

# **INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN THE PHILIPPINES**

## **REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE TRADE POLICIES OF THE PHILIPPINES**

**(Geneva, 5 and 7 July 2005)**

### **EXECUTIVE SUMMARY**

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

**The Philippines has ratified the core ILO Convention on freedom of association and the core Convention on collective bargaining. There are a significant number of legal restrictions, both for private and public employees, with regard to freedom of association, and in practice there are many obstacles to organising. Union organising is extremely restricted in the country's Special Economic Zones which produce for export. Collective bargaining in the public sector is severely limited. The right to strike is restricted for all workers, and banned outright for public sector workers.**

**The Philippines has ratified the core ILO Convention on Equal Remuneration as well as the Convention on Discrimination. Substantial differences exist between men and women in the labour market, including the predominant employment of women as labourers and unskilled workers and a higher unemployment rate.**

**The Philippines has ratified the core ILO Convention on the Worst Forms of Child Labour and the Convention on Minimum Age. Child labour is widespread in the Philippines, particularly in the countryside, and including the worst forms of child labour such as child prostitution, domestic work, drug trafficking, mining, hazardous work in agriculture and use of child soldiers by military groups. Most working children are employed in agriculture, farming, fishing and forestry and in markets.**

**The Philippines has ratified both Conventions on Forced Labour. However, trafficking of women and children for forced prostitution and work in the sex industry is a problem. Many children who are trafficked become victims of bonded labour and exploitative domestic work. Forced labour is prohibited, but some legal provisions allow for compulsory prison labour, which is not in line with the core ILO Conventions.**

\*\*\*\*\*

## **INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN THE PHILIPPINES**

### **Introduction**

This report on the respect of internationally recognised core labour standards in the Philippines is one of the series the ICFTU 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 ICFTU affiliate in the Philippines is the Trade Union Congress of the Philippines (TUCP). Around 5% of the workforce is organised.

Agriculture accounted for 14.9% of GDP in the Philippines in 2002, with some 40% of the workforce employed in agriculture. The main products in agriculture are coconuts and rice. Other crops include bananas, pineapples and mangoes. Industry accounted for 31.6% of GDP, of which 22.9% was manufacturing. The leading exports are electronic goods (accounting for 65% of all exports) such as semi conductors and microcircuits, finished electrical machinery and garments. Services accounted for 53.5% of GDP.

Total exports amounted to US\$ 34,383 million in 2002, of which electronics/telecom accounted for US\$ 18,583 million, garments for US\$ 2,391 million, and manufactures for US\$ 31,181 million. Total exports of goods and services accounted for US\$ 37,439 million in 2002 (48.9% of GDP). Total imports accounted for US\$ 33,975 million in 2002, of which the most important items were food (US\$ 1,384 million), fuel and energy (US\$ 3,273 million), and capital goods (US\$ 13,532 million). Total imports of goods and services accounted for US\$ 38,295 million in 2002. Exports of goods and services, as a percentage of GDP was equal to.

The main export partners of the Philippines are Japan (20.1%), the US (17%), the Netherlands (9%) and Hong Kong (6.7%). Imports mainly come from Japan (18.5%), the US (16.3%), Singapore (7.6%), Taiwan (7.3%) and China (6.3%).

The textiles and clothing sector in the Philippines is likely to be affected by the quota phase out due to the expiry of the WTO Agreement on Textiles and Clothing (ATC) at the end of 2004. The value of textiles exports accounted for US\$273 million in 2003, which was 0.7% of total merchandise exports. The value of clothing exports accounted for US\$2.695 billion in 2003, equal to 7.4% of total merchandise exports. According to the ITGLWF some 120,000 jobs are at

risk in the Philippines, and the government has exempted the garment sector from the country's minimum wage legislation in order to compete on international markets.

The Philippines is negotiating bilateral trade agreements with Japan (covering issues such as access for health care workers, agricultural market access and investment), the US and China. The Philippines is a member of ASEAN, the Association of South East Asian Nations and of APEC, the Asia Pacific Economic Cooperation forum.

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

The Philippines ratified 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 in 1953.

