

**INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)**

## **FINAL**

# **INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN MOZAMBIQUE**

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF  
THE TRADE POLICIES OF MOZAMBIQUE  
(Geneva, 22 and 24 April, 2009)**

### **EXECUTIVE SUMMARY**

**Mozambique has ratified all eight core ILO labour Conventions. However in view of restrictions on trade union rights, discrimination, child labour and forced labour, further measures are needed to comply with the commitments Mozambique accepted at Singapore and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO Declaration on Fundamental Principles and Rights at Work.**

**While Mozambique has ratified both ILO core conventions on trade union rights and progress has recently been made with the enactment of a new Labour Code, the right to bargain collectively is under pressure since the authorities do not take measures to require employers to respect collective agreements. Strikes are often suppressed and encounter violent reaction from the part of employers and sometimes the police. Anti-union discrimination remains a problem as adequate dissuasive sanctions have not been established. Trade unions' ability to operate freely is hindered due to regulations applied to private gatherings. Trade union activities in the country's export processing zone (EPZs) in Mozal are constrained due to the authorities' definition of such work as "essential" although clearly it does not fall under the ILO definition of "essential services".**

**Mozambique has ratified the ILO core conventions on equal remuneration and discrimination, but nonetheless women receive lower pay than men for work of equal value. The government has taken steps to address reported cases where persons living with HIV/AIDS face dismissals and disabled people are discriminated against.**

**Mozambique has ratified the ILO core Conventions on child labour. Although the government tries to monitor child labour, children work as seasonal labour in family farms and in commercial plantations, although not in industry. The number of cases of children forced in prostitution is alarming while many children work as domestics and beggars or under bonded labour status.**

**Mozambique has ratified the ILO Conventions on forced labour. There are reports of forced and bonded labour in rural areas, including human trafficking.**

## **INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN MOZAMBIQUE**

### **Introduction**

This report on the respect of internationally recognised core labour standards in Mozambique is one of the series the ITUC is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996) in which Ministers stated: "We renew our commitment to the observance of internationally recognised core labour standards." The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998.

The ITUC affiliate in Mozambique is the Organização dos Trabalhadores de Moçambique which has a membership of 98.000 workers covering all areas of employment: Agriculture, Tourism and Restaurant Services, Transport, Mines and Energy, Banking and Insurance, Manufacturing and Industry, Construction, Commerce and General Services among others.

Mozambique is a member of CCC, SADC, IFC, IMF, UNCTAD, WIPO and WTO. Mozambique has a bilateral trade agreement with South Africa.

### **I. Freedom of Association and the Right to Collective Bargaining**

In 1996, Mozambique ratified both ILO Convention No. 87, on Freedom of Association and Protection of the Right to Organise, and Convention No. 98 on the Right to Organise and Collective Bargaining.

Mozambican law provides for freedom of association and the right to bargain collectively.

On 30 October 2007 a new Labour Code entered into force, extending the right to organise to public servants and state officials, excluding though firefighters, prison guards and members of judicial authorities.

The law prohibits anti-union discrimination although it does not establish dissuasive sanctions for those who breach it. Employers frequently conduct campaigns of misinformation about the trade unions and prevent the union representatives from reaching workers. The OTM trade union centre reports cases where job recruitment, particularly for young people, is conditional on non-adhesion to any union.

There are many cases of trade unionists being threatened and dismissed under false pretexts. Some indication of the attitude of employers to trade unions is provided by the fact that collective agreements cover just two percent of the working population; a report by the Ministry of Labour on inspections showed that from 522 companies visited, only 16 had signed a collective agreement with their employees.

Collective bargaining rights are often disregarded, such as in July 2007, when employees of an engineering firm in Maputo went on strike in protest at their employer's failure to honour the collective agreement. Other employees in a horticultural firm in Moamba held a protest to ask the local authorities to oblige their employer to negotiate with them. The employer refused permission of entrance to the Chief Labour Inspector who was called upon and even after the police broke in the employer refused to meet him. On that occasion, the government intervened and the Labour Inspectorate subsequently closed the company down.

