

João Antonio Felicio

President
Président
Präsident
Presidente

Office of the United Nations High Commissioner
for Human Rights
Palais des Nations
CH-1211 Geneva 10
Switzerland

Sharan Burrow

General Secretary
Secrétaire générale
Generalsekretärin
Secretaria General

LEX/MS

24 March 2016

ITUC Stakeholder UPR Submission concerning Zimbabwe

To whom it may concern,

Please find below the submission of the International Trade Union Confederation (ITUC) concerning Zimbabwe's Universal Periodic Review during the 26th session of the UPR Working Group. The ITUC was formed on 1 November 2006 as the result of the merger of the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour. The ITUC 180 million workers in 162 countries and territories and has 333 national affiliates and enjoy consultative status with the ECOSOC.

Yours sincerely,



Sharan Burrow, General Secretary

(1) Submitting organisation: The ITUC's primary mission is the promotion and defence of workers' rights and interests, through international cooperation between trade unions, global campaigning and advocacy within the major global institutions. Its main areas of activity include the following: trade union and human rights; economy, society and the workplace; equality and non-discrimination; and international solidarity. The ITUC adheres to the principles of democracy and independence. It is governed by four-yearly world congresses, a General Council and an Executive Bureau. The information below has been compiled in consultation with the Zimbabwe Congress of Trade Unions (ZCTU) which represents about 200,000 workers in Zimbabwe and is a member of the ITUC.

(2) The Government of Zimbabwe (GoZ) continues to systematically violate the most fundamental rights of workers and their families. The country's economy is in deep decline with massive job losses and most workers earning salaries far below the poverty level. Even workers employed in the formal sector and in state-owned enterprises often do not receive their salaries for several months. At the same time the GoZ is crushing the voices of workers calling for sustainable economic policies which would allow them to live and work in dignity. The right of workers to join trade unions and engage in collective bargaining is subject to extensive restrictions imposed by law and government policy, including harassment by police and arrests of union leaders, denial of registration, discrimination, non-remittance of union dues, denial of the right to carry out strike action and serious limitations on collective bargaining.

(3) International human rights obligations: The Universal Declaration of Human Rights protects the "right to form and join trade unions" and the "right to just and favourable remuneration ensuring for himself and his family" in Article 23. In addition, article 8 protects the "right to an effective remedy by the competent national tribunals for acts violating the fundamental rights."

Moreover, Zimbabwe has ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise and ILO Convention No. 98 on the Right to Organise and Collective Bargaining. The Constitution of Zimbabwe (2013) recognizes the right to join trade unions, to engage in collective bargaining and to be paid a fair and reasonable wage in article 65.

In 2009, the GoZ accepted to implement the recommendations of the ILO Commission of Inquiry, which included the obligation to bring its legislation into line with ILO Convention 87 and ILO Convention 98 and to cease all anti-union practices – arrests, detentions, violence, torture, intimidation and harassment, interference and anti-union discrimination with immediate effect.¹ However, the actions taken by the GoZ since then have been in the contrary leading to a deterioration of the protection of fundamental rights in the country.

(4) Interference and arrests: The following trade union leaders were arrested on 8 August 2015 for leading a protest action against job losses following the Supreme Court's decision to allow employers to terminate employment contracts without a valid reason: George Nkiwane (ZCTU President); Japhet Moyo (ZCTU General Secretary); Runesu Dzimiri (General Secretary of the Food Federation and Allied Workers Union); Ian Makoshori (General Secretary of the Young workers); and Sekai Manyau (member of the Women Advisory Council). Other workers who had gathered at the ZCTU's head office were dispersed by around 100 riot police who besieged the union's office and blocked its entrance. Workers were threatened with arrest and physical force if they decided to proceed with the demonstration. The occupation of the office continued until 15 August 2015.

On 11 April 2015, the ZCTU called for protest action against a wage freeze announced by the government. Police made a public statement stating that demonstrations in Bulawayo, Masvingo and Mutare would be banned. The ZCTU approached the High Court that granted an order for the protest action to go ahead. The protest was later held but the number of participants had reduced due to the intimidating statements of the police earlier on.

On 18 February 2015, the Progressive Teachers' Union of Zimbabwe (PTUZ) was not permitted to hold a march on the Global Day of Action for the Right to Strike called by the ITUC. Police blocked

¹ ILO Commission of Inquiry Report, Zimbabwe, 2009
(http://www.ilo.org/dyn/normlex/en/f?p=1000:50012:0::NO:50012:P50012_COMPLAINT_PROCEDURE_ID,P5012_LANG_CODE:2508373,en:NO)

the march demanding the PTUZ to produce a clearance letter from the Public Service Commission, provide details of the marchers and registration numbers of vehicles to be used. The union had notified police about the march seven days in advance.

On 7 October 2013, police fired teargas and beat up over 100 women, accompanied by their children, who were protesting against the Hwange Colliery Company Limited. The women walked for 20 km to the General Managers' office demanding their husbands' salaries owed over five months. Two women sustained serious injuries and were admitted to hospital. In April 2013, the company suspended 520 workers over salary disputes and alleged breach of the company's code of conduct. The workers had gone on strike over outstanding employee share option schemes which Hwange Colliery Company failed to provide.

Police and state intelligence services in plain clothes regularly attend and spy on union activities. On 18 January 2013, two police officers namely constable Torongo and constable Singo from Police Intelligence services (Harare Police Central) came to the ZCTU head office demanding to be part of a meeting that was to be held at ZCTU. Ironically, the ZCTU had no such meeting.