All workers have the right to form and join trade unions, including public sector employees, except for the police and military. However, restrictions on organising exist. A union must represent at least 20% of the workers of a given collective bargaining entity in order to register. A high membership quota (at least 10 trade unions) is required for the establishment of a national centre or trade union federation. Furthermore, the freedom of workers to elect their own representatives is restricted by the requirement that trade union leaders must be employed in the same enterprise as the workers they represent.

Unfair labour practices are dealt with by the National Labour Relations Commission (NLRC). However, the right to organise is undermined in practice, in particular in the Special Economic Zones (see below).

Workers have the right to collective bargaining and some 15% of unionised workers are estimated to be covered by collective bargaining agreements. Public sector workers have limited bargaining rights.

Workers have the right to strike but a strike notice is mandatory. Cooling off periods are mandatory as well. The Minister of Labour and Employment can intervene in a strike if the industry in which the strike takes place is classified as vital for national security through compulsory arbitration. Severe penalties are applied for participation in illegal strikes and trade union leaders risk up to three years of imprisonment. Strikes are banned in the public sector.

In practice the mandatory strike notice provides employers with time to organise reprisals and division among workers. Moreover, the government tends to favour the employers in labour disputes.

Labour legislation does apply in Special Economic Zones, where production for exports takes place. However, the Department of Labour and Employment has not enforced labour legislation in SEZs effectively. In practice union organising in these zones is difficult, and employers use several measures to keep trade unions, and trade union representatives, out of the zones. Employers commonly refuse to recognise trade unions or to negotiate with trade unions.

The officials who govern the zones try to block organising and claim they have the right to carry out their own labour inspections. Workers who try to form trade unions have been dismissed in many cases, or threatened with dismissal.

The 96 SEZs account for 80% of the total exports of the Philippines (2002), providing some 328,000 jobs in 2002. The electronics industry accounts for 60% of the production in SEZs, the electrical sector accounts for 13.8%, car parts for 7.4%, precision and optical instruments for 2.2%, textiles and clothing for 1.3% and information technology for 1%. Wages are low (only one third of the employers pay above the minimum wage), working hours long and production rates very high. Textiles and clothing production have particular pressure on working time due to seasonal production. Overtime work is the norm rather than the exception, and factory gates are often closed, forcing workers to finish orders. Overtime can lead to working hours of between 14 and 16 hours per day, up till 2 am, with only a one-hour break during the day. Workers who refuse overtime are dismissed. In one company there are reports of management distributing amphetamines for workers on the night shift to prevent them from falling asleep. In another company a card access system for toilet visits is used, with 110 workers sharing a card that gives access to the toilet. Such practices have led to urine and kidney infections among workers. Most industries in the zones face threats of relocation, in particular to China, which makes it difficult to organise workers.

One example of employers' anti-union behaviour is provided by Toyota Motor Philippines Corporation (TMPC) which has refused to negotiate with the trade union in its company (TMPCWA) since its inception. It refused to reinstate 233 workers who were dismissed in 2001 for taking part in peaceful protest. In September 2003 the Supreme Court removed any legal argument the employer had not to negotiate with the union. However, the company has not begun to engage in collective bargaining with the TMPCWA and has been seeking to have the Supreme Court's decision reversed.

Another case is that of the Lepanto Consolidated Mining Corp., which in 2003 fired the leaders of two unions as well as 40 union officials, when they staged a month long strike in February. The strike was called in protest at compulsory holiday work, reporting time for underground workers and the hiring of casual instead of formal workers. Another 700 miners were threatened to be dismissed if they did not return to work, and the company posted advertisements for 600 new workers. Eventually, however, they backed down on the threat and the miners returned to work.

Violence is often used when there are strikes, as in October 2004, after a deadlock in negotiations for a collective agreement at the Hacienda Luisita Sugar Mill and Plantation, workers went on a strike for better wages and to protest at the dismissal of 327 farm workers belonging to the United Luisita Workers' Union (ULWU). The workers also called for land redistribution and improvement of their poor social conditions. The strike was responded to with police and army violence, killing 14 people and severely injuring another 35. Among those killed were two children of 2 and 5 years old.

