities and locking up more than one hundred trade unionists at a time, for undefined pre-trial periods. This is utterly unacceptable and a major violation of human rights. Even worse, we have to recall the violent repressions of unions in other countries, such as Guatemala and Colombia, where murders of trade unionists are occurring on a monthly basis and remain unpunished.

The PSI Executive Board therefore committed PSI to:

- Launch a global campaign to defend and promote the Right to Strike for all workers
- Lobby governments to take a stand in favour of the ILO supervisory mechanisms
- Build alliances with other trade unions for this campaign, as well as civil society organisations
- Continue to offer solidarity and assistance to affiliates whose rights are under attack
- Proactively campaign to ensure nations ratify and comply with ILO Conventions 87 and 98
- Lobby inter-governmental bodies and other relevant international agencies and organisations e.g. World Bank, IMF to declare their support for ILO Conventions that guarantee fundamental trade union rights
- Lobby to ensure global free trade agreements include meaningful commitments to labour rights, including compliance with ILO Conventions

A human right curtailed

“It is good to finally shake your hand; the last time I saw you, I was in prison”. These were the poignant words Myoung-hwan Kim, President of the Korean Railway Workers’ Union (‘KRWU’), greeted me with when we met at the International Transport Workers’ Federation’s 43rd Congress in Sofia earlier this year. Indeed, the last time we spoke, we had to do it through a prison intercom system as Kim, along with other leaders of the KRWU, was being detained for organising a strike in opposition to rail privatisation. Despite complying with all ‘essential services’ requirements under Korean law, the authorities declared the action illegal even before it began. Kim and his colleagues are now facing so-called ‘obstruction of business’ charges which carry a maximum sentence of five years in prison or a fine not exceeding 15 million won (US\$14,000). Furthermore, the state rail operator is pursuing a damages suit against the union and its leaders for 16.2 billion won (US\$16 million) together with separate proceedings for alleged ‘damage to brand value’ amounting to 1 billion won (US\$990,000).

These legal actions are just the tip of the iceberg. Hundreds of strikers have been dismissed or relocated and the union’s assets have been seized by the authorities. All this simply because the KRWU sought to defend its members from an ill-conceived privatisation drive that would have heavily diluted terms and conditions of employment. What this example illustrates is that despite being a fundamental human right enshrined in international law, the right to strike is certainly not guaranteed for all workers. In fact, transport workers are one of the groups increasingly being excluded from the right to strike by way of out-right bans or public service, essential services or minimum services requirements that severely limit that right. The ITF has been called on time and time again to provide solidarity support and legal assistance to affiliates who have had their right to strike curtailed.

Following a fatal train accident in 2009, the State Railway Workers’ Union of Thailand (‘SRUT’) launched an occupational health and safety initiative and called on its members to abstain from driving trains with faulty equipment. Without even attempting to address the grave issues at hand, the authorities cracked down on the initiative by conveniently labelling it a ‘strike’, a right denied to all public sector workers in Thailand. Thirteen SRUT leaders were subsequently dismissed and had damages suits filed against them for 15 million baht (US\$462,000).

In another recent dispute, 316 members of the Turkish Civil Aviation Union were dismissed by

text message following a coordinated sick leave action taken in response to the Turkish government’s decision to add aviation services to the list of industries where industrial action was prohibited.

Turkey currently has one of the worst rates in the International Trade Union Confederation’s (‘ITUC’) Global Rights Index. It is quite clear from these examples that the critical economic role of transport is being used as a pretext to defend the free movement of passengers and goods beyond the rights of people involved in the transportation itself. This trend is especially concerning as transport workers, including those employed in aviation, trucking and commercial seafaring, have some of the most dangerous jobs in the world.

This is why the protection of the right to strike under Convention 87 of the International Labour Organisation (‘ILO’) and its enforcement through the ILO’s supervisory mechanisms is particularly important for transport workers. Not only have these supervisory bodies acknowledged the right, they have developed clear principles which have subsequently been relied on by national and regional courts. For example, it has been unequivocally held that the right to strike may only be restricted or prohibited in the public service for those exercising authority in the name of the state or in essential services in the strict sense of the term (that is, services the interruption of which would endanger the life, personal safety or health of the whole or part of the population). Furthermore, it has also been held that transport generally does not constitute an essential service and that minimum operational services can only be applied to non-essential services in very limited circumstances.

Notwithstanding this extensive jurisprudence, the Employers’ Group at the ILO has since 2012 been doing its best to undermine the authority of the ILO’s supervisory mechanisms. Not only has it questioned the mandate and capacity of the Committee of Experts, it has challenged the very existence of a right to strike under Convention 87. The Employers’ Group continued intransigence has left the Workers’ Group no alternative but to call on the ILO’s Governing Body to seek an advisory opinion from the International Court of Justice (‘ICJ’) on the question of the existence of a right to strike.

There is little doubt that the ICJ will recognise the right’s protection under Convention 87. Railway personnel in Korea and Thailand, Turkish flight attendants and workers all around the world depend on it. There can be no compromise on the right to strike. There can be no compromise on human rights.

There can be no compromise on the right to strike



RUWAN SUBASINGHE is legal advisor with the International Transport Workers Federation in London

This article first appeared in *Equal Times*

An attack on democracy

Any government that deprives its citizens of the right to strike should reconsider calling itself democratic

There are numerous statistics that demonstrate that Spanish workers and society are increasingly mobilising in recent years against the austerity measures imposed by the conservative government of Prime Minister Mariano Rajoy and other authorities. Some of these figures claim that only in the city of Madrid more than 4000 demonstrations took place in 2013.

Austerity is not the only reason although every single legislative initiative produced by the national government includes references to the economy. A good but sinister example is the preface to the Draft for the reform of the right to legally interrupt pregnancy, commonly known as abortion law, which includes a sinister reference to the positive effects of forbidding Spanish women to decide on their own body and mind on the national economy. It is fair to say that the reforms on Education, Immigration, Culture, Health, Abortion and Work have little to do with money or economy and much about ideology, and they achieved to bring Spanish people to the streets daily, demonstrating against the measures that trade unions foresaw when Mr Rajoy took office.

Today, at the end of 2014, nearly forty years after democracy was introduced in Spain, about two hundred and fifty trade unionists are facing the possibility of being sentenced to more than 120 years in prison for participating in demonstrations or industrial actions. One of the most shocking cases is the so-called Airbus Case. Eight union members of the two big Spanish trade union confederations UGT and CCOO could face prison sentences of eight years and three months each, summing up to a total of sixty-six years in prison, plus a fine of euro 31,059.52 to which the defendants must respond jointly. This arises from their participation in a strike after which clashes occurred between workers and the police at the EADS-CASA factory in Madrid.

Any government that deprives its citizens of their right to strike or criminalises this right should consider twice calling itself democratic. Nevertheless, the Spanish conservative government of Mr Rajoy has started a three-level process with the only aim of criminalising the right to strike and to demonstrate (both Constitutional rights in Spain, enshrined in Article 28). The government wants to dissuade and persuade the population not to participate in strikes or demonstrations by first questioning the necessity of striking, followed by the negative consequences that such actions have for the image of the country and the recovery of the economy.

A legal argument is presented by abusing an article of the Spanish Criminal Code (Article 315), that foresees prison sentences to those coercing workers to participate in industrial action, which

is now used against pickets or trade unionists informing other workers about an on-going strike. Based on this article, some recent, threatening sentences aiming at discouraging workers from mobilising have already seen the light.

Thirdly a new corpus of hardcore administrative sanctions is being created, cynically baptised as 'Public Safety Law' that will dramatically curb the right to protest and strike by, for example, allowing police to impose brutal fines (over euro 600,000) for organising or participating in these demonstrations. These administrative fines make it unnecessary to bring the defendant to court and hence deprive her or him of the legitimate right of being assisted by a lawyer or being heard by a judge.

Forty years have passed since people in Spain got their right to strike and demonstrate. Many took these rights for granted. Now it seems we might have been wrong. Today, Spain is re-joining a shameful blacklist of countries where the criminalisation of trade union rights is a reality: Guatemala, Algeria, Belarus, South Korea, Greece, Honduras, and Colombia, among others.

CCOO and UGT have joined civil society in a nation-wide campaign against the attempts to criminalise the right to strike and other trade union activities. The campaign states clearly 'Striking is not a Crime', *la huelga no es delito*, and has an action plan with information, mobilisation, lobbying, and denouncing these policies at national and international level, in order to stop the government's plan and defending clearly that the right to strike, freedom of association, and union practices cannot be criminalised.

Both organisations maintain, in accordance with the fundamental conventions of the International Labour Organisation (ILO), that the right of workers to strike is a human right and that it cannot be denied. Yet, in Spain, as in other countries, the conservative government has used the economic and financial crisis to sanctify the so-called reforms in order to impose a new order and unbalance the equilibrium between workers and employers.

UGT and CCOO have argued that Spain will definitively not get out of the crisis by reducing or criminalising the right to strike, nor by undermining or destroying collective bargaining, nor by downgrading workers' and trade union rights. But three years into Mr Rajoy's government it is more than evident that these policies have had a major impact on social inequality in Spain, which is in line with the expectations of the trade unions.

Since the very beginning of the crisis, the government and certain media have driven a hard-hitting campaign against trade unions, questioning their 'old-fashioned points of view', their



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FSP-UGT in Madrid

Heavy police presence for trade union rally, Spain © Sebastian Pacheco (FSP-UGT)



But the government wants to dissuade people from participating in protests. This is an attack on the fundamentals of democratic structures

'reluctance to modernisation through reforms' and their voices against austerity. Often seen as the toughest political opposition, anything that had to do with trade unions was declared the enemy. Notwithstanding the fact that the CCOO and UGT managed to conclude an agreement with the Business and Industry Association ('COE') on salaries and pensions, demonstrating once again their responsibility through social dialogue, shortly after the government imposed a labour market reform that destroys collective bargaining and blows up the mere notion of social dialogue, a key value in the democratisation process in Spain.

After dismantling social dialogue, which is a factor of progress and after bringing down many of the rights achieved by workers in the last 30 years, the government went after unions' representative rights. Once that job was done, the full-reform package descended upon us: the dismantling of public services and public education, depriving citizens of basic services. These measures have made Spain the second most-unequal country in Europe in record-speed.

The severity of the measures and their catastrophic results (including fear among workers to lose their jobs in a country with nearly 25 percent unemployment) has not stopped the UGT and CCOO to protest and organise several sector-specific and national strikes as well as many demonstrations, most of them in cooperation with several civil organisations, united under the '*Cumbre Social*' (the 'Social Summit'), a successful venture where virtually all the sectors and groups of civil society represented in Spain are united. At the same time, the government has pushed towards a tougher police repression of demonstrators, which led to bloodshed and violence and to some terrifying images that made the word news world.

This is why Mr Rajoy's government has felt the necessity of controlling this loose end and wants to criminalise the right to strike and protest. Their legal initiative is the most far-reaching in Europe. CCOO and UGT, and all the left-wing political parties represented in parliament have called for the immediate withdrawal of the draft law, joined by prosecutors, attorneys, and even magistrate's associations.

Numerous European and international trade unions have expressed their deep concern about the criminalisation of the right to strike in Spain and have written letters to the prime minister, urging him to reconsider. ILO Director General, Guy Ryder, informed Mr Rajoy this summer that a complaint had been filed by UGT and CCOO against the violation of the right to strike. This complaint is currently being examined by the Committee on Freedom of Association.

Born as a method to get better wages, rights, and benefits, the right to strike and demonstrate is a vital tool to resist the growing attacks on working people, welfare, and democracy. Unfortunately this fundamental right is under constant pressure. At the last International Labour Conference in June 2014, the Employer's Group denied again that the right to strike is part of the ILO Convention 87, ignoring more than fifty years of international jurisprudence. By doing so, the Employers' group deepens the destabilisation of the ILO supervisory system and which could entail a regression of workers' rights.

