

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN SINGAPORE

REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE TRADE POLICIES OF SINGAPORE

(Geneva, 24 and 26 July, 2012)

EXECUTIVE SUMMARY

Singapore has ratified five core ILO labour Conventions. In view of restrictions on the trade union rights of workers, discrimination and forced labour, further measures are needed to comply with the commitments Singapore accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO's Declaration on Fundamental Principles and Rights at Work and its 2008 Social Justice Declaration.

The right to organise and collective bargaining are provided by law and they are exercised in practice with some restrictions especially for migrant workers. The right to strike is recognised but restricted.

The law does not provide for the principle of equal remuneration for work of equal value but this principle is included in collective agreements. The scope of application of the Employment Act excludes both local and foreign domestic workers. Foreign domestic workers amount to some 200,000 in Singapore. The Employment of Foreign Manpower Act stipulates that foreign domestic servants' residence rights are linked to their employment contract, which renders foreign domestic workers vulnerable. Ethnic Malays and persons living with HIV/AIDS have also been reported to be victims of discrimination in employment.

The law regulates child labour and the authorities enforce the laws effectively.

Forced labour is prohibited by law and generally does not occur. However migrants can be vulnerable to conditions amounting to forced labour, especially debt bondage. Reports show that migrants are sometimes charged up the equivalent of 15 months' wages in recruitment fees.

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Introduction

This report on the respect of internationally recognised core labour standards in Singapore 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 and in the Declaration on Social Justice for a Fair Globalisation adopted unanimously by the ILO in 2008.

The ITUC affiliate in Singapore is the National Trades Union Congress (NTUC) which has a membership of about 639,000 persons covering various areas of employment in Singapore.

I. Freedom of Association and the Right to Collective Bargaining

Singapore has not ratified ILO Convention No. 87 on the Freedom of Association and Protection of the Right to Organise. It ratified Convention No. 98 on the Right to Organise and Collective Bargaining in 1965.

The law provides for the right to organise but with some restrictions. For a union to be legal, the Registrar needs to approve it. The Registrar can reject an application when a trade union already exists in an industry or occupation. The exercise of these powers could obstruct the establishment of a trade union and might result in a single-union structure. The Registrar has the power to reject unions' submissions for amendments of their rules and procedures if deemed unlawful, "oppressive or unreasonable." Moreover, despite the fact that Singapore has a large multinational workforce, which accounts for approximately one third of the total workforce, the Trade Unions Act bars any person "who is not a citizen of Singapore" from serving as a national or branch officer or being hired as an employee of a trade union unless prior written approval is received from the Minister.

Public employees do not have the right to organise but the President of Singapore has set exemptions which have allowed for the formation of the Amalgamated Union of Public Employees (AUPE) and 15 other public sector unions representing in total some 48,000 public sector employees. The scope of representation has been periodically widened over the years and virtually all public sector employees, except security forces and the most senior civil servants, have the right to join a union.

Employees are protected against anti-union discrimination. The Industrial Arbitration Court can order reinstatement and back pay for workers dismissed due to their trade union membership.

The right to collective bargaining is provided in law. However, union members do not have the power to accept or reject collective agreements negotiated on their behalf. Transfers and redundancy are excluded from the scope of collective bargaining although unions have the right to ask for the reasons behind a retrenchment and are not precluded from negotiating compensation for workers in such cases.

Most labour disputes are resolved through union-management negotiations, in the failure of which informal discussions are held with the Ministry of Manpower. If conciliation fails, the dispute can be submitted to the tripartite Industrial Arbitration Court. In rare occasions the law provides for a system of recourse to compulsory arbitration which can put an end to collective bargaining at the request of only one of the parties, although last time these provisions were invoked was in 2004.

In practice collective bargaining is used widely, particularly in the manufacturing sector. Collective bargaining agreements are renewed every two or three years, although increases in wages are negotiated on an annual basis. Guidelines for negotiations are recommended by the tripartite National Wages Council. The 2002 Industrial Relations Act stipulates that newly established companies can provide more favourable conditions than the minimum conditions in the Employment Act, although in practice this had already been the case.

Strikes are allowed except in the essential services of water, gas and electricity. Workers in other essential services have to give 14 days' notice to the employer. However, an absolute majority vote of all employees is required in order to call a strike, a requirement that is excessive by comparative international standards which more commonly would necessitate a simple majority vote. Union members who are employed in managerial positions within an enterprise are not allowed to strike. In practice the right to strike is rarely exercised: the traditional non-confrontational industrial relations and the government's restraint of industrial action have meant that there have been only two days of strike since 1978.

Summary

The right to organise and collective bargaining are provided by law and they are exercised in practice with some restrictions especially for migrant workers. The right to strike is recognised but restricted.

