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Elimination of All Forms of Forced or Compulsory Labor (2002)

Abstract

A compilation of reports submitted by various countries to the ILO by the year 2001, describing labor conditions and relevant laws, specifically relating to forced or compulsory labor.

Keywords

Bonded, Catherwood, Compulsory, Cornell, Countries, Economic, Europe, Forced, Global, Globalization, Globalisation, Human, ILO, ILR, Industrial, International, Labor, Labour, Law, Legal, Legislation, Library, Organization, Organisation, Portal, Relations, Reports, Rights, School, Standards, University, Work, Workers, Workplace, World

Comments

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The elimination of all forms of forced or compulsory labour

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The elimination of all forms of forced or compulsory labour

Armenia

Government

Means of assessing the situation

Assessment of the institutional context

The Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), were among the international labour Conventions submitted two years ago by the Employment Department of the Social Security Ministry to the Ministry of Foreign Affairs. They will be subsequently brought to the National Assembly for ratification.

The Employment Department of the Social Security Ministry has received written notification from the Ministry of Foreign Affairs stating that the two Conventions have been examined and approved by the Government. The procedure for their ratification has therefore started.

The choice of Conventions to be considered for ratification coincided with the drafting of the new Labour Code. Their provisions will be included in the Labour Code thereby making it conform to international labour standards.

Canada

Government

Means of assessing the situation

Assessment of the institutional context

As reported by the Government of Canada in its first annual report under the follow-up to the Declaration (GB.277/3/2), the principle of the elimination of all forms of forced or compulsory labour is recognized in all Canadian jurisdictions and forced labour is neither practised nor tolerated.

However, Canada, like other countries, has not been immune from the growing phenomenon of human trafficking, which includes, among several other things, the activities of forced labour or services. The Government of Canada is in the process of significantly strengthening its prohibitions and penalties against such practices.

In December 2000, Canada signed the UN Convention against Transnational Organized Crime and its Supplemental Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. One of the main provisions of the Trafficking in Persons Protocol is the provision requiring States parties to criminalize the trafficking in persons and to impose severe penalties against the human traffickers. In

furtherance of this requirement, Canada introduced in Parliament this year, Bill C-11, which criminalizes, for the first time in Canada, the specific activity of human trafficking. This legislation, expected to be in place later this year [2001], prescribes penalties against human traffickers, which include fines of up to \$1 million and imprisonment for up to life.

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

The Government of Canada is pleased to report that significant progress has been made with respect to obtaining the formal agreement of all jurisdictions for ratification of Convention No. 29. The majority of jurisdictions have completed their approval processes, and Government of Canada officials are continuing to work with the remaining jurisdictions to obtain their agreement as soon as possible.

Representative employers' and workers' organizations to which copies of the report have been sent

A copy of this report is being provided to the following representative employers' and workers' organizations:

- Canadian Employers Council (CEC)
- Canadian Labour Congress (CLC)
- Confédération des syndicats nationaux (CSN)

These organizations were invited to provide comments or supplementary information so that the Government could take them into account and submit them together with this report.

Observations received from employers' and workers' organizations

No observations were received from these organizations.

China

Government

Means of assessing the situation

Assessment of the institutional context

There has been no change since the last report.

**Representative employers' and workers'
organizations to which copies of the
report have been sent**

The report was prepared jointly by the Ministry of Labour and Social Security, the All China Federation of Trade Unions and the China Enterprise Confederation.

Ethiopia

Government

Means of assessing the situation

Assessment of the institutional context

Even though Ethiopia has not ratified the Forced Labour Convention, 1930 (No. 29), the country, as a Member of the ILO, is obliged to respect it. Based on the Universal Declaration of Human Rights, the right to work and the elimination of all forms of forced labour are guaranteed under the Constitution and in the Labour Proclamation.

The following is clearly indicated in the Constitution of Ethiopia. Based on the Universal Declaration of Human Rights, individual human rights are fully respected.

Be it in the formal or informal sector, freely chosen work remains an essential part of human rights. The provisions of article 8 of the International Covenant on Civil and Political Rights are reflected in the Constitution of the Federal Democratic Republic of Ethiopia. Article 41(1) and (2) of the Constitution guarantees every Ethiopian citizen the right to engage freely in economic activity and pursue a livelihood anywhere in the national territory, and also to choose his or her means of livelihood, occupation and profession.

The right to work is fundamental. Article 8 of the International Covenant on Civil and Political Rights obliges State parties to refrain from instigating or allowing forced labour. In conformity with the Covenant, the Constitution of Ethiopia provides that no one shall be required to perform forced or compulsory labour and no one shall be compelled to work without his/her free consent (article 18(3)).

The principle of the elimination of all forms of forced or compulsory labour is recognized in the Constitution and in Labour Proclamation No. 42/1993.

This principle requires the suppression of forced or compulsory labour in all its forms. However, certain exceptions are admitted, such as, military service, and in cases of emergencies such as wars, fires and earthquakes.

No persons or categories of persons are excluded from the implementation of the principle.

It is indicated in the Constitution (article 18(3)) that forced or compulsory labour shall not include the following:

- (a) any work or service normally required of a person who is in detention as a consequence of a lawful order, or any work or service required of a person during conditional release from such detention;
- (b) in the case of conscientious objectors, any service exacted in lieu of compulsory military service;
- (c) any service exacted in cases of emergency or calamity threatening the lives or well-being of members of the community;
- (d) any economic and social development activity voluntarily performed by a community within its locality.

The Ministry of Labour and Social Affairs has been given the mandate in the Labour Proclamation, as an authority entrusted with the supervision of the application of the legislation and regulation through the labour inspection services, and to assume responsibility for the follow-up.

Assessment of the factual situation

No indicators or statistics are available.

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

The Federal Democratic Republic of Ethiopia dismantled all institutions of repression installed by the previous regimes. Regional prejudices have been redressed and the rights and interests of deprived citizens are protected by the Government, which is accountable to the people.

In Ethiopia there is no distinction, exclusion, restriction or preference (both in law and in practice) between persons or groups of persons on the grounds of race, colour, sex, language, religion, political origin, wealth, birth or other status.

The new Labour Proclamation No. 42/1993 ensures that worker-employer relations are governed by the basic principles of rights and obligations, with a view to maintaining industrial peace and work in the spirit of harmony, in order to safeguard relations between workers and employers.

The Federal Democratic Republic of Ethiopia issued different proclamations and proclaimed a Constitution to safeguard workers' rights, in order to eliminate forced or compulsory labour.

The other means deployed by the Government to promote these principles and rights is the issuance of Labour Proclamation No. 42/1993, which guarantees workers' rights by providing for collective agreements to improve conditions of work.

