



SIXTH ITEM ON THE AGENDA

**Developments concerning the question
of the observance by the Government
of Myanmar of the Forced Labour
Convention, 1930 (No. 29)****Further developments**

1. By letter dated 23 February, the Director-General of the Department of Labour transmitted to the Liaison Officer a revised text of a plan of action.¹ The only substantive change in the text was the addition of a section² designating a “Special Focus Region for cooperation between the Government of the Union of Myanmar and ILO”, where the following would be implemented: (1) a pilot local-road construction project using labour-based technology; (2) a project concerning the use of mules to replace civilian porters, on a trial basis; and (3) an intensive public information campaign as well as a raising of public awareness of the mechanisms to make complaints.

2. In a meeting on 5 March, the Liaison Officer discussed with the Minister for Labour her serious concerns over lack of progress. In various meetings with the Minister and with the Department of Labour over the last few months, she had pointed out what she regarded as the elements that should be contained in a plan of action which could meet the expectations of the Governing Body. She had also presented these elements to the authorities in writing. The last text of the Government of Myanmar’s plan of action still fell short of what was required. In particular:
 - no reformed system for the investigation of allegations was provided for, with only a vague reference being made to a “facilitator”;
 - no comprehensive review of the current use and possible alternatives to forced labour was provided for;
 - the question of the use of forced labour by the army was not adequately or credibly addressed;

¹ This text is reproduced in Appendix 1.

² Section 4.(F)(2)(d)(2) of the text.

- on the question of the pilot region, there was no indication that strict instructions would be given for the enforcement of the prohibition on forced labour in this region, and that a mediator would be available to deal with any allegations that might arise.

The Liaison Officer indicated that she was not in a position to endorse the plan of action as it stood, and warned that if no further progress were made, this could create negative reactions in the Governing Body, which at its last session in November had already been impatient to see concrete evidence of progress in the elimination of forced labour. At this very late stage, the authorities should at a minimum incorporate two elements into their plan of action:

- provision for a mediator to receive and follow up complaints of forced labour should be included. The mediator would discharge a preliminary filtering of these complaints in order to set aside unsubstantiated hearsay or otherwise frivolous allegations, without however discouraging genuine complaints. Where he found that there was the prima facie case, the mediator could, as appropriate, seek an informal solution with the authority directly concerned, or transmit the complaint to the authority competent to deal with it under the relevant legislation. The mediator would be kept informed of the progress and outcome of the case, and would report in general terms on his activities both to the Myanmar authorities and the ILO;
- a clear indication should be given that there would be strict instructions on the prohibition on forced labour in the pilot region and that the mediator would have the necessary support and facilities in this region to enable him to deal effectively with any allegations of forced labour that might arise, including such confidential verification as may be necessary and appropriate to assess the plausibility of the allegations.

The Liaison Officer gave the Minister some written suggestions of wording that could be suitable to address these two points. While the resulting text would still fall short of what the ILO organs were expecting, it would at least represent some progress that the ILO and the Government of Myanmar could present to the Governing Body.

3. The Minister expressed doubts that the Governing Body would be satisfied with the Government's plan, even if the additions proposed by the Liaison Officer were incorporated, since his Government's experience was that whatever action they took was never considered sufficient by the Governing Body. He indicated that the authorities were opposed in principle to the appointment of a new person or group to carry out any new function, but that Mr. Léon de Riedmatten's current role as facilitator already allowed him to play a role in reviewing cases involving the use of forced labour, as was foreseen in the Government's latest text. This was why they could not accept the proposal to change the word "facilitator" to "mediator", as it would reintroduce the idea of an ombudsman, which they had already rejected. He stressed that in any case there was insufficient time left before the Governing Body discussion for the authorities to make any changes to the present text, and confirmed that this text was to be presented to the Governing Body.
4. The Liaison Officer noted that the functions of the mediator were more important than the name. She reiterated her concerns and advice to the Minister for Labour in a letter sent following the meeting, urging him to give serious consideration to supplementing the text of the plan of action along the lines that she had suggested in their meeting.
5. *Other developments.* It did not prove possible for the Implementation Committee to meet with the Liaison Officer before the Governing Body discussion. Some written information on further developments was instead provided, in the form of a letter from the Director-General of the Department of Labour dated 7 March. This letter indicated that

further progress had been made in the translation into ethnic languages of the Orders prohibiting forced labour.³ The letter also mentioned that the Ministry of Labour was publishing a monthly *Labour Bulletin* which included information relating to Convention No. 29.⁴ Concerning investigation of allegations, the letter stated that field observation teams had visited five areas of the country in late January, and appended to the letter was a brief chart of their findings as regards six allegations reproduced in Appendix 2.⁵ In no case was forced labour found to have been imposed.