In 2016, a worker employed at the company Red Watch Security, Mr Jeremia Chigweremba, committed suicide by jumping off from the 3rd floor of a construction site in Harare. This was after the workers had gone for some months without pay and saw no perspective for the future. The union planned a demonstration against the company but the Zimbabwe Republic Police in Harare refused them permission to demonstrate on 29 February 2016.

(5) Registration of trade unions: While the Labour Act (LA) gives workers the right to establish unions, the Registrar has absolute discretion over registering unions after a 30-day consultation period with all "interested" parties (Article 42). The Minister of Public Service is responsible for the registration of public service workers and has similar excessive discretionary powers. The National Union of Metal and Allied Industries had to wait more than three years for its registration which it finally obtained on 16 January 2016. The Zimbabwe Footwear tanners and Allied workers Union has remained unregistered since 2012. The union has since filed an appeal to the Labour Court which is still pending.

(6) Discrimination against union members: Workers regularly face discrimination at work because of their union membership and are not adequately protected by the law against it.

In 2015, Verity Mutsambirwa, Vice-President of the Zimbabwe Banks and Allied Workers Union, was dismissed on three months' notice by Stanbic Bank. Mrs Mutsamwirwa had a previous case with the bank in which the bank unilaterally transferred her to a remote place after a deadlock during collective bargaining negotiations. She was accused of influencing workers of Stanbic Bank to engage in strike action. Even though she successfully challenged her transfer in the Labour Court she was not reinstated by the bank which preferred paying her salary while not allowing her to return to work.

Farai Katsande, President of the Zimbabwe Banks and Allied Workers' Union, who was suspended from his position in the Infrastructure Development Bank of Zimbabwe on 15 October 2013 for allegedly absenting himself from work while he was attending a union activity in Kenya. Previously bank management attempted to prevent Farai Katsande from engaging in trade union activities by promoting him to a supervisory position which would have disqualified him from his union membership.

In 2013, the Chinese diamond mining firm Anjin Investments sacked 1,500 workers who participated in a strike over pay and better working conditions. Workers have been beaten with clenched fists, kicked around and called racist names by the employers. Many of the workers have also reported serious sexual assaults by the bosses. The GoZ does not allow workers in the diamond sector to affiliate with the ZCTU.

(7) Employers do not remit union dues: The law prescribes that unions and employers may agree on the collection and transfer of union dues - employers violating such agreements may be liable to a fine or imprisonment of up to two years. Despite these legal stipulations, non-remittance of union dues has become a widespread practice in Zimbabwe and has brought unions into financial difficulties in terms of their activities and their existence.

- The Zimbabwe Construction and Allied Trades Workers union is owed US\$484,794.74 by various employers in the construction industry.
- The Ceramics and Associated products Workers Union is owed US\$15700,00 by various employers in the ceramic industry,
- The National Mine workers Union of Zimbabwe is owed US\$39360.18 by employers in the mining industry.

(8) Right to strike: Broad categories of workers are excluded from the right to strike: public sector workers; workers in essential services including veterinary services; workers at the Zimbabwe Revenue Authority; health services; and transport and communication services. Strikes are only permitted with respect to interest disputes but not rights disputes. These restrictions greatly limit the possibility of calling a legal strike. Participation in a legitimate but illegal strike can lead to up to five years imprisonment. Police regularly interfere to end strikes.

On 3 October 2015, management of the company Mashonaland Tobacco unilaterally withdrew a transport allowance previously agreed upon with the workers. In response, 1750 workers undertook strike action between 3-21 October 2015. The company applied to the Labour Court to declare the strike illegal and to start disciplinary procedures against the workers who participated in the strike. Even though the matter is pending at the Constitutional Court, the company dismissed 6 members of the workers' committee, including Mr Paul Sunurai and Mr Spencer Mufuriri, in response to their involvement in the strike.

(9) Collective bargaining: Refusal to bargain in good faith is considered as an unfair labour practice and is prohibited by law (Art.8 (c) LA). Yet, employers frequently abuse institutional weaknesses by creating a deadlock in the bargaining process. This means that the dispute is referred to arbitration and then to court and both fail to come to a decision in a reasonable timeframe, rendering the whole process futile. Unions, especially agricultural workers, have also reported verbal and physical attacks by employers during negotiations. The Motor Vehicle Manufacturers Employers Association has not concluded a collective agreement with the Motor Vehicle Manufacturers Workers' Unions since 2007. An arbitral award of 2010 in favour of the employees was ignored by the employers.

(10) Interference by public authorities: The law permits public authorities to annul union elections if they were not considered to have been "properly" conducted or if the results are not considered to be adequately representative of workers' views (Art.51 LA). In addition, public authorities may investigate unions without prior notice and question any person on the premises if the union is suspected of not using funds for the interests of its members. These regulations give excessive powers to public authorities who do not shy away from abusing them in order to intimidate and compromise trade union activities. The situation has become worse with the adoption of the Labour Amendment Act of 2015 which now allows the government to appoint an administrator to run the affairs of a trade union if they believe the union is being mismanaged.

(11) Recommendations: The ITUC urges the GoZ to:

- Implement the recommendations of the ILO Commission of Inquiry without further delay
- Bring its legislation in line with international law in consultation with workers
- Refrain from interfering in peaceful protest action and strikes
- Refrain from targeting trade union activists for arrests and intimidation
- Effectively enforce its legislation in order to ensure the remittance of union dues owed to trade unions
- Effectively enforce its legislation to protect workers against anti-union discrimination
- Constructively engage with trade unions about the employment situation and the payment of salaries.

