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### The Elimination of All Forms of Forced or Compulsory Labor (2004)

International Labour Organisation

International Labour Office

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### The Elimination of All Forms of Forced or Compulsory Labor (2004)

#### **Abstract**

A compilation of reports submitted by various countries to the ILO by the year 2003, describing labor conditions and relevant laws, specifically relating to forced or compulsory labor.

#### Keywords

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

#### **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

#### **Afghanistan**

#### Note from the Office

The Office has never received a report from the Government since the start of the annual review process in 1999.

#### **Armenia**

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced or compulsory labour is recognized in Armenia. In this respect, forced and compulsory labour is defined in its various forms in legislation and/or judicial decisions and is considered as labour which is forced on any person under any threat and which is not willingly accepted by the aforementioned person.

All forms of forced and compulsory labour are prohibited in the country. This principle applies to all categories of persons or activities.

There is no national policy to realize the principle of the elimination of all forms of forced or compulsory labour. However, the Government intends to adopt a policy on this subject in 2003 and would appreciate receiving related ILO technical assistance.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

The Government has no information/statistical data to describe what it does in instances where it finds that the principle is not respected, nor to describe the factual situation of the country with respect to forced or compulsory labour.

In realizing the principle of the elimination of all forms of forced or compulsory labour, the following measures have been implemented in Armenia:

- penal sanctions; and
- tripartite examination of issues.

In addition, the following measures have been envisaged in Armenia:

- legal reform;
- inspection/monitoring mechanisms;

- employment creation/income generation;
- educational programmes; and
- rehabilitation following removal from forced labour.

Within these measures, special attention is given to the situation of women and children.

The organizations of employers and employees have participated in the development of the draft Labour Code. No specific government authority is responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour.

The Government works with multilateral agencies, bilateral donors or other organizations in relation to the elimination of forced or compulsory labour. There was a seminar organized by ILO's Moscow Office and the Ministry of Social Security of the Republic of Armenia. Some themes of that seminar concerned the elimination of all forms of forced or compulsory labour and trafficking.

The Government does not collect statistics or other information relevant to the elimination of all forms of forced or compulsory labour. Although there is an absence of any financial resources for report forms and other expenditures, the Government plans to do so.

### Progress and achievements concerning this principle and right

The major changes concerning the principle of the elimination of all forms of forced or compulsory labour are as follows:

- development of a draft of Conception on Labour and wage policy (December 2002);
- development of a draft Labour Code (2002); and
- draft of a Law on Labour Inspection (2003).

### Difficulties concerning the realization of this principle and right

The Government has no information to describe the main difficulties encountered with respect to realizing the principle of the elimination of all forms of forced or compulsory labour in Armenia.

#### Priority needs for technical cooperation

ILO technical cooperation would be needed in the following areas, in order of priority:

Type of technical cooperation needed	Priority
Assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle	1
Awareness-raising, legal literacy and advocacy	1
Strengthening data collection and capacity for statistical collection and analysis	1

Type of technical cooperation needed	Priority
Sharing of experiences across countries/regions	2
Policy advice	2
Legal reform (labour law and other relevant legislation)	1
Capacity building of responsible government institutions	2
Training of other Officials (e.g. police, judiciary, social workers, teachers)	2
Strengthening capacity of employers' and workers' organizations	1
Employment creation, skills training and income generation for vulnerable workers	1
Development of social protection systems	2
Rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, micro finance)	2
Cross-border cooperation mechanisms	2
Coordination between institutions (e.g. various ministries and relevant commissions)	2

#### Report preparation

In preparing this report, consultations were carried out with the most representative employers' and workers' organizations and with governmental authorities outside the Ministry. The employers' and workers' organizations made oral comments on the report. These comments have been oral, in a discussion format.

#### Note from the Office

The Office received no report from the Government for the annual review of 2004.

#### **Bolivia**

#### Note from the Office

The Office received no report from the Government for the annual review of 2004.

#### Canada

#### Government

[Canada ratified in 1959 the Forced Labour Convention, 1957 (No. 105).]

Since Canada's 2002 annual report, there have been no changes to report with respect to the information previously provided by the Government.

Canada's laws and practices are in conformity with the principle of elimination of all forms of forced or compulsory labour. The Government is continuing to work with all Canadian jurisdictions with a view to completing the procedures required for Canada's ratification of the Forced Labour Convention, 1930 (No. 29).

No comments have been received from the following employers' and workers' organizations, which were invited to provide input to these reports.

- Canadian Labour Congress (CLC);
- Confédération des syndicats nationaux (CSN); and
- Canadian Employers' Council (CEC).

#### China

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced or compulsory labour is recognized in China.

The Labour Law defines forced or compulsory labour as follows: "to force labourers to work by resorting to violence, intimidation or illegal restriction of personal freedom".

All forms of forced or compulsory labour are prohibited.