In order to intensify and broaden social dialogue intended to address problems of productivity, competitiveness, industrial peace, and compliance with and improvements on

labour and social standards, a “Social Accord for Industrial Peace and Stability” was agreed on 4 October 2004 between the Employers Confederation of the Philippines (ECOP), Trade Union Congress of the Philippines (TUCP), Federation of Free Workers (FFW), Trade Unions and Allied Services (TUPAS), and the Department of Labor and Employment (DOLE). A tripartite Assistance and Supervising Committee was created as a monitoring committee to ensure compliance with the Accord. The Committee is authorised to provide preventive measures in cases of possible job displacement and destabilisation of industrial peace.

### ***Conclusions***

*Workers have the right to organise, but this right is restricted and in practice often undermined by employers. Workers have the right to collective bargaining and the right to strike but the right to strike is very limited, and workers risk imprisonment for taking part in illegal strikes. Trade union rights are severely violated in the Special Economic Zones, where production for exports takes place, leading to deficits in safety and health provisions and to forced overtime.*

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

The Philippines ratified Convention No. 100 on Equal Remuneration in 1953, and Convention No. 111 on Discrimination (Employment and Occupation) in 1960.

Section 5(a) of the 1990 Rules implementing Republic Act No. 6725 defines work of equal value to be “activities, jobs, tasks, duties or services which are identical or substantially identical”. This is not in line with the Convention on Equal Remuneration, as it restricts the application of the principle of equal remuneration for men and women workers only to jobs which are essentially the same. An amendment has been proposed to section 135(a) of the Labour Code which would provide for equal remuneration for men and women “for work of equal value whether the work or tasks are the same or of different nature”.

Some projects have been undertaken to inspect and promote the principles of the Convention on Equal Remuneration. A Statistical Performance and Reporting System (SPRS), to investigate violations of standards affecting women workers, has led to reports of 177 establishments where non-compliance with general labour standards and other policies affecting women workers was found, including the non-payment or underpayment of maternity benefits. Furthermore, as follow up to the study “Discrimination in the workplace in metro Manila”, recommendations are being implemented to promote women into higher paying jobs not traditionally held by women, through training, grants or scholarships.

Measures that the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has suggested in its 2004 Direct Request include an analysis of collective agreements, providing information on the criteria and methods used by workers’ and employers’ organisations to determine job classifications and their corresponding wage scales

without discrimination based on sex as well as information on the numbers of men and women covered by the agreement and their distribution at different wage levels. The Department of Labour and Employment was also asked to develop appropriate methods to promote an objective appraisal of jobs on the basis of the work to be performed.

Section 135 of the Labour Code states that “favouring a male employee over a female employee with respect to promotion, training opportunities, study and scholarship grants solely on account of their sex is unlawful discrimination.” However, this does not include non-discrimination in hiring, and is therefore not in line with the Convention.

Statistics collected by the Department of Labour and Employment in 2004 show that women continue to be predominantly employed as labourers and unskilled workers and mostly concentrated in wholesale, and retail trade (29.5%), followed by agriculture (21.5%), manufacturing (11.5%) and private households (11.2%). Although many new jobs in manufacturing are taken by women, unemployment among women continues to be higher than among men, with an unemployment rate for women of 12.4% in 2004 compared to 10.4% for men. The labour force participation rate was 47.2% for women in 2004 compared to 82.9% for men. The literacy rate for women was equal to 92.7% in 2000, compared to 92.5% for men.

Sexual harassment is common in the Philippines, in particular in the Special Economic Zones, where women are employed on short-term contracts. Victims of sexual harassment are therefore reluctant to file complaints, out of fear not to have their contract renewed.

### **Conclusions**

*Discrimination in employment and wages of women is common in the Philippines. Women are predominantly employed as labourers and unskilled workers. Wage inequalities exist, and unemployment among women is higher than among men. Sexual harassment is a problem as well.*

### **III. Child Labour**

The Philippines ratified Convention No. 138, the Minimum Age Convention in 1998, and Convention No. 182, the Worst Forms of Child Labour Convention in 2000.