While the law regulates public demonstrations, it does not apply to private gatherings held indoors and by individual invitation. This type of gathering requires written permission which hinders trade unions' ability to operate freely and recruit new members or conduct their activities in the workplace.

Strikes are often suppressed. In July 2007 a striker was shot and three others were injured by security guards during a strike on improving the working conditions of the 4000 seasonal workers at a sugar cane plantation in Mafambisse. There are reports of other violent incidents against strikers sometimes including state forces violating the right to strike.

The new Labour Code provides for compulsory arbitration in cases of strikes in essential services. However the listing of essential services includes postal, meteorological and other services, which are not essential in the strict sense of the term.

For public servants the State promotes arbitration and governmental intervention as fundamental means to dispute resolution instead of collective bargaining.

The authority that can declare a strike illegal is not mentioned in the Labour Code and serious concerns are raised about the independence of this process.

The law allows for strikes in export processing zones to be conducted on the same basis as its provisions that regulate strikes in essential services, although services provided by the export processing zones are not essential. It is reported that in the Mozal export processing zone, unionists face discrimination and unfair dismissals for going on strike or for trying to organise. The OTM reports that collective agreements are not respected in Mozal. Up to now, there are not a large number of companies operating in Mozal.

### ***Conclusions***

***Although progress has recently been made with the enactment of the new Labour Code, the right to bargain collectively is under pressure since the authorities do not take adequate measures to require employers to respect collective agreements. Strikes are often suppressed and encounter violent reaction from the part of employers and sometimes the police. Anti-union discrimination remains a problem as sufficiently dissuasive sanctions have not been established, while trade unions' ability to operate freely is hindered due to the regulation the law applies to private gatherings.***

## **II. Discrimination and Equal Remuneration**

In 1977, Mozambique ratified both ILO Convention No. 100 on Equal Remuneration and ILO Convention No. 111 on Discrimination (Employment and Occupation).

Both the Constitution of Mozambique and the law prohibit discrimination against workers on the basis of gender and provides for every worker the right to receive equal salary and benefits for equal work. Mozambique's General State Statute provides for up to 70 days of maternity leave and prohibits discrimination on the grounds of pregnancy under the Labour Act of 1998.

However it is reported that both businesses and the State discriminate against women in terms of remuneration and employment. With regard to access to employment, women are three times less likely to be employed in the public and formal private sectors than men. Moreover women receive lower pay than men for the same work. According to the WEF Pay Gap report Mozambican women receive 72 percent of the salary of their male counterparts. Cases that are reported are punishable by law.

Sexual harassment is illegal and punishable with a maximum penalty of two years. However, sexual harassment is considered to be widespread in business and government. There exist no formal statistics on sexual harassment in the workplace but the media reported several cases of harassment during the year.

In general, there is a lack of adequate statistical information concerning labour issues disaggregated by sex.

The CEACR has stressed the need to take further measures to ensure that men and women have access to better paying jobs on an equal footing.

The government of Mozambique executes various income-generating projects for women in rural areas, undertaken in the context of a National Integrated Programme, and various small business training programmes, which include management training for income-generating activities. Additionally the government has taken steps to raise awareness of the availability of microcredit facilities in order to increase and improve self-employment of women.

The OTM states that in the Mozal export processing zone, the principle of equal pay for work of equal value is not respected with regard to remuneration of nationals and foreign workers.

Discrimination is common against persons with disabilities especially in employment, education and in access to public services.

The law prohibits discrimination against workers living with HIV/AIDS and the Ministry of Labour generally intervenes in cases of perceived discrimination by employers (law 5/2002). In 2008 the Ministry of Labour reported cases of more than 100 cases of workers being dismissed in the previous year for having HIV/AIDS. Reports also reveal that some employers oblige candidates to take HIV/AIDS detection tests before they employ them. However, law 5/2002 foresees significant sanctions in cases of companies that discriminate against HIV victims or subject their workers to compulsory tests for HIV. Cases that are reported are treated under that law.

### *Conclusions*

*Women receive lower pay than men for work of equal value. Persons living with HIV/AIDS face dismissals and disabled people are discriminated against.*

### **III. Child Labour**

In 2003, Mozambique ratified both ILO Convention No. 138 on the Minimum Age and Convention No. 182 on the Worst Forms of Child Labour.