Geneva, 12 March 2003.

³ The letter indicated that translation and distribution of the Orders had been completed in the following languages: Shan, Mon, (Pwo) Kayin (translations of which had already been seen by the Liaison Officer) as well as (Sgaw) Kayin, Kayah and Kachin. Booklets of translations in each of these languages were attached to the letter. The translations into the four dialects of Chin were in the process of being printed.

⁴ Two editions of this bulletin (in the Burmese language) have so far been received by the Liaison Officer. Information such as news of the appointment of the Liaison Officer and summaries of the Orders was included in these bulletins. The letter indicated that these bulletins had a wide circulation, including to ministries and departments concerned, peace and development councils down to the village level, libraries and factories employing more than 500 people.

⁵ Two of these allegations had been specifically raised with the Implementation Committee by the Liaison Officer/Interim Liaison Officer (see GB.286/6, appendix). One case concerned a complaint received from within the country that vehicle owners in a part of Mon State had been requisitioned along with their vehicles to transport troops and supplies as well as work on the construction of an artillery base. (This was dealt with as two separate allegations by the Field Observation Team.) In coming to its findings in this regard, the Field Observation Team did not interview the military. The other case concerned an allegation from a reliable source within the country that labour had been requisitioned for general cleaning/beautification tasks in two towns in Bago Division.

Appendix 1

Plan of Action for the Elimination of Forced Labour Practices in Myanmar (Proposed by the Government of Myanmar)

Introduction

1. The Government of Myanmar is politically committed to eliminate forced labour. It has taken legislative, executive and administrative measures in order to eliminate this practice from the country. Myanmar has agreed to the appointment of an ILO Liaison Officer with a view to enhancing its cooperation with the ILO in eliminating forced labour. This Plan of Action sets out elements for the effective elimination of forced labour.

Objective

2. The objective is to eliminate forced labour as contained in the provisions of ILO Convention No. 29 in cooperation with the ILO.
3. A number of work programmes are involved in the Plan of Action which aim at the elimination of forced labour in an effective manner.

Work programmes

4. The Plan of Action focuses on the following work programmes dealing with various issues on the elimination of forced labour situations throughout the country.

A. Dissemination of information

(1) **Further intensification of public information campaigns**

The public information campaigns will be further intensified to raise more awareness of the problem among all segments of the population.

(2) **Translation of the Orders into ethnic languages**

- (a) The Orders issued by the Ministry of Home Affairs prohibiting the use of forced labour published in Myanmar language have already been widely distributed throughout the country.
- (b) To reach out more extensively to the ethnic groups, these Orders which have now been translated into Mon, Kayin and Shan languages will be distributed in the aforementioned States. They will also be translated into Chin, Kayah and Kachin ethnic languages for distribution. It is envisaged that the distribution of the Orders in six different ethnic languages will be completed during the first quarter of 2003.

(3) **Publication of pamphlets and labour bulletins**

Pamphlets containing factual information on Convention No. 29 and other relevant information on the activities relating to the elimination of forced labour will be distributed to the public. The monthly labour bulletin containing news about the functional activities of the Ministry of Labour will be published for distribution to all public libraries throughout the country and to all government and non-governmental organizations. The first issue is expected to be published during the first quarter of 2003.

B. Awareness-raising programmes

With a view to raising awareness of public officials and military personnel on the issue of forced labour, training workshops will be conducted on a phase-by-phase basis. The first phase of

this programme will focus on public officials. Military personnel will participate in later phases. This will be a continuing programme to be carried out in 2003 and 2004.

C. Pilot project for local road construction

This is a pilot project for construction of a local road which is of a compatible length of 20 to 30 kilometres. Although this local road construction pilot project will employ labour-based technology, light machinery and equipment should be put into use to avoid workers from doing strenuous work. Further details of this pilot project, including designation of a suitable project area, time frame, etc. will be discussed later.

D. Expansion of animal transportation

In recent years, Myanmar Tatmadaw (Armed Forces) has introduced animal transportation as an alternative to using porters. However, there have been some constraints and limitations in its efforts to expand this system from the company level to the battalion level. There is a need for sufficient supply of mules, a rare animal species which is essential for use in difficult terrain, for transportation of military supplies and equipment. This shortage could be overcome if a small stock of asses could be supplied which can be used for breeding to augment the supply of this stock.

