

# INTERNATIONAL union rights

Volume 12 Issue 4 2005

INTERNATIONAL CENTRE  
FOR TRADE UNION RIGHTS

CENTRO INTERNACIONAL  
PARA LOS DERECHOS  
SINDICALES

CENTRE INTERNATIONAL  
POUR LES DROITS  
SYNDICAUX



## Sex workers organising

# Volume 12 Issue 4 2005

Journal of the International Centre for Trade Union Rights  
● Centro Internacional para los Derechos Sindicales  
● Centre International pour les Droits Syndicaux

## INTERNATIONAL union rights

Editor  
Daniel Blackburn

Guest Editor  
Ashwini Sukthankar

Deputy Editor  
Steve Gibbons

Editorial Board  
Roy Adams, David Bacon, David Doorey, Dan Gallin, Colin Fenwick, John Hendy QC, Carolyn Jones *Chair*, Eric Lee, Jill Murray, Rory O'Neill, Tom Sibley, Nora Wintour, Charles Woolfson, Nick Wright

Legal Editor  
Professor Keith Ewing

ICTUR International Head Office  
UCATT House  
177 Abbeville Road  
London SW4 9RL  
020 7498 4700  
Fax 020 7498 0611  
e-mail [mail@ictur.org](mailto:mail@ictur.org)  
web site [www.ictur.org](http://www.ictur.org)

ICTUR President  
Sharan Burrow

Vice Presidents  
Mordy Bromberg SC, Fathi El-Fadl, Professor Keith Ewing, John Hendy QC, Jeffrey Sack QC, Jitendra Sharma, Hassan A Sunmonu

Director  
Daniel Blackburn

Colombia/Latin America Coordinator  
Miguel Puerto

Subscriptions  
Four issues: £20/US\$40/C30  
Cheques should be made payable to *IUR* and sent to ICTUR International Head Office, UCATT House, 177 Abbeville Road, London SW4 9RL, UK

Printed by Upstream, London

INTERNATIONAL union rights  
ISSN 1018-5909

## CONTENTS

- 2 EDITORIAL: The unionisation of sex workers
- FOCUS: SEX WORKERS ORGANISING
- 3 Violence against sex workers and the role of unions  
Elena Reynaga
- 5 Unionising sex workers in the context of regulation  
Marianne Jonker
- 6 Sex worker organising in south east Asia and USAID  
Womyn's Agenda for Change & Women's Network for Unity
- 8 Sex work: European legal frameworks  
Ashwini Sukthankar
- 10 Sex workers of the world unite!  
Ana Lopes
- 12 Streetwalkers show the way  
Nandinee Bandyopadhyay
- ICTUR IN ACTION
- 14 Interventions: China; Djibouti; France; Ethiopia; Guatemala; Indonesia; Iran; Macedonia; Mauritania; Mexico; Russia; Thailand; Turkey; Zimbabwe
- 16 ICTUR map a hit at Canadian union school; Bulgarian jurists look at ILO standards; Defending trade union rights – legal action centres; British trade union education; Iraq; Australia – ICTUR lawyers defend union rights
- REPORT
- 17 Collective bargaining ban under scrutiny  
Ashwini Sukthankar
- FOCUS
- 18 Sex workers in Spain  
Carmen Bravo
- 20 An anti-trafficking framework is not enough  
Irina Alkhovka
- 22 Scarlet Alliance  
Ashwini Sukthankar
- REPORT
- 24 Colombia: labour rights in the oil sector  
Daniel Blackburn
- 26 WORLDWIDE: Americas; Australia; Burma/Myanmar; Europe; Global; ILO/Colombia; India; Labour standards; Social auditing; Solidarity action; USA/ATCA; USA
- 28 The Eric Lee Column  
Fast Forward: unions need to use online video to campaign for workers' rights

# Editorial: the unionisation of sex workers

THERE is undeniably controversy about whether it is appropriate to treat the sale of sexual services as a form of work. Even the language used to discuss prostitution is a site of tension: some advocates insist on talking about it as 'sexual slavery', and assert that the only ethical approach is to rescue those trapped within it. There are still others who see prostitution as crime, where the prostitute, if she is not a victim, must be a criminal disrupting public order. This issue of *IUR* is not a forum for arguments about whether or not sex can be work but rather asks – how is a labour rights analysis relevant to prostitution?

As the Spanish trade union Comisiones Obreras writes here, the claiming of labour rights as sex workers' rights is a dramatic shift away from the old conversations about how to deal with the 'problem' of prostitution – whether through decriminalisation, state regulation, or abolition – and places the emphasis on sex workers' own understanding of their interests.

Many of the articles here address the role of unions in this context, in terms of their strengths as well as weaknesses in dealing with sex worker communities. AMMAR, an organisation of sex workers in Argentina, describes an overwhelmingly positive relationship with the union CTA, which initiated a process of organising, empowerment and education with them in order to combat the violence and exploitation they faced from police.

Ana Lopes of the International Union of Sex Workers in London, on the other hand, describes having had to approach numerous other unions before they persuaded GMB to accept them as members. She notes that the unions

who rejected them expressed the opinion that sex work is not like other forms of work, and that the sector is not one that is easily organised. Lopes notes, however, that the obstacles are by no means unique to sex work, and points out that some of the concerns raised – the semi-legality of sex workers, the stigma and the discrimination – are identical to those raised about undocumented migrant workers.

Some authors see unions as an alternative to the structure of NGOs which, among other criticisms, are seen as being too dependent on the politics of funders, as described by both Scarlet Alliance from Australia and the Women's Network for Unity in Cambodia. In the case of Cambodia, the article deals specifically with unionisation and autonomous structure as a strategy to challenge and circumvent the funding policies of the United States Agency for International Development which, under the current US administration, requires each recipient to declare that it does not 'promote, support or advocate the legalisation or practice of prostitution'.

However, many of the autonomous groups described here – including Women's Network for Unity – emerged with the initial support of NGOs. Nandinee Bandhopadhyay, writing about DMSC in India, describes the coalescence of an autonomous group out of an HIV/AIDS prevention and treatment project that emphasised peer-led strategies. Scarlet Alliance also describes the sense of heightened, shared vulnerability to HIV/AIDS as a powerful motivating factor for sex workers to come together in Australia.

The articles describe differing approaches to the relationship between sex workers and the state. In the case of DMSC, the group advocates for nothing more than decriminalisation, and emphasises self-regulation of the profession even in terms of reducing the numbers of minors or trafficking victims entering sex work. On the other hand, Marianne Jonker, former president of Vakwerk in the Netherlands, accepts that the state has a legitimate interest in controlling the sex industry and welcomes legalisation in the country, seeing it as having opened the door to talking about further crucial worker rights such as access to social security, retirement benefits, protections against unlawful termination.

Irina Alkhovka notes that anti-trafficking efforts must focus on conditions of work in the sex industry, rather than merely the process of recruitment into sex work, in order to be effective.

Some activists have expressed frustration with the ways in which trafficking has shaped the discourse around sex work.

Others have pointed out that while there is international cooperation and mobilisation around combatting trafficking, there are no such efforts to promote, for example, minimum labour protections for sex workers globally. However, there are signs that this is changing, and there have been proposals for European and international networks of unions engaged in sex worker organising, for the sharing of strategies and the shaping of a common agenda.

## Next issue of *IUR*

Articles between 850 and 1,900 words should be sent by email (mail@ictur.org) and accompanied by a photograph and short biographical note of the author. Photographs illustrating the theme of articles are always welcome. All items must be with us by 1st February 2006 if they are to be considered for publication in the next issue of *IUR*.

**Subscribe to *IUR*:** to subscribe, complete the box below.

I/we would like to subscribe to *International Union Rights* and enclose £20/US\$40/C30.

Name/Organisation \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

Post Code \_\_\_\_\_

Four issues £20/US\$40/C30. Cheques should be made payable to "IUR" and sent to: ICTUR, 177 Abbeville Road, London SW4 9RL, UK

# Violence against sex workers and the role of unions

**O**UR organisation, Asociación de Mujeres Meretrices de Argentina (Association of Argentine Prostitutes), or AMMAR (with the acronym alluding to the Spanish word 'amar', to love), was formed in 1994.

At the time, we were dealing with severe police crackdowns and oppression. While prostitution is not proscribed under Argentine law, neither is it explicitly legal. (Pimping, on the other hand, is prohibited by Argentine law). Police in some provinces and cities were thus relying on local ordinances outlawing vagrancy, loitering, and disorderly conduct (tellingly referred to as 'ademanos escandalosos', or scandalous behaviour) to harass and arbitrarily arrest prostitutes. Penalties for violating these local police edicts included jail time of up to 21 days.

The police demanded bribes and kickbacks from us, and engaged in abuse and arbitrary detentions. The police would grab us, drag us on the ground, kick and beat us, and take us to jail, where we were held in awful conditions, in filthy cells whose floors and walls were covered with excrement and urine. Even prostitutes who were pregnant were held in these cells. We had to mutiny inside the cells in order to get the police to take these pregnant women to the hospital. Inside the jails, and in the patrol cars, we were also subjected to rape.

In 1994, then, in the face of this police harassment, we decided that we could not confront it individually and decided to band together. Before this time, we had also been held back by the fact that we believed what we had been told historically, that we were trash and had no rights. The change in our mindset came about in part because we began to have contact with people from the Central de Trabajadores Argentinos (CTA). Once we were shown that we were citizens like anyone else, and once we believed it, we launched what we saw as our biggest struggle, to get the police off our backs, since they had always been our greatest pimps.

For the first three months of AMMAR's existence, we met clandestinely in bars, so that the police would not get wind of our plans. Eventually, however, the police discovered what we were up to, and responded accordingly. We were dragged from the bars onto the streets and harassed, beaten, and had our lives threatened. I was personally threatened and told that the police would plant five kilos of cocaine on me and arrest me for drug trafficking. They said I was crazy, and that they could get away it because, after all, who would believe a whore?

In March of 1995, we became part of the CTA, and this was the turning point in our struggle to gain acceptance, recognition, and clout. It was of great help in our combat against police violence, since we now had the backing of this large federa-

tion of labour unions, and when we lodged complaints of violence and harassment, the complaints were signed not only by AMMAR, but also by the CTA. It was thus fundamental to us to be part of a workers' federation that supported and strengthened us as the struggle grew harder. Once we had that support, police thought twice before harming and harassing us.

Once inside the CTA, we instituted education programmes. We went out into our communities, schools, bars, universities, and poor neighbourhoods, and carried out training and workshops in sex education and AIDS prevention. One of our greatest victories came about in 1998, when we worked actively to reform the municipal code in Argentina's capital, Buenos Aires. As a result, the cities of Buenos Aires and Paraná, and several provinces, repealed those 'disorderly conduct' ordinances that had been used as pretexts for police harassment. And now, even in provinces where those laws and ordinances have not been repealed, there has been a political decision not to enforce them. Thus, there are provinces where our comrades, once they identify themselves as being affiliated with AMMAR, are no longer bothered by the police.

This victory in the repeal of ordinances was a turning point for us in that it gave our organisation increased visibility throughout the country, and showed us that the way to confront our problems and demand our rights was by organising. We take every opportunity to get our message out to the public, talking to newspapers and doing radio and television interviews, and public service announcements whenever possible. Granted, this is not always easy, since there is not much of an independent media in Argentina, and the media monopolies have not been as receptive to us and to our message as we would have liked. Still, we have accomplished a great deal in terms of public perception. We have sensitised a great number of people in our society, and now people are beginning to regard us differently, as people first and then as sex workers.

Perhaps in contrast to the experiences of sex workers in other countries, we experience the notion of the client as a violent person as a myth. Our clients are typically average men, family men, who are seeking a service like any other. While there is violence from petty criminals such as purse-snatchers, violence, when it comes, usually comes from pimps or the police or the owners of brothels. These are often the same people. While brothels are technically illegal, owners of brothels (and fronts such as massage parlours and saunas) are in cahoots with the police, who look the other way and are sometimes part owners or at least take bribes or a cut of the profits in exchange for their negligence.

Once we had the support of the trade union federation the police thought twice before harming and harassing us



ELENA REYNAGA is President of AMMAR in Argentina

As a result of Sandra's work, the leadership of the Santa Fe police authority was forced to resign

On the night of 27 January 2003, Sandra was shot point blank in the back of the head

In fact, it was the opposition of one of our members to precisely this type of police corruption that led to a galvanising event in our history, the murder, on 27 January 2003, of our comrade Sandra Cabrera in the city of Rosario. Sandra had spent a long time exposing and denouncing the corruption of the police in the province of Santa Fe, where the city of Rosario is located. The police there took a cut of profits from brothels or ran their own brothels, participated in drug smuggling and human trafficking, demanded bribes, and kept a portion of all drugs seized in raids. As a result of Sandra's work, the leadership of the Santa Fe Police authority was forced to resign.

This made Sandra extremely unpopular. She had been receiving death threats for six months prior to her murder, both at the CTA and on her cell phone. A police escort was stationed at her door, ostensibly to protect her. However, three days before her murder, the police escort was mysteriously discontinued. On the night of 27 January 2003, when Sandra went on the street to work, she was shot point blank in the back of the head. It was an execution.

After Sandra's murder, there was a large protest attended by 7,000 people, and not only sex workers. As a sign of solidarity, there were representatives from various organisations and trade unions as well.

A policeman was detained during the investigation. The first judge who investigated the matter found that there was sufficient evidence before being taken off the case. The second judge ruled that there was no evidence of guilt, and the policeman was released after three months of detention.

However, we have not forgotten our comrade. Every Tuesday, Sandra's comrades in the city of Rosario gather in front of the courthouse, carrying banners with Sandra's picture and demanding truth and justice. There has been a demonstration on each anniversary of Sandra's murder, and for next January we are planning a march from Rosario to Buenos Aires to protest in front of the government buildings.

Opposition to our organising comes principally from two different quarters, each with its own characteristics. The first group of opponents uses highly moralistic arguments, denying that what we

do should be considered work. This group, however, never stopped to think that before challenging us, they should listen to us and understand that we are not promoting this type of work, but, rather, only asserting that this is our reality, and that every day our comrades are being raped, exploited and discriminated against. We also assert that, in the face of this reality, we have to act and not sit around, waiting for someone someday to take pity on us and 'save us'. In fact, quite the opposite. We understand that we have to raise our cultural level and our self-esteem, not only to defend our rights as sex workers, but also as citizens of a country that was sacked and outraged by the lack of participation and recognition to which they have accustomed us. The second group of opponents consists of those who have lived, and continue to live, off us. These are the various mafias that combine many interested parties, and they are the ones who murdered our comrade Sandra Cabrera.

However, things have improved considerably since 1994, and this has been due to unionisation. Being part of the CTA has been crucial. The Justice, Health, and Education Ministers know us, and meet personally with us rather than sending their underlings. We have also had meetings with President Néstor Kirchner, a progressive, left-of-centre politician who used to be a labour lawyer. In fact, he was the lawyer for one of the unions that is part of the CTA. After 11 years of struggle, we have finally received official recognition from the government as valid participants in the discussion to address the problems in our sector. In early October, President Kirchner signed a decree that opens up an official line of communication and recognises that the fact that sex workers are not entitled to social security or retirement benefits is an act of discrimination that must be addressed by the government. We want recognition of our work as work. What we want is to have the same rights as any other class of worker in our country, and not special laws, since those are also a kind of discrimination. We are not looking for special privileges, but we will no longer be marginalised. At the end of the day, we want equality, just like every citizen of Argentina.





