

Svetlana Kolganova

Chapter 9. Without rights to strike or against discrimination: trade union rights in Russia

This chapter was written before Russian troops invaded Ukraine.

This article attempts to describe the context in which trade unions in Russia operate. It elucidates recent legislation in Russia that has contributed to worsening workers' rights and human rights in the country, and the strategies implemented by one of the trade union centres¹ in the country — the Confederation of Labour of Russia (the KTR) which was formed after the collapse of the USSR — to avert the attacks on freedom of association and civil rights.

Violations of human and trade unions' rights

Formally, freedom of association is guaranteed in Russia, although in practice workers experience serious difficulties in realising it. There are two systematic problems: 1) restrictions on collective labour disputes, including a de facto ban on strikes, and 2) no protection against discrimination based on union membership.

Restrictions applied to strikes include a quorum required for a strike ballot, and long and formalised procedure. Also, legislation does not allow a solidarity strike, a strike aimed at recognising a trade union, or a strike in order to criticize a government's economic and social policies. Moreover, strikes are generally prohibited for workers in certain industries, for example railway transport, air transport, public servants and other categories.

The formal legal prohibition of discrimination based on union membership is not provided with an effective mechanism of protection against violations by the employer. In particular, there are no special rules of proof

¹ The other trade union center is the Federation of Independent Trade Unions of Russia (FNPR), which is the successor of the All-Union Central Council of Trade Unions (Trade Union Center of the USSR). The FNPR inherited the experience of Soviet-era trade unions which were a built-in part of the State machinery. At the core of this experience is a paternalistic model of labour relations, in the center of which is the state which makes key decisions.

of discrimination that places the burden of proof on the employer rather than the employee. Moreover, the courts often do not react in any way to the statements about discrimination and do not establish the facts of discrimination, thereby encouraging employers to continue such behaviour in the future.

Some provisions of the Russian Labour Code and the practice of enforcement related to collective labour resolution and discrimination against trade union leaders were the subject of the recommendations of the International Labour Organization regarding ILO conventions 87 and 98.² However, these recommendations have not been implemented.

Meanwhile, violations of civil rights and freedoms are worsening and civil society organisations have come under increased pressure in recent years. In 2010 until 2012, there was a growth of the protest movement in the Russian Federation. The most striking were the so-called 'Bolotnaya protests' after the elections of the State Duma in 2011 (Kommersant, 2021). The state responded by 'tightening the nuts', in particular by restricting freedom of assembly and NGOs activities.

In 2012, the status of the organization 'foreign agent' applicable to NGOs was introduced into Russian legislation. This status, in addition to the negative label, entailed obligations for registration as a 'foreign agent'; labelling the materials published or distributed (including through the media or the Internet) by the NGO, with an indication that these materials are published or distributed by a NGO acting as a 'foreign agent'; regular reporting to the Ministry of Justice (annually submit financial statements with an audit report; once every six months, a report on its activities and on the personnel of the governing bodies; quarterly, documents on the purpose of spending money and using other property); as well as the threat of fines and even liquidation in case of non-compliance with these requirements.

In 2018, on the grounds of violations of these requirements, Interregional Trade Union Workers' Association (ITUWA) was under the threat of liquidation. After the KTR submitted a complaint to the ILO and started a public campaign in support of the ITUWA, the Supreme Court of the Russian Federation overturned the court's decision, stating that there were insufficient violations in trade union activities to make decisions on the liquidation. In 2022 the oldest human rights organization, 'Memorial' was liquidated due to alleged violations of requirements of the foreign agent legislation. In 2017-2020 the legislation on 'foreign agents' was tightened. From

² Case No 2758 (Russian Federation), 2010; Case No 2251 (Russian Federation), 2003; Case No 2216 (Russian Federation), 2002.

2017 this status became applicable to media; from 2019, to individuals; from 2020, to associations without official entity.

Currently the status of ‘foreign agent’ specifically targets independent journalists. The compelled abandonment of Russia by journalists and other threats to free journalism were highlighted in the speech of the editor of *Novaya Gazeta*, Dmitry Muratov (Muratov, 2021).

The coronavirus pandemic has also contributed to further restrictions of civil rights and freedoms. Before the pandemic, trade unions, as part of civil society, experienced difficulties in conducting collective protest actions. What is more, Covid-19 has led to their complete ban on the grounds of protecting public health.