E. Enhancing public awareness of the mechanism to make complaints

- (1) The Government of Myanmar has established relevant mechanisms to enable the people to make complaints concerning their grievances or damages. The two existing mechanisms are mentioned below:
 - (a) *Provision under Section 374 of the Penal Code.* If people are forced to do any work or service without their consent they can make their complaints to the nearest township police station or to the nearest township judicial court of law. Under this provision, action can be taken against those who unlawfully exact forced labour.
 - (b) *Other measures to make complaints by the citizens.* According to the Protection of Citizen's Rights Law, 1975, and Attorney-General Law 2001, citizens have the right to make complaints for their grievances and damages caused to them. There are provisions to take legal action against those persons or organizations responsible for causing the loss of citizens' rights or benefits by abuse of power entrusted to them. To invoke these provisions, a citizen can file a complaint at the law offices established at different administrative levels. A separate branch has also been established at the Office of the Attorney-General to receive such complaints.
- (2) It is evident that there are legal provisions as well as mechanisms for complaints and legal action for those who have been subjected to forced labour or those whose rights have been violated.
- (3) Public awareness campaigns will therefore be intensified to enable the public to make effective use of the existing mechanisms which are in force.

F. Specific functions of Field Observation Teams

The Field Observation Teams have been visiting various parts of the country for inspection and investigation of forced labour practices, as well as to make the public aware of the Orders issued by the Government for elimination of forced labour.

- (1) The Chairman of the Implementation Committee, the Deputy Minister for Home Affairs and the Secretary of the Committee, the Director-General of the General Administration Department, have frequently made official tours to various parts of the country. On these occasions, they explained the Orders concerning prevention of forced labour and the consequences in case of failure to abide by them. Moreover, the Deputy Minister for Labour is the Vice-Chairman and the Director-General of the Department of Labour is the Joint Secretary of the above Committee.

- (2) The Ministry of Labour on its part has formed seven Field Observation Teams with the Directors-General and the Deputy Directors-General as leaders of respective teams which have been carrying out their function for two years (see attached list). To be effective in identifying instances of forced labour and in prosecuting those responsible, the functions of Field Observation Teams are specified as follows:
- (a) The leaders of these teams shall coordinate and collaborate first with the following State/Division authorities:
- (1) Secretary of State/Division Peace and Development Councils
 - (2) State/Division Administrative Officers of the General Administrative Department, Ministry of Home Affairs
 - (3) State/Divisional Judges, State/Division Courts
 - (4) State/Division Law Officers, State/Division Law Offices
 - (5) Commander of State/Division Police Force, Police Colonel
 - (6) Military personnel concerned
- (b) The abovementioned Teams will observe the situations mentioned hereunder:
- (1) Effectiveness of the existing legislative, administrative and executive measures
 - (2) Prevalence of forced labour practices in national development and infrastructure building projects; in regional development works; in rural development works and in some plantation areas
 - (3) Use of forced labour as porters
- (c) These Teams will observe the following situations:
- (1) Method of recruiting workers
 - (2) Mode of payment for workers
 - (3) Wage level of workers
 - (4) Facilities and privileges provided for workers
- (d) (1) There are regions and areas from where the allegations on the use of forced labour have mostly emanated. In the light of this, the following regions and areas are being prioritized for field observations during this open season:
- (aa) Tanintharyi Division
 - (bb) Rakhine State
 - (cc) Mon State
 - (dd) Kayin State
 - (ee) Shan State
- (2) Myeik District in Tanintharyi Division is designated as a “Special Focus Region” for cooperation between the Government of the Union of Myanmar and the ILO. The following shall be implemented in the Region:
- (aa) A pilot project for construction of a local road of 20-30 kilometres. Although this pilot project for local road construction will employ the labour-based technology, light machinery and equipment shall be put into use to avoid workers from doing strenuous work. Further details on this pilot project, including designation of a suitable project area, in Myeik District, time frame, etc., shall be carried out in consultation with the Liaison Officer.
 - (bb) Implement on a trial basis a project concerning the use of mules to replace civilian porters.
 - (cc) Implement an intensive public information campaign and intensify efforts for public awareness of complaint mechanisms set forth in the Plan of Action.

- (3) In some remote areas where communication and travel are difficult, there might be unavoidable situations which may entail the use of forced labour despite the existing Orders and Instructions. Such situations can be corrected by the visits of the Field Observation Teams to these areas.
- (4) As regards the allegations on the use of forced labour, proper investigation will be made by these teams depending on its source, credibility and concrete evidence. The allegations concerning the armed forces will be channelled to the Ministry of Defence through its representative who is a member of the Implementation Committee for the necessary action in accordance with the established procedure under the existing Defence Services Act.