Tripartite mechanisms were introduced to serve as a forum for periodic consultations with the social partners on labour-related issues, on the application of international labour standards and on labour administration.

The Ethiopian Employers' Federation and the Confederation of Ethiopian Trade Unions have a keen interest in ensuring good working conditions and smooth industrial

relations. There is a growing appreciation of social dialogue involving the social partners and the Government.

The objectives of the Government are to ensure that worker-employer relations are governed by the basic principles, rights and obligations enshrined in the Constitution of Ethiopia with a view to enabling workers and employers to maintain industrial peace and work in a spirit of harmony and cooperation for the development of the country.

Based on the Universal Declaration of Human Rights of the United Nations, the aim is to respect the individual's human rights fully and without any limitation.

In order to meet these objectives, the Government relies on the Constitution and the Transitional Charter, and other legislation such as labour laws or international agreements issued in accordance with article 9(d) of the Transitional Charter.

The Government recognizes the importance of tripartite social dialogue, both between countries and within countries, as a means of ensuring respect for workers' rights.

**Representative employers' and workers'
organizations to which copies of the
report have been sent**

There was communication between the Government and the Ethiopian Employers' Federation and the Confederation of Ethiopian Trade Unions (CETU).

**Observations received from employers'
and workers' organizations**

No observations were received from these organizations.

Japan

Government

Means of assessing the situation

Assessment of the institutional context

As regards conditions in Japan with respect to the prohibition of various forms of forced labour, there is nothing to add or change to the previous report (GB.280/3/2).

(i) In relation to (c) of Article 1 [of the Abolition of Forced Labour Convention, 1957, (No. 105)] (Note) The National Personnel Authority Rule 14-7 (Political Activity) (1949) [see GB.277/3/2].

The following sentence in the earlier report (GB.277/3/2):

1. The provisions relating to the prohibitions or restrictions of political activity in the law ("Law" refers to the National Public Service Law) and the Rules ("Rules" refer to the National Personnel Authority Rules) shall be deemed to apply to all personnel in the regular Government service including those to be given temporary or conditional appointments, those on leave of absence, temporary retirement, or under suspension from duty, as well as those

who are not on duty temporarily for any cause whatsoever. However, those [provisions] shall not apply to a case where advisers, consultants, committee members and similar part-time advisory personnel as designated by the National Personnel Authority, conduct such activities without being contrary to the prohibitions or restrictions prescribed by other laws and orders.

should be changed as follows:

The provisions relating to the prohibitions or restrictions of political activity in the law (“Law” refers to the National Public Service Law) and the Rules (“Rules” refer to the National Personnel Authority Rules) shall be deemed to apply to all personnel in the regular Government service including those to be given temporary or conditional appointments, those on leave of absence, temporary retirement, or under suspension from duty, as well as those who are not on duty temporarily for any cause whatsoever. However, those [provisions] shall not apply in cases where advisers, consultants, committee members and similar part-time advisory personnel (excluding part-time workers prescribed in article 81-5) as designated by the National Personnel Authority, conduct such activities without being contrary to the prohibitions or restrictions prescribed by other laws and orders.

In addition, the following sentence in the earlier report (GB.277/3/2):

6.(12) Displaying or allowing the display of any literature or drawings as may have political purpose in any national government building or equipment, or otherwise using or allowing the use of any national government building, equipment, materials or funds for political purposes.

should be changed as follows:

6.(12) Displaying or allowing the display of any literature or drawings as may have political purpose in any national government or Specified Independent Administration Institutions (SIAI) building or equipment, or otherwise using or allowing the use of any national government or SIAI building, equipment, materials or funds for political purposes.

Furthermore, the following sentence in the earlier report (GB.277/3/2):

8. The head of each ministry or agency of government shall, when any act which is contrary to the provisions relating to the prohibitions or restrictions of political activity as prescribed in the Law or the Rules or the fact thereof has come to his knowledge, immediately notify the National Personnel Authority, at the same time taking appropriate measures for the prevention of acts of violation or for their correction.

should be changed as follows:

8. The head of each ministry or agency of government and SIAI shall, when any act which is contrary to the provisions relating to the prohibitions or restrictions of political activity as prescribed in the Law or the Rules or the fact thereof has come to his knowledge, immediately notify the National Personnel Authority, at the same time taking appropriate measures for the prevention of acts of violation or for their correction.

In addition, the following sentences should be added to the report for 2001 (GB.280/3/2):

In addition, with respect to maritime labour (in view of the special nature of maritime labour), punishments including penal servitude are imposed to ensure the safety of navigation, etc. The Mariners Law (Law No. 100 of 1947) article 128 states, “a mariner shall be punished with penal servitude for a term not exceeding one year in any of the following cases:

(Items 1 to 3 have been omitted)

4. He/she has deserted the vessel in a foreign country.”

(ii) In relation to (d) of article 1 [of the Abolition of Forced Labour Convention, 1957, (No. 105)] (GB.277/3/2).

The following sentences in the reports for 2000 and 2001 (GB.277/3/2 and GB.280/3/2):

In enforcement, etc. of the Labour Standards Law, the Labour Standards Bureau at the Ministry of Labour, Prefectural Labour Bureaux and Labour Standards Inspection Offices as local branches are established, and the appropriate number of necessary personnel are allocated at these agencies.

Furthermore, the Seafarers Department of the Maritime Technology and Safety Bureau in the Ministry of Transport and District Transport Bureau as the local branches are established in order to operate the Mariners Law, etc., and the proper number of necessary personnel are allocated at these agencies.

should be changed as follows:

In enforcement, etc. of the Labour Standards Law, the Labour Standards Bureau at the Ministry of Health, Labour and Welfare, Prefectural Labour Bureaux and Labour Standards Inspection Offices as local branches are established, and the appropriate number of necessary personnel are allocated at these agencies.

Furthermore, the Seafarers Department of the Maritime Bureau in the Ministry of Land, Infrastructure and Transport and District Transport Bureau as the local branches are established in order to operate the Mariners Law, etc., and the proper number of necessary personnel are allocated at these agencies.

Assessment of the factual situation

The contents of the report for 2001 (GB.280/3/2) should be changed as follows:

1. The number of violations and cases sent to the Prosecutor's Office pertaining to article 5 of the Labour Standards Law (prohibition of forced labour) is as follows:

	Number of violations during periodic inspection	Number of cases sent to the Prosecutor's Office
1996	0	1
1997	0	1
1998	1	0
1999	0	2
2000	0	0

2. The number of violations and cases sent to the Prosecutor's office pertaining to article 122 (Penal servitude imposed on that master compelled person on board the vessel to perform an act which he has no obligation to perform, by abusing his authority) of the Mariners Law, is as follows:

	Number of violations during periodic inspection	Number of cases sent to the Prosecutor's Office
1996	0	0
1997	0	0
1998	0	0
1999	0	0
2000	0	0

**Efforts made or envisaged to ensure respect,
promotion and realization of these principles
and rights**

There is nothing to change or add to the previous reports (GB.277/3/2 and GB.280/3/2).

