

**International Labour Conference, 101st 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 took note of the observations of the Committee of Experts on the Application of Conventions and Recommendations on the application of Convention No. 29 by the Government of Myanmar, as well as 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 in February 2012, for a further 12 months to 25 February 2013.

The Committee also noted the decisions of the Governing Body of November 2011 and March 2012. It welcomed the several advances enumerated in these documents and further elaborated in the statement of the Government representative and in the discussion in the Committee.

The Committee noted, in particular, the Government's detailed information on: the promulgation of the Ward or Village Tract Administration Act in February 2012, its definition of forced labour and penalties for its use and the repeal of the Village Act and the Towns Act of 1907; the orders issued by the Commander-in-Chief of the Defence Services in March 2012 advising all military personnel that strict and stern military disciplinary actions shall be taken against perpetrators of military under-age recruitment and those of April 2012 which make the new law prohibiting forced labour applicable to the military with perpetrators being prosecuted under section 374 of the Penal Code; the draft Action Plan concluded for the implementation of the Memorandum of Understanding on the Elimination of Forced Labour in Myanmar; budget allocations made for the payment of wages for the public works at all levels for 2012–13; the progress made on the translation into local languages of the brochure on the complaints mechanism; the statement made by the President on May Day 2012 committing the Government to acceleration of action to ensure the eradication of all forms of forced labour; disciplinary measures taken against 166 military personnel, action taken under section 374 of the Penal Code against 170 other government officials and five military personnel prosecuted under the Penal Code. The Government representative also referred to the adoption and the implementation of the Labour Organizations Law and the registration of 41 workers' organizations and ten employers' organizations and the discussion of modalities for the return of Mr Maung Maung and the registration of the Federation of Trade Unions of Burma (FTUB) under existing law.

The Committee welcomed the progress achieved towards complying with the 1998 recommendations of the Commission of Inquiry. It observed that many important steps had been taken by the Government in this regard since its meeting last year and expected that the Committee of Experts would review the latest legislative and practical steps taken to combat and punish the use of forced labour at its meeting this year.

The Committee did, however, raise its continuing concern over the Constitutional provision which provided an exception from the prohibition of forced labour for "duties assigned by the Union in accordance with the law in the interest of the public". It welcomed the Government representative's statement that the Constitution could be amended where it was the will of the people and trusted that steps would be taken to ensure that any exception to forced labour provided for in the constitutional

and legislative framework was strictly limited to the narrow scope of exceptions under Convention No. 29.

The Committee welcomed the elaborate and detailed Action Plan developed between the Government and the ILO, and insisted that all the social partners and civil society organizations would play an active role in prioritizing and assisting in the accelerated application of the elements in the Plan most relevant to the immediate implementation of the Commission of Inquiry recommendations. Prioritized objectives, clear targets, and effective monitoring mechanisms, accompanied by sufficient budgetary and human resources, would be essential elements for transposing these steps into a proactive and preventive campaign for the eradication of all forms of forced labour and the advancement of workers' rights.

The Committee welcomed the Government representative's statement that a culture of impunity was not tolerated and that the President had called for steps to be taken to ensure the respect for the rule of law throughout the country. The Committee considered that the action taken to prosecute forced labour should continue to be reinforced and the newly adopted legislation effectively applied so as to ensure complete accountability under the law. The Committee trusted that effective and dissuasive sanctions would be imposed to punish the use of forced labour in all sectors and requested the Government to review the impact of the measures that it had reported on so as to be in a position to strengthen them where necessary. It firmly emphasized the importance of the rule of law and the independence of the judiciary as necessary preconditions for real democratization and change.

The Committee encouraged the Government and the ILO to monitor closely the progress made in the implementation of the Action Plan, especially as regards the use of forced labour by the military, and requested that information be provided in this regard to the Committee of Experts this year.

Welcoming the release of numerous political and labour activist detainees, the Committee expected that all further such prisoners would be immediately released.

The Committee renewed its call for continuing collaboration of all agencies in the United Nations system in the efforts for the effective elimination of forced labour in Myanmar.

It once again called on all investors to ensure that their activity in Myanmar was not used to perpetuate or extend the use of forced labour but rather made a positive contribution to its complete eradication, in full respect for international labour standards, and recalled the availability of the ILO to provide appropriate support in this regard.

The Committee called for the strengthening of the capacity of the ILO Liaison Office to assist the Government, the social partners and all other relevant stakeholders, to play a full and constructive role in the efforts made to eliminate forced labour, including through the empowerment of communities in the knowledge and exercise of their rights and responsibilities. The Committee trusted that complainants and facilitators would continue to be protected in relation to their use and activities under the complaints mechanism, the retention of which it considered to be critically important.

The Committee urged the Government to provide detailed information on the steps taken on all the abovementioned matters to the Committee of Experts for its examination this year and trusted that the Conference would be in a position to take note of significant developments at its next session.

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