However, it is important to point out that the right to strike is not only contained in Convention 87, but also in the provisions of the ILO Constitution, as well as other subsequent ILO Instruments such as Article 7 of the Voluntary Conciliation and Arbitration Recommendation 92, Article 1 of the Abolition of Forced Labour Convention 105 of 1957, and others.

There is only one worse-case scenario for the battleplan of ultra-liberals behind the Employer's group: that conservative governments will support their claim. The double attack on trade unions and their Constitutional role (at least in the Spanish case) is questioning fundamental rights by using an economic crisis, which is in essence the result of ultra-liberal policies.

The most important thing to remember might be that whenever the right to strike is questioned or criminalised, this does not only lead to breaking the consensus on trade union rights, basic economic and labour relations, or social habits: this is an attack on the fundamentals of democratic structures. Hence the defence of the right to strike becomes an obligation for any citizen believing in democracy.

The right to strike in the public sector in Brazil

Regulation of collective bargaining and strike action is necessary for all parties as tools to regulate working conditions

Workers in the public service in Brazil were not entitled to a collective working relationship with the public administration until the promulgation of the 1988 Constitution. Nor could they: without the right to organise and no right to strike, they could not join trade unions, and thus act jointly or articulate as social partners. They were denied any form of expression of their common interests and desires, as well as the practical means to struggle for them.

The 1988 Constitution no longer regards public sector workers as mere subjects, but as collective actors, able to relate effectively with each other and with third parties, notably with the public administration. However, after the recognition of the trade union rights of public servants, the lack of regulation of the right to collective bargaining and the exercise of the right to strike became apparent, even though it is recognised as a collateral instrument and legitimate tool to regulate working conditions.

At the same time, the right to collective bargaining is addressed in Convention 151 and Recommendation 159 of the International Labour Organisation ('ILO'), which have already been ratified and approved by the Brazilian National Congress. Convention 151 and Recommendation 159 of the ILO were approved (with reservations) by the Federal Senate of Brazil, and Legislative Decree 206 of 08 April 2010 guarantees the right to strike to civil servants in item VII Article 37 of the Federal Constitution of 1988, but no specific regulation has been adopted, despite the extension of trade union rights and guarantees that earlier were applicable only to the private sector. As a result, public sector workers continue to be denied their full rights.

Two observations should be made in relation to the text of ILO Convention 151. In the first place, the rights laid down in favour of public servants in Brazil have been recognised constitutionally. The second is that the Constitution, which deals with fundamental rights of the individual, has predominance over the legal system, and defines the Supreme Court of Brazil. This should also have an impact on the interpretation of national legislation on the subject, including the application of Law 7,783 / 89 in 2007, which regulates the right to strike in the private sector in Brazil.

In turn, the lack of regulation on the right to strike for public servants also has a severe impact on public service users (citizens who are faced by long strikes). Civil servants are often compelled to return to work on the basis of legal judgments that point to the illegality of the strike, because of the lack of appropriate legal rules. The result is cyclic strike action.

Currently, even with the incorporation into national law of the principles of ILO Convention 151 in Brazilian jurisprudence we can note an excessive restriction of the right to strike of public servants, with judgements that not only expand the list of essential services, but also raise the minimum percentage of service maintenance. This makes it practically impossible for them to exercise the right to strike.

Despite the institutional recognition of the right to strike, workers increasingly organise protests in the form of work stoppages whereas public administrations refuse to negotiate.

On 11 November 2014, the Conservative party of the Brazilian parliament, without any prior dialogue or negotiation with public employees' organisations, adopted a draft bill that deals with the 'regulation of the right to strike of public servants' in the Joint Committee for Federal Law Consolidation and Regulation of the Constitution.

We would like to highlight the following aspects on the aforementioned draft bill:

- The draft seeks to restrict the possibility of a general strike. Obviously, trade unions of public servants do not accept this restriction. The workers should define if the shutdown will be partial or total, including by evaluating the characteristics of each activity. If the action is considered urgent, it will be defined by the workers, meeting the minimum attendance percentage. In Brazil, nowadays, even without a regulation in a specific law, unions already exercise this concept with responsibility.
- The draft wants to define 'ways to break strikes' which entail a clear intervention in the form of organisation and mobilisation dynamics impacting on the principle of freedom and organisational autonomy, constitutionally guaranteed. The strike is not an 'end' for the union, but a means and instrument of struggle.
- The draft foresees that workers must inform the government at least 10 days before the beginning of the strike. Unions consider that 72 hours is a reasonable time;
- The draft defines the strike, 'as partial paralysis, prescribes non-payment of days off, considers the days on strike not worked, and intends to penalise workers on probation, forcing them to compensate the days not worked so as to complete the service time required by law. For unions, this is the deliberate construction of a precedent to break the strength of joint positions, and opens space for summary dismissals.
- The draft requires a minimum attendance percentage ranging from 40 to 60 percent, and



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at the same time the proposal considers 90 percent of public services as 'essential services', that will have to ensure at least 60 percent coverage. This would mean the consolidation of the total restriction policy to exercise the right to strike of public employees in Brazil, which for now is recognised in the constitution.

- The draft includes the replacement of workers on strike by contract workers. This is an anti-democratic proposal. Depending on the activity, this may be unconstitutional when applied to exclusive state activities which may not be exercised by contract workers, for example fiscal services. Such an attempt already occurred in 2012 in Brazil, when Decree 7777 / 12 was issued and subsequently denounced as an anti-union practice by the ILO.
- The draft includes the provision to 'prohibit conducting strikes sixty days before the elections of the president, governors, senators, state and federal Deputies, Mayors and Councillors'. In a country where we have two elections every two years, this is another intervention in the freedom and autonomy of organisation and struggle of civil servants in Brazil.

It is clear that there is no intention on behalf of these law-makers to improve the current system and to favour the resolution of conflicts. At the moment strikes occur in Brazil for lack of space of the treatment and resolution of conflicts, since the claims of workers are treated in a non-uniform way, generating different approaches in relation to identical claims, thus clashing with the constitutional principle of non-discrimination.

It is therefore necessary to establish a contractual system, in line with constitutional principles, that foresees the object and scope of legal negotiations, defines the levels of coverage and articulation, the legal effects of the agreements at each level, solutions for deadlocks as well as the definition of possibility and contours of arbitration and / or mediation, and immediate regulation in law according to the principles of C151.

This will allow Brazil to depart from an ideological vision that looks at the public servant as a part of a large machine, unable to link his work to the social role. PSI affiliates in Brazil have been campaigning for the implementation of C151 in law for the last 10 years. It is unacceptable that the parliament will now debate further restrictions and anti-union measures that will only further exacerbate social tensions in public services, instead of making a contribution to a social environment of dialogue and negotiation.

The case of Brazil shows that the right to strike and the right to collective bargaining are intrinsically linked to each other. There has to be a willingness on behalf of both parties to come to the negotiating table otherwise no results can be achieved. The current situation of cyclic strikes without any clear outcome is detrimental for the workers and to all public service users.

Historical background of the right to strike in Brazil

- **1938** - Decree Law 481/38 defines the strike as a crime
- **1939** - Decree Law 1237 / 39, which created the Labour Court system, provides for penalties in the event of strike, suspension and dismissal;
- **1940** - The Penal Code (Decree Law 2848 / 40) criminalises work stoppages in public services;
- **1943** - The Consolidation of Labour Laws - CLT (Decree Law 5452 / 43) establishes penalties for union workers on strike;
- **1946** - Under international pressure Decree Law 9070 / 46 is signed and the strike is no longer considered a crime, and protected by law;
- **1964** - the Strike Law comes into force (Law 4330 / 64), which finishes with the legality of the strike, and increases the capacity of state intervention in trade unions;
- **1967** - The Constitution of 1967 ensures the right to strike of private sector workers, banning it, however, for those working in the public service and for activities considered essential;
- **1988** - The new Constitution guarantees the right to strike for workers in private and public sector
- **1989** - Publication of the Law 7783 / 89, which regulates the right to strike in the private sector;
- **2007** - The Supreme Court decides to apply to civil servants, by analogy, the Strike Act of the private sector;
- **2008** - President of the Republic of Brazil (Lula) sends ILO Convention 151 and Recommendation 159 on labour relations in the public service to Congress for approval;
- **2010** - Brazilian National Congress adopts Convention 151 and Recommendation 159
- **2013** - Decree 7944 / 13, of the Presidency of Brazil, promulgates Convention 151 and Recommendation 159;
- **2014, November 11** - The Joint Commission for the consolidation of federal laws and regulations of the constitution of the Brazilian National Congress, adopts a bill proposal that deals with 'the regulation of public servants the right to strike in Brazil', which aims to restrict the right to strike.

The current situation of cyclical strikes without any clear outcome is detrimental for workers and public service users

The politicisation and suppression of social rights in Belgium

Thatcher defined the miners' strike as a 'political' strike so as to attack the whole range of social and democratic rights in the UK

On 6 November 2014 in Brussels, the biggest anti-government demonstration took place since 1986. More than 120,000 people took to the street to protest against the refusal of the government to engage in social dialogue with the three national trade union centres and a range of anti-social measures that were announced as part of the new government's programme. This demonstration was the first of a series of national and regional action days that had been announced by the national centres, and thus somewhat of a test for the united trade union front.

In the margins of the demonstration a confrontation by several tens of people took place with the police, which ended up grabbing the headlines of national and international media, notwithstanding the obvious difference in ratio between the number of protesters and those participating in the havoc caused. This should have encouraged some perspective.

The political parties used the confrontation in fact as an opportunity to bring a number of measures, as foreseen in the government programme, into rapid implementation. Strengthening law enforcement in theory and practice is one of the objectives of the ruling coalition and during subsequent trade union actions, a massive police force was put together. Until then, much attention had been paid to the (anti) social programme of the government, but much less to its (anti) democratic tendencies.

The reality, however, will quickly make this necessary. The government's current position is in our opinion, no less than a threat to democratic rights. Using the level of public concern about the import of the so-called jihad to Europe, the government has an overall plan against any 'radicalisation'. That plan includes both the creation of a National Security Council, the possible involvement of the army for policing tasks, strengthening law enforcement tasks of the police, and restrictions of monitoring of the police by other public bodies.

In this planned National Security Council an unprecedented centralisation of power and especially of information comes together. Snowden revealed the derailment of the US National Security Agency ('NSA') who spied on its citizens on a massive scale. One would think this experience would cause concern and fear for duplication. The fact that radicalisation is a very vague concept, is also a dangerous evolution. Actually it is not excluded that it is likely to be applied to anyone who decides to resist the authorities.

Moreover, it appears that the government intends to base its legitimacy solely on the basis of the ballot results of 25 May 2014, and not on the basis of a constant democratic process of con-

sultation and negotiation with the various actors in society. In that logic opposing government action is immediately written off as resistance 'against democracy'. Would that be labelled as 'radical'? To date, there is a right to demonstrate, but how much longer?

Unseen power is granted to the Minister of Interior, who incidentally is renamed Minister of Interior and Security. It is no coincidence that the right-wing coalition party N-VA has claimed this ministerial post from the beginning. It was awarded to Jan Jambon, known to be on the right side of the N-VA.

Jan Jambon immediately put words into action. At the next demonstrations, he pledges to take part from the command centre. However, law enforcement belongs pre-eminently to municipal autonomy. Only when the relationship between the local and federal police are at stake, Jambon can intervene, and even then only under certain conditions.

The voluntarism with which he now takes action, is unacceptable. The same diligence applies to the way in which the Brussels mayor Mayeur was publicly ridiculed and even accused, before a serious investigation was conducted and without any serious discussions. The Mayor of Antwerp, Mr Bart de Wever, who can be considered as the shadow prime minister for the right-wing NVA, gladly took part in verbally bashing his Brussels' colleague.