**Representative employers' and workers'
organizations to which copies of the
report have been sent**

- Employers' organization: Japan Federation of Employers' Association
- Workers' organization: Japanese Trade Union Confederation

**Observations received from employers'
and workers' organizations**

The following sentence should be added to the previous report:

“The Japanese Trade Union Confederation requests ‘to ratify ILO core labour standards immediately’ and ‘to promote the ratification of ILO core labour standards eight treaties in Asia in cooperation with ILO.’ (Request for a 2001 to 2002 policy system).”

**Observations submitted to the Office by the
Japanese Trade Union Confederation
(JTUC-Rengo)**

Rengo's comments on the Government's report are as follows: Rengo believes that Japan should ratify as soon as possible the Abolition of Forced Labour Convention, 1957 (No. 105), which is one of the eight core labour standards (which are either promoted or ratified under the joint efforts and consensus of the international community).

There are said to be two reasons why Japan has not ratified the Abolition of Forced Labour Convention, 1957 (No. 105). One reason is that it could prove impossible to enforce the three years or less prison term (forced labour) on those persons who instigate strikes for national and local public employees. The other reason is that it could also prove impossible to give out the same punishment to all national and local public administration employees found violating the prohibition on [the involvement in] political activities (these activities are widely prohibited). Rengo requests clarification from the Expert-Advisers on whether the existence of such provisions for punishments, are obstacles to the ratification of the Abolition of Forced Labour Convention, 1957 (No. 105).

[Reference is made to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), which has been ratified by Japan.]

All public employees working in national and local administrations are completely prohibited from engaging in any political activity, whether individually or through an association, and during or outside working hours. The Government states that this prohibition is necessary to maintain the neutrality of the public administration. Rengo does not believe that such a uniform and total prohibition (regardless of the type of work and level or responsibility of individual employees) would be necessary to maintain the

neutrality of the administration. This prohibition is an excessive prohibition [limitation] on civil liberties.

Kiribati

Government

Means of assessing the situation

Assessment of the institutional context

The principle of the elimination of forced or compulsory labour is recognized in Kiribati. The principle is recognized in the Constitution and the Employment Ordinance.

Section 6 of the Constitution of Kiribati states:

Protection from slavery and forced labour

6(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

Section 6(3) of the Constitution of Kiribati states:

Protection from slavery and forced labour

6(3) For the purposes of this section, the expression “forced labour” does not include:

- (a) any labour required in consequence of the sentence or order of a court;
- (b) any labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of court, is reasonably necessary in the interests of hygiene or for the maintenance of the place where he is detained;
- (c) any labour required of a member of a disciplined force in pursuance of his duties as such, or in the case of a person who has conscientious objections to service as a member of a disciplined force, any labour that that person is required by law to perform in place of such service;
- (d) any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation; or
- (e) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

Part VII of the Employment Ordinance contains similar (although less extensive) provisions. Subject to the exclusions identified in the legislation, no persons are excluded from the implementation of the principle of the elimination of all forms of forced and compulsory labour.

Part VII of the Employment Ordinance also provides a definition of forced labour and states that any person who “extracts, procures or employs forced or compulsory labour is guilty of an offence and shall be liable to a fine of \$100”. Enforcement of these provisions, in a general sense, would be through the judiciary.

Assessment of the factual situation

There are no indicators or statistics on forced or compulsory labour in Kiribati.

The Ministry of Labour, Employment and Cooperatives is attempting to establish a small statistical capacity, so that information of this nature can be collected and made available both internally, and to organizations like the ILO. We are hopeful that we will be successful in our bid for funding for such a project. Assistance from the ILO, whether it be financial or technical, in setting up such a programme, would be most beneficial. We have already made initial contact with the ILO Office in Suva and we would like to thank them for their positive response and assistance. Assistance from the ILO in establishing a statistical information capacity would be of great benefit.

The Pilot National Employment Survey and the National Development Strategy are provided as attachments to this report [not reproduced].

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

No measures have been taken to promote the elimination of all forms of forced or compulsory labour, neither have there been any means deployed to promote the elimination of all forms of forced or compulsory labour by the Government, the Organization nor any other bodies. There is no forced labour in Kiribati. However the Government supports the elimination of all forms of forced labour in the world.

Representative employers' and workers' organizations to which copies of the report have been sent

- Kiribati Chamber of Commerce
- Kiribati Trade Union Congress

Observations received from employers' and workers' organizations***Kiribati Chamber of Commerce***

The Kiribati Chamber of Commerce is generally in agreement with the Government's report but would wish to highlight that the phrase "no persons" in the Government's response ["subject to the exclusions identified in the legislation, no persons are excluded from the implementation of the principle"] should be replaced with "no jobs, work and sectors".

Kiribati Trade Union Congress

We have also carefully read the draft response from the Government's side and we have no comments on the elimination of all forms of forced labour or compulsory labour.

Annexes (not reproduced)

- Laws of Kiribati Revised Edition, 1980. *Constitution of the Republic of Kiribati*

- Laws of Kiribati Revised Edition, 1998. *Chapter 30 Employment (incorporating amendments up to 1 September 1998) (Employment Ordinance 1998)*
- The ILO-AusAID project to support labour departments in the Pacific (PACLAB/ILO), 1995. *Pilot Labour Market Information Survey (1995)*
- Republic of Kiribati, 2000. *National Development Strategies Uataboan Te Rikirake Ao TeRau – Working Together for Prosperity and Peace 2000-2003 (October 2000)*

Korea, Republic of

Government

Means of assessing the situation

Assessment of the institutional context

Forced or compulsory labour is prohibited by the national laws and regulations.

The principle is recognized in the following:

- The Constitution:
 - article 10 (respect for human dignity and worth): All citizens shall be assured of human worth and dignity and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals;
 - article 12, paragraph 1 (personal liberty): All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized or interrogated, except as provided by the Act. No person shall be punished, placed under preventive restrictions or be subject to involuntary labour, except as provided by the Act and through lawful procedures;
 - article 15 (freedom to choose occupations): All citizens shall enjoy freedom of occupation.
- The Labour Standards Act:
 - article 6 (prohibition of forced labour) of the Labour Standards Act (LSA): An employer shall not force a worker to work against his/her own free will through the use of violence, intimidation, confinement or by any other means which unjustly restrict mental or physical freedom.
- The Act on Criminal Procedures:
 - article 460 of the Criminal Procedure Act: The sentence of imprisonment shall be executed under the direction of a public prosecutor and in accordance with the court decision.