# Unionising sex workers in the context of regulation

**I**N October 1999, the Netherlands changed the law on prostitution. Although prostitution itself was not illegal at the time of the passage of the new legislation, 'organising the prostitution of others' through brothels, private houses, and 'window' prostitution had been illegal. Now these activities are permitted, as long as the sex worker consents. The main reason for legalisation cited by the Dutch government was the need to exercise control over the sex industry through a strict scheme of licensing, in order to address the trafficking of minors and illegal immigrants, improve conditions with respect to health and safety, and break organised crime networks. Much of the policy with respect to the regulation of brothels is left up to the municipality, especially in terms of numbers of establishments that will be permitted and their location.

Many of the organisations who were working in the field of prostitution welcomed the legislation, including Stichting De Rode Draad, a sex workers organisation founded in 1985. We felt that once a government accepts the sex industry, it is possible to begin the process of further discussion. An industry which is recognised is more approachable and accessible from the perspective of those advocating for improvement, and recognition opens the door to talking about sex workers' rights, social inclusion, labour relations, working conditions, migration, stigma and discrimination, repression and exploitation. It creates possibilities for sex workers to talk about conditions in the industry, and propose the recognition of sex workers as a professional group. The purpose of legislation should be to promote acceptance, rights, social protections, decriminalisation, freedom from violence, emancipation and empowerment, and it should give sex workers a voice. Legislation should mean that it is possible to define and address occupational hazards such as sexually transmitted infections (including HIV), to protect women by affording them access to health care and opportunities for maternity leave and related benefits if and when they are pregnant, and to provide them with a pension or other social insurance when they retire or are unable to continue working.

Legislation also means responsibility and registration. Tax officials visit the places where sex workers work in order to find out if there is either an employer-employee relationship or a facilitator-entrepreneur contract. A sex worker who is independent is responsible for his or her own registration, taxes, pension contribution, insurance etc, but is free to set the terms of her own employment. For employers in the sex industry, such as brothel owners, the legislation has resulted in the imposition of a set of financial responsibilities which were completely unheard of in the industry and are still not entirely accepted. Sex workers

who are employees are entitled to employment contracts, employer's contributions to pensions, fringe benefits, and guarantees against exploitation.

So, legislation also means not being able to be anonymous any more. It means having to accept that you cannot be registered or pay taxes under a working name. This is a very difficult thing for a lot of sex workers. Most of them live secret lives, and dealing with the consequences of the nature of their profession becoming public, and being open as prostitutes, can be unbearably hard. Everyone in the business accepts that colleagues will withdraw. No one is ignorant of the stigma and discrimination attached to being a sex worker. Another reason many workers in the industry want to remain anonymous is that they do not identify as professional sex workers. Many plan to work temporarily, and/or part-time, with the intention of stopping as soon as they have paid their debts or have saved some money.

Being politically active as a sex worker and being a public face and voice is not easy for everybody. But the legislation offered an opportunity for some. Vakwerk, the Dutch Union of Sexworkers, was founded in 2001 by some current and former sex workers who had been involved in Stichting De Rode Draad. They decided that the legislation was the moment to unite in a trade union to defend sex workers' rights, and be a partner in negotiations among government, local policy makers, organisations of brothel owners and all others actively involved in the industry.

FNV, the largest trade union confederation in the Netherlands, is very important to Vakwerk. It gives us its full support in any labour issues that arise, and, together with Vakwerk is an important partner in negotiating collective contracts. It should be noted that sex workers can be members of the FNV, as employees or as entrepreneurs, and do not have to identify themselves as sex workers if they do not want to; it is enough to say that they work in 'individual services'. But for those who are able to accept the identity of sex worker, there is Vakwerk. Current and former sex workers, documented or not, female and transgender, can join as members. Nobody has to identify themselves publicly, and registration can be under working names. Vakwerk engages in outreach to sex workers at their places of work. It protects individual sex workers by articulating their problems as issues of general concern, writes protest letters, and promotes labour rights, and all other concerns of workers in the sex industry, with authorities and brothel owners. Vakwerk is the voice for a lot of sex workers, shouting loud and clear about their human and labour rights and making a fist against stigmatisation, discrimination and repression.

Recognition of the sex industry opens the door to talking about workers' rights and social inclusion



MARIANNE JONKER is the former President of Vakwerk, Netherlands

# Sex worker organising in south east Asia and USAID

The policy of the United States Agency for International Development (USAID) was changed by the current US administration to require all recipients of USAID funds to oppose prostitution and to prohibit grantees from promoting its legalisation

**"**I was part of the group which started the sex worker network because I understood after the change in the USAID policy that all the NGOs, both national and international, had turned their backs on us. Before this they always told us to form groups and that we needed to be strong and learn skills so we could become independent." (SM, Women's Network for Unity Member, 2004)

The policy of the United States Agency for International Development (USAID) was changed by the current US administration to require all recipients of USAID funds to oppose prostitution and to prohibit grantees from promoting its legalisation. For some staff of a variety of local organisations in Cambodia, the new policy legitimised overt discriminatory attitudes towards sex workers, something which they had previously been unable to express because it was not politically correct to do so.

"It was so clear to me that we could not rely on others, particularly NGOs, because when the policy changed they started to tell us that we are just like small children in a boat that is sinking; we should not try to go out on the river, because we are not well equipped. They tried to scare us into not registering as an independent organisation, but before that they said you have to be independent. This was very confusing because we did not know what had changed. Some of us thought it was maybe the Khmer practice of not allowing others to rise, because hierarchy is very common here." (ST, Women's Network for Unity Member, 2005)

Womyn's Agenda for Change (WAC), funded by Oxfam, was the only organisation out of seven USAID funding recipients in Cambodia that chose to give up its grant rather than discontinue its empowerment work with sex workers. It continued to support their efforts for self-determination until they were ready to register as a union, Women's Network for Unity (WNU), and manage their own funds.

"...why do the Americans hate us so much? For years we have heard so many people and organisations talk about human rights, and how they want to help landless people, poor people, vulnerable people, HIV-positive people, victims of violence. Yet they hate us. We are those people. We have suffered all those things and worse, yet they hate us and they have developed a policy that discriminates against us and punishes us for being poor... Trying to survive with the only thing we have left, which is our body, is judged as bad by the Americans and they have a policy to discriminate against us... Why do they do that?" (SP, Women's Network For Unity Member, 2005)

The vast majority of USAID-funded organisations,

both local and international, chose to continue to take funding from USAID. Therefore, by default, they chose to support the clause discriminating against sex workers. This clause was surely a contradiction to the American export of human rights? The change of policy altered the delivery of HIV prevention programmes from the proven rights-based approach of 'empowerment = HIV reduction', to an American dream approach known as ABC: abstinence, be faithful and condom use. This is not even worth commenting on; anyone who lives in the real world can see that this is ludicrous, insidious, and harmful. As one member of the WNU put it, "this is unrealistic and does not apply to human beings".

The clause ignores the root causes of poverty, powerlessness, and vulnerability. It allows organisations involved with these issues to ignore the realities, and to discuss sex work from the simple, neutral de-politicised starting point of 'it's because of poverty'. The question that is always neglected is: Why is there poverty? Where is all the wealth going and who controls it? These questions provided the catalyst for WAC and WNU to investigate in order to understand the issues in a broader context.

Despite all the recent talk of the United Nations' Millennium Development Goals and so on, poor countries are becoming poorer and the rich countries richer. Within this context, the sex trade expands rapidly because there are fewer and fewer options available to the people of the South, particularly for women due to their inferior status. Cambodia has not escaped this reality. Neo-liberalism should be feared more than HIV/AIDs.

Neo-liberalism, the economic fundamentalism touted by the rulers of the world (the United States) and their cronies as the model for prosperity and development, is a false model. This system allows the extraction of resources that flow to the rich countries' corporations. It is not hard to see who benefits when one traces where the money is and where it is going. The majority of the world's people are losing the power to manage their own resources, which are rapidly being exhausted. They can no longer control their forests, their schools, communities or health centres or even have a say in their management. The people are systematically impoverished by a system that commodifies and commercialises all life forms and treats subsistence farming, not as a way of life and livelihood for a majority of farmers, but as something that is useless because it is not a money-spinner. The following extract from a case study shows the typical result of a system that puts profits before humanity:

Co-authored by WOMYN'S  
AGENDA FOR CHANGE and  
WOMEN'S NETWORK FOR UNITY,  
Cambodia

How is this different from the lives led by poor people in the past? In the past, people were able to access natural resources. They used natural resources to supplement or replace staple diets during months of food shortages. This is no longer possible. Governments have succumbed to and collaborated with the World Bank and International Monetary Fund to implement policies whose conditions worsen the lives of people. These are privatisation, trade liberalisation, and deregulation. For the majority of rural people this means that they lose their land to those who have the means to buy it up under privatisation. They have to borrow money at high interest rates to produce rice. Their farming inputs, such as fertilisers and pesticides, are continually rising in price. Often they have to pay for the water to irrigate their fields. If they are lucky enough to get a good yield, which most are not, they can still barely feed a family. If there is a drought or flood, they lose everything except for the debt, which they still have to pay to the NGO and/or the moneylender, both at interest rates that are usurious by any standard. With the privatisation of health, they can no longer afford health care. If they seek treatment in extreme circumstances, they have to borrow more money or sell part or all of their land in order to pay the bills. This results in a perpetual cycle of debt. Debt and poverty combine to create fertile conditions for exploitation, discrimination, and violence.

The downsizing of public services means fewer teachers, fewer nurses, and fewer doctors. Schools are informally subsidised by the community, which

Yet the rulers of the world and their instruments of subjugation insist on poor countries adopting their frameworks, which have been proven to be the wrong model for development.

Sex work is a way of survival not just for underprivileged women but also for the families that rely on them. In the South women's bodies are both goods and services to be traded and exploited, for labour, sex, and experiments.

**GLI**  
**GLOBAL LABOUR INSTITUTE**  
[www.global-labour.org](http://www.global-labour.org)

\_\_\_\_\_



# Sex work: European legal frameworks

Conference report:  
sex work, human  
rights, labour and  
migration

**T**HE International Committee on the Rights of Sex Workers in Europe organised a conference on Sex Work, Human Rights, Labour and Migration in Brussels from 15-17 October. The event brought together sex workers and allies from Europe and elsewhere – including trade unionists, anti-trafficking activists and human rights experts – for discussions of laws, policies and strategies, culminating in a day of meetings at the European Parliament, and finally a march through the city streets.

Much debate centred on comparisons between different legal frameworks in Europe. Stephanie Klee, a German sex worker, described the strengths and weaknesses of the law passed in that country in 2002. She noted that, on the one hand, it allocates rights and responsibilities around the sale of sexual services in several important ways. For example, it creates obligations for sex workers to pay taxes and register themselves; with respect to clients, it clarifies that they may not deny payment of an agreed price to sex workers on the grounds that they were not satisfied; in terms of employers, it imposes a duty to pay health care and grant paid leave to sex workers they employ. Klee identified several problems also, including the fact that the law makes no provision for migrant sex work through the amendment of immigration regulations. Furthermore, implementation of the law's provisions has been imperfect and inconsistent. The lack of outreach and training by the state has meant that sex workers' inexperience with the labour rights framework and distrust of state has inhibited their enjoyment of the protections that the law affords. Also, the law has been implemented in different ways in different regions of Germany: thus, while Berlin has interpreted it in ways that are largely favourable to sex workers, Cologne has used it to institute a severe 'pleasure tax' that applies to the sex industry alone.

Jesper Bryngemark, an activist from Sweden, highlighted the provisions of the abolitionist law passed there in 1999, and its impact. The law states that, while the selling of sex is not illegal, buying sex is. The law has resulted in many sex workers leaving the streets and seeking other spaces for sex work, including advertising on the Internet. However, those who do not have other options besides street-based sex work have experienced great hardship. For example, the increased police surveillance has meant that undocumented sex workers are at even greater risk of being apprehended and deported. Also, the heavy emphasis on enforcing the law and prosecuting clients has meant that sex workers have frequently found themselves becoming unwilling participants in investigations, sometimes even filmed and strip-searched by police hoping to secure evidence of a transaction of money for sex. And, since police

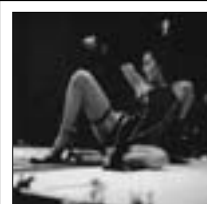
have also been seizing condoms as evidence, there is a strong disincentive for sex workers and their clients to carry them, resulting in riskier sexual practices. Many of the conference participants noted that other European countries, including Finland and the UK, are considering drafting similar legislation, and urged sex worker groups and their allies to unite in opposition to such proposals.

Several sex workers from France commented on the impact of the 2003 law on Domestic Security that was proposed and promoted by Nicolas Sarkozy, the Minister of the Interior. The law creates a misdemeanour of 'passive solicitation', allowing police to arrest and prosecute anyone who is offering to sell sexual services. The determination of whether or not she is, in fact, soliciting may be based on a reading of her dress and her attitude, which, many participants noted, was a violation of core liberties.

A plenary session on collaborations between sex workers and allies was an insight into both current and historic partnerships. Gail Pheterson, Associate Professor of Psychology at the University of Picardie, and Margo St James, founder of the San Francisco-based sex worker rights group Call Off Your Old Tired Ethics (COYOTE) described a personal history of alliances between sex workers and supporters spanning several decades. Pheterson described, for example, advocacy efforts in support of a sex workers' group in the Netherlands, Red Thread, by an allies' group calling itself Pink Thread. The Pink Thread argued that there could not be freedom for any woman until there was freedom for sex workers, and attempted to shape common ground with feminists, pointing



ASHWINI SUKTHANKAR is  
Director of the International  
Commission for Labour Rights  
and co-editor of this edition  
of *IUR*



Discussion about positive experiences of sex work is not in conflict with a discussion regarding problematic working conditions. Many workers in different industries may love their work but battle day-to-day with the conditions under

which they do that work. For example, when a school-teacher says "I have too many pupils per class, I have too much paperwork to do, our school doesn't have enough money, but I ultimately love my work and find it rewarding", they are celebrated and respected for their passion in their work despite the difficult conditions. Because many people do not believe sex workers can genuinely enjoy their work, the positive experiences workers may have are often ignored. In order to have a balanced debate on sex work, however, these positive experiences too must be recognised and acknowledged.

*Ruth Frost, striptease artist, London*

out that society's failure to recognise women's unpaid domestic labour as work could be analogised to the lack of recognition for sex work. The Pink Thread also pointed to the ways in which any woman who is sexually non-conforming can be labelled 'whore', whether or not she sells sex.