Subsequently measures were taken to strengthen law enforcement in view of the strikes scheduled in four provinces, including in the province of Antwerp on 24 November. Immediately after the clashes on 6 November, there were rumours about a possible repeat of violence on 24 November. A true fear psychosis was created, it was even suggested that people might get killed. In some media it was deliberately concealed that these are actions of an entirely different order, in particular a strike. Mr De Wever announced that "an impressive order power is ready" and "other measures are planned but I won't let anybody look into cards"...

Minister Jambon and Mayor de Wever attempted to deter people from taking part in social action and frighten them. Both men can still solemnly declare that they respect the right to strike and the right to free speech, but the fear psychosis that they created completely undermines that. The European Court of Human Rights has repeatedly confirmed that one can not apply a 'chilling effect' on fundamental rights and freedoms. Their campaign is accompanied by an ideological offensive. De Wever considers the strike is "a political strike". He suggests that it is a party political strike, which has nothing to do with the pension measures, the index jump, the increase



JAN BUELENS (above)
and **JOKE CALLEWAERT** (right)
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in enrolment fees or other measures that will impact many individuals and families. In such a way he wants to break the broad resistance movement.

The strike is indeed organised against the coalition. Such a strike is perfectly legal in Belgium. People can make their voices heard. De Wever also announced that he does not accept to be called “a friend of big business and enemy of the workers”. He adds delicately: “such a discourse is practically criminal”. To describe a political discourse as “almost criminal” is a very serious decision, which is problematic in light of the fundamental right to free speech. That way not only social action, but also political debate are potentially endangered.

To Thatcher or not to Thatcher?

The criticism that is frequently associated with the reign of Margaret Thatcher is dismissed summarily by the NVA. However, she was the first to define the miners’ strike as ‘a political strike’ so as to afterwards attack the whole range of social and democratic rights in the UK. Mrs Thatcher eroded the right to strike, but also imposed dras-

tic restrictions on the right to demonstrate.


The fact that the Antwerp mayor was now ranting so hard against ‘the planned rally’ on 24 November in Antwerp, while no demonstration is planned at all, should perhaps be understood in that context. This could also be interpreted as a preventive signal by the mayor not to organise demonstrations in the coming months. One of the other habits of Thatcher was the use of the army for ‘homeland security’. That track is also not excluded and as stated above, the coalition agreement makes it possible.




Ironically, all this is happening just when Belgium holds the six-month presidency of the Council of Europe. This Council was established in the aftermath of the Second World War to ensure the respect of human rights and in its midst the European Court was established on Human Rights. It would not benefit the international reputation of Belgium if some policy-makers make a mockery of human rights. Unless of course it is the ambition to get Belgium under the jurisdiction of the European Court of Human Rights, as Mr Cameron suggested with regard to the UK. It remains appropriate for all democratic actors to keep a close eye on the evolution.

**In Belgium today
not only social
action but also
political debate
are both
potentially
endangered**

NO TO POVERTY WAGES

US\$177 a month for Cambodian garment workers NOW!



How do workers respond to an employers' strike?

It was not the detail of a legal argument that caused this crisis at the ILO

For many decades the ILO system has enjoyed quiet consensus around the protected status of one of the most fundamental of all trade union rights, the right to strike. The system didn't provide a total protection for strike action, and indeed numerous exceptions were permitted that allowed strike action to be delayed, limited, and even outright prohibited, in certain circumstances. But the basic notion that strike action constituted a protected aspect of freedom of association was endorsed by all parties. As has been discussed previously in this journal, during the Cold War era employers were happy to endorse the right to strike as a political freedom on which dissident labour activists could rely against Eastern Bloc governments (IUR 20.2, p19). But all this has changed. Employers are no longer forced into an alliance with labour as a bulwark against Eastern Bloc communism, and with the global financial crisis forcing up unemployment and driving down social protections – thus undermining workers – they are feeling increasingly strident in their willingness to exercise power against workers and their institutions.

At the 2012 ILO Conference, a new Employer spokesperson in the Conference Committee on the Application of Standards ('CCAS') interrupted the normal rather formal ebb and flow of the Committee's preliminary business to launch a blistering and unexpected attack. Out of the blue the Employers now insisted that 'Convention 87 is silent on the right to strike and therefore it is not an issue upon which the Committee of Experts should express an opinion. Given the absence of any reference to a right to strike in the actual text of ILO Convention 87, the internationally accepted rules of interpretation require Convention 87 to be interpreted without a right to strike'. The surprise action halted the work of the Committee, and while Workers sought to find a compromise that would at least enable the Committee to carry out its core work Employers were adamant, holding their position and eventually leading a walk-out that shut down the Committee for the duration of the Conference. Clearly this was an emphatic statement, and it spoke volumes of the new paradigm and of resurgent confidence in employer power.

Resolving the crisis?

Following the Employer's attack ITUC commissioned a forensic legal analysis and defence of the legal basis for the right to strike and a study of the role of the Committee of Experts. This document (to which members of ICTUR's executive contributed) is the backbone of the Workers response to the employer challenge and it provides the clear firm ground on which the

A world without the right to strike?

Few observers can have escaped the awful implications of a world without the right to strike when a clear illustration of what that world might look like suddenly unfolded before a horrified world just two months after the Employers' stunt at the ILO. On 16 August, in South Africa, we saw what was possible when strike action was subjected to the most brutal form of repression. Those who sought to downplay the horror or to defend what the police had done attempted to hang their obscene arguments on the idea that workers had had no 'right' to stop work or to carry out their protests, seeking to further this idea that either at this time, or in this way, or perhaps even at all, the miners had had no right to strike.

And driving home the message that seemingly distant technocratic developments in Geneva had a clear real world impact on the front lines of the global labour movement, we saw employers relaying this global technical message. Here, on 29 January, in the immediate aftermath of the violent and deadly repression of a strike in the garment sector, the Garment Manufacturers' Association of Cambodia and the Cambodian Federation of Employers and Business Associations placed an advert in the *Phnom Penh Post* stating 'the right to strike is not provided for in C87 and was not intended to be ... the right to strike is NOT a fundamental right'. Here too it was argued those who were shot and arrested and beaten had had no right to strike.

And just this month, Qatar, a country notorious for its poor labour rights record, arrested 800 migrant workers following strike action in protest at breaches of their employment contracts and poverty wages. On arrival in Doha it was reported that their passports were confiscated and their contracts torn up. They were then forced to work for wages one-third lower than promised. During the arrests a supervisor attacked workers with a plastic pipe. The ITUC believed these workers would be held incommunicado before eventual deportation. Expressing growing anger with the state of workers' rights in Qatar ITUC General Secretary Sharan Burrow said "this is what life without the right to strike looks like. It is deeply troubling that employer groups are now trying to undermine that very right at the International Labour Organisation. The world needs to uphold rights, and not put every worker at the mercy of their employer with no right to strike against exploitation and abuse, like in Qatar".



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Workers' case rests. It was clearly essential that such a document be prepared and it has informed and supported the Workers' Group in their struggle within the ILO to repel the

Employer's attack. So far the form that this struggle has taken has mostly been rather quiet and diplomatic, taking place in a number of formal and informal discussions within the ILO in Geneva. Essentially the Workers have been looking to find some sort of acceptable compromise while pointing out that the ILO Constitution contains a provision under which a clear, binding and independent judicial determination of such a dispute can at any point be obtained by reference to the International Court of Justice. So far the Employers have been reluctant to allow the debate to move to the purely legal / technical forum of the ICJ and have preferred to contain the dispute within the partly legal, partly political confines of the ILO.

Throughout 2013 and 2014 meetings have taken place in an attempt to resolve the impasse, but without success. Each annual Conference of the ILO has opened with baited breath as the Workers essentially had to 'wait and see' whether the Employers would cooperate with the CCAS, or withdraw, shutting it down again. In 2013 something of a compromise was accepted as the Workers agreed to the inclusion of a rather problematic phrase in the conclusions of the CCAS, which stated in the final report that the Employers were not in agreement with the interpretation of the experts as regards the right to strike. This was enough to get the Committee functioning again, and for that year at least, conclusions were issued. But in 2014 the Employers demanded that this phrase be included again. The Workers refused, and the Committee ended shakily, without full agreement (a number of conclusions were reached, but not in all cases).

The matter was supposed to come to a head in November 2014, but the Governing Body meeting again ended without agreement on how to proceed. The Workers Group is ready to refer the matter to the ICJ, the Employers Group is against this, and the support of Governments is mixed, with just under 50 percent supporting the workers' call for an ICJ reference. A specially convened tripartite meeting at the ILO in February 2015 will offer another possibility for compromise, and then the Workers believe that the March 2015 meeting of the Governing Body ought either to finalise any consensus agreement that has been possible or ensure that the reference to the ICJ should proceed.

Striking back?

An irony that has stayed with many of us following the Employer action at ILO in 2012 is the conduct of the Employer's Group in their attempt to drive home their message. In as convincing a display of collective power as we've seen in quite

some time in Geneva the Employers walked out of the Committee's proceedings. The walk out deprived the Committee of an essential component of its tripartite structure and shut it down. The Employer walk-out shook the ILO system, and the Workers are now more wary of their power, conscious of the consequences of any further walk-outs for the future of that system. But without wanting to say too strongly that we should emulate the Employers' Group, trade unionists must be conscious of how successfully the Employers have forced their argument to the forefront of the agenda. Initially, the Employers built a legal argument for the position they advocated. But they didn't achieve their aims through winning a legal argument. What worked for them was a collective walkout: a strike.

So far, the Workers have shown no appetite for facing down the argument through the exercise of their own industrial powers. But we can ask, for example, when has the global collective power of the labour movement ever really been tested? Notions of transnational strike action are rarely discussed on a scale involving more than two or three unions working for a single multinational or associated employers. But in the context of this extraordinary attack on workers' fundamental rights there are unions in key global infrastructure points for whom such action could conceivably be organised so as to be both politically achievable and legally viable. At least one immediate impact of such extraordinary action would be to put to the test the appetite that companies out in the real world economy have for the political game being played by their representative body in Geneva. For now, such dramatic options are off the table. The Workers response has been formal, diplomatic, and considered. Although the near stalemate is barely resolved in the CCAS progress has been made and the legal process is now moving slowly towards what now looks like a near certainty of a judicial determination of the dispute by the ICJ. This remains very clearly the preferred strategy of the international labour movement, and it is one that they are increasingly confident will bring them a successful resolution.

What caused the crisis was the exercise of resurgent Employer power, which manifested in a classic industrial action strategy: the walk out

Brazil

On 24 November two armed men entered the offices of the Guarulhos, Aruja and Itaquaquecetuba paperworkers' union, took up to twenty people hostage and tied their hands together, and demanded that they summon the union's President Ozano Pereira da Silva. When da Silva arrived at the union's offices he was taken into a back room and killed.

ICTUR has written to express its profound concern at this action, and has urged Brazil to take appropriate steps to investigate this case and to ensure that those responsible are brought to justice. ICTUR noted that the killing of a trade unionist was a violation of the utmost severity of the principles of freedom of association, which Brazil is obliged to implement under the terms of its membership of the ILO and its ratification of both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). ICTUR asked to be kept informed of steps taken to investigate this case.

China

Seven shoe factory workers were arrested on 3 November following their participation in a series of protests at the Xinsheng Shoes factory. Some 56 workers were involved in a dispute over the payment of compensation relating to the pending closure and relocation of the factory. Hong Kong-based NGO the China Labour Bulletin reported that workers had contacted the Guangdong Provincial Federation of Trade Unions, which is part of the national trade union centre ACFTU, and that the union had contacted the police and was working with government departments to secure the workers' release.

ICTUR has written to the authorities to express concern over the role of the police in repressing what would appear to be a peace-

ful industrial dispute. ICTUR reminded the authorities that Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) creates obligations that China must respect in terms of freedom of association and protection of workers' rights. The arrest of workers playing a trade union role in an industrial dispute clearly violates these principles.

Colombia

In November members of the mineworkers' union Sintracarbón received written death threats signed by the Rastrojos and Black Eagles paramilitary organisations. The letters claimed that members of the union were also members of guerrilla groups and said that they would be killed.