In China, the principle of the elimination of forced or compulsory labour applies to all categories of persons or activities. There is no national policy to realize this principle. However, the Government intends to adopt a policy on this subject and would appreciate receiving ILO assistance in this respect.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

In instances where the Government finds that the principle has not been respected, the Labour Law provides that the person in charge shall be taken into custody for 15 days or less, or fined, or given a warning by a public security organ. In addition, criminal responsibilities shall be investigated against the person in charge if the act constitutes a crime (article 96, Labour Law).

In realizing the principle of the elimination of all forms of forced or compulsory labour, the following measures have been implemented:

- awareness raising/advocacy;
- inspection/monitoring mechanisms;
- penal sanctions;
- civil/administrative sanctions;
- employment creation/income generation;
- educational programmes;
- international cooperation programmes/projects; and

tripartite examination of related issues.

Moreover, legal reform and capacity building are envisaged.

Within these measures special attention is given to the situation of women and girls.

In China, the Ministry of Labour and Social Security, the Legal Affairs Office of the State Council, the State Economic and Trade Commission, the Ministry of Public Security, the State Industrial and Commercial Administration, the Ministry of Education, the All-China Federation of Trade Unions, the All-China Federation of Youth and the All-China Federation of Women are responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour.

The All-China Federation of Women has cooperated with the ILO in the Mekong Subregional Project to Combat Trafficking in Children and Women. Other governmental organs also cooperated with UNICEF on actions against trafficking.

The Government plans to collect statistics or other information relevant to the elimination of all forms of forced or compulsory labour.

### Progress and achievements concerning this principle and right

The major change concerning the principle of the elimination of all forms of forced or compulsory labour relates to the cooperation started with the ILO in the form of a seminar on forced labour in January 2003 and a study tour concerning minor offences in September 2003.

### Difficulties concerning the realization of this principle and right

The main difficulties encountered with respect to realizing the principle of the elimination of all forms of forced or compulsory labour are the lack of information and data, and the lack of capacity of responsible government institutions with regard to forced labour due to trafficking.

#### Priority needs for technical cooperation

There is a need for ILO technical cooperation to facilitate the realization of the principle of freedom of association and the effective recognition of the right to collective bargaining in China, in particular in the following areas, in order of priority:

- awareness raising, legal literacy and advocacy;
- capacity building of responsible government institutions;
- training of other officials (e.g. police, judiciary, social workers, teachers).

#### Report preparation

In preparing this report, consultations have been held with the most representative employers' and workers' organizations, as well as other governmental authorities outside the Ministry of Labour and Social Security. The comments by the most representatives of employers' and workers' organizations concerned were made on the report.

Moreover, a copy of the report was sent to the China Enterprise Confederation (CEC) and the All-China Federation of Trade Unions (ACFTU).

#### **Ethiopia**

#### Note from the Office

The Office received no report from the Government for the annual review of 2004.

#### **Japan**

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced or compulsory labour is recognized in Japan. In this respect, forced and compulsory labour is defined in its various forms in legislation and/or judicial decisions and is prohibited in the country. [Japan ratified in 1932 the Forced Labour Convention, 1930 (No. 29).]

The Constitution of Japan specifically provides freedom from bondage and involuntary servitude through the following:

Article 18: "No person shall be held in bondage of any kind. Involuntary servitude, except punishment for crime, is prohibited".

In addition, various kinds of freedoms and rights are guaranteed as follows:

- Article 14: "All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin".
- Article 19: "Freedom of thought and conscience shall not be violated".
- Article 20: "Freedom of religion is guaranteed to all. No religious organizations shall receive any privilege from the State nor exercise any political authority. No person shall be compelled to take part in any religious act, celebration, rite or practice. The State and its organs shall refrain from religious education or any other religious activity".
- Article 21. "Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated".
- Article 28: "The right of workers to organize, to bargain and act collectively is guaranteed".

Furthermore, with the view of guaranteeing procedures necessary to secure such freedoms and rights, the Constitution provides the following:

- Article 31: "No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law".
- Article 32: "No person shall be denied the right of access to the courts".
- Article 34: "No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of this counsel".
- Article 36: "The infliction of torture by any public officer and cruel punishments are absolutely forbidden".

Moreover, various laws and regulations are enacted in order to realize these guarantees provided for in the Constitution. The following provisions are examples of such laws and regulations and pertain to punishment in cases where a public officer violates the freedom or rights of an individual in the performance of his duties, etc: The Penal Code (Law No. 45 of 1907).

- Article 193 (abuse of authority by a public officer): "When a public officer abuses his authority and causes a person to perform an act which he has no obligation to perform, or obstructs a person from exercising a right which he is entitled to exercise, imprisonment with or without forced labour for not more than two years shall be imposed".
- Article 194 (abuse of authority by a special public officer): "When a person performing or assisting the judiciary, the prosecution, or the police abuses his authority and arrests or detains another, imprisonment with or without forced labour for not less than six months nor more than 10 years shall be imposed".
- Article 195 (violence and cruelty by special public officers): "When a person performing or assisting the judiciary, the prosecution, or the police in the performance of his duties, commits an act of violence or cruelty upon the defendant in a criminal action or another person imprisonment with or without forced labour for not more than seven years shall be imposed. The same shall apply when a person who is guarding or escorting another person detained in accordance with law or ordinance commits an act of violence or cruelty upon him".
- Article 196 (aggravation by result): "A person who commits a crime provided in the preceding two articles and thereby kills or injures another shall be dealt with the punishments prescribed for the crimes of bodily injury if they are graver".