Education for children is compulsory from 6 to 12 years of age. However, the minimum age for employment is 15 years. Children between 15 and 18 are not allowed to be employed in dangerous or hazardous work. Children under 15 may however work directly under the sole responsibility of their parents or guardian. Children below 16 may be employed in light work.

Child labour is a problem in the Philippines. Many children are employed in the informal economy, both in rural and urban areas. A 2001 survey of children in the 5-17 age group showed that 4 million (16.2%) of the children in this group were economically active. In the 5-9 age group, 246,000 children (6.1%) were working; in the 10-14 years group 1.9 million children

(48.1%) were working, and in the 15-17 years group 1.8 million children (45.7%) were working. 70% of the working children lived in rural areas, and more boys worked than girls, 63.4% compared to 36.6% for girls. Of the working children 65.9% attended school. Almost two third of the working children worked as labourers and unskilled workers such as shop and market sales, farming, forestry and fishing. Of those employed in industry (6.6%) 70 % were engaged in manufacturing. 58.5% of the working children were employed in agriculture, hunting and forestry. 58.8% of working children were unpaid family workers and two thirds worked in seasonal jobs or on a short term basis. With regard to working hours, 51.2% worked 1 to 4 hours per day, 37.3% worked 5-8 hours a day and 8.7% worked more than 8 hours per day. Three out of five children were exposed to a hazardous environment, including physical and chemical hazards. Most children working in agriculture were engaged in crop cultivation, including planting, weeding, and harvesting, and 23% were involved in spraying pesticides. ILO and Unicef studies estimate that 2 million children were engaged in hazardous work such as mining and on docksides. There were an estimated 200,000 street children with some of them engaged in drug trafficking.

The ILO undertook a study in 2002 which looked at the use of children in illegal drug trafficking in Cebu City. An estimated 1,300 children were involved in drug trade in Cebu City, with a majority starting between 14 and 16 years, but some as young as 12. Most children were runners, with others being engaged in posting, repacking, cleaning or as lookouts. Most were drug users themselves. They were often involved in drug related activities for over 8 hours per day.

Numerous children under 18 take part in armed conflicts. The New People's Army (NPA) includes 9,000-10,000 regular child soldiers but other military groups recruit child soldiers as well (such as the Citizens Armed Force Geographical Units and the Moro Islamic Liberation Front). Recruitment of child soldiers is liable to 20 years imprisonment and a minimum fine of 2,000 pesos.

A Time Bound Programme (TBP) was launched in June 2002, with the assistance of ILO/IPEC in order to reduce the worst forms of child labour by 75% by 2015. The priority groups are children engaged in prostitution, mining, quarrying, domestic service, pyrotechnics, deep-sea fishing and agriculture. The TBP includes prevention of the worst forms of child labour through awareness raising campaigns and access to free basic education; the removal of children from the worst forms of child labour, with a focus on the tobacco industry, quarries, sexual exploitation and trafficking; and identifying children at risk, for example in deep-sea fishing and drug trafficking.

## **Conclusions**

*Child labour is common in the Philippines, with an estimated 4 million children between 5 and 17 years economically active. Children are mainly employed in agriculture and as shop and market sales workers. The worst forms of child labour exist in the Philippines, including children engaged in prostitution, drug trafficking, hazardous work, mining, and child soldiers.*

#### **IV. Forced Labour**

The Philippines ratified Convention No. 29, the Forced Labour Convention, on 17 May 2005. The Philippines ratified Convention No. 105, the Abolition of Forced Labour Convention, in 1960.

Forced labour is prohibited in the Philippines, including forced labour by children. However, in practice there are reports of forced labour.

Many children are recruited as domestic workers in exchange for loans to their families, which they have to repay through domestic work. Furthermore, women and children are trafficked for the purpose of forced prostitution or forced labour both within the Philippines as well as to other countries.

The law provides for imprisonment and the use of forced or compulsory labour to be imposed upon persons who write or speak against the government. This is not in line with Convention No. 105 which prohibits the use of forced or compulsory labour as a means of political coercion or education or as punishment for holding or expressing political views ideologically opposed to the established political, social or economic system.