Martin Smith, head of organising at the British union GMB, and Ana Lopes, a member of one of GMB's affiliates, the International Union of Sex Workers (IUSW), spoke of coming together on the basis of the understanding that the right to be represented by a union is fundamental. Smith did point out a number of the limitations in the relationship between a small, autonomous group of workers like the IUSW, with limited resources for organising, and a large, bureaucratic institution. He noted also the numerous barriers to organising, including concerns about confidentiality, migration status, isolation, and competitiveness in some sectors. He also pointed out the semi-legality of some sectors as a hurdle – for example, while several strip joints have signed recognition agreements with GMB, brothels, which are illegal in the UK, pose a problem. At the same time, he also pointed to the numerous benefits accompanying unionisation, such as the ways in which it forced a public acceptance of sex work as legitimate work, and shifted the debate from the realm of morality to a labour rights framework.

Finally, Patricia Kaatee from Amnesty International, Norway and Liv Jessen, head of the Pro Centre, a sex worker group in Oslo, described the impact of Amnesty having chosen a sex worker rights activist for its annual human rights award, in the context of the organisation's Stop Violence Against Women campaign. Liv Jessen, the recipient

According to estimates by the German federal government in Germany, about 400,000 women are working as sex workers. Every day, up to 1.2 million men seek the sexual services of prostitutes.

Those figures show clearly: in many ways, prostitution is of major social and economic importance. But nevertheless, in most parts of society sex work is a taboo. Therefore and because of discrimination against prostitution and prostitutes, working conditions in this industry are without regulation and are therefore indecently bad. Hypocrisy in society concerning prostitution makes it difficult for female sex workers (and male sex workers as well), to declare in public what kind of job they are doing.

For two years in Germany we have had a new law on prostitution. Under this law, prostitution no longer is against public policy. The law was aimed at improving the legal and social situation of those working voluntarily as prostitutes. Prostitution as a job opens a new field of activities for ver.di, as a service workers union. Ver.di's working group on prostitution developed a support and advice scheme for sex workers as well as a sample employment contract in this field. This scheme includes individual legal support for prostitutes with respect to questions of labour laws and taxation.

Prostitution is an industry with extremely high rates of exploitation and violence. Ver.di therefore takes sides with the prostitutes against exploitation and violence, concentrating on their rights and interests.

*Emilija Mitrovic*  
Projektbüro Arbeitsplatz Prostitution, Hamburg

The Anti-Trafficking Centre (ATC), a non-governmental organisation, works to eradicate trafficking in human beings, particularly women and children from Serbia and Montenegro and the region by tackling the causes of trafficking, such as gender-based violence, poverty, unemployment and lack of opportunities.

ATC provides peer education, information and training to young women and men through which the organisation aims at empowering youth to take new roles in the society ie. become active citizens of the society they live in. ATC also works on the questions that are exceptionally important and interconnected – the issues of nationalism and militarism, responsibility and facing the past about war crimes committed in the last decades in the former Yugoslavia. These issues are important to understand because they dictate the political climate of the country within which programmes dealing with the root causes of trafficking are being implemented.

ATC also works directly with sex workers providing information on possible dangers of trafficking in human beings and standing as a mediator between institutions and associations and the sex worker community. Due to being marginalised by society, sex workers are one of the vulnerable groups to trafficking and in these respect ATC developed programmes with the aim of improving conditions for sex workers themselves.

ATC's participation in the conference was vital for making new links with sex workers and sex worker rights activists across Europe. With its repressive and discriminatory policies towards prostitution, Serbian society is far from having a movement of sex workers demanding labour rights. In this respect, learning about the strategies used for building a movement in different countries was a valuable resource that I came back with.

*Jelena Djordjevic*  
co-founder, Anti-Trafficking Centre, Belgrade

of the award, talked about the ways in which the award helped create a space to be able to challenge the idea that all prostitution is violence against women.

For labour movements, it is worth highlighting one of the opinions that was expressed repeatedly over the course of the conference. Many conference participants argued persuasively in favour of the recognition of sex work as both a job and a profession, in spite of the fears of the possible negative impact of regulation by the state. One of the benefits that would accompany state recognition, many sex workers noted, was access to desperately needed social protections, such as health care and pension benefits. The lingering question was, what kind of legal framework could be proposed that would extend these benefits simultaneously to migrant sex workers?

Sex workers  
desperately need  
access to social  
protections, health  
care and pensions

# Sex workers of the world unite!

We are a collective of workers and a collective of workers is a union!

**T**HE International Union of Sex Workers, an informal collective of sex workers and allies, has emerged in the year 2000. We first arose as a small coalition to plan a demonstration through Soho, London's Red Light District on International Women's Day in March, 2000. We paraded through the streets of Soho (London's red light district) accompanied by a samba band.

Since then we made many contacts with sex workers from different sectors, and we begun publishing a regular Bulletin, *RESPECT!* Our first issue features an article by Rona, recipient of the Sexual Freedom Coalition's *Sex Worker of the Year* award. Rona expresses pride in her work, and makes a powerful case for social recognition and acceptance leading to unionisation of the whole industry.

## An international union

We called ourselves The International Union of Sex Workers. We called ourselves a union because we realised we were a collective of workers and a collective of workers is a union! We were very clear, since the beginning, that our main demands were the recognition of our work as legitimate work and the full range of labour rights. And we called ourselves international because our industry has gone global and it seems to make sense to organise on a global level too, if we are to respond to the issues and problems we face.

We started as a small group based in London, but since we set up a web page and electronic discussion list, we became international. Nowadays, sex workers and allies from many different countries and regions of the world use the discussion list to discuss issues of interest to them, share information, etc.

## Working with existing unions

Although we called ourselves a union, we weren't recognised as such. In 2001 we began approaching existing unions to demand that we were accepted as their members. We had many negative responses.

Those responses were due to the fact that the view that sex work is different from other work and cannot be organised as such is still very common, even though Bindman and Doezeema (1997) demonstrate the opposite in their seminal article *Redefining Prostitution as Sex Work on the International Agenda*. They compare sex work with other forms of labour, and argue that sex work has much in common with other forms of work and that the problems faced by sex workers resemble those faced by other workers. Furthermore, by examining international human rights and labour standards, they show that most issues faced by sex workers could be addressed by international instruments used to protect the rights of other workers.

Eventually, we approached the GMB, a British general union, and one of the strongest in the UK. Our strategy was to build on common ground: we knew the GMB had started to organise workers in sweatshops and we made them see that the arguments to organise such workers could be the same arguments to organise sex workers.

Thus, in March 2002 we have finally been successful at becoming part of a fully recognised union. This means that we have achieved what seemed to be impossible, only two years after our first campaign. We are now recognised by the TUC (Trade Union Congress). We have established one major basic labour right to all sex workers in the UK – the right to join and be represented by an officially recognised trades union.

## How the union works

The Sex Workers' Branch of the GMB represents male, female and transgender sex workers, from different sectors of the sex industry. Although other people who work in related trades (ie. project workers, sex shop assistants, erotic writers, etc.) may join the branch, decision-making remains with the core of sex workers within the branch. Our branch is based in the London region and counts 300 official members, who pay monthly dues. Compared to the total numbers of sex workers, this is a tiny membership. As a union branch, this is a strong membership and, if you remember how hidden the sex industry is and that unionisation in this industry is such a 'novel' idea, this is quite impressive.

There is a range of benefits that can be gained from being in a trade union. Collective benefits include being able to use the union's political clout for lobbying. For instance, the UK's Home Office started a review of prostitution laws in 2004. We were consulted on this because we are organised and have a collective voice.

Individual benefits include free legal representation and advice, training (the union subsidises different types of courses: those who enable us to work on better terms, such as self defence, pole dancing courses, etc; or those that will help us leave the industry if we wish to do so, such as literacy, CV writing, IT skills, etc).

There are some problems that we must overcome and some limitations to the success of our partnership with the trade union movement. It is not always easy to manage a partnership between a small grass-roots group and a big and bureaucratic institution. Sex workers may feel that the big union is too anonymous. It is important for sex worker leaders and allies to work as 'bridges' between the sex workers community and the trade union.

Some sex workers may be suspicious when it comes to joining a union. There are several barriers



ANA LOPES is President of the International Union of Sex Workers

ers to recruitment. This is mainly due to the fact that most of our work in this industry is semi-legal or illegal, which means that many of us want to remain anonymous. The union represents any worker, regardless of their immigration status. Yet, stigma and fear of having migration status disclosed deter many sex workers from joining the union officially (Lopes and Clammen 2004). It is worth remembering that is a problem felt in many industries – it is by no means unique to the sex industry.

It is perhaps easier to organise sex workers within legal businesses. In fact, the GMB union has been recognised by two different table-dancing clubs in the UK. This has meant that union officers and volunteers can go in to the club at any time, workers have elected their union and health and safety representatives, work contracts have been negotiated with the union and grievance procedures established. We have less power of action in flats/brothels which remain illegal in the UK. Sex workers in illegal establishments can join the union and get all the member benefits, but we have less power to negotiate with employers in these settings.

Finally, it is difficult to organise within the sex industry because many of us work independently, isolated from other sex workers. These are not the ideal conditions to create and develop a political consciousness and trigger the social need to collectivise and organise around labour issues. As in any other industry, there is a degree of apathy among workers.

These problems are common to many different industries that have been unionised for a long time and that have achieved better working conditions and greater workers' control over their work. In fact, none of the problems discussed above are specific to our industry. They have, to different extents and with variations, been felt by workers in all industries that have struggled to organise, claim rights and acceptable working conditions.

### Moving forward

On a more positive note, our alliance with the labour and trade union movement has helped shifting the debate about sex work from the feminist/moralist arenas to the labour rights arena – at least in the UK. There is more public acceptance that sex work is work and we have the support of the majority of the trades union movement on our struggle for unionisation and labour rights.

When it comes to our own movement and mobilisation, unionisation brings advantages. First of all, we must emphasise that although we are part of the GMB, we are a very autonomous branch. Thus, we have kept our identity and the power of decision.

Many small sex worker organisations struggle for existence, either because they lack funding, volunteers, or because of internal fighting and lack of democratic mechanisms. As affiliates of the GMB union, we can take advantage of their existing structure. There are democratic mechanisms and procedures that GMB branches are encouraged to adhere to. To a certain degree, we can call on the help of other union branches and union organisers. Thus, less is demanded from each sex worker activist within the union structure, which means less incidence of the activist burn out syndrome.

The future looks bright for our unionisation pro-

ject. Today, we are a London based branch, but we hope soon to be 'upgraded' to a national branch, since sex workers all over the UK have contacted the union, asking for details of membership and the possibility of organising in their work place. Moreover, the trend is spreading. Nowadays, there are six unions in Europe where sex workers have a place. The oldest one is the Greek union that has existed since the 1980s! The Dutch union FNV started organising sex workers roughly at the same time we joined the GMB. Since then, Verdi, a German union, has welcomed legal sex workers in their membership and dancers in Sweden unionised too. More recently, a general Spanish union started the process in the Spanish region of Catalonia. Representatives of these six unions were present at the European Conference on Sex Work, Human Rights, Labour and Migration – a three day conference organised by sex workers that took place in Brussels, in October 2005 (IUR, p8-9). For the very first time, all these representatives came together and we made a collective commitment to establish a European network of unionised sex workers! *The Manifesto of Sex Workers in Europe* – a document agreed upon in the same conference – calls on trade unions to support sex workers in our self organisation and struggle for fair working conditions.

Sex workers have been mobilising and organising to fight for our rights all over the world and for a very long time. Only in certain places have sex workers chosen to unionise. Unions may be old-fashioned organisations and they may not be an adequate form of sex worker activism all over the world. But they may also be a good way to establish our rights. Establishing labour rights and establishing sex work as legitimate work is something that unionisation can help us achieve.

The UK's Home Office started a review of prostitution laws in 2004. We were consulted on this because we are organised and have a collective voice



# Streetwalkers show the way

Sex workers have projected themselves as upright, moral and law-abiding citizens, acting in the public interest, in complete inversion of their usual socially imputed image

**T**HOUSANDS of sex workers from across West Bengal, their comrades from other parts of India and beyond, declared the opening day of their Millennium Mela (carnival) to be International Sex Workers' Rights day. They demanded decriminalisation of sex work and the recognition of their work as formal labour, and pledge to fight against the exploitation and marginalisation of any group or people, anywhere in the world.

The night before, the sex worker organisers of the carnival did not know if they would even be able to hold the mela the next day. Some women's organisations from the capital city had come to Calcutta to rally other women's groups in the city specifically against sex workers and had together appealed to the state government to ban the mela, as such an event was culturally antithetical to Indian tradition and would morally corrupt Indian minds. In the face of this reaction, the government ministers contemplated withdrawing the permission granted to the sex workers' organisation to hold the mela. But the sex workers' argument that such a retrogressive step would be gross infringement of democratic rights tilted the balance in their favour.

The next day at the opening ceremony sex workers responded to the incident by defiantly and boldly claiming the day in their own name.

## How it all started

In 1992 a sex worker-focused health programme, the STD/HIV Intervention Project (SHIP), was started in Sonagachi, one of the oldest and largest demarcated brothel areas in Calcutta. The programme soon spread out to include in its ambit sex workers from all other major red-light areas in the city as well as a large proportion of street-based sex workers. The intervention programme was initially funded by NORAD, and then ODA, later DFID, in collaboration with the National AIDS Control Organisation (NACO) of India.

Although the promotion of sexual health and HIV prevention was the primary aim of SHIP, right from the beginning those in charge of the programme recognised that even to realise the very basic aim of improvement of sexual health, it was crucial to view sex workers in their totality: as complete persons with a range of emotional and material needs, and not merely in terms of their sexual behaviour. To do so, it was essential to address the factors that determine the quality of their lives and to locate these issues in the broader social and cultural context within which they live. As a result, the sex workers who were recruited as Peer Educators or outreach health advocates, as well as the non-sex worker staff of SHIP were encouraged to address the whole range of issues that sex workers found to be of importance. Moreover, Peer Educators, by virtue of their new

found confidence as SHIP employees, began to feel emboldened to act collectively against the everyday oppression of sex workers and raise questions about the social stigma and discrimination experienced by them more broadly. However, they also realised that many of these activities could not be undertaken directly as part of the health intervention project, and that they needed an organisation of their own.

In 1993, with the support of SHIP, sex workers formed the nucleus of an organisation with 13 members or 'convenors'. This informal core group, at the time called the 'Interlink Committee', with representatives from 12 red-light districts in Calcutta, assumed a more formal character in 1995, when it was legally registered, with a constitution, as Durbar Mahila Samanwaya Committee (DMSC; Durbar Committee for Co-ordination of Women, with *durbar* in Bengali meaning unstoppable or indomitable).

## The experiment continued

In 1999 DMSC took over the management and ownership of the intervention programme as a primary stakeholder from the state public health research and training institution that had initially implemented the programme. The scale of the intervention programme expanded enormously, with DMSC-run health clinics operating in red-light areas of all the major district towns of West Bengal. DMSC now runs more than 45 health clinics for brothels and street-based sex workers and their partners and 28 literacy centres for sex workers and their children in various districts of West Bengal, with external funding support. It also fostered the formation of a network of people living with HIV/AIDS, runs a voluntary and confidential counselling and testing centre for sex workers, and provides subsidised HIV treatment for people living with HIV/AIDS, along with other associated services and campaigns for the right to treatment access.