Article 6 of the LSA gives a definition of the term “forced labour” by stating that an employer shall not force a worker to work against his own free will through the use of

violence, intimidation, confinement or by any other means which unjustly restrict mental or physical freedom.

In preparation for the ratification of the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105), the Government of the Republic of Korea invited the ILO standards specialists to seek their advisory assistance on whether the Korean legal system is in compliance with the principles of the two Conventions. The findings were the following:

< Convention No. 29>¹ states in Article 2, paragraph 2, that “the term forced or compulsory labour shall not include:

- (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character.”
 - Articles 26-33 of the Military Service Act in Korea stipulate that those conscripted within the military service system can serve as public service personnel who will work as guards, surveillance personnel, custodians and administrative assistants at national government agencies, local governments, public organizations and social welfare facilities, for the purpose of public interests.
 - The public service personnel system exists because it is practically impossible to deploy all of the manpower with military duties to provide work or service of a purely military character. Therefore, public service personnel serve public interests at national Government agencies and in local Government during ordinary times and they may be immediately transferred to combat forces in times of national emergency. In other words, the public service personnel make up a stand-by military force. On completing the period of compulsory service, they are integrated into the reserve force and may be mobilized in times of war, just like those who finished active military service.

Article 1 of Convention No. 105 states that forced or compulsory labour shall not be used as a punishment for holding or expressing political views or for having participated in strikes.

Meanwhile, the State Public Officials Act prohibits public officials from being engaged in political or collective activities and provides for penal sanctions of imprisonment of up to one year and a fine of up to 2 million won in the case of violation of the aforementioned provision.

The Assembly and Demonstration Act provides for penal sanctions of imprisonment of up to two years or a fine of up to 2 million won in the case of those who organized an assembly or demonstration which is forbidden or for which advance notification of its being forbidden had been delivered.

The Trade Union and Labour Relations Adjustment Act bans any industrial action which is not organized by trade unions or not approved by the majority of union members.

¹ All text following the diamond “<>” is supplied by the Government for clarification of the text that immediately follows.

Anyone in violation of this provision will face imprisonment of one to five years or monetary sanctions of 10 to 50 million won.

There are no occupations for which forced or compulsory labour is allowed.

The Criminal Act provides for penal sanctions in the following cases and the responsibilities for taking action against forced labour are assumed by the police, prosecution and the courts:

- in the case where a public official, by abusing his official authority, forces a person to do any work that the individual is not obliged to do (article 123 of the Criminal Act: abuse of authority);
- in the case where a person coerces another to do any work that the individual is not obliged to do, by using violence or intimidation (article 324 of the Act: coercion); or
- in the case where a person arrests, confines, captures or entices another person as hostage and makes him or her do any work that he or she is not obliged to do (article 324-2 of the Act: coercion by hostage).

Article 110 of the LSA specifies that an employer who forces an employee to work against his or her own free will shall be punished by imprisonment for less than five years or by a fine of up to 30 million won. In this regard, labour inspectors working at the 46 regional labour offices throughout the nation carry out investigations into alleged violations. If the reported cases turn out to be true, they make arrests and send the offenders concerned to the competent authority.

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

As mentioned earlier, the principle of the elimination of forced labour is explicitly stated in the Constitution and laws, and in order to ensure implementation of the legal provisions, penal sanctions are also contained in national laws and regulations.

The Ministry of Labour coordinates and controls the application of the LSA, the monitoring of the implementation of the Act, labour inspection at the workplace, and measures to be taken in cases of violations of the LSA. Under the direction and supervision of the Ministry of Labour, the labour inspectors of the 46 regional labour offices conduct workplace inspections, ask employers to make reports or attendances and act as law enforcement officers in the case of violations, in order to ensure that employers fully observe their obligations with regard to preventing and eliminating forced labour.

The implementation of penal sanctions in cases of violations of the provision relating to the elimination of forced labour, mentioned earlier [under the Criminal Act], are guaranteed by the police, prosecution and courts of law.

Representative employers' and workers' organizations to which copies of the report have been sent

The following representative employers' and workers' organizations have been sent a copy of this report:

- Korea Employers' Federation (KEF)
- Federation of Korean Trade Unions (FKTU)
- Korean Confederation of Trade Unions (KCTU)

Observations submitted to the Office by the Korean Confederation of Trade Unions (KCTU) through the Government

As is well illustrated by the arrest of 219 workers as of October 2001, industrial action by trade unions is basically regarded as a criminal act in Korea, and basic labour rights are infringed by the intervention of the MOL [Ministry of Labour], the Labour Relations Commission and by prosecutors, in deciding the justifiability of industrial action.

It is notable that refusal *en masse* to work overtime and on holidays, and the situation where a large number of workers take annual or monthly leave, are defined as so-called "illegal strikes," and punishable on charges of obstruction of business, if they violate certain procedures or purposes required for industrial action. The threat of punishment is, in effect, forcing employees to work in Korea.

Government observations on KCTU's comments

The Government of the Republic of Korea supports the basic principle of the Declaration on Fundamental Principles and Rights at Work and its follow-up discussion in the Global Report and technical cooperation of the ILO secretariat.

As is stated in its annexes, the aim of the Declaration is to encourage the efforts made by members of the Organization to promote the fundamental principles and rights.

In line with the objective of the Declaration, the follow-up should be of a strictly promotional nature and for technical cooperation, which will help ILO members to implement effectively the core Conventions.

In this regard, the KCTU's observations on this year's annual report on unratified core Conventions are not compatible with the basic principle of the Declaration on Fundamental Principles and Rights at Work and its follow-up discussion in the Global Report.

[Reference is made to issues of freedom of association pending in the Committee on Freedom of Association.]

Madagascar

Government

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

Following a mission by the International Labour Office (ILO) in February 2000 focusing on forced labour in Madagascar, a national seminar on this subject was held in

Antananarivo in October 2001, with the participation of the social partners and other interested parties from different provinces in the country.

The seminar, which dealt with international labour standards and the Declaration, concluded with the launching of a national programme to combat forced or compulsory labour in Madagascar, to be financed by the Government of France.

The programme, which aims to bring about the effective abolition of all forms of forced labour in the country, will be guided by a national study on the same subject. The recommendations of the study will be the subject of a national debate, thereby opening the way for an action programme and the possible ratification of the Abolition of Forced Labour Convention, 1957 (No. 105).

The Government wishes to reiterate its political will to combat this phenomenon of forced or compulsory labour in the country. It will not fail to keep the ILO informed of developments and of the results of the national programme.