II. Discrimination and Equal Remuneration

Singapore has ratified Convention No. 100 on Equal Remuneration in 2002 but has not ratified Convention No. 111 on Discrimination (Employment and Occupation).

The Constitution of Singapore states that all persons are equal before the law and entitled to equal protection under the law. Although the Employment Act stipulates non-discrimination in recruitment, promotion and terms of employment, there is no specific reference to gender based discrimination. As a result the law fails to protect women from questions about their family status and plans during a job interview. However, the social partners have sought to discourage such questions through guidelines. Moreover, those who experience discrimination in finding a job can seek assistance from the Tripartite Alliance for Fair Employment Practices (TAFEP). TAFEP operates a centre and hotline for employees to file complaints.

Current legislation does not provide for the principle of equal remuneration for work of equal value. However, according to the Government the principle is entrenched through tripartite partnerships such as the Tripartite Declaration on Equal Remuneration for men and women performing work of equal value. Also, the Industrial Arbitration Court draws attention to the recommendation made by tripartite partners to include an equal pay clause in collective agreements submitted for certification. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) noted information from the government that as of May 2008 only 7 per cent of collective agreements had an equal remuneration clause.

There is no specific legal provision prohibiting sexual harassment at the workplace and such crimes are punished under the Miscellaneous Offenses Act and other laws.

About 60 per cent of women participate in the labour force and women face a gender pay gap of 13.7 per cent. Statistical data from the government show that the gender wage gap in the prime-working age of 35 to 39 is narrowest in the occupational groups of clerical and support workers (0.0 per cent), professionals (2.0 per cent) and associate professionals and technicians (2.6 per cent). It is widest in the occupational group of plant and machine operators (42.6 per cent). Women are underrepresented in senior and managerial level jobs as only 31 per cent of these positions are occupied by women. Women are overrepresented in low-wage jobs such as clerks and secretaries.

However with equal opportunities in education and positive action programmes such as encouraging women to take up careers in engineering and science, the numbers and status of working women are improving. Enrolment rates are almost equal for boys and girls, and the number of girls enrolling for tertiary education is increasing.

The scope of application of the Employment Act excludes both local and foreign domestic workers. Foreign domestic workers amount to some 200,000 in Singapore. The Employment of Foreign Manpower Act stipulates that foreign domestic servants'

residence rights are linked to their employment contract. In practice this means that if an employer cancels the employment contract, the foreign domestic worker is subject to deportation procedures. The law does not effectively protect foreign domestic workers and some employers threaten foreign domestic workers with denouncing their employment contract in order to force them into long hours, restrict their movement and impose other illegal working conditions.

Under the Employment of Foreign Manpower (Work Passes) Regulations, the government imposes conditions for granting work passes that require all employers to look after the well-being of the migrant workers they employ, including foreign domestic workers. Such conditions include personal safety, proper accommodation, adequate rest, prompt salary payment and provision of medical treatment. Employers who infringe these conditions can be fined up to S\$5,000 or face a jail term of 6 months or both. The penalties are expected to be doubled following the current review of the Employment of Foreign Manpower Act. The authorities interview randomly-selected foreign domestic workers working for the first time in Singapore during their initial months of employment and maintains a dedicated helpline, access to which is explained during the Settling-in Programme which these workers are required to follow (at their employer's cost) when they arrive in Singapore.

The Employment Agencies Act was amended on April 2011 to establish a maximum recruitment fee equal to two months salaries for a two-year contract. In cases where the contract is prematurely terminated, the employment agency needs to refund the worker half of the charges.

The government has issued a standard contract for foreign domestic workers which protects some basic rights but omits issues of working conditions, working time. As a result, the worker needs to negotiate with the employer matters like vacation, sick leave and rest time. In March 2012, the government decided to grant domestic workers a weekly rest day and this measure will come into effect for contracts signed after January 2013. The employer and the worker might also agree to give away the rest day for additional compensation. This provision bears a great risk of abuse from employers. The standardised contract also includes discriminatory provisions stipulating that a domestic worker can be deported if she becomes pregnant unless she is already married to a Singaporean national or Permanent Resident with prior approval from the authorities.

In practice, foreign domestic workers have little opportunity to organise to defend their rights or demand improvements in their conditions of work. According to data from embassies and shelters, in 2010 some 4,000 foreign maids ran away from their employers.

The government has achieved convictions of employers and recruiters who abuse labour rights of foreign domestic workers, physically abuse workers or subject workers to dangerous conditions.

The NTUC advocates in favour of foreign domestic workers' rights through its Migrant Workers' Forum. Together with the Singapore National Employers' Federation, the NTUC established the Migrant Workers Centre in 2009 which provides shelter, legal assistance and meals to hundreds of abused workers every year. The Centre promotes equitable employment practices and awareness of migrant workers' employment rights. It also provides for social integration through social support networks.