ICTUR has written to the authorities calling for the matter to be investigated. ICTUR emphasised that the State has a responsibility to protect trade unionists from threats and violence against them. ICTUR urged that all such threats, in the context of the violent history of Colombia, must be taken seriously.

Nicaragua

On 10 November Shneider National Logistics fired 70 union members, including key activists, just 24 hours after they had formed a union at the company's base of operations in Managua. The Ministry of Labour, called in to investigate the situation by the union, has agreed that the dismissals were contrary to law and has ordered the company to reinstate the workers. The company has appealed and lost against this order but has not yet reinstated the workers, although it has offered to reinstate 45 of them, but is not offering to reinstate the 25 activists who organised the union. The international foodworkers' union IUF observes that although the company delivers PepsiCo products and workers wear a uniform featuring a Pepsi logo it denies a direct rela-

tionship with Pepsi, which IUF says echoes previous cases of anti-union actions around the world against those involved in the distribution of the famous soft drink.

ICTUR has written to the authorities to express its concern at this case. Noting that the public authority responsible has intervened in support of the workers, ICTUR indicated that its main concern in this case was the apparent failure of the company to comply with the instructions of the Ministry of Labour. ICTUR urged the authorities to take appropriate action to secure compliance by the company and emphasised the protected status of trade union activities under international human rights law.

Peru

In December the authorities have revoked a long-standing leave arrangement for Luis Isarra, General Secretary of the water workers' union FENTAP just one week before he was due to attend the United Nations Climate Change Conference ('COP20'), meeting in Lima in mid-December. Isarra has been coordinating local trade union mobilisation around the event and is well known as a vocal critic of neo-liberal policies such as water privatisation. International public sector workers' union PSI said they could only assume that the action was 'politically motivated'.

ICTUR has written to the authorities to protests against this action, which seems motivated to undermine the capacity of trade unions to engage in the COP20 event. ICTUR pointed out that participation in the public discussion of matters of social and economic importance is a key role of trade unionists and insisted that such action is protected under international law, notably the conventions of the ILO, which Peru has ratified.

Qatar

In mid-November 800 migrant workers were arrested following strike action in protest at breaches of their employment contracts and poverty wages. On arrival in Doha it was reported that their passports were confiscated and their contracts torn up. They were then forced to work for wages one-third lower than promised. During the arrests a supervisor attacked workers with a plastic pipe. The ITUC fears that the workers will be held incommunicado before eventual deportation.

ICTUR has written to the authorities to express grave concern at this severe interference in the exercise of the fundamental human right to freedom of association. Observing that Qatar has not ratified the key ILO Conventions on trade union rights, nor has it signed the fundamental human rights Covenants of the United Nations, ICTUR urged the authorities to examine the state of respect for freedom of association and human rights that exist in the country. ICTUR observed that failure to ratify human rights treaties on a grand scale does not absolve the country of its responsibility to comply with the minimum international standards of human rights law. ICTUR observed that the ITUC and other global union federations and NGOs have already set their sights on Qatar as a result of wide-ranging abuses of workers' rights that are reported in the country. Such actions, ICTUR noted, will only intensify, along with increasingly adverse media coverage, until Qatar takes meaningful steps to ratify ILO Conventions 87 and 98 and to achieve compliance with those instruments.

Swaziland

On 8 October the Government announced a complete ban on all trade union and employer federations. Attempting to explain the shocking ruling the Government has reported that it intends to fix a technical oversight in existing legislation and says that the ban is necessary during this period until the legislation is amending. Industrial relations and legal experts have expressed bafflement at this purported explanation, with ITUC describing it as 'no justification whatsoever'. Two trade union federations TUCOSWA and ATUSWA and two employers' federations have been forced to cease their formal and legal operations following the announcement.

■ When workers at the Maloma mine went on strike on 24 November they were met with a heavy police presence and complained that police were armed with shields, helmets, firearms, and teargas, which union leaders said was completely unnecessary in response to what was an entirely peaceful strike over an industrial dispute around the payment of a housing allowance.

ICTUR has written to the authorities to protest at repeated incidents of harassment and repression against trade unionists in the country. ICTUR observed that the ban on trade union federations is a serious and unnecessary violation of the principles of freedom of association that are protected under ILO Convention 87, which has been ratified by Swaziland. ICTUR further observed that the policing of industrial disputes should be managed so as to diffuse tensions rather than exacerbating them. An industrial dispute, ICTUR recalled, is a civil matter, not a criminal one. ICTUR further observed that trade union rights are also protected under the African Charter and that freedom of association and assembly are cornerstones of international and African human rights frameworks.

Tonga

The Government threatened to close a trade union, the Public Services Association, and said that it would call a state of emergency if the union went ahead with a public sector strike on 20 October. The hostile response was exacerbated when the Prime Minister and Minister of Justice also launched defamation actions against the union's General Secretary, Mele Amanaki. In the light of the Government's position the union called off the action.

ICTUR has written to the authorities to protest against the use of emergency powers laws to limit a strike and against the disproportionate and unlawful threat to close the union. ICTUR further expressed serious concern at the use of defamation law to restrain the actions of a trade union representing public sector workers, noting that the combination of the threats and actions against the union together looked like serious violations of the principles of freedom of association. Such principles, ICTUR noted, are protected as a matter of international law, including under ILO Conventions 87 and 98, and also under the terms of the main pillars of international human rights law, the ICESCR and ICCPR Covenants of the UN. ICTUR observed that Tonga has not ratified any of these key international foundations of human rights law, but noted that the country has expressed a commitment to join the ILO in the near future. ICTUR urged the authorities to increase engagement with the ILO and to call upon the Organisation's services to bring about a climate of respect for freedom of association.

Tunisia

On 13 November a group of stone-throwing assailants attacked the car in which Houcine Abbassi, General Secretary of the trade union centre UGTT, was travelling. No-one was hurt in the attack, although the rear window of Abbassi's car was completely smashed out. The attack came as Abbassi was leaving the union's offices. The UGTT described the attack as 'a despicable and contemptible act'. Abbassi is also the President of the newly formed Arab regional organisation ATUC, which is associated with the ITUC.

ICTUR has written to the authorities to express concern around the violent attack that was carried out against a trade union leader. ICTUR called on the authorities to ensure that these matters were handled in full compliance with Tunisia's obligations under international law. ICTUR reminded the authorities that Tunisia has ratified IO Conventions 87 and 98, and that the facts described in this situation would amount to significant violations of those instruments, demanding a prompt and vigorous response from the authorities.

United Nations

Just months after the restoration of trade union rights for UN staff (see IUR 20.3, pp18-19 and note in IUR 21.2, p27), a dispute has flared up in the intellectual property organisation WIPO. The organisation's Director General Francis Gurry has dismissed Moncef Kateb, President of the WIPO staff union. The dismissal came just prior to WIPO's annual governing body meeting, and it has been noted that Kateb has raised complaints against the Director General and was in the process of representing two former colleagues in an employment dispute.



Collective bargaining as a tool of deregulation

A new opposition is being created – between workers and the unemployed

Simplicity is invoked to justify a drive to deregulate labour law

Labour law is facing a serious crisis in Europe. Labour is being increasingly analysed as a cost that is exorbitant in globalised economies and constitutes a handicap for our economies. The economic and financial crisis has undoubtedly encouraged and accelerated the trend of deregulation of labour relations, even if the movement is probably deeper than a response to a – temporary? – crisis. The model of labour law as a tool for protecting employees is declining. One of the best illustrations is offered by the changing functions of collective bargaining, which plays an increasing role in the promotion of flexibility. Even if the process of deregulation is more limited in France than in countries such as Spain, Italy or Greece, this country offers a useful example of the transformations of collective bargaining.

The arguments for deregulation

French labour law is currently facing two ideological challenges.

Social-liberalism - The ideology of social-liberalism on the one hand. This philosophy, embraced by the current government, has facilitated the emergence of a perilous equation: the protection afforded to those who have a job is considered as a handicap for the unemployed. The classical opposition between employees and employers is declining in favour of a new opposition between workers and the unemployed, that is to say between insiders and outsiders. An equation that fundamentally disturbs the traditional conflict between economic and social arguments; the criticism of labour law now develops in the name of social arguments (the fight against unemployment) which makes the defence of workers' protection more difficult. Several attacks on labour law have been carried out in recent months on this basis. The first and most debated attack concerns thresholds, according to which a firm reaching 11 employees shall organise the election of staff delegates, that reaching 50 employees must create a works council, a committee on health and safety or enable the designation of union delegates. It is argued that employment related thresholds would deter firms that are close to 11, or to 50, from hiring more employees. Not only do economic studies diverge on the true impact of a modification of thresholds but also, as most trade unions argue, this measure carries out the – quite shocking – idea that social dialogue is a handicap for employment. It is the same equation that explains proposals in favour of derogations to the minimum wage for certain categories of employees (the young notably) or in favour of the abrogation of the 35 hours rule. Dismissal law is also seen as a handi-

cap towards fighting unemployment. The idea was raised ten years ago with the *Contrat première embauche* ('CPE') and the *Contrat nouvelle embauche* ('CNE') that enabled, during the first two years of employment, breach of contract without just cause. Today, it is a more ambitious proposal that is emerging again, promoted by the new Nobel economic prize winner Jean Tirole who is one of the main initiators of the proposal for a 'single labour contract'. According to the economists who developed the idea of the single contract, the distinction between fixed term and indefinite contracts should disappear. Instead, a new form of indefinite contract would be adopted, for all employees, which could be terminated at will'. In exchange for this, the employers would have to pay taxes on dismissals depending on the number of employees that are dismissed (e.g. the system of 'experience rating' in the USA).

Simplification - The ideology of simplicity on the other hand. According to a wide spread idea, neither employees nor employers would be able to understand employment law, due notably to a labour code of more than 10,000 provisions. Again, the philosophy that simplification carries requires caution. The link between simplification and deregulation is close. In the name of simplification, the main employer organisation ('MEDEF') is proposing to suppress the dual channel system that historically characterises French labour law, that is to say the coexistence of union representation (union delegates) and elected representation (works councils, staff delegates, committee on health and safety). Instead, a works committee would be created, inspired by the German Betriebsrat, for firms with 50 employees and more; accordingly, the prerogatives of workers representatives would be merged into a single institution and be considerably reduced. For example, companies of at least 11 employees have the duty to organise elections for staff delegates; if we follow the proposal, companies of less than 50 employees would have no workers representation which is problematic whereas 99 percent of firms in France hire less than 50 employees. Simplification is also invoked in order to replace statute law by collective agreements. According to another proposal by MEDEF, statute law should lay down the general framework of labour law and collective bargaining define the rest².

Collective bargaining as a deregulatory mechanism

French labour law is traditionally based on State interventionism, not on collective laissez faire. Indeed, it is the State that defines the conditions and scope of collective bargaining.



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Traditionally, the concept of 'ordre public' (public policy) plays a central role in France. For several decades, State interventionism has been criticised, notably in the context of globalisation. We can hear that the rule of law requires more adaptability, and collective bargaining is seen as the answer. The latter has been instrumented to this purpose, and as a consequence, bears a true responsibility in the process of deconstruction of labour law, notably in the movement towards greater flexibility.

More legitimacy for unions and agreements - This has been enabled by a strengthening of the legitimacy of collective bargaining. In 2004, the legislator strengthened the conditions of validity of collective agreements, by requiring that these agreements should be signed by unions who received 30 percent of the votes and not face the opposition of unions that, together, reached 50 percent of votes. For certain agreements (notably those concerning reclassification after economic dismissals³) we are even moving towards a requirement of 50 percent of votes for the signature of the agreement. This is a complete revolution considering, until 2004, the signature of a single representative union was sufficient for the collective agreement to be valid. In 2008, the legislature also strengthened the rules of representativeness of trade unions⁴ and in 2014 it is the turn of employers organisations to be submitted to a rule of representativeness. These developments mean that the collective agreement has gained legitimacy, and that the conditions are met for it to become a normal way of regulating social relations. The direct consequence is that social partners now have the legitimacy, not only to grant supplementary rights to employees but also to regulate in the name of the good functioning of the firm.