DMSC now claims a following of 60,000 with branches in almost every red-light area in the state, including in places without clinics or other interventions. DMSC has regularly convened state and national level meetings of sex workers' organisations in India, which have also been attended by policy makers, health and development professionals, politicians, administrators, academics, journalists and other media people. DMSC members have also attended national and international meetings on HIV/AIDS as well as sex work-related issues.

The public health impact of SHIP was acknowledged to be a very significant success. Cross-sectional surveys in 1993, 1995, 1998 and 2001, as well as a series of external evaluations show steady improvement in health indicators and a slow rate of rise of HIV infection, especially compared to

NANDINEE BANDYOPADHYAY is an advisor of Durbar and is currently working as Associate Director, in PATH India, 53 Lodi Estate, New Delhi 110 017

[nandinee@pathindia.org](mailto:nandinee@pathindia.org)

[www.durbar.org/durbar\\_home.html](http://www.durbar.org/durbar_home.html)



other metropolises of India. SHIP gained recognition as a 'best practice model' for HIV/AIDS prevention by the National AIDS Control Organisation of India (NACO), WHO and UNAIDS. This success, it is now widely believed, has been achieved very largely due to the formation of the autonomous organisation and community mobilisation of sex workers themselves through DMSC.

DMSC has undertaken a number of social and political initiatives since the early days of the organisation and it has emerged as the focus of the collective mobilisation of sex workers in West Bengal, with wider impact on similar processes in the rest of India and neighbouring Bangladesh and Nepal. DMSC's political activism has been aimed at reconfiguring power relations, and questioning the social and political ideologies that underpin the exploitation of sex workers. Members of DMSC have successfully organised rallies and demonstrations against maltreatment and exploitation by madams, brothel-keepers and pimps, against violence and extortion by local hooligans and the police, against forcible AIDS surveillance and unauthorised vaccine trials on sex workers, and against the eviction of sex workers from brothels or red-light areas. Importantly, some of these activities have been projected as socially responsible work undertaken by sex workers as civic-conscious citizens against unethical practices, corruption, crime and violence. Sex workers have projected themselves as upright, moral and law-abiding citizens, acting in the public interest, in complete inversion of their usual socially imputed image of immoral and illegal operatives. Through these various initiatives, sex workers have been able to achieve greater power and economic standing within the sex trade and its social milieu. They have also developed a sense of exercising their own power to reverse the relations of dominance in the locality, and have nurtured a notion of solidarity. Enthused by their early successes and fortified with the realisation of their own capacity to bring about change, sex workers went beyond protests against immediate oppression and launched into a more ambitious and daring agitation for rights and for self-expression. Explicit political objectives have been articulated for the promotion and protection of the rights of the sex workers as a community, and to redefine their social position. DMSC demands the recognition of sex work as 'legitimate work', just like that of others who hire out their physical labour and sell services in the market. Sex workers have also galvanised themselves into action to condemn the oppression of other sections of society with whom they envisage a shared predicament. These range from protest against the persecution of religious minorities to protesting India's testing of the nuclear bomb.

A range of initiatives of DMSC has also been directed to express sex workers' new found identity as a socially responsible community. To achieve self-reliance and economic security, in 1995, DMSC, with government support, registered a savings-credit and consumer cooperative society exclusively for sex workers and their children, Usha Multipurpose Cooperative Society Limited (Usha), to secure access to subsidised consumer goods, and to credit and banking facilities, which they are normally denied due to the association of their work with 'illegitimacy'. DMSC also has its cultural counterpart, Komol Gandhar, through which sex workers stage plays and programmes of music and dance for the public, organise art and literary activities for themselves and their children, and bring out publications.

Sex workers engaged in the struggle to establish the legitimacy of their demands are themselves acutely aware that social perceptions about sex work and sex workers have to change if sex workers are to reverse their marginalisation and social exclusion. For example, they appreciate that to realise their demand of decriminalisation of sex work, lobbying with political parties, the state and legislators is necessary but not enough. It is equally, if not more, crucial to build a wider constituency of allies, and also broad public support that would at least not actively oppose their demands. The sex workers see prochar (advocacy) as one of the key strategies for making such broad-based alliances. However, it should be clarified that the sex workers' idea of advocacy is not limited to publicising their demands or achievements, but encompasses a range of ways in which they can demonstrate their capabilities and commitment to justice to the wider public through action and activism.

The sex workers feel that a critical part of this campaign of advocacy to win allies and defuse potential opposition is to ensure that non-sex workers get to know about the reality of sex workers' lives, so that they do not perceive them as socially harmful, deviant, and immoral. They find organising large events such as the melas where members of the general public as well as representatives of state and civil society institutions can freely interact with sex workers, offer an excellent opportunity for this.

However, this direct encounter with members of the general public has not always been an unmitigated success. Some people were curious, showed them sympathy, and asked them questions, but then seemed not to engage with their responses or change their views. Some even melted away into the crowd, sniggering. This further demonstrated the urgency of a more persistent campaign of prochar with non-sex workers to change their social perceptions and values.

One DMSC worker, explaining what they meant by prochar, said "Prochar is our strongest weapon. We had seen in our HIV work that among all forms of communication, be it flip charts, video shows or puppet shows, it is direct dialogue that work best. Unless those who have a message and those who are being addressed have face-to-face discussion, neither party will get the real picture, and neither will start trusting the other. That is how we have to communicate our demands and explain our position to those in the society whom we have to win over... For example, so far, people have known that we are working against trafficking. But no one quite believed that we could make a difference when big NGOs and the mighty state have failed. They must have thought dismissively, oh what will bunch of prostitutes manage to do? But at these melas, thousands of people actually came and met us – and they saw not just a handful of activists but hundreds of sex workers united in the struggle against anyay (injustice) and shoshon (exploitation). We could talk to them directly and clarify their doubts. Also they saw how efficiently we managed to hold the melas without any hitch, how well we managed the crowd, handled the media and fed thousands of guests. They had to appreciate our organising capacities. If we could deal with so many suspicious outsiders, they were convinced we would surely manage to handle the madams and other gatekeepers in the industry – we are after all very familiar with their tricks".

Explicit political objectives have been articulated for the promotion and protection of the rights of the sex workers as a community, and to redefine their social position.



## China

ON 7 October police were deployed to disperse demonstrators who were holding a mass sit-in at the Chongqing local government offices in protest at the bankruptcy and closure of their former employer the Chongqing Steel Factory, which had employed up to 18,000 workers. *China Labour Bulletin* reports that police violence during the dispersal resulted in the deaths of two women protesters and injuries to 24 others. Workers were seeking compensation for their lost jobs and had been organising protests at the factory and surrounding sites since August.

In a related incident, CLB reports that a former textile worker Shi Xiaoyu was arrested by police on 19 October after having posted reports about the Chongqing protests on the internet.

*ICTUR has called upon the authorities to release Shi Xiaoyu and to investigate the circumstances of the deaths of the two protesters. ICTUR further called for the authorities to respect the rights of workers to organise activities in defence of their social and economic interests. ICTUR noted that China, as a member of the International Labour Organisation, has a commitment to uphold the principles of freedom of association under the terms of the ILO Declaration of Fundamental Principles.*

## Djibouti

AS MANY as 160 striking port workers were arrested at the international port of Djibouti during the period 24-26 September. Those arrested were held in detention until early October. Most of the workers have now returned to their jobs. However, 36 workers, including 11 union leaders, have not been permitted to return to their jobs.

*ICTUR has written to remind the authorities that workers have a right to organise activities in defence of their interests - including strike action - under the*

*terms of ILO Convention 87. ICTUR noted that both the arrest of trade unionists and the penalty of dismissal in retaliation for participation in trade union activities are violations of ILO Conventions 87 and 98, which have been ratified by Djibouti.*

## France

ARMED special forces troops boarded a ship from military helicopters on 28 September to end an occupation of the vessel by workers on the route between mainland France and Corsica. ICTUR understands that workers had occupied the ship in protest at the imminent privatisation of their employer, ferry operator SNCM.

*ICTUR has written to the French authorities describing the intervention of the armed forces in a labour dispute as an extremely serious matter and calling for an independent investigation into the decision to deploy the army. ICTUR acknowledged the role of the state in preserving public order and policing the criminal law, but reminded the authorities that the right to strike is protected under international human rights law.*

## Ethiopia

FOLLOWING confrontations between the police and demonstrators on the streets of Addis Ababa on 1 November, the Chairman of the Addis Ababa branch of the teachers' union ETA Kassahun Kebebe was arrested and taken to an unknown location where he was held until 12 November. Since then Mr Kebebe has been held at the Criminal Investigation Bureau of Addis Ababa, but at no point has he been charged or brought before a court. Another 24 members of the ETA were also arrested and detained, and on 12 and 14 November police occupied and searched union premises.

*ICTUR has written to remind the authorities that the arrest of trade unionists and their leaders is a serious violation of the rights to freedom of association that*

*are protected under ILO Convention 87. ICTUR reminds the authorities further that these rights are protected under the Universal Declaration of Human Rights. ICTUR called for the immediate release of all arrested trade unionists and argued that alternatively those in detention must be promptly charged under proper provisions of the law and brought before a court in a fair and legal process and provided with access to legal counsel.*

## Guatemala

AN ARMED gang raided union premises on 27 September and forced their way into the CTC building by threatening the receptionist at gunpoint before splitting into two groups. The first group threatened and beat CTC General Secretary Miguel Lucas, searched the union's files and offices, and went on to steal a number of personal valuables from union staff and guests. The second group raided the office of the Market Trader's Association and stole their computer. Miguel Lucas has experienced an ongoing campaign of harassment which has included threatening phone calls to his home.

*ICTUR has called upon the authorities to ensure that this case is thoroughly investigated. ICTUR further called for an effective programme to provide protection for Miguel Lucas and his colleagues.*

## Indonesia

FIVE trade union leaders from PT Musim Mas palm oil plantation and factory in Sorek District were arrested and appalling acts of violence inflicted against strikers at that site by security officers on 14 September. The arrested union leaders, including the President, Vice-Presidents, Secretary and Regional Secretary of the union, were arrested by the Pelawan Resort Police Department in Pangkalan Kerinci Riau, and have apparently been charged with criminal offences. On that

same day a truck was driven into the picket lines by security officers, injuring two workers. The arrests and the violent attack followed immediately in the wake of strike action by the trade union which began on 13 September, and the union and its officers have previously suffered harassment and sanctions in retaliation for union activities.

*ICTUR has written to remind the authorities that workers have a fundamental human right to organise activities in defence of their social and economic interests - including strike action - under the terms of ILO Convention 87, which Indonesia has ratified. ICTUR called on the authorities to release those arrested and to ensure that this incident is thoroughly investigated by an independent panel and that those responsible for the violence - at the highest levels - are brought to justice.*

## Iran

FIVE labour activists have been sentenced to lengthy terms of imprisonment following their participation in a rally on 1 May 2004 when, like workers in every part of the world, they were taking part in demonstrations to celebrate the international workers' festival. On 9 November Mahmoud Salehi, the former President of the Bakery Workers' Association of Saez city was sentenced to five years imprisonment and three years exile in the city of Ghorveh, while Jalal Hosseini, a member of the Bakery Workers' Association of Saez city, was sentenced to three years imprisonment. Days later Mohsen Hakimi, Mohammad Abdipour and Borhan Divargar were each sentenced to two years imprisonment.

*ICTUR has written to remind the authorities that workers have a fundamental human right to association under the terms of the Universal Declaration of Human Rights, the UN Covenant on Civil and Political Rights, the UN Covenant on Social, Economic and Cultural*

*Rights, and the Conventions of the International Labour Organisation. ICTUR noted that Iran is required by virtue of its membership of the ILO to respect the principles contained in the ILO Conventions. ICTUR called on the authorities to ensure that the activists are given an opportunity to obtain a rapid review of their convictions and sentences before an appeal court, and called on the authorities to make clear the requirement for the law courts to respect international human rights principles.*

## Macedonia

NEGOTIATIONS between the government and the education sector union SONK broke down in September, apparently due to the government's objection to the political opinions of the union leadership. Following this breakdown the authorities have frozen the union's bank accounts.

*ICTUR has written to remind the authorities that freezing union bank accounts is a violation of the rights protected under ILO Convention 87, ratified by Macedonia. Furthermore, ICTUR notes that the authorities have an obligation under ILO Convention 98 to promote the mechanisms of collective negotiation with trade unions. ICTUR called upon the authorities to release the union's assets, to cease all interference in the union's internal and financial affairs and to re-open negotiations with SONK.*

## Mauritania

IN October, 16 workers from El Majabaat El Koubra Tours were dismissed just days after the company had signed a protocol with the workers' union, the Energy and Petroleum Workers Union (CGTM) setting a date for union elections of 1 November. ICTUR notes that ten of the 16 workers dismissed had declared their intention to stand for union office. Union members at the company are now on strike in

protest at the dismissals. The company was unable or unwilling to agree a resolution to this dispute at a hearing before the Labour Inspectorate on 27 October.

*ICTUR has written to draw the company's attention to the protected status of trade union rights under international law, in particular citing the Universal Declaration of Human Rights, the UN Global Compact, the OECD Guidelines on Multinational Enterprises and the Declaration of Fundamental Principles of the International Labour Organisation. ICTUR called for the immediate reinstatement of the 16 workers and for constructive dialogue with trade union representatives.*

## Mexico

WORKERS at the Rubies de Mexico factory in Tepeji del Rio, Hidalgo are locked-out after having made representations to their employer to protest against labour rights violations which they claim included the use of child labour, unsafe working conditions and a failure to respect their collective bargaining agreement. The factory is a supplier of Time Warner branded products to Rubie's Costume Company, New York.

*ICTUR has written to Time Warner calling for the company to set about a constructive engagement with Rubies de Mexico and to use its considerable leverage to bring about an end to the lock out. ICTUR noted the protected status of workers' rights under international law, citing the Universal Declaration of Human Rights and the Conventions of the International Labour Organisation. ICTUR further noted the clear extension to corporations of the obligation to respect these principles under the UN Global Compact, and the OECD Guidelines on Multinational Enterprises.*

## Russia

MANY of the oil workers at Slavneft-Megionneftegas who

took part in a rally on 18 September were dismissed or downgraded following a dispute over recognition of the union and salary levels. During the demonstration one of the union leaders was beaten by company guards and the Chairman of the union, Petr Leschik was expelled from his apartment together with his family.

*ICTUR has written to Slavneft-Megionneftegas calling for the company to cease anti-union activities, to re-instate those who were dismissed, to reverse detriments that were enacted against the workers and to engage in constructive dialogue with trade union representatives. In its letter, ICTUR cited the Universal Declaration of Human Rights and the Conventions of the International Labour Organisation.*

## Thailand

ON 24 October the car belonging to trade union leader Suriyan Wannarit was blown-up by a bomb in the car park of the Toyota Motor Thailand company car park in Phra Pradaeng. The union leader and one other person were injured by the bomb.