The law prohibits child labour and sets the minimum working age at 18 years.

Education is compulsory but the law is insufficient since it does not set an age of completion of compulsory schooling and its enforcement is poor. In practice though, education is compulsory through to the 12th year of age; however the age of completion of compulsory schooling does not coincide with the minimum age for admission to employment or work, leading to the paradox of forced idleness for children between 12 and 15 years old. In 2008 UNICEF estimated that 94 percent of children were enrolled in school although the percentage of students completing their secondary education is less than 10 percent.

Persons between 15 and 18 years of age are allowed to perform “non-hazardous work” for a maximum of 38 hours per week and 7 hours per day. Non-hazardous occupations are considered those which pose no health risk or other danger for the working child, do not jeopardise the child’s moral and physical development and do not require significant physical effort. Persons between 12 and 15 years of age can perform “light work”, concerning which the above-mentioned limitations apply, in addition to employers’ obligations to acquire joint permission from the Ministries of Education, Health and Labour and the consent of the child’s representatives. However, according to the CEACR, there has never been a clarifying list of “non-hazardous” or “light work” occupations.

Children working legally in the above categories must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher. The law does not provide for children who are not covered by an employment relationship, such as children working on their own account.

While child labour is not reported in industrial sectors, it is common in practice that children are involved as seasonal labour in family farms, in herding livestock and in commercial cotton, tobacco and tea plantations paid on a piecework basis. Children also work as domestics, as beggars and are forced in prostitution and in bonded labour. It is a practice that in rural areas families send their children to work for periods of time to settle family debts. Children are asked to accompany elderly beggars or members of their family, and in some cases children of poor families are being ‘contracted’ to accompany other beggars, profiting from the money gained at the end of the day.

Although the law prohibits pornography and prostitution of persons under the 18 years of age and the Penal Code establishes penalties for sexual offences of persons under the age of 21, the exploitation of children continued and child prostitution remains a problem. According to an IOM 2003 assessment Mozambican girls and boys were the victims of selling and trafficking to South Africa for the purpose of sexual exploitation and farm working accordingly.

The Ministry of Labour monitors child labour and labour inspectors may obtain court orders and use police to enforce compliance with child labour provisions. However, the enforcement mechanisms lack necessary resources and manpower to fight against child labour and prostitution especially in the rural areas and in informal activities.

The Government undertakes public outreach efforts about the problems of child labour and prostitution. There have been police training programmes on child prostitution and pornography and there are 155 facilities to address the needs of child trafficking victims. Mozambique has a programme to combat child labour in agriculture, domestic work, street work, and commercial sexual exploitation.

### ***Conclusions***

***Although the government tries to monitor child labour, children work as seasonal labour in family farms and in commercial plantations. The number of cases of children forced in prostitution is alarming while many children work as domestics and beggars or under bonded labour status.***

### **IV. Forced Labour**

Mozambique ratified Convention No. 29 on Forced Labour in 2003, and Convention No. 105 on the Abolition of Forced Labour in 1977.

The law prohibits all forms of forced or compulsory labour and the government recently enacted the April 2008 Anti-trafficking Law which prohibits all forms of trafficking in persons providing for penalties of 16 to 20 years' imprisonment for recruitment or facilitation of exploitation of a person for the purposes of prostitution, forced labour, slavery, or involuntary debt servitude.

Mozambique does not fully comply with the ILO standards on prison labour and needs to update its legislation on the issue, although the government reports that this part of the legislation is not enforced in practice.

However forced and bonded labour exists in rural areas, often including children with the complicity of family members. There are few reports that such practices occurred in the formal economy. Most commonly, trafficking victims are children brought from rural areas to urban centres with promises of schooling and better opportunities, only to end up as forced labour - men and boys in cotton and sugar farms and ore mines and women and girls in domestic services or for sexual exploitation. Most of the victims (adults as well as children) are trafficked to South Africa while smaller

numbers are reportedly trafficked to Zambia mainly for agricultural labour. Trafficked Mozambicans often have to offer their labour for months in South African farms, mines and urban enterprises, without pay, so they are not reported to the police as illegal immigrants and deported. After having received promises for a better life, Mozambican women and girls are often assaulted on the way to South Africa before they are sold to brothels in Johannesburg or as “wives” to South African mine workers, thus becoming their sex slaves. The OTM reports that there have been cases of kidnapping of children for organs trade.