Collective agreements as an alternate to Statute law - The collective agreement has become a normal way of regulation, first because the legislator increasingly delegates to the social partners, at national level, the responsibility to lay down the rules relative to employment. Copying the elaboration of EU labour law (Article 154 of the European Treaty), the labour code contains, since 2007, a provision according to which no government proposal in the field of labour can reach Parliament without prior consultation with social partners (a specific procedure is defined in the code). On the one hand, what is called 'negotiated law' gives social legitimacy to statute law in addition to political legitimacy. But the risk, that can be clearly identified through recent reforms, is that this procedure becomes a pretext for governments for transferring the responsibility of

making reforms to trade unions and employers organisations; the main reforms of labour law in the last years come from national collective agreement, with the Parliament limiting its role to transcribing the agreement (with very limited changes) into statute law. Some of these reforms are controversial such as the agreement of 11 January 2013, that was transcribed into the law on security of employment of 14 June 2013. This law provides for supplementary social protection for all employees and for a weekly minimum of 24 hours (with numerous exceptions) for part-time work, but also creates flexibility collective agreements (on wages, working time and geographical mobility) as well as drastic time limits on information and consultation of the works council.

Decentralisation of collective bargaining - The strongest movement relative to collective bargaining concerns the rise of company level agreements to the detriment of sector agreements. First, except in certain fields (minimum wages in particular) and under certain modalities (possibility to limit at sector level the capacity of derogation of company level agreements), a company level agreement now has priority over a sector collective agreement even where the latter is more favourable to employees; second, the labour code delegates the regulation of essential parts of labour law, notably that of working time, to collective agreements, including to company level agreements. Here, we have a strong movement of labour law, from State law to enterprise law. The idea is raising that labour law should be constructed at enterprise level, with an essential role for collective agreements whose function would be the organising of the firm, not granting rights to employees. The promotion of company agreements is one example of this movement towards self-regulation of the firm. Another example is the development of information-consultation on the strategy of the firm, but also the fact that, for certain types of collective agreements⁵, trade unions are required to elaborate a common economic diagnosis with the employer to justify the drafting of the agreement. In other words, the responsibility to make the law is now shared by employers and employees' representatives at firm level, which constitutes a strong challenge for union policy within the firm! The Trade unions are asked to negotiate on a dismissal plan or on diminishing wages in exchange for maintaining jobs.

How to resist ?

Two ways can be privileged to resist this movement towards flexibility through collective bargaining.

A company level agreement now has priority over a sector collective agreement even where the latter is more favourable to employees

Individual interests prevail over collective interests

Traditionally the individual contract is encouraged by employers, and collective agreement by trade unions. Now, in France, this situation is reversing

Fundamental rights - The invocation of fundamental rights on the one hand. Both collective agreements and statute law are bound by the respect for fundamental rights. The right to rest (recognised by the Constitutional court), the right to health and safety, respect for privacy, etc. are more and more invoked before courts to oppose the policies of flexibility. For instance, the collective agreements on mobility of workers have to conciliate private and professional life. French lawyers are now trying to reach the fundamental rights protected by the Charter of Fundamental Rights of the European Union, for instance the right to information and consultation protected by Article 27 that has been invoked against the policy of excluding certain employees (apprentices for instance) from thresholds⁶. Surprisingly, in a contrary like France that is supposed to respect the minimum standards of the International Labour Organisation ('ILO'), the ILO conventions now appear as tools of resistance against the policy of deregulation; MEDEF is lobbying in favour of France denouncing Convention 158 that requires a fair ground of dismissal, which is notably an obstacle to the adoption of the 'single labour contract'.

Contract - The invocation of contract law on the other hand. In the traditional conception of employment law, the individual contract is encouraged by employers, and collective agreements by trade unions. The situation is reversing: the contract now appears as the main instrument to oppose flexibility organised by collective agreements. In French law, a collective agreement, should it be signed by majority unions, cannot modify a contract which means that employees can individually oppose changes provided for by collective agreements. Not surprisingly, a debate is rising, with a strong criticism of the fact that individual interests (protected by individual contracts) prevail over collective interests. The debate is complex; even if the legitimacy of trade unions has improved through changes in the law (see above), the rate of unionisation in France remains very low (less than seven percent). Are trade unions sufficiently legitimate to impose on individual rights? Are union delegates, at compa-

ny level, sufficiently protected in relation to their employer to conclude agreements that create duties upon individual employees and prevail over individual contracts? MEDEF pushes in favour of laying down in the labour code that collective agreements have primacy over individual contracts⁷, with the effect that the employees who would refuse the change provide for by the collective agreement would face disciplinary measures. More fundamentally, non-contractual theories have more and more success on the employer side, notably the institutional theories according to which employees should be conceived not as contractors but as members of the firm with whom they would share common interests.

As a conclusion, the challenge of deregulation is severe, not only for unions who have to cope with the new functions of collective bargaining, and greater responsibilities within the firm, but also for labour lawyers who have to integrate radical changes in the construction of legal mechanisms. France is certainly one example of a much wider movement in Europe.

1. O. Blanchard, J. Tirole, Protection de l'emploi et procédures de licenciement ", Conseil d'analyse économique, 2003 ; P. Cahuc, F. Kramarz, De la précarité à la mobilité : vers une sécurité sociale professionnelle", Documentation française, 2005
2. This proposal has been made in a report by the MEDEF called : « One million jobs », published in September 2014; see www.medef.com
3. This is what we call "Plans de sauvegarde de l'emploi" (a document elaborated either by the employer unilaterally or by collective agreement, that defines the modalities of reclassification within and outside the firm for employees that shall be made economically dismissed.
4. *International Union Rights*, Vol. 20, No. 4 (2013), pp. 6-7
5. It is the case in particular of the « accords de maintien de l'emploi » (agreements on preservation of jobs ») created by the law of 14 June 2013. According to these agreements, the employer can reduce wages or modify working time in exchange for a promise not to dismiss any employee for economic reasons for a certain period of time (two years maximum).
6. *ECJ* 15 janv. 2014, C 176/12
7. See above, « one million jobs ».

A human rights defender who should never have been prosecuted

On 29 October 2014 British labour rights researcher Andy Hall was acquitted by the Phrakhanong Provincial Court, Bangkok, when it dismissed charges of criminal defamation in relation to his work to expose labour rights violations. Regional human rights specialist and barrister Mark Plunkett of Brisbane, Australia, monitored the trial on behalf of the London-based International Centre for Trade Union Rights.

Plunkett said 'this is a good result. Hall is clearly a human rights defender engaged in legitimate work to investigate the conditions of migrant workers. The work that Hall was engaged in should not have been the subject of a criminal prosecution. And it was no coincidence that five UN Special Rapporteurs had spoken out in support of Hall and his work'. Plunkett welcomed the fact that 'the judges conducted the trial of Mr Hall fairly with dignity and discernment', but he criticised the law under which the prosecution was brought, the conduct of the prosecution, and the restriction on note taking by members of the public and press.

The trial observer's full report is now available on the ICTUR website at: www.ictur.org/Eng/Plunkett.htm. Plunkett's main conclusions are that:

- the judges conducted the trial of Mr Hall fairly with good grace, dignity and discernment and reached a just result by dismissing the charges against Mr Hall;
- the laws which permitted the criminal prosecution of Mr Hall for criminal defamation are not fair and are in violation of international norms because Thai law makes the exercise of a fundamental right of free speech a crime punishable by imprisonment;
- it is not a fair system of law that permitted Mr Hall to be charged in Thailand with a criminal offence, exposing him to harsh penal sanctions for exercising his right of free speech by giving a press interview in Burma where he did not even identify the injured party;
- the Thai Courts had no jurisdiction to try Mr Hall for the acts complained of which were completed outside the jurisdictional limits of the Kingdom of Thailand;
- the Thai criminal laws of defamation do not have extraterritorial reach and cannot seek to punish a person for acts committed outside of Thailand;
- there was no prima facie case made out against Mr Hall because Mr Hall had not identified the Natural Fruit Company Ltd in the interview;
- the laws which prohibited the making of notes by members of the public and the press at the trial are not fair because such a

prohibition is in breach of the requirement of open justice;

- the prosecution was not fair because of:
 - the failure to make full disclosure to Mr Hall of all evidence available to the prosecution before the trial including the complete Department of Labour files for the factory;
 - the failure of the Thai authorities to respond to the defence subpoenas and provide critically relevant files to Mr Hall concerning the labour conditions at the factory.
- Mr Hall had a complete defence to the charges and deserved to be acquitted on the merits.

Plunkett continued: "Hall is not the first human rights investigator to be placed on trial under Thailand's criminal defamation laws", and added that "there is an astonishing 95 percent conviction rate for those tried under these laws". Adding to the concern for the international labour rights community, Plunkett noted: "today's verdict does not mark the end of the matter for Hall. He now faces further, more serious, criminal charges and civil suits seeking damages running into millions of dollars".

The International Centre for Trade Union Rights (ICTUR) is a London-based international NGO, established in 1987 and accredited to the UN ECOSOC and the ILO Special List of international NGOs. ICTUR is the publisher of International Union Rights journal. ICTUR's programme of activities includes the observation of key labour related trials around the world.

Mark Plunkett is a Brisbane-based barrister and an expert on human rights in the Asia-Pacific region. For over 32 years Mr Plunkett has practised law as a Barrister at the Private Bar throughout Australia and the Asia-Pacific region. He is a Court Accredited Mediator and Specialist Negotiator.

- For further information about the case against Andy Hall please see the full trial observer's report, available online at: www.ictur.org/Eng/Plunkett.htm.

- For more about ICTUR's trial observer programme, please see the online guide to: www.ictur.org/Eng/Lawyers.html

- For more about the Finnish NGO research programme with which Hall was involved, looking into working conditions in production facilities for Thailand's canned fruit and fish export industries, please see: www.finnwatch.org

Human rights researcher Andy Hall has been hit with a plethora of civil and criminal legal cases arising from his alleged 'defamation' of a major pineapple exporter in a report on labour rights for migrant workers in Thailand



DANIEL BLACKBURN is Director of the International Centre for Trade Union Rights in London

You couldn't make it up...

The UK's secret political police are spying on me. I know this because they refuse to provide a copy of my file, even after making appropriate requests by the proper procedure. My 'crime' is being a trade unionist



DAVE SMITH is Secretary of the Blacklist Support Group and a TUC tutor, and is currently undertaking research at the University of the West of England in Bristol

The metropolitan police have responded to a request for information about continuing surveillance of workers' rights activists with the unhelpful posturing that they will 'neither confirm nor deny' whether the Blacklist Support Group ('BSG') is under surveillance by undercover police units. The statement came in a response to a Freedom of Information request on 9 October 2014 and was sent to investigative journalist Phil Chamberlain. The police chose to justify their stance by quoting Section 24(2) of the Freedom of Information Act, claiming that it was in the 'public interest' for them to refuse to 'confirm or deny in order to safeguard national security'. But the Act allows them to confirm or deny for public interest reasons. Failing to release information under this provision seems a difficult decision to justify given the huge public interest surrounding the exposure of undercover police surveillance of activists in the UK that has emerged over the past few years.

As IUR readers may be aware, we now know that the UK secret State operated an extraordinary web of intrusive surveillance of left and environmental activists, over many years, by officers who insinuated themselves deep into the private and family lives of activists. Posing as activists, these officers formed relationships and fathered children with the activists whom they were secretly monitoring. The destructive impact of this surveillance upon the lives of many peaceful activists, and their children, is slowly emerging, although the secret State appears to be in complete denial about its responsibility for this awful situation.