Observations submitted to the Office by the Union of Independent Trade Unions of Madagascar (USAM)

Means of assessing the situation

Assessment of the institutional context

The principle of the elimination of all forms of forced or compulsory labour is recognized in our country through the following instruments:

- the Constitution, in article 13, paragraph 1: “The inviolability of the person is guaranteed to each individual ...;
- in the legislation, particularly in the Labour Code, article 3: “Forced or compulsory labour is prohibited”;
- in the regulatory framework, by Decree No. 70-250 dated 26 May 1970 on the establishment of a commission to propose measures to bring the national legislation of Madagascar into line with the ILO Forced Labour Convention, 1930 (No. 29) and Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) [both ratified by Madagascar]; and
- through the ratification of ILO Convention No. 29.

Article 3 of the Labour Code provides the following definition: “The term ‘forced or compulsory labour’ refers to any labour or service exacted from an individual under threat of any penalty and which the individual in question has not freely offered to undertake”.

Under the legal provisions in force, no person or category of persons is excluded from the scope of the principle and rights relating to the elimination of all forms of forced or compulsory labour, either explicitly or because these persons or categories of persons are not covered by the relevant legislation. [Reference is made to the assignment of medical couples.]

Also under article 3 of the Labour Code, the legislation relating to the principle of the elimination of all forms of forced or compulsory labour excludes [certain] forms of work.

[Reference is made to matters relating to a ratified Convention.]

To date, the abovementioned Decree No. 70-250 dated 26 May 1970 represents the only mechanism for the implementation of the principle. However, given the various changes of Government that have taken place since its adoption, the Commission called for in the Decree exists only on paper.

Assessment of the factual situation

There are no statistics that would allow an assessment of the situation. Nor are there any data or information on trends based on indicators or statistics, or any other information that would allow for an assessment of the situation in the country (structural, economic or demographic circumstances or trends in education and training, etc.).

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

It is human rights organizations, above all, that are active in taking measures to promote the elimination of all forms of forced or compulsory labour. The activities of the Catholic Prisons Chaplaincy have been decisive in obtaining some small improvements in detainees' conditions and denouncing prison overcrowding.

The Government's efforts towards promoting the elimination of all forms of forced or compulsory labour have been focused on settling court cases currently under way in order to determine the fate of detainees who have been in prison for years, awaiting the outcome of their cases. These efforts have been made within the framework of the programme to reform the Ministry of Justice, one of the conditions laid down during negotiations with the Bretton Woods institutions.

Our organization's efforts in the same field include a call for the relevant conditions to be improved in the revised Labour Code.

Malaysia

Government

Means of assessing the situation

Assessment of the institutional context

The situation has not changed since our last report (GB.280/3/2). Any changes to the existing situation will be duly reported to the Office.

Mozambique

Government

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

As noted in its past report, the Government, as part of its efforts to promote the Declaration on Fundamental Principles and Rights at Work, has been taking measures with a view to ratifying the eight ILO fundamental Conventions.

The last three of these Conventions were submitted in 2000 to be considered for ratification, and every effort is being made to conclude this process. These Conventions are: the Forced Labour Convention, 1930 (No. 29); the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182).

With support from the ILO, the Government organized national tripartite seminars to promote the Declaration. For example, in early August (2001), a seminar on international labour standards was held in Maputo. In the province of Sofala, which is in the middle of the country, there was a seminar on the Worst Forms of Child Labour Convention, 1999 (No. 182).

The Government also carried out a national survey on child labour in Mozambique.

Observations submitted to the Office by the International Confederation of Free Trade Unions (ICFTU)

Mozambique ratified the Abolition of Forced Labour Convention, 1957 (No. 105), in 1977. Mozambique has not yet ratified the Forced Labour Convention, 1930 (No. 29), but the Convention has been proposed to Parliament for ratification. The Constitution clearly prohibits forced labour. There are numerous reports of poor Mozambican women and children enticed to cross into a neighbouring country to work as domestic servants, who end up being forced to work in brothels or on farms in conditions tantamount to slavery. In many cases, the employer notifies the police to have the workers deported on the day that wages are to be paid. The re-education centres of the war era are closed and all persons sent to the centres have been freed, but legislation remains on the statute books [Reference is made to ILO Conventions]. The legislation includes the Ministerial Directive of 15 June 1985, Act No. 5/1982, Decrees Nos. 58 and 59/1974, and Act No. 2/1979. The last of these, Act No. 2/1979, which allowed for prison sentences involving compulsory labour, has been repealed by Act No. 19/1991 [reference is made to ILO Conventions]. The majority of legislation permitting forced labour dating from the late 1970s and early 1980s is still on the statute books ... [reference is made to comments of the ILO supervisory bodies]. The plight of Mozambicans enslaved in brothels and plantations demands the urgent attention of both the Government of Mozambique and governments of neighbouring countries.

Nepal

Note from the Office

The Office received no report from the Government for the annual review of 2002. Reports were received for the annual reviews of 2000 and 2001.

Observations submitted to the Office by the International Confederation of Free Trade Unions (ICFTU)

The following comments are drawn from a report entitled “Report on forced labour in the 21st century” jointly issued in 2001 by Anti-Slavery International and the ICFTU.

Many cases of bonded labour have been reported in Nepal, especially those affecting the *Tharu* community and the *Dalits* (“untouchables”). Many *Tharus* were displaced from their land in the 60s. As they had little access to education or credit, they were forced to take loans and thus became bonded labourers under the system called *Kamaiya*. On 17 July 2000, the Minister for Land Reforms and Management made a statement that the authorities had decided to end the practice of bonded labour with immediate effect and that all debts owed by bonded labourers were cancelled. However, the Government failed to implement this declaration as no clear legislative framework has been introduced since then. This could have dealt with key issues like bonded labourers’ land rights, compensation payments of money owed to bonded labourers, minimum wage payments, a clear definition of bonded labour and the specification of criminal sanctions for those using bonded labourers. Consequently, many landlords responded by forcing bonded labourers to leave their homes and their land, and thousands of bonded labourers and their families were left homeless without jobs or food.

Oman

Government

Means of assessing the situation

Assessment of the institutional context

Although the practice of forced (compulsory) labour does not exist in the Sultanate of Oman, the Basic Statute of the State contains principles in this regard in article 12, which reads as follows:

The State enacts laws to protect the employee and the employer, and regulates relations between them. Every citizen has the right to engage in the work of his choice within the limits of the Law. It is not permitted to impose any compulsory work on anyone except in accordance with the law and for the performance of public service, and for a fair salary.

No law was enacted in the Sultanate of Oman allowing forced labour for the performance of public service.

The State of Oman has ratified the ILO Forced Labour Convention, 1930 (No. 29).

Forced labour does not exist in the Sultanate of Oman in any form; therefore, there is no definition of forced labour.