There is no law protecting disabled persons from discrimination in employment but a legal provision mandates building accessibility. In this regard the tripartite social partners have agreed to a promotional rather than a legal approach. A government programme provides tax incentives to employers in order to make workplaces accessible by physically disabled persons. The authorities also provide training to disabled persons.

The Constitution mandates the government to take measures to promote the interests of the indigenous Malay population which account for 13 per cent of the population. However, there is no law that comprehensively protects workers from discrimination in employment on the grounds of ethnic origin. Instead, government guidelines stipulate that employment recruitment advertisements should not refer to ethnicity as well as age and gender as qualities for hiring. As the Malays have lower education levels they are overrepresented in low skilled and low paid employment sectors. Ethnic Indians also report discrimination in employment.

Homosexuality is criminalised in Singapore but the government has stated that it will not actively enforce this prohibition. There are no reports of discrimination in employment against lesbian, gay, bisexual and transgendered (LGBTs) individuals.

There is no law prohibiting compulsory HIV testing or discrimination on the grounds of HIV status at the workplace and reports show that persons living with HIV/AIDS face discrimination in employment and other aspects of life. Entry is denied to HIV-positive people and foreigners diagnosed with AIDS can be deported. The regulations require HIV testing for persons who move to Singapore to work. The government has public awareness campaigns to prevent discrimination against persons living with HIV/AIDS. The government has also worked with the Singapore National Employers' Federation to produce guidelines for HIV/AIDS programmes at the workplace. These stipulate that employers have a duty to maintain confidentiality about the affected employee's condition. Employees who experience discrimination at work can seek assistance from TAFEP.

Summary

The law does not provide for the principle of equal remuneration for work of equal value but this principle is included in collective agreements. The scope of application of the Employment Act excludes both local and foreign domestic workers. Foreign domestic workers amount to some 200,000 in Singapore. The Employment of Foreign Manpower Act stipulates that foreign domestic servants' residence rights are linked to their employment contract, which renders foreign domestic workers vulnerable. Ethnic Malays and persons living with HIV/AIDS have also been reported to be victims of discrimination in employment.

III. Child Labour

Singapore ratified Convention No. 138, the Minimum Age Convention in 2005 and Convention No. 182, the Worst Forms of Child Labour Convention in 2001.

The Employment Act establishes the minimum age for admission to employment at 15 years of age. Children below the age of 15 may be employed in an industrial undertaking in which only members of the same family are employed. The Act stipulates that every employer shall prepare and keep a register of each employee including underage workers. Employers who employ young persons in industrial undertakings are required to notify it to the authorities. However, the Employment Act only applies to work performed under the terms of a contract. Consequently, self-employed persons are not covered by the Act's scope.

The 2006 Workplace Safety and Health Act (replacing the Factories Act) contains specific provisions for the protection of young workers. For example, no person under the age of 20 is allowed to manipulate, adjust or lubricate dangerous machinery; and no person under the age of 18 is allowed to operate equipment for raising or lowering a suspended scaffold, operate any lifting machine by mechanical power, be designated as a lift attendant in the construction industry or shipyard, work in any blasting chamber, work with asbestos or benzene.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEARC) has asked Singapore to strengthen legal provisions forbidding the use, procuring or offering of a child for the production of pornography as well as for begging in order to be fully in line with ILO Convention No. 182.

The Ministry of Manpower enforces the laws and regulations relative to child labour effectively. As a result the incidence of children taking up permanent employment is low, and abuses rare.

The government has achieved the elimination of child labour through its substantial investment in education. Primary education was made compulsory since January 2003 under the Compulsory Education Act, and there has been a substantial increase in literacy. Education is not free but students only pay a small amount of miscellaneous fees which range from S\$5.50 to S\$11 per month, with financial assistance available for families facing financial difficulties.

Summary

The law regulates child labour and the authorities enforce the laws effectively.

IV. Forced Labour

Singapore ratified Convention No. 29, the Forced Labour Convention in 1965. Singapore initially ratified Convention No. 105, the Abolition of Forced Labour in 1957 but then denounced it in 1979.

Forced labour is prohibited by law, including forced labour by children. Trafficking in persons is prohibited by the Penal Code and Women's Charter and punishable by up to 5 years imprisonment or 10 years under the Penal Code's "wrongful constraint" provision. However, the law does not include debt bondage or threats as evidence of trafficking and the term 'trafficking' is interpreted only as illegal transportation or movement of women and girls. Men are not protected against forced prostitution.

For many years the ILO CEACR has been criticising sections 3, 13 and 16 of the Destitute Persons Act of 1989, which state that any destitute person may be placed in a welfare home and assigned suitable work subject to penal sanctions, as not being in compliance with the ILO Convention on Forced Labour. Although the government indicated that in practice destitute persons are not compelled to work, arguing that they are only assigned chores after they have given their written consent and are paid an allowance, in 2012 the CEACR has reiterated its request to put the current legislation into conformity with ILO Convention No. 29 so as to ensure compliance both in law and practice.