The 'neither confirm nor deny' defence which was also adopted by the metropolitan police in relation to the victims of this most intrusive spying was defeated in the High Court in September. Some of the same women activists currently suing the Metropolitan Police following this travesty also appear on the blacklist that was run by the shadowy body serving the construction industry, the Consulting Association. The metropolitan police letter regarding the BSG even admits that there is 'legitimate public interest in informing public debate in relation to issues surrounding surveillance tactics' and mentions 'the Blacklist Support Group and the wider issues regarding the practice of blacklisting'. But they maintain an uncooperative stance.

Lawyers working for the BSG have submitted a complaint to the Independent Police Complaints Commission about the role of the police in blacklisting. Despite accusations of an establishment cover-up, even the police were forced to admit the flow of information was not purely one way. Sarah McSherry, solicitor from Imran Khan and Partners said: "while correspondence from the

police in relation to this complaint continually raises concerns about the quality of their investigation, it is interesting to note that they confirm that they have identified a potential "flow of information between Special Branch and the construction industry". A number of blacklist activists have been refused copies of their own personal police files made under Subject Access Requests on the basis that providing the documents may jeopardise ongoing criminal investigations. It is without doubt that the police and security services are spying on trade unionists fighting for justice on the issue of blacklisting. They have colluded with big business to deliberately target trade unionism over decades. The refusal to provide any information whatsoever smacks of an establishment cover-up. Blacklisting is no longer an industrial relations issue: it is a human rights conspiracy.

Protestors assaulted by construction company security

Part of the work of the BSG is our campaign to ensure that the role of the multinational construction giants who used the Consulting Association's services is not forgotten. To further our demands for justice we regularly organise public demonstrations and protests at the offices and major projects of these giant corporations. On 15 October a group of 20 BSG activists attended headquarters of Laing O'Rourke in Dartford where we attempted to distribute leaflets about the role of the construction giant in the Consulting Association blacklisting conspiracy. The photograph reproduced here shows how Laing O'Rourke chose to respond to this peaceful protest.

Time for a public inquiry?

The BSG is not alone in being concerned by the web of relationships that appears to have facilitated the movement of staff and speakers between major multinationals, the Consulting Association blacklisting operation, independent 'employment vetting' services, and the UK's secret services. It has been confirmed in a Select Committee investigation that the undercover police unit known as the National Extremism Tactical Coordination Unit ('NETCU') attended and gave Powerpoint presentations to meetings of the Consulting Association blacklisting organisation. In their rather blunt response the metropolitan police say that the relevant guidance on this issue is simply 'if asked: is it true that NETCU shared information with the Consulting Association? We do not discuss matters of intelligence' At least one former NETCU officer now works for an 'employment vetting' service. Another senior officer from the unit now



BSG Secretary Dave Smith being assaulted. *Reel News*, 2014

Only a public inquiry can reveal the truth of the situation

holds a senior international position in charge of security for a major construction company.

A letter from John McDonnell MP to Home Secretary Teresa May observed that he was 'particularly concerned at the allegation that the Police and Intelligence Services had been implicated in the practice of blacklisting trade unionists' and called for new action following the emergence of new evidence. A handwritten note has emerged, taken by the late Mr Ian Kerr, Chief Executive of the Consulting Association, of a meeting organised by the Consulting Association and addressed by Detective Chief Inspector Gordon Mills from the NECTU. The note describes a presentation given by the police officer to representatives from the following companies: Vinci, AMEC, Skanska, Costain, Sir Robert McAlpine, Emcor, and Sias Building Services. 'Given this record of attendance at this meeting', McDonnell wrote, 'it is shocking that in their evidence to the Scottish Select Committee's inquiry into blacklisting directors of Skanska and Sir Robert McAlpine denied any involvement of the police'. 'Despite numerous requests under the Freedom of Information Act for documents relating to NECTU's activities', McDonnell continued, 'the response has been that no documents relating to the meeting of DCI Mills with the Consulting Association exist. It appears odd that no reporting of such an important meeting was written and that no evidence of the meeting is now held by the Metropolitan Police'. In the light of this evidence, McDonnell argued, an independent inquiry must now be undertaken into the role of the Police and Intelligence Services in blacklisting.

A big fuss about very little?

Just the latest in the escalating series of scandals surrounding the whole blacklisting episode was a bust-up that took place between two of the UK's top figures in the field of human resources in front of 200 of the UK's leading industrial relations academics, HR professionals and union officials, when both men addressed a conference to celebrate the 50th anniversary of the Manchester Industrial Relations Society. Mike Emmott, a former senior civil servant and 'employee relations

expert' with the Chartered Institute of Personnel & Development ('CIPD') was booked as the keynote speaker on the theme of the supposed importance of 'a culture of trust, fairness and respect'. Following the presentation, GMB union political officer Neil Smith raised a question concern the CIPD's silence with regard to blacklisting. Why, Smith wanted to know, had this key human resources organisation failed to offer a clear condemnation of the practice?

Initially Emmott dodged the question, claiming not to be very well informed about the issue, but he subsequently described the blacklisting scandal as a "big fuss about very little" and stated that he found "union moral outrage over blacklisting, rather distasteful". There were audible gasps from the audience, as voices from the floor called out questions that identified a number CIPD Fellows personally involved in blacklisting union members. Clearly rattled, Emmott again claimed ignorance (the issue has been front page news in the national media and even in CIPD's own journal). He then bizarrely observed that he would be happy to have the accused CIPD members as his neighbours. The next speaker, Sir Brendan Barber, Chair of the UK advisory and conciliation service ACAS (and former TUC General Secretary), noted that he "disagreed" with the CIPD spokesperson, and made clear his view that "blacklisting is a major injustice that has not been resolved" and that it is one that "raises huge issues about corporate culture and responsibility".

The Blacklist Support Group has submitted a complaint to the CIPD for breaches of their code of ethical conduct but two years later not a single member of the professional body has faced any sanction. Nor has any senior manager involved in blacklisting been disciplined by their employer, most remain in post or have even been promoted to the Board. The firms involved and the CIPD have cried crocodile tears about blacklisting but the mask of hypocrisy worn by the HR profession has finally slipped. Blacklisting breaches our human rights. It is morally wrong. For any individual to face every day of his life, with no prospect of securing a legal right to employment because of a conspiracy is a complete crime.

Transport workers and global supply chain governance

Garments produced in the Indian state of Gujarat are likely to be handled by at least 13 different groups of transport workers before arriving at a UK retail store



JEREMY ANDERSON is Head of Strategic Research with the International Transport Workers' Federation in London

It is widely accepted that lead firms have a major responsibility to govern labour standards in global supply chains. A range of regulation initiatives such as the OECD Guidelines on Multinational Enterprises, the UN Global Compact, and the Bangladesh Accord on Building and Fire Safety, identify the ultimate responsibilities of lead firms with varying degrees of precision.

Production workers have been the major focus of these initiatives. Whether it is Indian garment workers making goods for European retailers, or Colombian plantation workers harvesting flowers for North American supermarkets, labour standards at the production end has been the main point of scrutiny. For many observers, it is here that the most serious labour rights abuses and governance failures occur.

Comparatively little attention has been paid to the role of transport workers. And yet, the involvement of transport workers in these chains is widespread, and the governance arrangements for these workers is highly uneven.

Take the example of the garment supply chain from north west India to northern Europe. Garments produced in the Indian state of Gujarat are likely to be handled by at least 13 different groups of transport workers across four different modes before arriving at a UK retail store. The journey of a typical consignment of shirts would look roughly like this. Arriving by truck in the port of Mundra's logistics zone, they will first be stuffed into containers. The shirts would then be loaded by dockers onto a container ship heading for Dubai. Here, the shirts will be unloaded and trucked to Dubai's vast logistics hub for sorting. The shirts will then be loaded onto a much larger ship, perhaps an 18,000 container Ultra Large Container Vessel, and start making their way to the port of Southampton in the UK. Along their way they will pass through the Suez Canal, itself a major employer of transport workers. Arriving at port in the UK they will once again be unloaded by dock workers, driven to a retail sort facility, sorted again by warehouse workers, and then trucked, one last time, to their final location in store.

If transport workers have such a prominent role in the functioning of global supply chains, then why have they received little attention in governance debates? One explanation is that transport workers are assumed to be more highly unionised, and less vulnerable. Historically, it is certainly true that transport workers have utilised their strategic position as a buffer against attempts to drive down labour standards. The ITF's challenge to the Flags of Convenience (FOC) system in the shipping industry is one of the most well known examples. Shipowners first started to use FOCs as a way to source crew from

lower cost countries in the late 1940s. By registering vessels in countries such as Panama and Liberia, national regulations could be evaded. Over the past six decades ITF unions have fought back. Starting with industrial action by dockers against ships with poor working conditions, the FOC campaign has resulted in an international collective bargaining system that covers one quarter of all FOC vessels.

The ITF has also succeeded in entrenching its influence in international law, such as through the ILO Maritime Labour Convention, which requires Port States to enforce minimum labour regulations.

For all the historical achievements of the ITF's FOC campaign, the downward pressure on the labour standards of transport workers is widespread.

On a macro scale, the rapid growth of global trade has moved many transport jobs into non-union spaces. A third of global shipping container volumes are now handled in Chinese ports. The much smaller statelet of Dubai, meanwhile, has carved out a niche as a global transshipment hub with its major port, land logistics, and air cargo complex.

On a micro scale, new transport infrastructure has often been established right alongside traditional bastions of union power. During the mid-2000s, the historically well-organised port of Mumbai was effectively wound down when new container ports were constructed a short distance down the coast. Union members that sought recognition in one these ports were the subject of repeated physical violence and intimidation. Halfway round the world in California, the immense but almost entirely non-union Inland Empire logistics complex, which employs 90,000 workers, has emerged next door to some of the world's most highly organised dock workers.

Even where transport workers have remained unionised, the relentless pressure on cost structures from lead firms has put them under enormous pressure. In many countries, low barriers to entry in the trucking sector help to create intense competition and often dangerous pressure on working conditions.

In Australia, for example, trucking was the cause of 30 percent of all occupational deaths over a 10 period, and truck drivers specifically are 16 times more likely to be killed on the job than the average worker.

The issues facing transport workers, therefore, may not be as high profile as the issues facing production workers. Nevertheless, there is still a serious governance gap, and a necessity to develop robust frameworks that hold lead firms accountable for labour standards in their transport operations.

Defining responsibilities: Majority versus minority contractors

If lead firms should be held accountable for their transport operations, the question that remains is which lead firm?

In some cases, the situation is clear. The outsourcing revolution in logistics means that many transport operations are dominated by a single client. In such majority contractor scenarios, it is straightforward to identify the dominant firm(s) at the head of the chain. For example, truck drivers at Linfox in Thailand, an Australian logistics company, work on a contract for Tesco Lotus, a subsidiary of the UK supermarket giant. In other cases workers in a single location, such as a warehouse, may serve multiple clients. But the small number of overall clients, perhaps three to five, means the diagram of power is obvious. In these situations, it is patently disingenuous for lead firms to avert their responsibilities to uphold labour standards.

The Heavy Vehicle National Law in Australia is a path breaking response to the issue of labour standards for transport workers. The law concerns heavy trucking operations, and states that all firms in the supply chain have a chain of responsibility to ensure that standards are upheld. The law has a particular focus on safety, including fatigue management and safe scheduling practices. Crucially, it identifies competitive pressures emanating from lead firms as the key practice that needs to be regulated.

Can the chain of responsibility model, however, also be applied in minority contractor scenarios? In some cases, transport workers handle goods for a very wide range of clients. The maritime container trade is an extreme example. The largest container ships carry over 18,000 containers. Exactly how many end clients have their cargo on a typical voyage is not widely known. But for seafarers, dockers, and some warehouse workers, the relationship with lead firms is more diffuse in these minority contractor scenarios.

Employers may argue that the complexity of these arrangements mean that it is not their responsibility to uphold labour standards. They may also insist that because they are not the dominant client of the transport sector in question, they do not have the necessary influence to ensure compliance with effective labour standards. They may even claim that as many transport firms in the shipping and ports sectors are major multinationals in their own right, that the final responsibility should lie with these firms themselves.