No person or category of persons may be excluded from the application of the principle and right concerning the elimination of all forms of forced and compulsory labour.

No categories of jobs or work or sectors are excluded from legislation regarding this principle.

Forced labour does not exist in the Sultanate of Oman in any form, since the laws and legislation do not allow any form of forced labour.

Assessment of the factual situation

Forced labour does not exist, hence no statistics are available.

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

Forced labour does not exist; in addition, the laws and legislation forbid all forms of forced and compulsory labour.

Government: Legislation and laws in force prohibit any form of forced or compulsory labour.

The organization: Article 80 of the Basic Statute reads as follows:

“Nobody in the State may issue rules, regulations, decisions or instructions which contravene the provisions of laws and decrees in force, or international treaties and agreements which constitute part of the law of the country.”

Forced labour does not exist in the State of Oman; therefore the State is very interested in observing these principles and rights.

The laws and legislation enacted ensure that no form of forced or compulsory labour exist.

Representative employers' and workers' organizations to which copies of the report have been sent

- Chamber of Commerce and Industry of Oman
- Workers' representatives

Philippines

Government

Means of assessing the situation

Assessment of the institutional context

The Philippines is still in the process of ratifying the Forced Labour Convention, 1930 (No. 29) and, as of July 2001, no substantive changes have taken place in regard to the instrument. The principle of the elimination of all forms of forced or compulsory labour is recognized in the Philippines. The Philippines ratified the Abolition of Forced Labour Convention, 1957 (No. 105) on 17 November 1960.

The Constitution of the Republic of the Philippines provides:

Article III. Bill of Rights

Section 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

Section 18. (1) No person shall be detained solely by reason of his political beliefs and aspirations.

(2) No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been convicted.

Article II. Declaration of Principles and State Policies

Section 11. The State values the dignity of every human person and guarantees full respect for human rights.

Section 19. (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted.

(2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee, or the use of substandard or inadequate penal facilities under subhuman conditions, shall be dealt with by law.

Qatar

Government

Means of assessing the situation

Assessment of the institutional context

The principle concerning the prohibition of all forms of forced or compulsory labour is recognized in legislation:

- No worker is hired without a contract. The Labour Department approves these contracts after ensuring that they are in harmony with the Labour Code and do not violate any of its provisions.
- Freedom to conclude as well as to terminate contracts of employment is guaranteed by legislation.

- The established laws impose sanctions on anyone who tries to force a person to work or to exact work against the person's will.

**Efforts made or envisaged to ensure respect,
promotion and realization of these principles
and rights**

The Ministry of Civil Service Affairs and Housing would like to indicate the following:

The Ministry has submitted the Declaration on Fundamental Principles and Rights at Work and its Follow-up to the august Cabinet of Ministers which considered it and decided to constitute a committee of the following ministers: Civil Service Affairs and Housing, Interior, Finance, the Economy and Commerce, to study the Declaration and to define the position of the State of Qatar vis-à-vis the principles, rights and obligations contained in the Declaration.

The Ministry has sought the help of an expert of the ILO (the Regional Office for Arab States) who held meetings with the employees concerned to explain to them the principles and rights, which the Declaration might entail.

The Ministry asked for the help of other experts in the administrative and legislative fields, as well as those concerned with the principles and rights laid down in the Declaration, in order to get information on the ways in which they can be respected, promoted and realized.

The Ministry intends to seek the help of the ILO for the organization of a symposium or meeting for officials and workers in the different public and private sectors, in order to discuss the Declaration and the implications of its principles, rights and obligations for all the parties concerned.

The Ministry expresses its thanks and appreciation to the ILO for the valuable contribution and response. It looks forward to continuing and promoting this cooperation in the different fields that concern the fundamental principles and rights in the Declaration.

The labour inspection service has been strengthened through the recruitment of a number of employees with the aim of undertaking inspection visits to a larger number of enterprises in the country. One of the tasks of a labour inspector is to ensure that workers are hired in conformity with legal work contracts approved by the Labour Department.

The assistance of the ILO was sought. The ILO delegated a number of specialists who undertook the following tasks:

- (a) they familiarized themselves with the inspection system and the activities of inspectors, including inspection reports and working sites inspected;
- (b) they provided comments and proposals for the strengthening of inspection activities in line with international labour standards;
- (c) they examined conceptual issues and provided field training for labour inspectors.

A two-month training course for new inspectors was conducted. The help of an experienced, well-known Arab establishment was sought for carrying out this activity. The course encompassed conceptual training, explanations on related international and Arab

labour conventions as well as the Labour Code of Qatar and other labour legislation. Furthermore, the course included field training and a focus on ensuring that the basic labour laws and standards are applied.

The labour inspectors have been instructed to ensure that employers do not violate the provisions of the law or those of the international labour Conventions ratified by the State, among which is the Forced Labour Convention, 1930 (No. 29).

Representative employers' and workers' organizations to which copies of the report have been sent

Copies of this report have been sent to:

- The Chamber of Commerce and Industry of Qatar
- The General Committee of Workers

Sao Tome and Principe

Note from the Office

The Office received no report from the Government for the annual reviews of 2000, 2001 or 2002.

Observations submitted to the Office by the General Union of Workers of Sao Tome and Principe (UGT-STP) through the World Confederation of Labour (WCL)

In Sao Tome and Principe forced or compulsory labour does not exist. Therefore the Government has done nothing in this field.

Singapore

Government

Means of assessing the situation

Assessment of the institutional context

There is no forced or compulsory labour in Singapore. This view is shared by the Singapore National Trades Union Congress (NTUC) and the Singapore National Employers' Federation (SNEF).

Singapore is a signatory to the Forced Labour Convention, 1930 (No. 29). Earlier, we had also ratified the Abolition of Forced Labour Convention, 1957 (No. 105), but subsequently denounced it in 1979, due to differences with the ILO COE (Committee of Experts) with regard to the interpretation of our legislation in relation to the Convention.

It is recalled that the ILO Committee of Experts had highlighted sections in Singapore's legislation such as the Newspaper and Printing Presses Act, the Internal Security Act and the Societies Act, as being contrary (to the Abolition of Forced Labour Convention, 1957 (No. 105)). These Acts in themselves do not stipulate that there can be recourse to forced labour; however, the Committee read them with the Prisons Act which has a provision that may require detained persons to work. The Government has always taken the stand that work in prison is voluntary and our prison labour does not constitute forced labour. Prisoners are not compelled to work and a prisoner will not be punished if he does not wish to work. The work programme is an integral part of the prisons' rehabilitation programme, and aims to provide prisoners with some basic skills and train them in basic work discipline. Generally, prisoners look forward to working in the workshops, as they can earn some income and relieve their boredom.