*ICTUR has written to the authorities to call for a thorough investigation of the bombing, emphasising that those responsible must be brought to justice. ICTUR observed that this appalling attack on a labour leader was a criminal action that constitutes a grave violation of international law.*

## Turkey

WORKERS at the public municipality of Mamak have been asked to resign from the DISK-affiliated Public Services Employees Union. Those who have refused have been subjected to detriments in the workplace and to changes in their roles at work.

*ICTUR has called on the authorities to intervene in the municipality and to ensure that trade union rights are fully respected in all regions of Turkey. ICTUR's letter noted that a detriment against a trade unionist in retaliation for their union*

*membership or activities is a violation of ILO Conventions 87 and 98, both of which have been ratified by Turkey. ICTUR also reminded the authorities that these rights are protected under the European Convention on Human Rights.*

## Zimbabwe

NEARLY 200 trade unionists and their leaders have been arrested following their participation in anti-poverty protests. On the night of 7 November regional trade union official Reason Ngwenya was arrested in Bulawayo after having provided the legally required notice of the march planned for the following day. On the morning of 8 November the regional vice-chairman of the ZCTU Dzavamwe Shambari was arrested. Later on the 8 November 119 trade unionists were arrested in Harare within minutes of beginning an anti-poverty march that had been organised in accordance with the law by the ZCTU. ZCTU President Lovemore Matombo and General Secretary Wellington Chibebe were arrested elsewhere in the city en route to the march. As many as 50 trade unionists were arrested elsewhere in the country that day.

Many of those arrested were denied access to legal counsel until the morning of 9 November, although the brief consultation that took place was cut short by the announcement that the lawyers would not be allowed to accompany their clients during their interrogation.

*ICTUR has written to remind the authorities that the arrest of trade unionists and their leaders is a serious violation of the rights to freedom of association that are protected under ILO Convention 87, ratified by Zimbabwe, and under the African Charter of 1981. ICTUR called on the authorities to release all those arrested or to ensure that they are promptly charged under proper provisions of the law and brought before a court in a fair and legal process and provided with full access to legal counsel.*

## ICTUR map a hit at Canadian union school

ICTUR Director Daniel Blackburn attended the Seventh Annual Leadership Development School of the National Union of Public and General Employees in Ontario, Canada. A major theme for the NUPGE school was *Labour Rights are Human Rights* in support of the campaign of the NUPGE and UFCW Canada unions to promote this idea (see *IUR* 12.2, pp18-19). Speakers from across Canada together with guests from the USA attended the school to talk on key union issues from organising and strategic union planning through cooperative unionism to consideration of international issues. The ICTUR Director gave a presentation on the work of ICTUR and discussed the role of the International Labour Organisation and the status of ILO Conventions. ICTUR's world map wall poster now plays a central role in ICTUR presentations, and in this case drew attention to the fact that, in contrast to most countries in the world, Canada has not ratified ILO Convention 98. Participants at the school snapped up copies of the map, and NUPGE placed an order for hundreds of copies to support its labour rights campaign.

## Bulgarian jurists look to ILO standards

ICTUR Director Daniel Blackburn joined ICTUR Vice President Jitendra Sharma and colleagues from the International Association of Democratic Lawyers at a conference hosted by the Union of Bulgarian Jurists to examine the monitoring and enforcement of international labour standards. The ICTUR Director gave a presentation on the growing relevance of international law at the national level, highlighting cases from around the world

in which ILO conventions have been relied upon as binding law or as persuasive authority to aid interpretation of the law by national courts around the world.

The conference was organised by IADL and the International Commission for Labour Rights.

## Defending trade union rights – legal action centres

ICTUR President Sharan Burrow chaired a meeting of ICTUR officers, staff and correspondents in Geneva on 4 November for discussions around ICTUR's efforts to support trade union rights legal action centres around the world. ICTUR Vice Presidents Mordy Bromberg SC and Fathi El-Fadl outlined ICTUR's work on building the Trade Union Rights Centre in Indonesia and on developing a similar office in Iraq. The meeting approved a set of recommendations for future work to support legal initiatives to defend trade union rights in countries where these rights are most at risk or where unions lack the formal capacity to produce independent analysis and research on legal and organisational issues. It was agreed that ICTUR would follow strategies appropriate to the circumstances of the countries involved but would ordinarily try to generate linkages between labour lawyers and their organisations in developed and developing countries to support and finance the creation of new centres or projects.

Trade Union Rights Centres have the following priorities:

- legal analysis and critique of the labour law
- providing an advocacy and activist service for unions dealing with union rights issues
- providing education and training on labour rights
- the collection of data on union rights issues
- campaigning on union rights issues
- documentation of cases of

violations of freedom of association

■ provision of information on union rights and international labour standards

■ collecting information on issues such as sub contracting, migrant labour and the informal sector

The first legal action centre opened with assistance from ICTUR was the TURC Indonesia, which is now operational with a staff of four lawyers. Two further projects to provide legal action centres around trade union rights in Iraq and Colombia are currently being developed.

## British trade union education

IN November ICTUR Director Daniel Blackburn gave two presentations to trade union representatives at the CONEL trade union education centre in London on international labour law and the work of ICTUR. Students agreed that the ICTUR world map wall poster made complex issues of international law easy to take on board and was helpful to their understanding of how international law works and why the ILO is an important institution.

## Iraq

ICTUR Vice President Fathi El-Fadl will visit Iraq in early December to meet with labour lawyers, trade unionists, academics and human rights organisations in preparation for the planned opening of the Trade Union Rights Centre in Baghdad early next year. During his visit Fathi El-Fadl will meet with government representatives to discuss the role of international law and

freedom of association, with particular regard to Decree 875 which froze union assets in August this year. ICTUR will issue a more detailed report on the TURC project in a future edition of *IUR*. For more information about the project see [www.ictur.org](http://www.ictur.org) or contact the ICTUR office.

## Australia – ICTUR lawyers defend union rights

A PANEL of legal experts confirmed by the Australian National Committee of ICTUR has presented submissions to the Australian Senate Committee Inquiry into the Howard Government's Workplace Relations Amendment (Work Choices) Bill 2005. The ICTUR panel, led by ICTUR Vice President Mordy Bromberg SC, has submitted a detailed legal examination of the extent to which the legislative reforms will fall short of the minimum standards required by ILO conventions. ICTUR argued that 'in so far as this legislation proposes further restrictions on the freedom to bargain collectively and to strike it is already the case that Australia now has one of the most restrictive regimes in the developed world'. ICTUR's submissions are available online at [www.ictur.org](http://www.ictur.org)



# Collective bargaining ban under scrutiny

**F**ROM 1 November to 3 November 2005, a delegation of labour rights experts convened by the International Commission for Labour Rights (ICLR) visited North Carolina, in the south-east of the United States, to examine a statute barring collective bargaining rights for public workers in the state. The delegation, sent at the request of United Electrical, Radio and Machine Workers of America (UE), a union that has been organising primarily low-income public workers, addressed the statute in terms of its conformity with international legal standards on freedom of association and collective bargaining, including applicable conventions of the International Labour Organisation (ILO). The delegation also analysed the impact of the legislation, addressing allegations that the absence of collective bargaining rights may have exacerbated racial and gender-based discrimination in employment. The findings of the ICLR delegation in both of these respects are expected to be relevant to the UE's submission of complaints to international bodies such as the ILO Committee on Freedom of Association and/or the ILO's Committee of Experts on the Application of Conventions and Recommendations.

The statute in question, NCGL §95-98, was passed in 1959 in response to an attempt by the Teamsters to organise police officers in the city of Charlotte. A provision prohibiting unionisation of public workers was struck down by a federal court in 1969 as an unconstitutional restriction on freedom of association, but the remainder of the statute, which declares public sector collective bargaining agreements to be 'against the public policy of the State, illegal, unlawful, void and of no effect', remains on the books and continues to be enforced. While 12 of the 13 states in the south and southeast United States place some degree of restrictions on collective bargaining for public workers, those of the state of North Carolina, along with Virginia's, are the most extreme, affecting all public workers, not merely state employees, and prohibiting municipalities, school boards and state-run institutions from passing locally-applicable regulations enabling collective bargaining for their own workforce.

The ICLR delegation was composed of lawyers and legal experts with significant experience in public sector unionism: Peter Barnacle (Canadian Union of Public Employees); Rudi Dicks (Congress of South African Trade Unions); Stellan Gärde (labour lawyer and member of the International Commission of Jurists from Sweden); Yemisi Ilesanmi (Nigeria Labour Congress); Claude Melançon (labour lawyer from Canada); Patricia Juan Pineda (Frente Auténtico del Trabajo, Mexico). They were joined by two representatives of ICLR, Jeanne Mirer and Ashwini Sukthankar. In addition to bringing analyses of international



norms to bear on the issue, the delegation's work was also informed by comparative perspectives on public sector collective bargaining, based on the specific experiences of the lawyers in their respective jurisdictions.

Over the course of the three days on the ground in North Carolina, the delegation undertook extensive site visits to workplaces around the state, meeting the employees of state-run institutions such as schools for the deaf, municipalities employing workers for street cleaning and other public services, and the housekeepers at state universities. The delegation discussed the statute with state and local politicians, legal experts who have researched its history, and the broad coalition of unions that have been working towards repeal. At the request of UE, the delegation also provided trainings in international law and standards to the union's leadership and allies in North Carolina. The delegation's visit ended with a public hearing where workers from all over the state gave testimony about working conditions, focusing on the perceived impact of the absence of collective bargaining rights. Workers described unmediated discrimination in hiring and discipline; arbitrary dismissals; inconsistent application of pay scales; favouritism in promotions; absence of grievance procedures or other mechanisms to enable the fair resolution of disputes.

The delegation is currently seeking opinions from a wider range of legislators and legal experts in North Carolina regarding the statute, in terms of possible justifications in law and policy for the an absolute or partial bar on public sector collective bargaining. It hopes to conclude its analysis of testimony, documents and other materials shortly, and expects to issue its report in early 2006. The report will address the statute's compliance with international law and standards, as well as a comparative understanding of how other jurisdictions have dealt with implementing public sector collective bargaining in the face of some of the practical concerns identified by stakeholders in North Carolina, including possible costs to taxpayers or compromised delivery of public services as a result of industrial disputes.

Lawyers from Canada, Sweden, Nigeria, South Africa and Mexico investigate a collective bargaining ban in the US state of North Carolina

ASHWINI SUKTHANKAR is Director of the International Commission for Labour Rights and co-editor of this edition of *IUR*



# Sex workers in Spain

The Women's Secretariat of the Comisiones Obreras organised the *Seminar on Civil Rights for Female and Male Workers in the Sex Industry* on 26 May 2005

**I**N view of the interest in gaining more in-depth knowledge of the possible models of intervention in relation to the world of prostitution, the Secretaría Confederal de la Mujer (women's confederal secretariat) of the trade union Comisiones Obreras has decided to organise a work team whose aim was to approach the complex reality of the sex market and industry.

Part of this complexity lies in the lack of social and labour recognition, in the incorporation of new technologies which generate different types of supply and demand, in migration-related phenomena, in changing models of sentimental relationships, in the different demands of the people involved, in the lack of a homogeneous legal framework within the European scope and in the different stances of the feminist movement with regard to prostitution over the last few decades, which range from abolitionism to defending the recognition of human rights and civil liberties for prostitutes.

We have seen a need for political, legal, labour and social intervention aimed at defending the civil rights of those practicing prostitution of their own free will, along with the demand for the protection of the victims of sexual exploitation and realistic solutions for those who wish to cease the activity.

These interventions should be accompanied by strict compliance with the laws against coercion, violence and sexual abuse against children and the trafficking of people for sexual exploitation. There ought to be guarantees by the State aimed at applying the law and punishing those who force third parties to practice prostitution against their will.

Recent reports drafted in Spain provide us with some conclusions that can help us to better understand the reality of prostitution. Some of these conclusions are common and we consider it important to list them herein.

## A changing context

The phenomenon of prostitution has undergone certain changes and the most important aspect involves the globalisation of migration; this has become more female-based, with a growing number of women who migrate independent from parents or husbands. Domestic help, hostelry and prostitution are the main work channels for women migrants.

Most of the women practicing prostitution in Spain are migrants and only two of every hundred are Spanish.

According to recent reports by the Guardia Civil police force: 'The arrival of migrant prostitutes has displaced the Spaniards, with a big drop in the amount of nationals practicing prostitution. Until just a few years ago, the women were deceived in their countries of origin and were told that they were coming to work as waitresses or home help, whereas at present many women are hired or even volunteer to the organisations, aware that they are going to work as prostitutes from the very beginning.

'In order to get to Spain, they contact organisations which provide the means to travel and to find them a place in a club in exchange for large amounts of money. Once they have arrived at these establishments, and in spite of generating easy money for the organisation, they are paid an amount that they consider to be merely satisfactory'.

There is a notorious increase in clubs and their organised activities for economic profit, but the people starting up these clubs and those working in them do not have the same obligations or the same labour rights that exist in other sectors.

There are many people working in clubs or flats, while there has been a decrease in street prostitution. Those who do work in the street often say that they prefer to work independently, without the need to depend on anyone.

Through the study and the different interviews we did with the different social groups acting within this scope, we learned more of the intervention models proposed, which are basically: the prohibitionist movement, which defines prostitution as a crime; the current interventionist movement which demands that the State regulate prostitution as an economic activity like any other and fights violence, coercion, deception or lack of freedom; abolitionism, which considers that to legalise prostitution would be to ignominiously legitimise sexual discrimination against women who are exploited by men, and lastly, an increasingly larger amount of women practicing prostitution are making themselves heard and are claiming: labour rights as sex workers.

The combined viewpoint for possible interventions has led us to interview political parties at national level in order to learn of their political interventions in this respect. We also held interviews with the Government, the main agent of legislative initiatives and public action schemes, which ought to consider specific measures aimed at dealing with prostitution; all these political groups have been invited to participate in the seminar organised by Comisiones Obreras in relation to the theme.

We were unable to share our conversations and exchange of opinions with other agents that we considered to be of interest and who also have a stance and opinion in relation to the theme, such as the different women's associations, associations of neighbours that have specific petitions for actions, NGOs with different programmes of activities or employers organisations which also make proposals with regard to developing the activity.

None of the agents with whom we exchanged opinions maintain postures of consensus for the design of interventions to be applied to the areas of prostitution. Furthermore, no political party has presented us with any programme dealing with prostitution that goes any further than the current legislation.

In view of this reality, we consider what can be done and how to do it, with whom and for what.



CARMEN BRAVO is the Confederal Secretary for Women for the Comisiones Obreras, Spain

We sought what we deemed to be suitable answers to each of these questions.

We must ask what this class and socio-political trade union organisation can do to defend the civil rights of these people, being very aware that these are attained through hard work and that the defence of these rights is very controversial among people who do not recognise them. We therefore believed it suitable to convoke this forum in order for all to deal with the different types of discourse and ideology, and to establish a debate on the proposal of interventions within the scope of prostitution, in order to bring the different parties together in order to reach consensus and to avoid a very serious risk: not doing anything and indefinitely sentencing thousands of women to exploitation and degradation in our country.