All forms of forced or compulsory labour are prohibited in Japan. Indeed, with respect to national public employees in the regular service, there are provisions which prohibit them from engaging in a certain scope of political activities in view of their special status as public employees in order to keep them politically neutral and to secure the fairness of the administration, and those who violate the provisions will be imposed penalties on including penal servitude. The provisions in national legislation of the Article 1 of Convention No. 105 are cited below:[C.f. The National Public Service Law, Law No. 120 of 1947 (Restriction on Political Activities), Articles 102 and 110; and Rule of National Personnel Authority 14-7 (Political Activity) (1949)]

With respect to the work of seafarers, sanctions, including a penal servitude may be imposed to ensure the safety of navigation, etc. in view of the special nature of sea-faring [C.f. The Mariners Law No. 100 of 1947, Article 128].

Similar sanctions are also applicable in the sectors of the post [C.f. Law No. 165 of 1947 (Crime of Failure to Handle Mail), Article 79], gas and electricity [C.f. Law No. 51 of 31 March 1954, Article 53 and Law No.170 of 11 July 1964, Article 115] and telecommunications [C.f. Law No. 86 of 1984, Article 102].

The Constitution guarantees in article 28 the right of workers to organize bargain and act collectively, with the result that proper acts of trade unions (including proper strike) are not subject to any penal sanction in article 1.2 of the Trade Union Law (Law No. 174 of 1949).

National and local public employees in the regular service in the non-operational sector are prohibited to go on strike, in view of the special nature of their position, the public nature of their duties, etc. There are no legislative provisions under which those who have engaged in a strike are subjected to a penalty, but those who have conspired to effect, instigated or incited the perpetration of a strike will be imposed penalties on including penal servitude. [C.f. National Public Service Law (Duty to Obey Laws, Orders, and Orders of Superiors; Prohibition of Acts of Dispute and Other Similar Acts), Articles 98.2 and 100; Local Public Service Law (Law No. 261 of 1950) (Prohibition of Dispute and Other Similar Acts), Articles 37 and 61].

The principle of the elimination of all forms of forced or compulsory labour applies to all categories of persons or activities, and there is a national policy for its realization. In this regard, the law makes specific provisions as stipulated above. In order to ensure the implementation of the Labour Standards Law, instructions are made to establishments deemed to have problems with the Labour Standards Law. When an establishment violates the related laws and regulations, correction is promoted.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

In instances where the Government finds that the principle has not been respected, [the Penal Code (Law No. 45 of 1907) applies (cf. articles Nos. 193 to 196)]. Moreover, with regard to employers of private undertakings, the Labour Standards Law (Law No. 49 of 1947) stipulates the prohibition of forced labour and penal servitude for its violation (Articles 5 and 117).

Furthermore, the Mariners Law (Law No. 100 of 1947) applies these provisions of the Labour Standards Law to seafarer's labour relations and prohibits action taken by a ship-master (Article 122).

For enforcing the Labour Standards Law, the Labour Standards Bureau of the Ministry of Health, Labour and Welfare, Prefectural Labour Bureaus and Labour Standards Inspection Offices, and their local branches, have been established, and the appropriate number of personnel is allocated to these agencies.

Furthermore, 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 to these agencies.

In realizing the principle of the elimination of all forms of forced or compulsory labour, specific measures, such as inspection/monitoring mechanisms and penal sanctions, have been implemented in Japan. Within these measures, no special attention is given to the situation of particular groups of people.

With respect to important matters relevant to labour policy, the Labour Policies Commission, consisting of persons representing employers, workers and the public interest, passes comments to the Minister of Health, Labour and Welfare or administration authorities concerned.

There is a government authority responsible for the identification, emancipation and rehabilitation of persons subject to forced labour. In case of violation of the Labour Standards Law by an establishment, "correction" is encouraged by the Ministry of Health, Labour and Welfare. In case of enforcement, the Inspection Division, the Labour Standards Bureau in the Ministry of Health, Labour and Welfare, forty-seven (47) Prefectural Labour Bureaux, three hundred and forty-two (342) Labour Standards Inspection Offices and four (4) branches have been established.

The Government does not work with any multilateral agencies, bilateral donors or non-governmental organizations at the multilateral level in relation to the elimination of forced or compulsory labour.

With regard to statistics and other information relevant to the elimination of all forms of forced or compulsory labour, 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) includes the following: from 1997 to 2001, there was one violation registered in 1998 during a periodical inspection, while five cases were sent to the Prosecutor's Office: one in 1997, two in 1999, and two in 2001 (information is available at the Labour Standards Bureau of the Ministry of Health, Labour and Welfare). However, from 1997 to 2001, there were no registered violations or cases sent to the Prosecutor's Office pertaining to article 122 of the Mariners Law (penal servitude on board vessels, as mentioned above).

#### