

ILC 2010 (99th session):- Committee on the Application of Standards: Special Sitting to examine developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)

Conclusions

The Committee noted the observations of the Committee of Experts and the report of the ILO Liaison Officer in Yangon that included the latest developments in the implementation of the complaints mechanism on forced labour established on 26 February 2007 with its trial period extended, on 19 January 2010, for a further 12 months to 25 February 2011.

The Committee also noted the discussions and decisions of the Governing Body of November 2009 and March 2010. It further took due note of the statement of the Government representative and the discussion that followed.

The Committee acknowledged some limited steps on the part of the Government of Myanmar. It noted the further extension of the Supplementary Understanding for another year; the agreement for publication and distribution of an informative brochure on forced labour; certain activities concerning awareness raising of the complaints mechanism established by the Supplementary Understanding, including newspaper articles in the national language; and certain improvements in dealing with under-age recruitment by the military. The Committee was however of the view that these steps remained totally inadequate.

The Committee noted that despite these special sittings, none of the three specific and clear recommendations of the Commission of Inquiry had been implemented. These recommendations require the Government to: (1) bring the legislative texts in line with Convention No. 29; (2) ensure that in actual practice forced labour is no longer imposed by the authorities; and (3) strictly enforce criminal penalties for the exaction of forced labour.

The Committee also noted that the complaints mechanism reached only limited parts of the country and its functioning could be an indication that there had been any significant diminution in the use of forced labour. The Committee emphasized the importance of the

conclusions reached in its special sittings at the 97th and 98th Sessions of the Conference (June 2008 and June 2009), and again placed emphasis on the need for the Government of Myanmar to work proactively towards the full implementation of the recommendations of the Commission of Inquiry appointed by the Governing Body in March 1997 under article 26 of the Constitution. It also recalled the continued relevance of the decisions concerning compliance by Myanmar with Convention No. 29 adopted by the Conference in 2000 and 2006 and all the elements contained therein.

The Committee fully supported all of the observations of the Committee of Experts and the decisions of the Governing Body referred to above, and expressed the firm expectation that the Government of Myanmar moves with urgency to ensure that the actions requested are carried out at all levels and by all civil and military authorities.

The Committee strongly urged the Government to fully implement without delay the recommendations of the Commission of Inquiry and the comments and observations of the Committee of Experts. The Government in particular should:

(1) take necessary steps to bring the relevant legislative texts, in particular the Village Act and Towns Act, into line with Convention No. 29;

(2) ensure that legislation foreseen by paragraph 15 of Chapter VIII of the new Constitution is developed, adopted and applied in full conformity with Convention No. 29;

(3) ensure the total elimination of the full range of forced labour practices, including the recruitment of children into the armed forces and human trafficking for forced labour, that are still persistent and widespread;

(4) strictly ensure that perpetrators of forced labour, whether civil or military, are prosecuted and punished under the Penal Code;

(5) ensure that the Government makes the necessary budget allocations so that workers are freely contracted and adequately remunerated;

(6) eliminate the continuing problems with the ability of victims of forced labour or their families to complain and immediately cease all harassment, retaliation and imprisonment of individuals who use, are associated with or facilitate the use of the complaints mechanism;

(7) release immediately complainants and other persons associated with the use of the complaints mechanism who are currently detained;

(8) facilitate the production and wide distribution of the brochure in the ethnic languages;

(9) intensify awareness-raising activities throughout the country, including training to military personnel to end under-age recruitment; and

(10) actively pursue agreement of a joint action plan with the Country Task Force on Monitoring and Reporting in respect of children in circumstances of armed conflict, of which the ILO is a member, to address amongst other things under-age recruitment.

The Committee called for the strengthening of the capacity available to the ILO Liaison Officer to assist the Government in addressing all of the recommendations of the Commission of Inquiry, and to ensure the effectiveness of the operation of the complaints mechanism, particularly in respect of the urgent issuance of an entry visa for an additional international professional as a priority and without delay.

The Committee specifically called on the Government of Myanmar to take every opportunity, including through the continued use of all of the available forums, to increase the awareness of the people (the civil and military authorities as well as the general public) as to the law against the use of forced labour, to their rights and responsibilities under that law and of the availability of the complaints mechanism as a means of exercising those rights. An authoritative statement at the highest level would be a significant step in this regard.

The Committee regretted with serious concern the continued human rights violations in Myanmar, including the detention of Daw Aung San Suu Kyi. The Committee urged her immediate release as well as that of other political prisoners and labour activists.

The Committee called on the Government to investigate, without further delay, the allegations of forced labour orders and similar documents which had been submitted to the Committee of Experts and encouraged the Government to communicate to the Committee of Experts, for its next session, its findings and any consequential concrete actions taken. The Committee expected to be in a position to take note of significant developments at the next session of the Conference