We must conjugate and unite proposals for intervention among all agents currently acting in the prostitution sector, giving a voice to the prostitutes themselves and to all those that have drafted intervention proposals from within the legal, political, social, economic, etc., contexts. In this way, through legal, social, administrative and political measures, the rights and obligations, liberties and dignity of thousands of women can be guaranteed.

Why Comisiones Obreras? Because we are a socio-political trade union and we are concerned with an old and complex phenomenon involving a lack of rights, stigmatisation and a criminal status, mostly involving women who are cohabiting with us in society, in industry, market, economy, health and education, and who also suffer from loss of their origins, poverty, lack of freedom, violence, persecution, etc.

We are working to promote debate and participation in order to design an itinerary aimed at leading us to the recognition of rights and liberties for people working in prostitution.

"You cannot deny the humanity of others without undermining your own" James Baldwin.

## Examining the issues

The Women's Secretariat of the Comisiones Obreras trade union organised the *Seminar on Civil Rights for Female and Male Workers in the Sex Industry* on 26 May 2005, at the headquarters of the Economic and Social Council; the format of the seminar attempted to deal with the theme from different perspectives.

The following people intervened in the inauguration:

- Julian Ariza, Vice-president of the Economic and Social Council;
- José M<sup>a</sup> Fidalgo, Secretary General of the Trade Union Confederation of Comisiones Obreras;
- Carmen Bravo, Women's Secretary of the Trade Union Confederation of Comisiones Obreras;
- Soledad Murillo, Secretary General for Equality Policies.

The round table on focus and legal and sociological perspectives provided us with a complete analysis of the current situation, and the following people intervened therein:

- Pilar Gallego, Government Sub-delegate in Madrid;
- Raquel Osborne, a Teacher at the Political Sciences and Sociology Faculty, UNED University;
- Rhut Mestre i Mestre, Doctor in Philosophy of Law, UV-EG;

■ Pilar Alvarado Ballesteros, National Co-ordinator of SAM and GRUME.

Moderator: Magdalena López Precioso, Teacher at Valencia University.

One of the round tables that had aroused the greatest expectations was the one dealing with workers from the sex industry, and they certainly did not disappoint us at all; the people participating expressed clearly and coherently the fight for their rights, they bravely addressed the auditorium and made it very clear that there is not one single argument to support denying rights to any group, and we would like to thank and acknowledge the participation of the following workmates:

- Justine Abellán (Barcelona);
- Joana Pérez (Barcelona);
- Purificación Gutiérrez (Madrid);
- Carolina Hernández (Madrid).

Moderator: Justa Montero, Feminist Assembly

The group comprising the representatives of the political parties lacked specificity in their approaches and offered no initiatives and even showed excessive reluctance to accept any kind of compromise in relation to the present or the future.

- Presen Urán, Head of the Secretaría de Políticas de Igualdad (equality policies secretariat) of the political party Izquierda Unida;
- Sandra Moneo of the Partido Popular (political party);
- Maribel Montaña, Secretaria de Políticas de Igualdad (equality policies secretary) of the PSOE (socialist party).

Moderator: Carmen Rivas, Telemadrid Television journalist.

In the group of associations we learned of the tasks and programmes being developed from different standpoints.

- Rocío Nieto, APRAM;
- Isidro García, Fundación Triángulo;
- Kepa Astrain, ABIATZE;
- Concha García, HETAIRA.

Moderator: Concha Colomo, Doctor from the Montesa Centre, Madrid City Council

When we listened to our colleagues from Argentina and Holland, we were aware of their common sense, and of a sense of compromise and solidarity with the working classes and we understood that our duty as trade unionists is to make the world a better place. Nobody listening to Elena could have denied her the rights due to her, either from the moral or trade union point of view, or to question the fact that her dignity as a person and as a worker was beyond all doubt and that her experience as a trade unionist sets us a path to follow in the conquest of human, civil and labour rights. The following people participated in the round table of trade union experiences:

- Elena Eva Reynaga, Representative of Redtrasexlactar, Ammar and CTA, of Argentina;
- Sietske Altink, El Hilo Rojo Foundation, associated with the Dutch trade union FNV.

Moderated by Simón Rosad, Head of the Trade Union Action Area of Comisiones Obreras, CONC.

Workers from the sex industry expressed clearly and coherently the fight for their rights and made it very clear that there is not one single argument to support denying rights to any group

# An anti-trafficking framework is not enough

No country will issue a 'sex work visa'. Thus all sex-workers from Belarus migrating abroad are put in a situation where they have no protections in terms of working conditions

**L**A STRADA in Belarus grew out of the Young Women's Christian Association of Belarus (BYWCA) and joined the international La Strada network in 2001. BYWCA/La Strada has been doing anti-trafficking work for seven years. When we started, the issue of human trafficking was politically neutral, so we got good results in terms of lobbying of the government for recognition of the problem, creating public awareness about the risks, and promoting safer migration practices. But once it became political a year ago, and the President and the international organisations got involved, the strategies being mobilised to combat trafficking in human beings (THB) actually began to reflect the desire to counteract illegal migration. The government looks at the issue as though migration from Belarus had little to do with gender, labour and employment issues, and the human rights situation. It became a bigger priority to address THB as an organised crime issue rather than a human rights one. The state is very slow to expand decent work opportunities for our people, or is not interested in doing so, because it would mean the recognition of informal sectors, and regulating sex work as labour.

In the legislation that was passed in 2000, there are three provisions of the Criminal Code that relate to THB. The first deals with 'sexual and other' exploitation, the second with recruitment for exploitation, and the third with kidnapping for exploitation. And yet, 90 per cent of the criminal cases that have been filed have been under a provision dealing with pimping and the exploitation of the prostitution of others by third persons. In order to get around provisions addressing the use of deceit in recruiting, traffickers have begun to tell women openly, "you are going to work in prostitution, but with very good conditions – you will be able to choose and refuse clients and you will work in Brussels". So they can use the excuse that there is no deceit or force, and that they told the women exactly what they will be doing. But many women still can't leave once they get to the destination, so it is still trafficking.

Another problem with applying the Criminal Code provisions is mixing the pimping of sex-work and trafficking. Law-enforcement talks about all forms of prostitution, voluntary or not, as 'internal trafficking', to make pursuing the pimps look more legitimate. The problem is that it is harder to get evidence for trafficking convictions than for pimping convictions. So, between 2001 and 2004, there have been almost 1,000 cases. But if you analyse these cases, you see that of 500 cases opened, there are references to just 200 victims. There is political pressure to show high results in the fight

against trafficking, which leads to exaggerating the numbers of opened cases and therefore the number of those who are trafficked.

On 9 March 2005, a new regulation on anti-trafficking came into force. It was introduced by the president, through a decree. There are some progressive elements to the new regulation – so, for example, it forbids criminalising victims of trafficking. Before, victims used to be penalised for crossing borders without documents and so on. But we still don't know how these positive aspects will translate into practice. The bad aspects of the regulation we have already experienced. The recruitment activities have simply gone further underground, and are harder to identify – it used to be that the main channels were that pimps organising sex work in Belarus would get in touch with their counterparts in other countries to arrange for placements, tickets, documents etc. Now, the recruitment happens through ads on the Internet, or women will call on our hotlines and tell us that they just saw an ad for recruitment in Kiev at a bus-stop, or in their post-box, and that they are going. It is very informal, and law enforcement can't control it at all. There are 600 agencies in Russia and 400 in the Ukraine who offer jobs abroad, and the borders with Belarus are very porous. When flights to Abu Dhabi were cancelled, you just found all of the women from Belarus at the airport in Kiev, still headed for the Gulf.

After the new regulation was introduced in March 2005, La Strada began lobbying the government to supplement the clear law enforcement emphasis by negotiating labour quotas with countries of destination. If you won't expand the legal possibilities for work abroad, you will never have a solution to the problem of trafficking. But, since most countries of destination are in the EU, they would impose conditions for engaging in negotiations, for example: first Belarus must comply with international standards in the sphere of human rights protection (such as the rule of law, the recognition of violations, and releasing people who are in prison for their political opinions) and only then can negotiations start. So it is a vicious circle.

For Belarussian sex workers planning to migrate it is especially bad. There is no possibility for them to migrate legally and to work legally in the sex industry; no country will issue a 'sex work visa'. Thus all sex-workers from Belarus migrating abroad are put in a situation where they have no protections in terms of working conditions. So, many of them are exploited, but for Belarussian law-enforcement it is a challenge to recognise them as victims.



IRINA ALKHOVKA is National Co-ordinator of La Strada Belarus Programme for the Prevention of Traffic in Women in Central and Eastern Europe

Within Belarus, prostitution is not a crime, it is an administrative offense. If you are a sex worker working in Belarus, you have to pay a fine if you are caught by the police – and then of course you have to go back to the street to raise the money to pay it. La Strada would not attempt to promote legalisation at this moment, however, for reasons of political realities, the current unwillingness of society to accept such discussions, and because of the wishes of sex workers themselves. The taboo is so strong in society, and in the absence of functioning democracy, there is no way to defend a point of view in public. So it would make the lives of sex workers even harder. It is like the provision for three years of parental leave in Belarus. In theory, it is a good idea, and the provision is by law available to any family member, not just the mother. But in practice, there is very little social tolerance for anyone except women taking that leave. So it means that women are not an attractive option for employers, who fear that they will have to pay three years of parental leave and then re-employ a worker who will have to be re-trained in three years of development in the field. If the government had actually asked women what they wanted, they would not have passed this legislation.

It is worth trying to understand the social and economic context for sex work in Belarus. For example, a good number of the sex workers are university students. Today, there are a growing number of institutions where you have to pay for higher education, and when you consider that average salaries are about US\$250 per month in the cities, and US\$100 in rural areas, and that the average cost of a university education ranges from US\$500 to 3,000 per year, you can imagine that students must either give up on the idea of a university education, or do something else on the side, like sex work. At the same time, those who enter sex work must work with a pimp – there are very few opportunities to work independently. Whether you are talking about call girls, escorts, street-based sex workers or those who are based at hotels, the sex industry is organised and controlled by pimps.

Before the new regulation was passed, at least there were private employment agencies to assist those who wanted to migrate. Now many have closed down, since the requirements are hard to meet: they need to provide the persons seeking work with a contract, not with the foreign mediator, but with the employer itself. With some labour sectors, such a thing is just not possible – for example, au pairs, where the main employer is a foreign family. Thousands of young women used to go as au pairs, especially to Germany, to live with families and study. They were matched by au pair agencies there; agencies in Belarus don't have the capacity to set up all of those contracts themselves, and so an option has been closed off. Now of the 40 agencies that used to provide this service, only 10 have been able to renew their licenses. This has not prevented trafficking or migration, on the contrary, as with the recruitment of sex workers, everything has gone underground. People have to pay higher prices to the middlemen than they paid to the agencies, and there is no proof of payment. So, rather than trying to make migration more safe, the regulations have introduced a lot of limitations for those who want to migrate for a job.

Marriage also used to be a channel for going abroad. But now, companies offering 'marital services' need to obtain special permission for their activity – a license – and need an agreement with a company abroad, not just an individual. And they have to record all of the personal data of women travelling abroad – name, age, where they live, where they work, everything. If a woman wants to get acquainted with someone abroad, all of her personal data goes to the database of the Ministry of the Interior. The justification is that the information is needed 'in case something bad happens', but in reality it is a means of control.

At La Strada, we concluded that an anti-trafficking framework is not enough, and in fact it can do more harm than good. We need closer cooperation with groups working with migrant workers and sex workers, and we need to engage in common strategising.

La Strada has tried hard to initiate dialogue with the government with respect to policies on sex work, or on gender issues. There is a National Action Plan on trafficking, and La Strada submitted comments on it, urging emphasis on prevention and rehabilitation, not just law enforcement. Right now, many victims of trafficking who return and, in particular, those who have testified in courts abroad, have no choice but to cooperate with Belarussian police, because of the automatic sharing of information between Belarussian embassies abroad and the Ministry of Interior. The main strategy of investigation is to place the victim of THB at the centre; other evidence is rarely collected. Victims and witnesses have to appear physically in court, and the protection measures are weak and not appropriate to the reality. Protections are often available for the judge and the prosecutors, but not for victims and their families. The measures are so lacking that in one case, a witness appeared in court with a gas mask on; in another case, with a basket covering her head.

La Strada has also participated in the drafting of the national action plan on gender equality promotion for 2006-2010, and lobbying for implementation of CEDAW as a means of combating violence against women. But in spite of our interventions, organised crime, trafficking and illegal migration are prioritised, without any emphasis on addressing gender-based discrimination or social services. An empowerment approach is missing. Women must have the right to go abroad, to marry a foreign man, to study. They have the right to travel – and the right to information. So we need to focus on safe migration behaviour. We need to advise women that, regardless of their immigration status in a country, there are certain institutions that they can turn to if things go badly for them. But this kind of work needs to be supported internationally. Other groups in Belarus scare women: "don't go abroad, you'll get trafficked". You don't see the success stories that you could learn from, instead you see public campaigns featuring images of abused and naked women, or of blood on a wedding dress. The message is, don't go and you'll be safe. But if you stay at home, remain a virgin, never work and never study, you'll be paralysed and may as well be dead. Is it worth it?

We need closer cooperation with groups working with migrant workers and sex workers, and we need to engage in common strategising

# Scarlet Alliance

Sex workers need  
to be engaged  
with research  
projects about sex  
work

**S**CARLET ALLIANCE was formed in 1989. At that stage, there were some funded sex worker organisations at the state and territory level in Australia, but no national forum. Some individuals from the Australian Prostitutes Collective (APC) the first funded peer-based sex worker organisation (1986) and supporters joined together with the idea that a national representative body would be more effective, strengthening the sex worker rights movement in Australia. So it grew out of the reality that Australia is composed of states and territories, and legislation happens at the level of states and territories, but that we need to take a step beyond for effective advocacy.

This all started soon after the first awareness of HIV/AIDS and the effect that it could have on sex workers. So there was already increased awareness and discussion among sex workers. In addition to HIV/AIDS related concerns, access to health care and police corruption were taken up; laws that deemed sex work illegal were challenged; the high levels of stigmatisation and public ignorance were discussed; and we addressed industrial issues such as unfair dismissal, and choice in accepting and refusing clients, and to have greater capacity to negotiate the range of services employers wanted us to provide.

Scarlet Alliance didn't have a formal structure at that point; and was more like a loose body where individuals from different state and territory level groups came together to create a lobbying tool, which was called at that point the National Forum for Sex Worker Organizations. The organisation was incorporated in 1994, and now every year it elects an executive board and other spokespersons, where delegates from member organisations nominate and vote on candidates. Only past or present sex workers can be nominated.

The organisation's name was changed by constitutional vote to be Scarlet Alliance, Australian Sex Workers Association, in order to more correctly portray who we are. So we started accepting membership from extremely small groups, and moved away from our structure of being a national forum of funded organisations. The shift was also about accepting that sex worker groups in Australia had changed. We really wanted to maintain an authenticity of representation, and that meant acknowledging that some of our existing member organisations were limited by the funding they receive: it is not unusual for a government health department funding a sex worker project to restrict its recipient from doing advocacy work, and we did not want to be a collective of muzzled organisations.