Influence of the situation in the region

Other former Soviet Union states also face similar challenges caused by the transformation of labour relations. In the region, attempts by states to control the activities of independent trade unions are noted. The impact of such attempts varies by country (Buketov, 2014). In countries where independent trade unions exist or existed, the most serious problems are in Kazakhstan and Belarus.

In Kazakhstan, independent trade unions have been liquidated. In 2017, Kazakhstan was included in the list of the ten worst countries by the International Trade Union Confederation due to a significant deterioration in labour legislation and practice. The International Labour Organization has formulated recommendations to bring national labour standards and practices in line with ILO standards.

According to the KTR’s recent statement on the socio-political crisis in the Republic of Kazakhstan in 2022, the liquidation of independent unions and lack of social dialog contributed to this crisis (KTR, 2021). Additionally it draws attention to the connection between the processes taking place in Kazakhstan and the rights and interests of trade union members within the KTR, and their direct impact on the development of the labour relations system not only in Russia, but throughout the former Soviet Union states. This conclusion applies to other states in the region because practices in labour relations are replicated by governments and employers.

Serious violations of fundamental workers’ rights in Belarus after presidential elections in 2020 were a subject of consideration of the ILO. Among allegations was ‘extreme violence to repress peaceful protests and strikes’ (Hoffer, 2021). The ILO criticised these violations and urged the government of Belarus to take measures to respect worker’s rights and freedoms.

Despite the obvious violations of the international standards, the government of Belarus rejected allegations; and this position was supported by the government of the Russian Federation (Hoffer, 2021).

Trade union strategies

Under these conditions, information campaigns around specific problems become the main strategy to protect the rights of workers and trade unions. These campaigns include collective actions of workers, taking into account existing legal restrictions. For example, in 2010, strikes at the Ford plant were declared without the legal procedure one after another: as soon as the court suspended the strike, a new strike was announced and started. As a result, the strike was not interrupted. 'Italian strikes' (work by the rules) are also used, and in extreme cases, hunger strikes.

Information campaigns are used by the KTR affiliates to address specific problems in the workplace. In particular, the campaigns are actively used by the trade union of healthcare workers 'Action' and the trade union 'Novoprof', which unites workers in the food industry, trade, services and related industries.

In serious cases, such as the arrests of trade union leaders on fake criminal charges of violations, the KTR actively uses ILO mechanisms as part of information campaigns. For example, the arrest of Valentin Urusov in 2008, and the threat of liquidation of ITUWA in 2018. The complaints on specific cases positively contributed to the solution of problems: Urusov was released early from the prison; the decision of ITUWA was overruled.

The KTR actively uses ILO mechanisms as another instrument. The KTR appeals to the ILO around systemic problems regarding freedom of association. Such complaints allow articulating them to the government and to fix the existence of the problems. Additionally, KTR uses the regular reporting system of the ILO on ratified and not ratified conventions.

KTR promotes freedom of association by the preparation of analytical reports and organizing public discussions of such reports. It advocates for the change of legislation on the right to strike at various venues, including the Russian Tripartite Commission for the Regulation of Labour Relations.

Another important strategic area of activity is support for trade unions in neighbouring countries, in particular in Belarus. In Central Asia (Uzbekistan, Kazakhstan, Kyrgyzstan and others) support is provided within the framework of the International Labour Rights Monitoring Mission. The mission was established with the aim of collecting information on workers' rights in the region; co-ordination of work with activists among workers,

human rights groups and independent trade unions; support for initiatives of groups of workers to create own organisations.

KTR pays attention to the training of trade union members and develops research and expertise in its activities in order to form alternative assessments in the social, labour and economic fields under the umbrella of the Expert Centre of the KTR.

References

Buketov K. (2014) Human Rights and the Freedom of Association in Eastern Europe: The Challenges of Zhanaozhen and Hopes of Maidan, *Global Labour Column*, 173. <http://colum-n.global-labour-university.org/2014/06/human-rights-and-freedom-of-association.html>

Hoffer, H. (2021) Clear words from the ILO on Belarus, though China and Russia stand with the dictator, *Global Labour Column*, 383. <https://globallabourcolumn.org/2021/07/07/clear-words-from-the-ilo-on-belarus-though-china-and-russia-stand-with-the-dictator/>

KTR. (2022) A Communiqué by the Confederation of Labour of Russia on the events in Kazakhstan.

Kommersant (2021) Bolotnaya case. [Коммерсант. Болотное дело.]

Muratov D. (2021) Nobel Prize lecture

