
**289th Session of the Governing Body
of the International Labour Office
(March 2004)**

EIGHTH ITEM ON THE AGENDA

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

Conclusions

1. We have taken note of the reports at our disposal including the latest one containing clarifications sought on the judgement referred to in the footnote to document GB.289/8/1. We have also taken note of the additional clarifications and information provided by the Ambassador of Myanmar.
2. While noting that positive developments have taken place since November and the authorities have demonstrated an openness to cooperate, the discovery of a court judgement against certain persons in relation to contacts or exchange of information with the ILO has undermined the credibility and prospects for future cooperation.
3. The subsequent action taken and explanations given, while demonstrating a welcome degree of transparency, have not yet alleviated the doubts and concerns that the situation has given rise to. It is clear that further convincing evidence is required. For that purpose it is important to clearly distinguish three separate concerns which have been expressed.
4. The first concern is that contacts or exchange of information with the ILO could in any way have judicial consequences in Myanmar. This concerns the very foundation of the ILO presence in the country. We have taken note of the assurances given by the Ambassador in that respect, as well as by the Minister for Labour. The Facilitator has made clear recommendations for action as regards the persons involved and these are widely supported in the Governing Body. In this connection, the Governing Body notes a further positive development subsequent to its debate, that in accordance with one of these recommendations the Facilitator has been able to visit the third person whose conviction has an ILO dimension.
5. The second concern is that contacts with third parties on matters of concern to the ILO could similarly be punished. This is of major concern to all Governing Body members, especially as it may call into question freedom of association principles. In that respect, and taking into account the questions raised during the recent visit and several interventions in the debate, the Government should avail itself of technical assistance from the Office to ensure that this matter is dealt with adequately in the course of the constitutional process.
6. The third concern is whether in light of the court judgment the Plan of Action, and more specifically the Facilitator mechanism, can be credibly implemented. Taking into account inter alia the views expressed through the Facilitator by Daw Aung San Suu Kyi, there is general agreement on the potential usefulness of the Facilitator mechanism. The question which remains, however, is whether there can be sufficient confidence that the guarantees which are built into the mechanism offer the necessary protection to victims who want to

make a complaint and whether the necessary conditions and safeguards were put into place to allow the Plan of Action to go ahead. The Office will have to examine this question more thoroughly in light of the results of the review of the recent cases and any further assurances provided by the Government. The results of this examination should then be submitted to the Officers of the Governing Body and should be found sufficiently convincing before proceeding to the implementation of the Plan of Action.

7. The situation as it stands by the end of May on these various issues should be reported to the International Labour Conference through the Committee on the Application of Standards.

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8. These conclusions which I have just read are of course without prejudice to the views expressed by some that the lack of substantive progress would call for reactivation of the review of relations between ILO constituents and Myanmar under article 33 of the Constitution.