Our meetings are open to any sex worker, past or present, but we exclude those who own or run sex industry establishments, since owners and operators have a different agenda, and because their inclusion would limit the freedom of speech of sex workers who would be afraid of repercussions in the workplace if they expressed themselves frankly. We will have to reexamine this rule if cooperatively run establishments ever take hold.

Our working parties are open to any sex worker and the issues are developed at the national forum. One of our new working parties is focusing on inclusivity. At a time of self reflection, we recognised those amongst us who are particularly marginalised - Aboriginal and Torres Strait Islander sex workers, drug-using sex workers, sex workers experiencing mental health issues, transgender sex workers, migrant sex workers - and that we were not doing enough to be inclusive. Some of the other crucial issues of the moment we are working on include ethical research and legal reform. With respect to research, we were concerned about the ways in which sex workers become the subjects of research that does not end up having positive outcomes for our communities. So, in addition to upskilling sex workers in order to ensure we can make informed decisions about participation in research we are also developing guidelines for researchers to ensure that they treat sex workers as partners, not just participants, in research, and to insist that we are represented from the earliest stages of development. We also have some responsibility to do this because Australian researchers are doing research on sex workers in developing countries in our region. We cannot ignore the legitimate concerns sex workers have raised about research processes. In support we need to be engaging with researchers about these concerns.

Our work with respect to legal issues is ongoing - at any given time, we are involved in mobilising around law reform in at least one state or territory. Usually, we are only involved in attempting to improve the proposed legislation, rather than being consulted from the point of developing it, so in terms of lobbying, we are often caught on the back foot. Currently, we are experiencing attempts to deprive us of basic principles of natural justice: there are routinely attempts to reverse the burden of proof with respect to charges of soliciting, as well as denial of the right of appeal. So for example, in Western Australia a police officer can give a move-on notice to anyone suspected of being a street-based sex worker or a client. This results in the individual being barred from access to a mapped section of the city centre for up to 24 hours, without possibility of challenge. And if you receive several such notices, police can apply to the court for a 12-month restraining order barring access to the area. In addition, the state is often seeking increased police powers, such as the right to enter our homes or places of work without a warrant, and to make an arrest based solely on suspicion. There have been recent proposals for the licensing and registration of individual sex workers - not just places of employment - and to force sex workers to carry an ID card.

We are also opposed to what is called legalisation, but is in fact a licensing framework for brothels or other sex industry premises. Queensland and Victoria have introduced this model, and it has resulted in a two-tier industry, with a smaller number of brothels actually receiving a license, and the

ASHWINI SUKTHANKAR is  
Director of the International  
Commission for Labour Rights  
and co-editor of this edition  
of *IUR*



majority not meeting the requirements of licensing or choosing not to because of the expense. So the government is seen to be doing something – and terms like ‘cleaning up’ are routinely used – but it only serves to create a false hierarchy.

Scarlet Alliance has worked for some years with the Liquor, Hospitality and Miscellaneous Workers Union (LHMWU), which covers sex workers. In one case, in Western Australia, the union even supported a worker through an unfair dismissal case in the industrial court, which was found in her favour. The importance of this case, *Phillipa v Carmel*, was that even though the sex industry location was illegal in Western Australia, the worker was still identified as an employee, and it was confirmed that there was an employer/employee relationship. This was a critical precedent that has increased the negotiating power of sex workers, in the face of a high level of lobbying by owners to have sex workers identified as sub-contractors, with the result that the employer’s responsibility is much lower, and there is no obligation to provide superannuation, industrial rights etc. So sex workers are often told that they are merely ‘hiring’ the room, even though in reality the owner has a high level of control over when they work, what services they provide, to whom, how much they receive, and how they conduct themselves.

Part of the sticking point in terms of dealing with the union is that sex workers do not receive such representation very often. Unions operate on the basis that if they have enough members from a particular industry then they will represent them in industrial disputes, but they do not recognise that there are great problems associated with being open about being a sex worker. We have had discussions about coming up with a strategy so that members don’t have to be identified as sex workers. But if the union can’t say that they have 300 sex workers on their books, they find it harder to negotiate with rest of membership to prioritise sex work on the agenda. So this is an area of difficulty that we need to sort out. Even in cases where there has been involvement, and sex workers are willing to risk their anonymity and follow through an industrial court claim we have had mixed results: sometimes the union framework, in not acknowledging the need for some sex workers to maintain anonymity about their occupation, is not one we can successfully work within. At the same time, we need to emphasise that sex work is work and that sex workers are participating in an occupation, and the support of the LHMWU has been crucial.

We have strongly advocated for industrial rights for all sex workers in Australia including migrant sex workers. While Australia has some reciprocity agreements with respect to work permits with countries like the UK and the US, it has none with countries like Thailand. So for Thai and Chinese sex workers there are few legal options, some women either come on a tourist visa, or come under contract, agreeing to pay back a specific amount of money or for seeing a specific number of clients, and once they enter the country, they are working illegally. Part of the difficulty in entering Australia is a process I understand to be called ‘risk profiling’ whereby immigration tries to identify those at high risk for overstaying on the basis of factors such as which country they are from, whether they are single women travelling alone, whether they have sufficient income or can prove that they have a job in the country they left, to which they will return. So sex workers from cer-

tain countries attempting to come and work in Australia are seen as a group to be stopped.

Australian immigration has heavily targeted sex industry premises that advertise Asian sex workers. Sex workers in those workplaces discuss the obvious racism of which sex industry workplaces are targeted as well as who is picked up and who is not. Backpackers or sex workers from other western countries who might work in the sex industry while they are here are rarely targeted, but sex workers from Asian backgrounds are.

Scarlet Alliance has campaigned for the availability of visas for migrant sex workers, because in our experience, the majority of women entering Australia under a contract to work in the sex industry are not tricked – they knew that they would be working in the sex industry, and a visa would serve to remove the role of the middle person who organised the transport and the contract, and would mean that once they were in the country they would be working legally and would be more empowered to report undesirable working conditions. It is their illegal work status that makes them susceptible to unfair working conditions or coercion. The Australian response has relied entirely on an anti-trafficking discourse which understands people who enter the country under contract as ‘sex slaves’. In the search for victims the human and industrial rights of sex workers are not acknowledged.

Abolitionist groups have seen this issue as a means to progress their anti-sex work agenda. These groups refuse to accept sex work as work, ignoring the voices of sex workers, and instead understanding sex work per se as violence against women. In the meantime it is individual women who are the losers.

This critical precedent has increased the negotiating power of sex workers, in the face of a high level of lobbying by owners to have sex workers identified as sub-contractors

ILO ad  
pdf on disc

# Colombia: labour rights in the oil sector

Labour lawyers from Mexico and Panama take an in-depth look at labour rights in Colombia's oil sector

**I**N 2005 the International Commission for Labour Rights sent a mission of legal experts to Colombia to investigate the level of violations of trade union rights in one specific industrial sector: the oil industry.

This latest report of the ICLR follows on from an ICLR jurists' mission in 2004 that analysed the crisis of impunity that surrounds the investigation and prosecution of trade union rights violations.

## About the ICLR

The International Commission for Labour Rights was formed in response to an urgent need to defend the fundamental rights of working people worldwide. The initiative for the Commission lies with the International Association of Democratic Lawyers and the International Centre for Trade Union Rights in consultation with labour lawyers and trade unionists worldwide.

The Commission brings together the world's leading labour law experts in order to undertake high profile actions to investigate labour rights abuses and fundamental breaches of ILO Conventions and the United Nations Charter worldwide.

This report draws together the key findings of two legal experts who visited Colombia on behalf of the International Commission for Labour Rights.

## The situation in Colombia

Throughout the world a number of trade unionists are killed because they are trade unionists. It is an astonishing fact that over three quarters of those individuals who have been murdered are Colombian. In 2002 the death toll was 184. In 2004 there were 99 murders. In both years these murders took place in addition to an onslaught of death threats, kidnappings, torture, arrests, armed attacks and attempted assassinations.

In 2004 the International Commission for Labour Rights sent a mission of legal experts to investigate the appalling levels of violence against trade unionists and the apparent failure of the Colombian government to investigate these crimes or to identify or prosecute those responsible. The ICLR mission participants were:

- Teodoro Sánchez de Bustamante, President of the Labour Lawyers Association, Argentina
- Sarah Lucy Cooper, Bar Human Rights Committee, UK
- Efrén Sandoval, Legal counsel for UNSITRAGUA, Guatemala.

That report is available to download in both English and Spanish from:  
[www.labourcommission.org](http://www.labourcommission.org)

In 2005 the ICLR sent a second jurists' mission to investigate trade union rights violations in one specific sector of the economy: the oil industry.

The ICLR participants were:

- Ramon Alexis Pinzon Ortiz, labour lawyer, Panama
- Medardo Bañuelos, Legal counsel to the independent transport workers' union Mexico.

## Introduction to the second mission

The present document is intended as an assessment of the current position of oil workers in Colombia so as to alert people to the situations. ICLR's intention is to achieve a general mobilisation of labour organisations, human rights organisations, labour lawyers and international tribunals for the protection of labour rights and human rights in order to prevent these threats from being carried out. These organisations must also be supplied with in-depth information in order to bring pressure to bear upon the Colombian government to bring the perpetrators of such actions to justice.

The second mission was conducted in Bogotá, the capital of Colombia, and in the cities of Saravena and Arauca (Department of Arauca) and Barrancabermeja (North Santander), where most of the oil industry's activities in Colombia are concentrated. During the course of the mission, interviews were conducted with various trade union, human rights, women's and lawyers' organisations, as well as with representatives of the church, victims from among the population and some public authorities who, despite the fact that their replies were, on occasion, surprisingly absurd, were polite in the way they spoke. The aim was to also interview spokesmen for the multinationals for which purpose appointments were requested with representatives of BP, Exxon-Mobil, OXY, Repsol and Chevron-Texaco. Only this last-named company agreed, but on the date and at the time arranged other activities with public authorities were undertaken making it impossible to attend.

## Findings

The mission recorded the climate of insecurity and permanent hostility in which the workers, their trade union officials and the populace in general live, as well as the precarious health, hygiene and security conditions endured by the workers.

Dozens of witness statements were gathered giving account of the courage of the population at large and the workers and their union officials, in particular, in acting in defence of the rights of their class and of the community in general, notwithstanding the serious state of violence in which they live.

The ICLR report argues that the Colombian government works in compliance with private companies to remove the achievements of working class and trade union struggle from these workplaces.

The mission recorded what it termed 'para-legal



DANIEL BLACKBURN is Director of the International Centre for Trade Union Rights

manoeuvres' undertaken against workers, arguing that employers backed up threats against workers with actions ranging from dismissal through to the closure of work centres, to accusations which might go as far as to rig false charges of criminal acts.

In its analysis of the oil sector, the ICLR report concludes that preventing the formation of trade unions in oil companies appears to be a mission of the Colombian military.

The most significant manifestation of these manoeuvres was found to be the engagement of workers through 'Associated Work Co-operatives', the specific aim of which, the mission found, was to disguise temporary contracts, leaving workers without social security, without basic salary entitlements and without fixed working hours, while at the same time thwarting their rights to trade union membership and collective bargaining.

ICLR interviewed workers and union leaders on the question of alleged complicity between multinational companies and paramilitary groups.

The report also observed the negative impact of multinationals upon the environment and a failure to observe either international or local environmental regulations.

The jurists recorded systematic violations of human rights and describe 'crimes against humanity' against the population and particularly against the workers and their union officials in the Department of Arauca.

The jurists noted that trade unionists, defence lawyers and human rights workers live and work in protected locations with reinforced doors and windows.

The climate of insecurity in Arauca is heightened by the fact that, in addition to the military units and paramilitary groups, a group of at least 120 US Marines, specialised in guerrilla warfare, is also active in the Arauca oil region and, in conjunction with Colombian soldiers, uses helicopters from which they have machine-gunned and bombed centres of habitation where, they say, there are guerrillas.

In interviews with the ICLR, farmers complained that the Colombian army is committing violations against many sections of the communities. The farming communities are coming under military rule and witnesses complained that the army is being billeted in farmers' houses for weeks and even months at a time.

The mission observed that the oil towns of Saravena and Tame are entirely under military rule with checkpoints, inspections and trenches everywhere. The mission found that members of civilian organisations had been summarily imprisoned, including union leaders, while their offices had been raided.

### Multinational companies

The report examines a number of cases in which multinational oil companies have earned notoriety through some form or other of cooperation with the Colombian military. The mission noted that the links of one of the oil companies' security contractors with the military had been exposed in a long running legal case which arose out of the bombing of a civilian settlement in the town of Santo Domingo in Arauca in 1998.

### The state oil company

According to the ICLR jurists, the same problems are found in the main seat of the public oil company ECOPETROL in Barrancabermeja, Santander Department. The jurists noted 'waves of murders and arrests of union member workers and union officials', violation of collective agreements, and found that the oil workers union USO was prevented from entering the installations.

The report examines USO's history and records the use of the criminal law in a military court against USO during the 1970s when the region came under military control. The jurists observed that during the 1990s' proceedings against the USO turned into 'an obvious strategy to de-legitimise trade unions', and that as recently as 2004 the government had declared an USO strike to be 'illegal' and had dismissed 248 workers, including members of the union leadership. This action, the report notes, was criticised by the Freedom of Association Committee of the ILO, which pointed out that the oil sector does not constitute an essential service.

ICLR's jurists also observed barbed-wire netting set with blades in and around ECOPETROL installations, and noted that together with an ever stronger military presence, this creates strong psychological pressures for the workers. At the entrance to the company, workers have to cross a 20-strong line of Colombian Police, and their movements are then monitored by 500 video cameras. Perhaps unsurprisingly, the report notes that trade union membership has declined rapidly during the militarised period.

### Conclusions and recommendations

Many of the jurists' key recommendations focus upon the prospect for international pressure to bring about change in Colombia. Such pressure would be accomplished by a united and renewed effort on the part of the international trade union movement to influence multinational companies. Taking as a given the place of multinational companies in 'the driver's seat of the global economy', the ICLR jurists called upon unions worldwide to renew their efforts to protect labour rights in Colombia. The jurists also recommended dismantling the system of labour contracting through Cooperativas de Trabajo Asociado (administrative contracts that deny the contractor many of the typical labour rights associated with employment contracts – including trade union rights).

### Future actions

The full text of the ICLR's second mission on labour rights in Colombia will be published shortly on the ICLR website ([www.laborcommission.org](http://www.laborcommission.org)) and will be distributed worldwide by ICLR and its associated organisations ICTUR and IADL. For more information about the work of ICLR, to register for the ICLR mailing list or to become involved in an ICLR mission, please contact ICLR Coordinator Ashwini Sukthankar at the new ICLR offices in New York.