There are several reasons why these objections do not stack up. Although individual lead firms in the garment sector may not have a dominant relationship over a particular port or logistics company, collectively these lead firms set the terms of the market. As the Heavy Vehicle National Law in Australia recognises in relation to trucking, the privileged role of these firms at the head of supply chains means that they have a responsibility to act. Furthermore, as key drivers of global

trade, lead firms are actively reorganising the global economy, and also the global transport sector in the process. Lead firms are hardly passive inheritors of the existing transport landscape.

An interesting precedent for minority contractor responsibility can be found in the field of investor relations. In 2013, a group of NGOs submitted a complaint to the National Contact Points ('NCPs') of the Dutch and Norwegian governments under the OECD Guidelines on Multinational Enterprises. The complaint related to plans by POSCO, a South Korean firm, to build a new steel plant in India. It was alleged that the project would displace 22,000 people and that human rights violations were occurring. Both the Dutch and Norwegian NCPs agreed to take up the complaint because ABP and NBIM, the large pension funds based from their countries, had minor shareholdings in POSCO.

The Dutch and Norwegian decisions created some controversy within investment circles, and not least within the Norwegian government itself. NBIM, which is part of the Norwegian Ministry of Finance, has minority shareholdings in 7000 companies worldwide. Perhaps concerned about the precedent this move set, the Norwegian government sought to challenge the ruling of its own NCP. The Norwegian government eventually withdrew its request for 'clarification' from the OECD in June 2014, while also emphasising that the Guidelines were not legally binding. By this point the Dutch NCP had already recognised that the Dutch fund ABP was potentially in breach of its responsibilities, and facilitated a dialogue between all the respective parties, leading to an independent investigation.

The principles of the POSCO case are directly relevant to the dynamic of lead firms and their role as minority contractors in transport operations. A key principle in the POSCO case was that although the shareholding of the pension funds was small, 0.9 percent in the case of NBIM, the fund was nevertheless economically benefiting from the company's activities, and therefore had a responsibility to uphold standards. In this case this responsibility involved a requirement to conduct due diligence of all of its investments, and to carry out a strategy to deal with any breaches.

The case for lead firm responsibility for all transport workers continues to build. In 2016, the ILO will hold a General Discussion on Decent Work in Supply Chains. Effective governance mechanisms for transport workers will be one of the key items under consideration.

As the examples in this article show, for lead firms there is no escaping the obligation to ensure that labour standards are upheld in all of the transport services they use, whether they are a majority or minority client. Whether it is the chain of responsibility principle enshrined in Australia's Heavy Vehicle National Law, or the principle of minority shareholder obligations in the field of investor relations, the governance tools are emerging one way or another. For lead firms themselves, it would be wise to act before they are faced with outrages on the scale of Rana Plaza.

For lead firms there is no escaping the obligation to ensure that labour standards are upheld in all of the transport services they use ... governance tools are emerging one way or another

What Next after Rana Plaza: Progress in the Garment Industry?

IndustriALL affiliates have organised nearly 40,000 workers, but this is barely one percent of the total workforce: organising remains a top priority

Four million largely female Bangladeshi garment workers risk their lives every day in the production of cheap garments for European and US markets. The collapse of the Rana Plaza factory in Savar, Dhaka in April 2013 was exceptional only in the fact that there were 1,200 fatalities. The Spectrum Factory also in Savar collapsed in similar circumstances in April 2005 killing 62 workers and seriously injuring 70 more. Workers in the 4000 plus garment export factories are not only at risk from their factories collapsing but also from fire. Hundreds of factories are located in shared-use premises with enterprises such as shops and restaurants. This compounds hazards of fire and limits the chance of escape. The Garib fire in 2010 killed 21 workers; it was the second fire at the factory within 6 months.

Employers have become skilled at presenting to buyers and social auditors a false impression of 'compliance' with buyers' (often pathetically weak) corporate codes of social responsibility. In particular wages and timekeeping records are routinely works of fiction for presentation to auditors. The grim reality for workers is a different story comprising excessive working hours including forced overtime, unachievable production targets, brutal repression and above all denial of all trade union rights.

Even today wages remain pitifully low; currently the minimum wage in the readymade garment industry is 5300 Taka or euro 54 per month but even this includes various non-consolidated allowances. Since the industry took off in the early 1990s wages have increased only half a dozen times. Following each wage increase there has been an almost immediate increase in house rents, food and commodity prices leaving real wages virtually unchanged.

The garment export industry accounts for more than 93 percent of foreign exchange; earnings in 2014 are expected to be more than euro 19 Billion. A majority of Bangladeshi parliamentarians are investors in the industry. This is why the Bangladesh Garment Manufacturers' and Exporters' Association ('BGMEA') is arguably even more powerful than the Government itself.

thus uniting trade unions representing workers in all of the global manufacturing industries. Staff and affiliates of the ITGLWF were concerned that the priority needs of workers in 'our' industry might be lost in the process of merger into IndustriALL. However the ground-breaking achievements reacting to Rana Plaza and other vital work including achieving significant minimum wage gains in Cambodia has dispelled any doubts about the prominence of the garment and textile sector inside IndustriALL. The creation of IndustriALL enabled the weight and resources of the larger organisation to work on these campaigns and achieve historic progress. The Accord is doing impressive remediation across the industry in Bangladesh. They have identified thousands of fire and safety risks and closed down dangerous factories. Another Rana Plaza could have already happened without this work.

Following the Rana Plaza collapse IndustriALL worked tirelessly to bring the brands and suppliers to the bargaining table with national and international trade unions and NGOs. Worker representatives led by IndustriALL and UNI Global Union together with their Bangladeshi affiliates succeeded in negotiating a strong agreement in the form of the Accord on Fire and Building Safety in Bangladesh. Until Rana Plaza only two brands had been prepared to sign; PVH, the owner of Calvin Klein and Tchibo a German retailer. The Accord has now been signed by 180 international brands and numerous local trade unions. The ILO acts as the independent chair of the Accord.

The Accord is legally binding, a feature which is in contrast with the plethora of voluntary corporate codes of conduct and multi-stakeholder standards. Under the terms of the Accord signatory brands are each obliged to contribute up to US\$500,000 per year towards costs of implementing the terms of Accord.

Crucially the Accord includes a central role for trade unions in the provision of safety training as well as in the governance of the programme including membership of factory safety committees.

The Accord is managing a huge programme of independent and credible inspection together with effective and timely remediation.



STEVE GRINTER was Education Secretary with the International Textile Garment and Leather Workers' Federation (ITGLWF) from 1994 to 2012. He is now retired

Accord on Fire Safety and Building Safety

Until 2012 it was the International Textile Garment and Textile Workers' Federation ('ITGLWF') which was the Global Union Federation leading the campaign for workers' rights in this industry. IndustriALL was created in July 2012 bringing together affiliates from the former International Metalworkers' Federation ('IMF') together with the global union for chemicals and mining ('ICEM') as well as the ITGLWF

Key issues for the future

■ Bangladeshi employers and Government have hitherto conspired to deny workers their rights to freedom of association and collective bargaining. It remains a huge challenge for trade unions to take advantage of the space offered by the Accord to build effective factory level trade unions in every one of the 4,000 factories producing garments for export.

IndustriALL is supporting a major organising programme aiming to build a comprehensive union presence in the Bangladeshi garment factories. In 2013, the Bangladeshi government agreed to the registration of new local unions and in the last 12 months IndustriALL affiliates have organised nearly 200 factories and 40,000 workers. This is a historic achievement and progress is very encouraging. However this is barely one percent of the total workforce so trade union organising remains a top priority. IndustriALL and its affiliates remain committed to ensuring that every worker has the opportunity to join their trade union. Ultimately they aim to establish a mature system of industrial relations for the industry.

- The brands have failed to deliver their full financial contributions due under the terms of the Accord. A contribution of a fraction of one percent of the global brands' annual turnover would comfortably secure all of the necessary funds.
- Many of the leading US brands have failed to sign the Accord and have instead established a rival non-binding buyers' programme which they have called the Alliance for Bangladesh Worker Safety. Leading brands behind this initiative include GAP and *Walmart*. This initiative lacks credibility internationally and the methodology is based on the failed CSR practices of social auditing without trade union engagement. This programme mimics the Accord but omits many of the key aspects that make it effective; it is not legally binding and requires no obligatory financial contribution from the brands. *Walmart* has always been notoriously anti-trade union both in the US and abroad however GAP had until recently been regarded as an industry leader

on CSR. Their global reputation for upholding ethical standards has now been exposed as flawed. However it is clear that the Alliance would not have existed without the Accord and that it has made some progress. So, albeit indirectly, IndustriALL and the Accord may be credited with compelling even *Walmart* to bring about some improvements for workers!

- Success for a global buyer depends heavily on the reputation of their brand. Many of them signed up to the Accord for fear that failure to do so would reflect badly upon them. However IndustriALL has successfully shown that significant and sustainable progress can be made by working with brands to work towards real compliance with international labour standards. The idea that garment workers in Bangladesh should be able to exercise their rights to freedom of association was before the Accord little more than a dream. The space provided by the Accord for trade unions to organise has fundamentally strengthened the chance for workers to have a real voice in the struggle for better working conditions.
- IndustriALL has shown the importance of trade unions thinking globally and acting locally. The achievements and credibility of the Accord will ensure that pressure is maintained on the brands that continue to refuse to sign up to the Accord. It may be necessary to step up the campaign to include strategic and targeted boycotts of garments marketed by renegade brands such as *Walmart* and GAP. However as with successful work to establish the Accord the campaign should be lead by the global trade unions and their affiliates with the support of friends and comrades including pro labour NGOs.

Many brands have failed to deliver a full financial contribution, this is despite the fact that just one percent of their annual turnover would comfortably provide all necessary support

Belgium

In late November unions launched what they said would be a month of intermittent strike action in opposition to austerity measures, wage cuts, and changes to pensions and social security, introduced by the new right-wing Government. The action began with dockers and rail workers closing ports and suspending international rail services

Ebola outbreak

Rosa Pavanelli, General Secretary of the global public sector union PSI has named 325 health workers who have died at work while trying to save lives in Liberia, Sierra Leone and Guinea. They were victims, Pavanelli said, not only of a virus, but were also victims of 'a non-inclusive and insecure system, where international financial institutions have imposed unsustainable development programmes, based on health privatisation, to the sole benefit of foreign corporations. They are victims of a careless international community that has allowed such conditions of exploitation and poverty to flourish'. PSI pledged to honour their memory by fighting for safe working conditions and quality public healthcare for all.

Striking a similar note, the global union confederation WFTU said that the epidemic highlighted 'in the most tragic way the chronic and deep wounds in the African Continent by colonialism, by the continuous plundering of the wealth-producing resources and by the high public debts that keep African States and their economies enslaved to the IMF, the World Bank and monopolies cartels'. Deaths from Ebola were, WFTU said, 'facilitated by imperialism'.

Europe

The European Industrial Relations Observatory ('EIRO') has been merged with its sister body on working conditions ('EWCO') to form a new European Observatory of Working Life ('EurWORK'). The new body remains within the Eurofound parent organisation. Much of the work of EIRO is continuing within EurWORK, such as the annual updating of industrial relations country pro-

files, the most recent of which was published in late November.

An interesting piece of work from 2013 that is now more prominently featured on the new website is a section on collective bargaining which displays a Europe-wide map and accompanying table which classify dominant local wage bargaining patterns as either 'centralised', 'intermediate', or 'decentralised' and assign each a score for the degree of coordination in bargaining.

A profile on collective bargaining in Portugal describes the decline in collective bargaining that has occurred in that country over recent years as 'dramatic' and as having reached a 'critical point'.

Both 2012 and 2013, the report notes, were years of 'collective bargaining crisis' in Portugal. The changes are attributed not only to the economic crisis, but also by 'political measures on the extension of collective agreements issued in 2012' that are said to undermine bargaining coverage.

