

# National Workers Union

Organise the Un-organised  
Workers of the world unite!

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3<sup>rd</sup> April 2014

The Honourable Errol McLeod  
Minister of Labour and Small and Micro Enterprise Development  
Level 5 & 6, Tower C  
International Waterfront Centre  
#1 Wrightson Road  
Port of Spain

Dear Minister

## **REGISTRATION, RECOGNITION AND CERTIFICATION BOARD**

I have been directed by our Union's National Executive Committee to correspond with you for the second time in less than six weeks about the issue of the law as it affects the ability of workers to join trade unions of their choice.

Despite your failure to acknowledge our letter of 14<sup>th</sup> February 2014, which we view as grossly disrespectful, we hold this issue as being of fundamental importance to trade unions and deem it necessary to again put the views of the National Workers Union on the table. The ability of workers to join a trade union of their choice is basic to the exercise of freedom of association and collective bargaining.

Section 38 (4) of the Industrial Relations Act (IRA) introduced the concept of **Essential Industries** into law. It states:

*"no application for certification of recognition under this Part shall be considered where the application relates to workers comprised in a bargaining unit in one category of essential industries and the claimant union is already certified as the recognised majority union for workers comprised in a bargaining unit in another category of essential industries."*

Industries deemed "essential" are itemised in the First Schedule of the IRA. There are thirteen such named industries. The list of essential industries in some instances is nothing short of ridiculous: the sugar industry is so essential that the Government closed it (it is still listed in the First Schedule); Communications includes radio – there are now close to forty radio stations all of which would seem to be an essential industry according to the IRA; civil aviation includes airline catering services – so the company that makes sandwiches for Caribbean Airlines Limited is an essential industry; the iron and steel industry includes "the handing of scrap iron" - so the activities on the Highway by Beetham are an essential industry.

When workers in an "essential industry" want to join a trade union, they can join a trade union that is already recognised in that essential industry category; join a trade union that does not have any bargaining units in an essential industry category or form a new trade union

This, of course, limits the choice that workers may exercise in joining a union. They may be forced, by

law, to join a union that they may not be comfortable with and this, in fact, tramples upon their right to exercise freedom of association

Building a new trade union is not an easy task. A new union would have little in the way of resources – especially until it established recognition, which as you are well aware can take years. Such a union would likely have no office, no full-time staff, no ability to employ lawyers or other advisers or undertake research. Such a union is likely to be an in-house organisation with all the weaknesses that entails.

Although the freedom to form and join a new trade union is not restricted by the IRA, in terms of giving workers the strength necessary to impact on the balance of power between themselves and their employer, it is a poor option.

The restrictions on workers' rights to join a trade union of their choice that are inherent in the Industrial Relations Act and, in the issue under consideration, specifically in section 38 (4) are contrary to the provisions of the International Labour Organization's Convention on the right to organise. The requirements of this Convention are clear:

*“Workers and employers, **without distinction whatsoever**, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.”*

The Government ratified Convention 87 on 24th May 1963. By ratifying a Convention, a Government is confirming that their domestic legislation is consistent with the principles of the Convention. This is clearly not the case.

The legal imposition of the industrial model of trade unionism is a major attack on the right of the trade union movement to organise itself as it sees fit. More importantly, it effectively ensures the development of a weak trade union movement which is limited in its ability to maximise its strength.

The ability of trade unions to merge to increase their strength and resources, already hampered by the requirements of the *Trade Union Act*, is prohibited between most trade unions because of the restrictions of the essential industries section of the IRA.

The introduction of the essential industry concept into the law in 1972, as you are fully aware, was a political decision of the PNM government designed to stop the influx of workers away from what they saw as soft trade unions into militant unions like the OWTU and TIWU, which the PNM government viewed as not being in the interest of the transnational corporations and the merchant class whose interests they defended. The Industrial Relations Act, itself, was enacted during a state of emergency, during which militant trade union leaders were detained.

The National Workers Union, through you, calls upon the government of Trinidad and Tobago to repeal the First Schedule of the IRA, thus eliminating restrictions on workers joining trade unions of their choice.

Even, the Industrial Relations Advisory Committee (IRAC), appointed by your good self in its draft report recommended:

*“The concept of ‘essential industry’, that is ‘one union one industry’ be removed from the law in respect of the granting of certificate of recognition. It is a breach of ILO Conventions 87 and 98.”*

If it is perceived that to repeal the section may be subject to bureaucratic delay in terms of the government's legislative agenda, then there is a much swifter way of removing those restrictions in the interim.

Section 38 (5) of the Industrial Relations Act states:

*“The President of Trinidad and Tobago may, subject to affirmative resolution of*

*the House and the Senate, add to, vary or otherwise amend the First Schedule.”*

All that needs to be done is to, subject to affirmative resolution of the House and Senate, is to vary or otherwise amend the first schedule, by removing all the categories of essential industries from the Act.

Failure by the government to act to remove restrictions on workers' ability to organise themselves and engage in collective bargaining will continue to stoke the simmering anger of citizens of this country and may very well, if history is a good instructor, result in industrial and social unrest with unforeseen consequences for the society.

In the service of the working class

Dave Smith  
General Secretary