Furthermore, participation in an illegal strike in an industry defined as indispensable to the national interest is punishable by imprisonment, which involves an obligation to perform labour. This is not in line with the Convention. The General Survey on the abolition of forced labour points out that any compulsory arbitration enforceable with penalties involving compulsory labour must be limited to services whose interruption would endanger the life, personal safety or health of the whole or part of the population. An amendment to this Bill has been pending.

#### **Conclusions**

*Forced labour is prohibited but does occur in the Philippines. Women and children are trafficked for the purpose of forced prostitution and forced labour. Some legal provisions for imposing compulsory prison labour are not in line with the Convention.*



### ***Final Conclusions and Recommendations***

1. Given the serious problems with regard to the right to organise, the government should take measures to ensure the effective use of the right to organise, the enforcement of labour legislation and the increase in penalties for unfair dismissal. Particular efforts have to be made in the Special Economic Zones, where union representatives require strong protections to enable them to have due access to the zones in accordance with the law. Other problems such as the violation of occupational health and safety norms and illegal overtime requirements must also be addressed urgently.
2. The government should address, and where necessary remove, a number of restrictions with regard to the right to organise, the right to collective bargaining and the right to strike, such as lowering the requirement of 20% of the workers that is needed to form a trade union, the mandatory strike notice and the compulsory arbitration provisions. Workers in the public sector must be given the right to strike. The government must take measures to prevent the use of violence by the police against striking workers.
3. The ILO should work with the social partners to ensure the effective implementation of the Philippine National Plan of Action for Decent Work (PNPADW). Trade unions were instrumental in the formulation of the PNPADW, the main objective of which is to address decent work deficits in the areas of labour standards, employment, social protection, and social dialogue.
4. More effective measures have to be taken by the government to increase the participation of women in higher skilled and higher wage jobs, including through training and education.
5. The government has to make more efforts to ensure equal pay for work of equal value, since wage differences are significant, and should adopt the proposed amendment of section 135(a) of the Labour Code, to bring legislation in line with the Convention. The Labour Code must prohibit discrimination in the hiring of workers.
6. The government has to take more effective measures to end sexual harassment in the workplace.
7. Serious efforts have to be made to eliminate child labour, particularly the worst forms including child prostitution, domestic work, hazardous work, child soldiers, drug trafficking and mining. Continued cooperation with ILO/IPEC is necessary.
8. Legal provisions that are not in line with the ILO Conventions on Forced Labour with regard to compulsory prison labour should be amended.

9. The government should take measures to end the trafficking of women and girls for the purpose of forced prostitution.
10. In line with the commitments accepted by the Philippines at the Singapore and Doha WTO Ministerial Conferences and its obligations as a member of the ILO, the Government of the Philippines should therefore provide regular reports to the WTO and the ILO on its legislative changes and implementation of all the core labour standards.
11. The WTO should draw to the attention of the authorities of the Philippines 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 the Philippines in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

\*\*\*\*\*

## References

- ICFTU, *Annual Survey on Violations of Trade Union Rights, 2002-2004*
- ICFTU, Trade Union World Briefing, *Philippines: a union foothold in the export processing zones, 2003*
- ILO, Ratification of Core Labour Standards
- ILO, CEACR report 2003-2004
- ILO, IPEC, National Country Report, 2001, Survey on Children 5-17 Years Old
- ILO, IPEC, Rapid Assessment Report, *Children's involvement in the Production, Sale and Trafficking of Drugs in Cebu City, 2002*
- ILO, IPEC, Rapid Assessment Report, *Child Soldiers in Central and Western Mindanao, 2002*
- International Textile, Garment and Leather Workers' Federation (ITGLWF), various.
- Labour and Management in Development Journal, Volume 3, Number 2, 2002
- Philippines National Statistical Coordination Board,  
[http://www.ilo.org/public/english/employment/gems/eo/cover/phi\\_main.htm](http://www.ilo.org/public/english/employment/gems/eo/cover/phi_main.htm)
- UNICEF, website, The Philippines
- US Department of State, *human rights country report, 2003*
- World Bank country statistics

\*\*\*\*\*