Fiji

The ILO has deferred a decision on launching a Commission of Inquiry to examine the state of freedom of association in Fiji after the intervention of Fiji's acting Prime Minister who granted a concession for the Organisation to go ahead with a Direct Contacts Mission. The Mission took place in early October but the November meeting of the ILO's Governing Body decided to defer its assessment of the situation until its next sitting in March 2015.

Greece

Trade unions held a general strike on 27 November in protest at the continuing harsh impacts of austerity, particularly new plans for a further series of public sector job cuts and further changes to pensions.

The strike, the first nation-wide stoppage since April, had wide ranging impacts, with most public offices closing, hospitals running only on emergency staff, train and ferry services suspended, and all domestic and international flights halted.

ILO

The ILO has issued a revised and updated edition of its publication *Rules of the Game: a brief introduction to International Labour Standards*, which is aimed at a non-specialist audience.

The guide outlines the basics of the ILO supervisory systems and gives a brief overview of key instruments and processes. Available in print and in electronic format in English, French and Spanish from www.ilo.org.

Migrant Workers

The ITUC has published a 60-page Legal and Policy Brief into the situation of migrant workers in the Gulf region. *Facilitating Exploitation: a review of Labour Laws for Migrant Domestic Workers in Gulf Cooperation Council Countries* highlights the dramatic increase in this form of employment in the region, the lack of legal protection, and poor conditions of employment.

The report says that there are 'an estimated 2.4 million migrant domestic workers in the region (which includes Saudi Arabia, Qatar, Kuwait, Bahrain, United Arab Emirates ('UAE') and Oman).

Saudi Arabia is said to have had a 40 percent increase in domestic workers over the decade, while Kuwait has seen a 66 percent increase since 1995. Each UAE household is said to have, on average, three domestic workers.

In many of these countries legal frameworks such as the *kafala* sponsorship regime or exclusions from general labour law frameworks for domestic workers facilitate exploitation and prevent access to justice.

Not one of these countries, the report notes, has ratified the Domestic Work Convention. ITUC calls for these countries to ratify that instrument 'immediately'.

And it says that legal reforms in the neighbouring country of Jordan, where labour laws were extended to domestic workers six years ago, show that the needed reforms are possible.

Privatisation

A new report is now out following a major conference organised by Canadian public sector trade union NUPGE. The conference and the accompanying report examined new forms of privatisation.

The report describes 'the privatisation industry' as a secretive and unaccountable lobby composed of 'wealthy business owners, corporate CEOs, lawyers, accountants, and former politicians'. This 'industry', NUPGE argues, uses 'secrecy and sleaze to dupe citizens into privatizing more and more of their public services'.

If left unchecked the report says that its activities will strip citizens of wealth, values, and democratic control over health care, education, infrastructure, and government.

Trade agreements

The European regional public sector union EPSU has reported that a global meeting that it organised to discuss the secretive 'TISA' trade agreement had been 'a resounding success'. 75 participants from unions and civil society organisations took part in the discussions around how to move forward with their campaign on TISA.

EPSU highlighted what it called the 'dangers' of TISA, which proposes eliminating barriers to trade in services, and insisted that the European Commission should have a full and open debate about the scope of the proposed agreement.

The international trade union centre ITUC called the proposed TPP trade agreement between the US, Japan and other Pacific region States 'secretive' and 'damaging', saying it would be 'good for some multinational corporations but deeply damaging to ordinary people'. Governments and other democratic actors were 'being kept in the dark' about the agreement's contents, ITUC complained.

The trade union economic think tank TUAC, associated with the OECD in Paris, launched a report in late July *Investment Treaty Law, sustainable development and responsible business conduct: a fact-*

finding survey. TUAC described the report as an important piece of work that 'explores the relationship between investment treaty law and governments' ability to advance responsible business conduct'. Densely written and technical the report is filled with information and will be an important resource for legal analysts and economists working on these issues.

South Africa

There have been dramatic developments in the ongoing dispute between trade union centre COSATU and its largest affiliate, the metalworkers' union NUMSA. NUMSA was expelled from the federation on 8 November, following allegations that it had called for COSATU to leave the Tripartite Alliance political grouping with the ANC and the Communist Party, and that it had been organising outside of agreed demarcation sectors. COSATU General Secretary Zwelinzima Vavi has been perceived as an ally of NUMSA and described the expulsion, which NUMSA itself strongly contested, as 'a disaster'.

UN Special Rapporteur

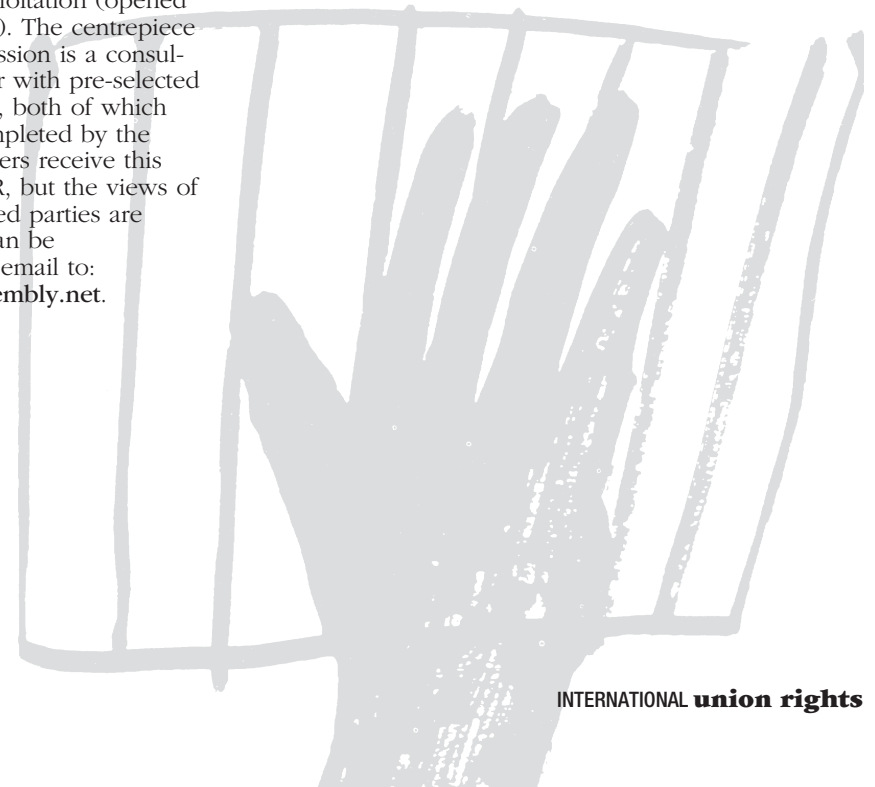
The UN Special Rapporteur on Freedom of Association and Assembly has opened two new 'discussions' into Litigating Assembly and Association Rights and Assembly (opened 24 September) and Association Rights in the Context of Natural Resource Exploitation (opened 28 November). The centrepiece of each discussion is a consultation seminar with pre-selected expert panels, both of which will have completed by the time our readers receive this edition of IUR, but the views of other interested parties are invited and can be submitted by email to: info@freeassembly.net.

Uzbekistan

Millions of people, including children, were forced to pick cotton for the 2014 Uzbek cotton harvest in one of the largest State-sponsored systems of forced labour in the world, according to the annual review produced by the international Cotton Campaign NGO.

The Cotton Campaign's findings following both the 2013 and 2014 harvests seem to contradict reports in 2013 produced by an ILO monitoring team that found that the situation was markedly improved. One source of disparity between the ILO and NGO findings may be the focus on child labour, which does indeed seem to have been reduced.

However, Umida Niyazova, Director of the Uzbek-German Forum, that conducts a detailed annual review of the harvest, said 'reducing the number of children in the fields by forcing more adults to work against their will is not sufficient'. The review is available at www.uzbekgermanforum.org.





Nick Bano

Staff changes

ICTUR Researcher Nick Bano has moved into legal practice and is now completing his vocational training as a barrister with 5 Pump Court Chambers, where his expertise in employment, housing, crime, international law, and human rights will doubtless be a great asset.

Nick produced some remarkable work for ICTUR and is already much missed.

We wish him well in his legal practice and would advise any of our readers that commission legal services to consider giving him a call.

Apparently missing the buzz of editorial work from *IUR* Nick informs ICTUR that he will combine a demanding legal practice with a new voluntary role as the Editor of the Haldane Society's magazine, *Socialist Lawyer*.



Ciaran Cross

Joining ICTUR as our new Researcher is Ciaran Cross, who will start work in January 2015. Ciaran holds a Graduate Diploma in Law with distinction and is currently studying for an LLM in international economic law, justice and development.

He has a background as a trade union lay representative in the charity sector. Ciaran previously produced legal analysis and research

for leading NGOs, including the European Centre for Constitutional and Human Rights in Berlin, where he worked on business and human rights issues and strategies for enforcing corporate accountability.

He has published research on human rights, trade and investment law, and acted as a legal consultant advising Greenpeace on the TTIP trade agreement.

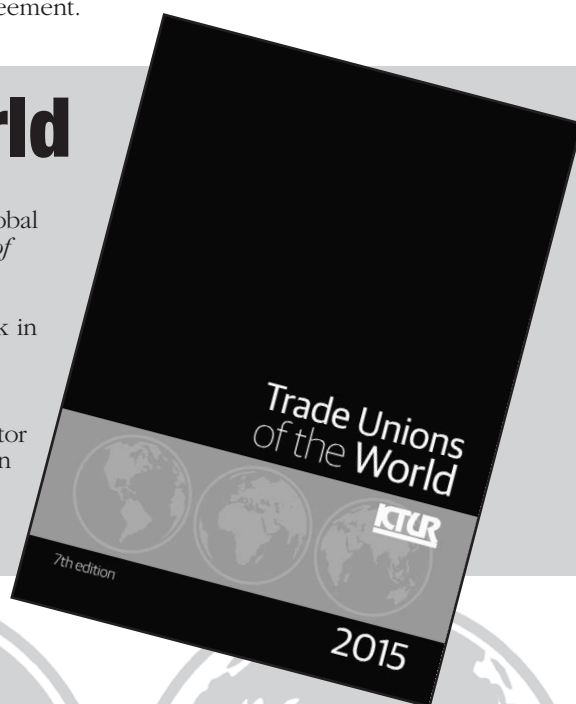
Ciaran will assist ICTUR with the updating of a new edition of the reference book *Trade Unions of the World* (see below), and with ICTUR's monitoring of and responding to trade union rights violations, and will contribute generally to our research, advice, and advocacy work.

Trade Unions of the World

ICTUR is pleased to announce that in 2015 we will be updating the key global reference book on the international trade union movement, *Trade Unions of the World* ("TUV").

This will be the 7th edition of *TUV* since the book was first published back in 1987, when it replaced the similarly themed *International Directory of the Trade Union Movement*, published in 1979.

The last edition marked the end of the direct involvement of long-term Editor John Harper, who also published previous editions, although John has been kind enough to endorse ICTUR as the new publisher of the title, and has given us some very welcome advice and assistance in getting the new edition up and running.





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Public Services International

PSI is a global trade union federation representing 20 million working women and men who deliver vital public services in more than 150 countries.

PSI works with our members and allies to campaign for social and economic justice, and efficient, accessible public services around the world. We believe these services play a vital role in supporting families, creating healthy communities, and building strong, equitable democracies.

Our priorities include global campaigns for water, energy and health services. PSI promotes gender equality, workers' rights, trade union capacity-building, equity and diversity. PSI is also active in trade and development debates.

PSI welcomes the opportunity to work co-operatively with those who share these concerns.

Visit our website www.world-psi.org

Also in this edition:

- Labour researcher acquitted in Thai defamation case
- Deep changes to industrial law concepts in France
- Update on the UK blacklisting scandal

■ ICTUR web site:
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