The jurists' key recommendations focus on international pressure to bring about change in Colombia

International Commission for  
Labour Rights  
225 Broadway, Suite 612  
New York, NY 10007, USA

[info@laborcommission.org](mailto:info@laborcommission.org)  
[www.laborcommission.org](http://www.laborcommission.org)

## Americas

A NEW report *Labour's platform for the Americas* sets out a joint platform of policy strategies agreed to by coalition of many of the leading regional trade union organisations across the Americas, including ORIT and the Caribbean Labour Congress. The platform is highly critical of what is described as a 'bankrupt' and 'fundamentalist' form of free-market capitalism, urging policy makers at the national and international levels to take account of a more socially-inspired model of trade and development. The platform goes on to argue for the need for coherent economic policies that recognise gender issues and provide decent jobs. The platform calls for a study of the social impacts of privatisation, and urges debt cancellation on the grounds that creditors share responsibility for the debt crisis and that debt must not be allowed to undermine the fight against poverty. The report, written and produced with the assistance of the trade union/research unit network Global Policy Network, is available in four languages of which the English edition can be downloaded from [www.gpn.org](http://www.gpn.org).

## Australia

THE TRADE UNIONS' campaign against the reform of industrial relations laws moved to a new level on 16 November when more than 500,000 people took to the streets for meetings and protest rallies that were held across Australia. The *Day of Protest* is believed to be the biggest ever such mobilisation in the history of Australia, and saw some 200,000 gathered for a major rally in Melbourne. In Brussels, ICFTU General Secretary Guy Ryder echoed the sentiments of trade unions around the world when he described the reforms as "the most serious violations of internationally-recognised labour standards anywhere in the industrialised world".

## Burma/Myanmar

■ THE ICFTU has released a newly updated version of its list of foreign companies doing business with the regime, including 38 companies new to the list of what the ICFTU calls the 'business partners of the

junta'. According to ICFTU, the list is 'the top of the iceberg', but serves as a focus for putting pressure on companies. The ICFTU list is available at [www.global-unions.org/Burma](http://www.global-unions.org/Burma).

■ The Governing Body of the ILO has strongly condemned threats that have been made against its Liaison Officer in Burma. According to reports from the BBC, the Burmese government has threatened to leave the ILO, but has not yet announced a formal decision. The ILO has warned of 'far reaching and extremely serious consequences' if this threat is carried out.

## Europe

MASS DEMONSTRATIONS have rocked Europe as unions demand protection for social welfare provision in retirement and resist plans to restructure social spending.

■ *Belgium*: on 28 October FGFB and CSC called a general strike in protest against reforms affecting pensions and social security provision. At least 80,000 marched through Brussels, and much of the country was brought to a standstill as Belgium experienced its second major strike in a month.

■ *France*: more than one million workers took to the streets in October at 150 protests across France called by the five largest trade union federations to protest at high unemployment and economic reforms. The French Prime Minister acknowledged the "discontent" and "scepticism" of the protestors but refused to change recently introduced labour contracts that made it easier for small companies to fire workers.

■ *Italy*: on 25 November millions joined strike action called by the three major union federations shutting down banks, transport, air travel and government offices. The strike was called to protest against the government's budget, which outlined substantial spending cuts.

## Global

THE ICFTU has released its annual survey of violations of trade union rights ([www.icftu.org](http://www.icftu.org)). Each year the report makes grim but vital reading. This year's survey records 700 violent attacks against trade unionists, nearly 500 death threats and 145 people murdered because of their trade

union activities. In a new development, the survey includes statistical charts that identify patterns of repression in different regions of the world. The charts show that unionists are most likely to face death threats or murders in the Americas, that the Asia-Pacific region has the highest number of trade unionists in prison, and that in the Middle East trade unions are banned outright in many countries. In Europe the situation is described as less dramatic but the report notes restrictions on trade union organising rights and on the right to strike, as well as identifying countries in which the authorities have attempted to take control of trade unions.

## ILO/Colombia

A HIGH LEVEL Tripartite Visit to Colombia has reported back from its week long mission to gather information on freedom of association in Colombia. The Tripartite Visit was approved at the 2005 ILO conference following many years of lobbying by Colombian trade unions to secure a high level ILO mission. The Tripartite Visit made several recommendations including provision of resources to combat the prevalent impunity; tripartite dialogue on human rights; the rapid reactivation of existing tripartite institutions; and the establishment of a permanent ILO presence within the country.

## India

UNIONS described as 'beyond expectations' massive support for a nation-wide strike on 29 September, called in opposition to government economic policies, amendments to the labour law, and against privatisation. Figures for participation in the strike varied, but BBC correspondents put the figure at more than five million in western Maharashtra state alone. MK Pandhe, leader of the CITU federation, said it was the biggest action by the working class ever launched in the era of globalisation.

## Labour standards

THE LATEST reports issued in the ICFTU series of World Trade Organisation trade policy reviews make the following basic findings:

■ *Romania* has ratified all eight

of the ILO core conventions.

Trade union rights are protected in law and practice, but the report raises concerns around the right to strike, noting that strikes are illegal when a collective agreement is in force, even if the problem that has led to the strike is not covered by the agreement. The report also notes that trade unions have been lobbying the government to establish a separate system of labour courts, but that as yet labour disputes are dealt with by a specialised branch of the regular court system.

The report notes that legal protections against discrimination are in place, but concludes that both women and Roma minorities continue to experience discrimination in terms of levels of employment and educational levels. According to the government, only 27 percent of Roma are in steady employment.

Child labour is identified as a substantial problem in Romania, and the report places the figures at 3.9 million economically active children of a population of 5.6 million children in the country. Although there is a minimum age of paid employment, it was lowered in 1991 from 16 to 15 years. There is no minimum age for entry into unpaid employment. Child labour in the formal sector is 'not widespread', but the report charges that child labour is 'prevalent' in Romania in informal and unpaid employment. In 2004 there were no cases of anyone being charged or convicted under the child labour laws. Forced labour is identified as a serious problem in terms of trafficking of persons and Romania is both a point of origin and a transit country for trafficked women and girls from across the former Soviet Union.

■ **Bolivia** has ratified all eight of the ILO core conventions.

The report finds numerous restrictions on trade union rights, including the requirement of prior government authorisation to form a trade union, the restriction to one union per enterprise and the denial of the right to organise for civil servants and peasant farmers. Strikes in the public sector are banned, and other workers are subject to strict conditions to call a legal strike. Failure to meet the conditions for calling a legal strike can be punished by prison terms of up to five years with forced labour. The ICFTU report also finds that there are no measures to protect unions from interference by employers.

Discriminatory provisions are built into elements of the General

Labour Act and, although the minimum wage treats men and women equally in practice, women earn less than men. The report also identifies societal discrimination against the small Afro Bolivian minority and finds discrimination in employment and income against the 62 per cent of people over 15 who identify themselves as indigenous.

Child labour is another problem examined by the ICFTU report, which concludes that the Ministry of Labour 'does not enforce the law' and that the government has devoted 'minimal' resources to investigating child labour. Forced labour is a problem in terms of trafficking of women and girls. The report also identifies apprenticeship and agricultural servitude as being problematic areas, along with the provisions of the criminal law which permit forced labour to be used as a punishment for those participating in a peaceful but technically 'illegal' strike.

## Social auditing

NEW RESEARCH from the Clean Clothes Campaign delivers a damning verdict on the social auditing industry, concluding that staff of global auditing firms are 'generally unskilled and inexperienced' and that audits are 'often short, superficial and sloppy'. CCC called for a worker-centred approach to monitoring and argue that the non-specialist retail sector (including supermarkets) 'are developing less stringent models which are overly dependent on weak social auditing'. Download from [www.cleanclothes.org/publications/quick\\_fix.htm](http://www.cleanclothes.org/publications/quick_fix.htm)

## Solidarity action

■ **THE INTERNATIONAL Transport Workers' Federation** in London has welcomed a Court of Appeal decision to overturn an order of the Commercial Court which granted an injunction against the union in the ongoing case arising from a dispute between the Finnish seamen's union and Viking Line ferries. The 'flags of convenience' case raises important issues around European law and trade union rights that have now been referred to the European Court of Justice. A transcript of the judgement (dated 3 November) is available on the ITF website, [www.itfglobal.org](http://www.itfglobal.org).

■ Following widespread support for workers in dispute at Gate Gourmet's Heathrow airport factory, the TGWU launched a

renewed campaign to change the laws on sympathy action. Due to the legal position that holds 'secondary action' to be 'unlawful' in the UK the TGWU was forced to repudiate the industrial action taken by baggage handlers in support of their catering colleagues (see *IUR* 12.3, p8). At the Labour Party conference delegates voted by 69 per cent to adopt a TGWU-backed resolution calling for the sympathy strikes to be made lawful, and for workers participating in them to be protected from dismissal.

## USA/ATCA

ON 25 OCTOBER Senator Dianne Feinstein withdrew Bill S. 1874, which would have substantially modified the application of the Alien Tort Claims Act. The International Labor Rights Fund welcomed the move, but warned that it expected the attempt to resurface in the future. The ILRF has used the ATCA to file pioneering human rights cases in the US courts for human rights violations committed overseas, including trade union cases in Colombia.

On 17 November ILRF filed a new ATCA claim against companies in the Bridgestone tires group pursuant to what the NGO claimed were serious labour rights problems at a rubber plantation in Liberia.

## USA

■ **THE CHANGE TO WIN Federation** held its founding convention in St. Louis on 27 September. The convention, attended by 460 delegates and 200 observers marked the point at which the seven unions that had left the AFL-CIO formally established an alternative trade union grouping. An agreement reached between the two federations in November has set out a framework for their affiliates to continue cooperating together in local and state bodies.

■ **FOUR PROPOSALS** put to ballot by California governor Arnold Schwarzenegger were defeated following a state-wide union-backed mobilisation and awareness raising campaign. The ballot included measures that would have paralysed the unions by required members to give approval in writing every year for their union to use part of their individual contributions for political activities.



## the Eric Lee column

**Fast Forward: Unions need to use online video to campaign for workers' rights**

I'VE just had a quick look at some of the best websites that focus on union rights – the Campaign for Labor Rights based in Washington, ICTUR in London, and the International Confederation of Free Trade Unions in Brussels. All three sites have a lot in common. They give trade unionists and the general public information about trade union rights and they all inspire us to become more active. They are all incredibly useful websites and they meet the needs of our movement for an online presence – if this were 1995.

Back in 1995, the web consisted of text-based sites, sometimes with photos. The few million people who were then online were happy to spend hours reading texts. Remember that the Internet was designed by and for scientists and engineers, and the World Wide Web was created by a British nuclear physicist. These were the kinds of people who read books on quantum mechanics for pleasure.

I believe that text is still important. But a few things have changed since 1995. Broadband has become hugely popular in the industrialised countries. In places like Korea, the vast majority of people have high-speed connections to the net. This allows people to watch Internet video without any real time lag.

Also, the software one needs to see and hear more than just text has gotten a lot better in the last decade. The current versions of programmes like Real Player, QuickTime and Windows Media Player bear little resemblance to what was

available in the mid-1990s. All these programmes are free of charge.

It used to be that you couldn't put Internet video up on your website because these files were huge, and web hosting companies were charging by the megabyte. Websites we set up as recently as a couple of years ago would have limits of 10 megabytes – barely enough to put up a three minute video in the Real Player format. But web hosting costs have plummeted, and a standard web hosting package in Britain today offers 6,000 megabytes – that's 600 times what was available before. You can put a lot of Internet video into 6,000 megabytes.

And finally, hundreds of millions of people have come online who were not online a decade ago. For many of them, our websites are not appearing in their native languages. It may be far easier for them to understand a video in English or French than to read a text in those languages. And many of them are low-literacy users, people who are not at ease reading long texts in any language.

For all those reasons, the big websites now all offer sound and moving images. They do so because (as we have known for more than a hundred years), sound and moving images are very effective ways to communicate.

### Why video?

We in the labour movement have long known about the power of moving images – maybe going back to the great early years of Soviet cinema (think *Battleship Potemkin*) and right up to the powerful films of Ken Loach today. In the real world, we all watch television, go to the cinema, buy and rent DVDs and videos. But when it comes to our websites, we in the labour movement continue working as if nothing has changed in the last 10 years.

I'd like to imagine a different way of doing things. Imagine if every time we wanted to focus attention on

a trade union rights issue we could do so using video. For example, LabourStart was recently asked by Russian oil workers to put pressure on a company which was union-busting in Siberia. The company had forced a trade union leader and his family out of their apartment. Wouldn't video footage, with sound, have been worth a thousand words – or more?

The Campaign for Labor Rights is trying to build support for garment workers in Nicaragua – and shows one digital photo, but no more than that. Their website tells us about a police presence surrounding a factory – but wouldn't it be better to show this?

I think one of the reasons why unions don't do this is that making internet video is seen as being costly and difficult. It is neither.

In Britain, where electronic gear is notoriously expensive, you can now get high-quality digital camcorders for less than £200. These cameras are very user-friendly, and the transfer of video from a digital camcorder to a PC for editing is usually a process of connecting a cable (computers these days come with high-speed ports that allow the connection of digital camcorders).

The digital video editing software now available – in Britain, for less than £50 – is designed to be used by families making home movies of their kids. In other words, you don't have to be a rocket scientist to make a video and to put it online.

Some unions have made use – and sometimes extensive use – of Internet video. The South Korean unions for a long time have documented their often-militant struggles with employers and the police, producing extraordinary footage (workers have been specifically trained to use digital video cameras, and they turn out in force at demonstrations). The Canadian Auto Workers and the Machinists union in the USA both have regular video

news shows on their websites. Working TV, based in Vancouver, has a decade of experience creating digital video for the trade union movement.

Until very recently, there was probably no easy way to know all this. If you were Canadian, you might have known about Working TV, which is shown on some local cable television stations as well as online. Members of the Machinists union may have known that their union had an 'IAM News' show on the website. But if you didn't belong to those particular unions, you might never have known what was possible.

All that changed in November 2005 with the launch of LabourStart TV. LabourStart TV, located at <http://www.labourstart.tv>, is basically a video version of the original LabourStart website. It's not a television channel. It's a portal site with links to a large number of videos produced by and for unions.

During the week of its launch, over 500,000 Australian workers poured out into the streets in the biggest demonstrations the country has ever seen. But for the first few hours, there was no video coverage on any Australian union site. However, LabourStart TV was able to locate 16 short videos and put them all up in a single place, allowing Australians – and the world – to see a labour movement getting up on its feet.

Back in 1995, we might have known about that mass protest by reading some text on a website. Maybe there would have been a photo too. But times have changed. Broadband internet, the availability of cheap digital camcorders and digital video editing software, and low-cost webspace has changed everything.

I'd like the international trade union movement to fast forward a decade, and to use the cheap and user-friendly technology of internet video – right now.

**[www.labourstart.tv](http://www.labourstart.tv)**

***Plus:***

- Trade union rights worldwide
- ICLR North Carolina
- Trade union TV
- Four new maps

- ICTUR web site:  
[www.ictur.org](http://www.ictur.org)

*pic right:* courtesy  
DMSC-TAAH project

DMSC-organised  
midnight rally to celebrate  
International Workers' Day  
2005

*main pic:* International Sex  
Workers' Conference