G Role of facilitator

In resolving problems relating to instances of forced labour in the country, it is vital to employ the services of a person who is already familiar with local situations. With this view in mind and in order to have continuity, Mr. Léon de Riedmatten shall continue to act as facilitator in reviewing of instances involving the use of forced labour.

Implementation in cooperation with ILO

5. Most of the work programmes shall be implemented with the technical cooperation and assistance of the ILO and its Liaison Officer.

Conclusion

6. Although elimination of forced labour is a noble task, it cannot be accomplished overnight. To be realistic and objective, relevant measures in the Plan of Action shall be implemented step by step leading to concrete progress. The Government of Myanmar on its part shall make unremitting efforts for the final elimination of forced labour from the country.

List of Field Observation Teams formed by the Ministry of Labour

Team No.	Assigned area	Team leader
1.	Bago and Yangon Divisions	Director-General, Department of Labour
2.	Rakhine State	Chairman, Social Security Board
3.	Mon and Kayin States	Director-General, Office of the Central Inland Freight Handling Committee
4.	Shan State (East), Shan State (South) and Kayah State	Director-General, Factories and General Labour Laws Inspection Department
5.	Tanintharyi Division	Director-General, Office of the Central Trade Disputes Committee
6.	Shan State (North)	Deputy Director-General, Department of Labour
7.	Chin State	General Manager, Social Security Board

Appendix 2

Investigation on allegations concerning forced labour for the year 2002

State/Division: Rakhine State

Leader: U Aung Ba Kyi, Chairman,
Social Security Board

Date: 06.01.03 to 12.01.03

No.	Allegation	Findings	People/organizations being interviewed
1.	In September 2002, it was alleged that villagers were forced to plant trees beside Yangon-Sittwe Highways; the seedlings had to be bought at Ks.25. each.	State Peace and Development Council, Township Peace and Development Councils and Ward/Village Peace and Development Councils distributed the seedlings; the people plant the seedlings on their own so as to make their land green and beautiful covered with trees. They were not forced to buy the seedlings because villagers had their own nursery of plants. The seedlings were distributed free of charge.	Daw Saw Yee of Kyauk-taw township, Daw Khin Khin Hlay of Mrauk-U and Daw Tin Tin Hla of Ponna-Kyun.
2.	Villagers were forced to contribute money to build primary schools.	The State paid for the building of these schools. Also there were donations made by villagers and NGOs. No one was forced to contribute.	U Kyaw Mya and Daw Saw Yi of Kyauk-taw, U Maung Maung Lat and Daw Khin Khin Hlay of Mrauk-U, U Maung Kyaw Oo and U Ba Cho of Ponna-Kyun.
3.	Na-Sa-Ka and Na-Ta-La used forced labour in building villages.	Na-Ta-La offered minimum wages of Ks.100 per day for part-time workers. According to their skills, workers were offered Ks.400, Ks.500, Ks.800, Ks.1,000 and Ks.1,500. There were 345 workers, not 703 workers as alleged. It was not forced labour. There were receipts with signatures and thumb prints.	Col. Aung Ngwe, commanding officer of Na-Sa-Ka.

State/Division: Mon

Leader: U Maung Maung Ohn,
 Director-General, Office of the Central
 Freight Handling Committee

Date: 20.01.03 to 23.01.03

No.	Allegation	Findings	People//organizations being interviewed
1.	<p>In Kyaikhto township, the vehicle drivers were forced to transport officers and troops of Battalion 44 and their families to Kyaikhtiyo Pagoda. No payment was given. The drivers were detained.</p>	<p>Local authorities were being investigated. There were no such forcing civilian drivers for military operation.</p> <p>While visiting Kyaikhtiyo Pagoda, the families of military personnel and staff might have used these vehicles. But all this was done through local authorities from association of vehicle owners. They were given petrol or diesel oil and also fare for the use of their vehicles.</p> <p>No vehicles were forced to work for any military purpose.</p>	<p>Village/ward Peace and Development Councils and Township Peace and Development Council of Kyaikhto township.</p>
2.	<p>The drivers were forced to work on construction of artillery base on the 4,000 ft. Kalama Hill, 80 miles from Kyaikhto. Drivers who refused had their licences revoked and banned from the route.</p>	<p>In some forward areas, supplies are needed to be dumped in open season. Sometimes it was necessary to hire civilian vehicles when more vehicles were needed.</p> <p>But these vehicles were hired through local authorities from owners' association. They were given fees for the hire of their vehicles and also necessary petrol and diesel oil.</p> <p>In cases of road being damaged on the way it is customary that both the soldiers and drivers have to repair the road.</p>	<p>Village/wards Peace and Development Councils, Township Peace and Development Council.</p>