Mozambique is a destination country for Zimbabwean women and girls who are trafficked for sexual exploitation and domestic servitude.

Mozambican police have broken trafficking networks, arresting transporters and facilitators, but the traffickers behind the operations were never apprehended. In November 2007, the Labour Inspectorate discovered some 100 trafficked workers in a horticulture company working under conditions of forced labour. The company’s operations were suspended and its permission was repealed, but the Inspectorate did not file any criminal charges against the employers. Similarly in January 2008, policemen in Manica Province arrested a truck-driver carrying 39 children from rural areas to Maputo, apparently to enroll in Islamic schools. The OTM reports that the excuse of enrolling children to Islamic Schools was used in other cases as well, as in June 2008, when two Turkish nationals carried 17 children from their homes to enrol them in Islamic Schools when their purpose was to abuse them sexually.

There are few prosecutions or convictions for trafficking cases, but in 2008 the authorities set free 200 children being trafficked to South Africa.

The government has offered training programmes to officers on trafficking in persons and on recognition of trafficking victims.

### ***Conclusions***

***Forced and bonded labour is common in rural areas and little progress has been made, although the authorities have freed adults and children working under conditions of slavery. Human trafficking is a widespread problem.***

## Recommendations

1. The government should strengthen legislation to prevent anti-union discrimination with adequately dissuasive sanctions for those who violate the law.
2. Strikes in export processing zones should not be treated as strikes in essential services sectors. Furthermore the government's listing of "essential services" for which compulsory arbitration is imposed must be changed in order not to include postal, meteorological and other services that are not essential in the ILO's sense of the term.
3. The government should stop promoting arbitration and governmental intervention as means to dispute resolution as concerns its public servants, instead of collective bargaining. Furthermore it should name the authority that declares a strike illegal.
4. Measures need to be taken to enforce collective agreements and promote collective bargaining in the private sector.
5. The protection of workers against violent actions against strikers, from both private employers and public authorities, should be strengthened.
6. The government should ease its regulation of gatherings held indoors or by individual invitation so that the ability of trade union to function freely, recruit new members and promote their causes is not impeded.
7. The government should build up policies, design programmes and take additional measures in order for women to receive equal remuneration for work of equal value and to be more represented in senior positions. It must take immediate measures to reduce and eradicate sexual harassment in business and government agencies.
8. Statistical information concerning labour and other issues disaggregated by sex needs to be kept.
9. The government should take further measures to improve the access of people with disabilities to employment opportunities and to ensure there is no discrimination, such as dismissals, against persons living with HIV/AIDS.
10. A list of "non-hazardous" or "light work" occupations should be elaborated.
11. The government should take measures to dramatically increase the number of children graduating from secondary education.
12. In order to effectively fight against child labour and child prostitution the government should provide for resources and manpower to institutions concerned with these issues and concentrate its efforts on rural areas and informal activities.
13. The government should provide additional mechanisms that will monitor and fight against forced and bonded labour especially in rural areas. It will be necessary to take all necessary measures in cooperation with neighbouring countries and international agencies in order to deal with the alarming numbers of trafficked people.
14. The government should undertake education programmes with the public and its officials to implement effective penalties in cases of forced labour. Government agencies, such as the Labour Inspectorate, must systematically file criminal charges against those who use bonded and forced labour.



15. In line with the commitments accepted by Mozambique at the Singapore and Doha WTO Ministerial Conference and its obligations as a member of the ILO, the Government of Mozambique should provide regular reports to the WTO and the ILO on its legislative changes and implementation of all the core labour standards.

16. The WTO should draw to the attention of the authorities of Mozambique to the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. The WTO should request the ILO to intensify its work with the Government of Mozambique in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

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