Singapore has about 1.1 million foreign workers, constituting about a third of the total workforce of the country. Reports show that many foreign workers are heavily indebted to recruitment agencies when arriving in Singapore for employment. Sometimes foreign workers are assigned to jobs they did not accept before departing and there are reports of travel documents confiscation and withholding of payments that indicate forced labour. To ensure that foreign workers are better informed of their employment terms before they arrive in Singapore, in June 2011 the government enhanced the In-Principle Approval (IPA) which serves as the visa to enter Singapore. The IPA contains all the essential information such as name of employer, occupation of the worker and salary. If the actual terms of employment differ from those stated in the IPA, the worker can lodge a complaint and follow up enforcement action can be taken if need be.

A 2010 report found that the recruiting agents charge Bangladeshi migrants between US\$8,000 to US\$10,000 which is equivalent to almost 15 months of their wages. Other reports quoted in the US Department of State Human Rights Report find that on average "*Indian, Bangladeshi, and Chinese migrant workers in Singapore, paid fees to employment agencies that constitute at least 10 months of their potential earnings*". Some agencies disguise the recruitment fees as personal loans or other payments. Moreover, the sponsorship system of migration of Singapore leaves foreign workers vulnerable to employers' abuses because the worker can be deported if their employer chooses to terminate their employment contract.

There are reports of foreign workers being forced into prostitution and forced labour in fishing vessels. The government has not enforced its laws on boats that dock in its ports on the grounds that the victims are foreigners, the boats belong to other countries and that the alleged crimes might be taking place in high seas. Nonetheless, Singapore has rendered assistance in such cases by providing the facts of cases and details of the agents to foreign embassies of relevant flag states and source countries for their action.

In 2011, the government convicted four criminals for human trafficking for the purpose of forced prostitution. There was no other reported case of forced labour. Although inspectors reported confiscations of travel documents, they did not refer these crimes to the police for further investigation.

The government funds shelters for trafficking victims, including for children, which provide housing and social services. In 2011 the authorities reported 182 victims - 58 for sex trafficking and 124 for forced labour – and provided assistance to many of them.

Summary

Forced labour is prohibited by law and generally does not occur. However migrants can be vulnerable to conditions amounting to forced labour, especially debt bondage. Reports show that migrants are sometimes charged up the equivalent of 15 months' wages in recruitment fees.

Recommendations

1. The government should ratify ILO Conventions No. 87 on Freedom of Association and Protection of the Right to Organise, No. 111 on Discrimination (Employment and Occupation) and the denounced No. 105, Abolition of Forced Labour.
2. The broad powers of the Registrar to approve or reject the registration of unions and unions' submissions for amendments of their rules and procedures should be limited.
3. The Trade Unions Act should be amended so as to allow foreign workers equal rights with Singapore nationals in serving as a national or branch officer or be hired as an employee of a trade union.
4. The law should allow public employees full rights to organise.
5. Transfers and lay-offs should be included within the scope of collective bargaining.
6. The requirement of an absolute majority vote in order to call a strike should be replaced by lower requirements such as a simple majority vote.
7. A comprehensive law that prohibits gender based discrimination and that stipulates the principle of equal remuneration for work of equal value should be enacted.
8. The government should enact a specific law that prohibits sexual harassment at the workplace and establishes penalties and complaints procedures.
9. The Employment Act's scope of application should be amended so to include domestic workers in its scope of application. It should include caps on payments for training which are currently borne by foreign domestic workers.
10. The standardised contract for foreign domestic workers should include issues of working conditions, working time, vacation, sick leave and rest time. Any discriminatory provisions on maternity, pregnancy and marriage should be removed.
11. The government should enact comprehensive laws to prohibit and criminalise discrimination in employment on grounds of disability, ethnic origin, sexual orientation and HIV/AIDS status. Discriminatory provisions against persons living with HIV/AIDS should be removed.
12. The Employment Act should be extended so to cover the self-employed, such that laws including those on prevention of child labour extend to that category.
13. The government should amend the laws that prohibit trafficking and forced labour in order to include debt bondage or threats as evidence of trafficking and define the term 'trafficking' according to internationally agreed standards.
14. The provisions of the Destitute Persons Act of 1989 which infringe international labour standards on forced labour should be amended as indicated by the ILO CEACR.

15. The sponsorship system should be brought in line with international standards and foreign workers with work permits should have the freedom to change employers without losing their residence and work permits.
16. The law enforcers need to step up efforts against forced prostitution.
17. The authorities should enforce national laws on foreign vessels that dock in Singaporean ports.
18. The WTO should draw the attention of the Singaporean authorities to the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. It should request that the ILO intensify its work with the Government of Singapore 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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