The Government would like to know whether a more explicit phrasing of the Prisons Act to reflect the voluntary nature of prison work, would mean that Singapore would be in full compliance with the Abolition of Forced Labour Convention, 1957 (No. 105). There have been no changes in our law. Our legislation, which has been perceived as being contrary to Article 1 of Convention No. 105, is essential for maintaining social, racial and religious harmony in Singapore.

**Representative employers' and workers'
organizations to which copies of the
report have been sent**

Copies of this report have been sent to:

- Singapore National Employers' Federation (SNEF)
- Singapore National Trades Union Congress (NTUC)

**Observations received from employers'
and workers' organizations**

Comments from both employers' and workers' organizations have been taken into account in this report.

Sri Lanka

Government

Means of assessing the situation

Assessment of the institutional context

There have been no changes since the last government reports for the annual reviews of 2000 and 2001 (GB.277/3/2 and GB.280/3/2).

Assessment of the factual situation

The Government's statements in its annual reports for 2000 and 2001 (GB.277/3/2 and GB.280/3/2) remain valid.

Efforts made or envisaged to ensure respect, promotion and realization of these principles and rights

The measures taken to promote the principle of the elimination of all forms of forced or compulsory labour are:

- the ratification of the ILO's Forced Labour Convention, 1930 (No. 29); and
- guaranteeing the freedom of the individual, as enshrined in the Constitution.

Under article 126 of the Constitution, every person shall be entitled to apply to the Supreme Court in respect of any infringement or imminent infringement by executive or administrative action.

The information in the Government's reports for the annual reviews of 2000 and 2001 (GB.277/3/2 and GB.280/3/2) remains valid.

The Government's objectives are to ensure equity, equality and freedom of the individual. Sri Lanka has accepted the principle of the elimination of all forms of forced labour. The Forced Labour Convention, 1930 (No. 29) has been ratified by Sri Lanka.

There is no conflict between the provisions of the Abolition of Forced Labour Convention, 1957 (No. 105) and national law and practice, apart from the instances stated in the Government's report for the 2001 annual review (GB.280/3/2) which have not affected any person in the context of forced labour, as interpreted in Article 1 of the Abolition of Forced Labour Convention, 1957 (No. 105). (The reference is to the Compulsory Public Service Act No. 70 of 1961, the Essential Public Services Act No. 61 of 1979, Treasury Circular No. 627 and the Industrial Disputes Act.)

In order to promote the ratification of the Abolition of Forced Labour Convention, 1957 (No. 105), it is necessary to identify the exact provisions in the law, as well as the practices which hinder ratification. Hence, we suggest that initially, a study should be carried out, to examine closely the relevant laws, and practices, which in the opinion of the Attorney-General, may conflict with the provisions of the Abolition of Forced Labour Convention, 1957 (No. 105).

Assistance will be sought from the ILO to assign competent person(s), preferably from the Attorney-General's Department/Ministry of Justice, to carry out such a study. The views of the tripartite constituents on the findings of the study could be subsequently discussed at a national tripartite workshop. The ILO could provide financial assistance to meet the costs of the study and the national tripartite workshop, and assistance could also be provided by the ILO by way of expertise, during the study and the workshop.

Representative employers' and workers' organizations to which copies of the report have been sent

The following representative organizations were consulted:

Employers' organization

- Employers' Federation of Ceylon

Workers' organizations

- Ceylon Federation of Labour
- Ceylon Workers' Congress
- Ceylon Federation of Trade Unions
- Sri Lanka Nidahas Sevaka Sangamaya

Observations received from employers' and workers' organizations

Observations have been received from the following organizations, the copies of which are attached to this report.

- Ceylon Workers' Congress
- Lanka Jathika Estate Workers' Union

We are awaiting observations from the other aforementioned organizations.

Observations submitted to the Office by the Ceylon Workers' Congress through the Government

Our observations are confined to the plantation sector in Sri Lanka. The Ceylon Workers' Congress (CWC) was established as a pioneer in the effort to unify various forces representing the interests of persons of Indian origin; concentrating particularly on plantation workers in the late 1930s, in Sri Lanka.

Since its establishment, the CWC has developed into a major labour organization, both within the plantation sector and at the national level. Though the majority of its members are employed in the plantation sector, membership has now been extended to other sectors as well. It includes teachers and workers in the private and public sectors.

Female members make up most of the membership – 52 per cent; while male members make up 48 per cent. The CWC adopts the “gender equality” and “gender balance” approach in all its activities.

The political wing of the CWC was established in 1972. It has representatives in all constitutional bodies, including the provincial council and the Parliament. Its General Secretary holds a portfolio in the Cabinet of Sri Lanka.

The CWC is affiliated with the ILO, the APRO International Confederation of Free Trade Unions-Asian and Pacific Regional Organization, (ICFTU) Public Services International (PSI), Asian American Free Labour Institute (AAFLI) and the Commonwealth Trade Union Council.

[Historical references.]

Since privatization, companies have virtually stopped recruiting new workers. Retrenchment has been undertaken in various forms, including induced early retirement.

This has resulted in a considerable reduction of the labour force; for example, the total workforce in the plantation sector at the time of privatization in 1992 was 393,070. It has been drastically reduced by 90,401, resulting in a total workforce of 302,669 (Source: *Sri Lanka Tea Board Statistical Bulletin, 1994*).

This reduction in the workforce has increased the dependency of non-workers on their families and accentuated economic hardship.

To compensate for the reduction in the labour force, companies have changed the work norms. [Reference is made to the 1998 collective agreement and a management increase in the number of kilos of tea to be plucked for a daily wage.]

This difference will have greater impact on profits, when one considers the output of thousands of workers in nearly 500 plantations.

In our view, ... this [situation] amounts to an indirect form of compulsory labour ... [Reference is made to the 1998 Collective Agreement, management practice and norms in other tea-growing countries.]

[Recommendation regarding possible revision of the Abolition of Forced Labour Convention, 1957 (No. 105).]

Observations submitted to the Office by the Lanka Jathika Estate Workers' Union through the Government

Sri Lanka ratified the Forced Labour Convention, 1930 (No. 29) on 5 April 1950. [Sri Lanka has not ratified the Abolition of Forced Labour Convention, 1957 (No. 105).]

The Abolition of Forced Labour Convention, 1957 (No. 105) prohibits recourse to the use of forced or compulsory labour in any form, for certain purposes. Under this Convention, member States undertake to suppress any form of forced or compulsory labour in five defined areas (citation of Article 1 of Convention No. 105).

[Reference is made to statements submitted by Sri Lanka to the Committee of Experts on the Application of Conventions and Recommendations.]

