



State Public Services Federation
Group

CPSU-SPSF **Supplementary** Submission

to

the Department of Foreign Affairs and Trade

on

a possible Free Trade Agreement between Australia
and India

20 September, 2011

We are writing this supplementary submission following the release of the International Trade Union confederation's (ITUC) report for the WTO General Council Review of the Trade Policies of India on internationally recognised core labour standards in India released on 14 September 2011.

The report finds that the rights to organise, collective bargaining and strike are restricted both in law and in practice and that thousands of detentions and arrests are reported every year. The report reveals also that the situation is graver in Export Processing Zones, where organising is even more difficult.

*The law does not sufficiently protect children from forms of labour that are illegal under Conventions No. 138 and No. 182. The report finds that even these laws are not well-enforced and child labour, including its worst forms, is prevalent throughout India. Furthermore, forced labour and trafficking in human beings are prevalent in agriculture, mining and commercial sexual exploitation.*¹

For the full ITUC report, please see: <http://www.ituc-csi.org/internationally-recognised-core,9698.html>

We write now to supplement the comments made in our original submission under the heading **Some specific concerns about the proposed Australia – India agreement.**

India has ratified only four core ILO Labour Conventions:

- No 100 on Equal Remuneration
- No 111 on Discrimination (Employment and Occupation)
- No 29 on Forced Labour
- No 105 the Abolition of Forced Labour

In spite of the ratification of conventions 100 and 111 in 1958 and 1960 respectively and other provisions in the Constitution, there is still widespread discrimination in employment and a sizeable gender pay gap with women earning on average about one third of men's income.

Other groups experiencing discrimination and often exclusion from employment include 'low caste' members, indigenous people, and people with disabilities, homosexuals and HIV/AIDS sufferers.²

India ratified conventions 29 and 105 in 1954 and 200 respectively and there is a number of laws and monitoring committees which are supposed to ensure enforcement. In practice however forced and bonded labour continue, particularly in agriculture, mining, sex trafficking, construction. Law enforcement is inconsistent and ineffective partly due to the level of police involvement and a tendency for the practices to be tolerated by society.³

India has **NOT** ratified the following ILO Conventions:

¹ ITUC Online, 166/140911 *India: Workers' Rights Require More Attention*

² International Trade Union Confederation (ITUC), *Internationally Recognised Core Labour Standards In India. Report for The WTO General Council Review Of The Trade Policies Of India* (Geneva, 14 And 16 September, 2011) pp 6-7

³ ITUC p10

- No 87 on Freedom of Association and Protection of the Right to Organise
- No 98 on the Right to Organise and Collective Bargaining
- No 138 on the Minimum Age
- No 182 on the Worst Forms of Child Labour

While in India there is the right to establish and join trade unions, this right is not well protected in practice and public sector workers have limited rights to organise and no right to strike. In some states participation in strikes can result in imprisonment and fines.

The rights to organise, collective bargaining and strike are severely restricted both in law and in practice. The authorities do not always respect the right to peaceful assembly and thousands of detentions and arrests are reported every year. Anti-union discrimination is commonplace and many workers have faced threats and violence in their effort to unionise or call a strike. In export processing zones, organising is even more difficult than elsewhere.⁴

Although the Worst Forms of Child Labour Convention (No 182) sets the minimum age for hazardous work at 18, the Constitution allows for the minimum age for such work to be 14 years old. Other legislations do provide for protection of children, the age at which they can work and the hours per day they can work, but

In practice, child labour is a widespread problem in India due to the prevalence of extreme poverty in many areas, low law enforcing capacity, the absence of universal free education and tolerant societal norms.⁵

Forced child labour is widespread in agriculture, mining and construction, domestic servitude, the garment industry with between half a million and over a million children estimated to be forced into prostitution. ⁶

The report concludes with 21 Recommendations. Number 21 urges the WTO to take action on the issue:

The WTO should draw the attention of the Indian 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 India in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.⁷

We believe that it is also the responsibility of any country entering into a trade/economic cooperation agreement with India to ensure the inclusion of binding clauses ensuring compliance with the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work.

⁴ITUC p5

⁵ ITUC p8

⁶ ITUC p9

⁷ ITUC p13

We reaffirm our position that in the event of a free trade or economic cooperation agreement between Australian and India, both countries must commit to the implementation of these agreed international standards on labour rights.

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