The enforcement of the traditional performance of "Rajakariya" (the social system in ancient times where the performance of certain duties was compulsory) in a feudal set-up, has been abandoned.

In the context of national development and to halt the brain-drain of university students of various professional fields (who have had free pre-university and university education, at the nation's expense, thereby creating a dearth of professional manpower in the implementation of national service in the country), the State enacted legislation to exact compulsory national service for a specified period of five years. A stipulated monetary penalty for non-compliance with this obligation was imposed. The legislative measure enacted in this regard was the Compulsory Public Service Act No. 70 of 1961.

Furthermore, as a preventative measure and as a safeguard for the continuation of essential services in times of crisis, lock-out and work stoppage, the State passed the Essential Services Act No. 61 of 1979. Failure, refusal or prevention of the provision of such services constitutes an offence under this Act. These facts (stated in our previous report) are still valid.

[Reference is made to requests for information on the application of a ratified Convention from the Committee of Experts on the Application of Conventions and Recommendations.]

We wish to add that, as far as we are aware, there has been a change in policy as regards the health authorities. They no longer insist on the implementation of the provisions of the Compulsory Public Service Act No. 70 of 1961.

There are different views when it comes to the subject of essential services. This difference becomes more apparent with reference to the Emergency Regulations. We have to admit that it is the responsibility of the State to take measures, in the greater national interest, to maintain essential services in times of crisis. These are issues concerning state policy, state security and national defence. We can only express our views and this is a sensitive issue, as it concerns the rights of workers in a special way. It is incumbent on the State to take the necessary measures by changing national policy to deal with emergency situations.

In an open economy and with the rat race in economic development, there is the risk that workers' rights will be abused for economic gains.

[Reference is made to Convention No. 105.]

In our view the State and trade unions must be vigilant of the abuse of workers' rights (in relation to possible forced labour "as a method of mobilizing and using labour for purposes of economic development and as a means of labour discipline").

United States

Government

Means of assessing the situation

Assessment of the institutional context

Since the purpose of the annual review for 2002 under the follow-up to the Declaration is to report on changes that may have taken place with respect to relevant national law and practice since our last report, the Government wishes to state that there have been no changes.

Observations received from employers' and workers' organizations

The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) and the US Council for International Business were advised of, and given the opportunity to comment on the present status report.

Copies of this reply are being communicated to them as required under article 23(2) of the ILO Constitution.

Observations submitted to the Office by the International Confederation of Free Trade Unions (ICFTU)

The United States (US) has ratified one of the ILO's two core Conventions on forced labour. In 1991 it ratified the Abolition of Forced Labour Convention, 1957 (No. 105). It has not ratified the Forced Labour Convention, 1930 (No. 29).

There are grounds for concern about commercial production by prisoners in the US, and about practices amounting to forced labour by exploited migrant workers (mainly women) in US dependent territories.

Forced labour is against the law in the US. [Reference is made to the application of a ratified Convention.]

At present, more than 75,000 of the almost 2 million federal and state prisoners in the US are engaged in prison industries, and the estimated total national budget for prison industries exceeds US\$1.5 billion. Prisoners' wages vary greatly, from US\$0.14 per hour in some states, to US\$8 per hour in Utah, where all prison labour is voluntary and inmates must be paid the going rate on the local labour market. However, US\$8 per hour is an exception, and the average wage rate for federal prisoners doing prison labour is between US\$0.38 and US\$0.42 per hour. In some states, prisoners who refuse such work lose their chance for early release, are deprived of privileges, or sent to higher security institutions and may be locked in their cells 23 hours a day.

Prisoners work in several sectors, including internationally traded products [and services] such as assembled computer circuit boards, clothing, automotive parts, food, telemarketing and telephone reservations systems for hotels and airlines, and data-entry. There is evidence that at least three states are exporting prison-made goods, partly in order to evade laws restricting trade in prison-made goods between US states. Privately owned and privately run prisons are becoming much more numerous. At the same time, various different parties are presently advocating that prison labour be made more widely available to the private sector, according to one of the various regulative frameworks.

Some of the employment in territories under the control of the US Government amounts to forced labour. Since the 1980s the US Commonwealth of the Northern Mariana Islands has developed a garment industry based on the ability of these islands to ship products duty free and without quotas to the US. This status, together with local control of wage and immigration laws, has had the practical effect of introducing a system of indentured servitude in the territory. Local authorities permit foreign-owned companies to recruit thousands of foreign workers, mainly young women [from certain foreign countries (named)]. The workers are recruited by private agencies that demand exorbitant fees from these workers. Fees are either paid in advance or deducted from pay, in an arrangement that requires the workers to remain in the employ of the same manufacturer, who in turn has a relationship with the recruiting agency.

In addition to the abuse of fee-charging, these foreign workers are routinely required to sign employment contracts where they agree to refrain from asking for wage increases, seeking other work and from joining a union. The workers are informed that contract violations will result in dismissal as well as deportation and that the workers concerned must pay the travel expenses to return to their home country.

[Reference is made to a situation in relation to the application of a ratified Convention.]

There are grounds for serious concern about commercial production by prisoners in the US and about practices amounting to forced labour involving exploited migrant workers (mainly women) in US dependent territories [same reference].

The US should ratify the Forced Labour Convention, 1930 (No. 29). Commercial production by prisoners in the US needs to be phased out. Practices amounting to indentured servitude by migrant workers (mainly women) in US dependent territories [same reference] need to be ended, including through adequate regulation of recruitment agencies and sponsoring employers, in order to respect the fundamental rights of the workers concerned.

Viet Nam

Government

Means of assessing the situation

Assessment of the institutional context

In respect to the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, which was adopted by the International Labour Conference at its 86th Session on 18 June 1998, the Government of Viet Nam, in order to respect and realize in good faith the principles in accordance with the Constitution, has undertaken measures to respect its reporting obligations in relation to [non-ratified] Conventions i.e. the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); the Freedom of Association and the Right to Organise Convention, 1948 (No. 87); and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and to [a ratified Convention] to which the principles concerning fundamental rights are subject.

For the period of 2000 to 2001, the validity of previous reports sent ILO on 10 October 1999 in relation to [non-ratified] Conventions Nos. 29 and 105 (the elimination of all forms of forced or compulsory labour) remains the same.

Reports prepared by the Ministry of Labour, Invalids and Social Affairs of Vietnam result from tripartite consultation with Viet Nam Chamber of Commerce and Industry (VCCI), Viet Nam Cooperatives Alliance (VCA) (organizations representing employers), Viet Nam General Confederation of Labour (VGCL) (representative organizations of employees) and line governmental bodies, Government Office (National Assembly's office, line ministries) and mass organizations.

[Reference to the Committee of Experts on the Application of Conventions and Recommendations.]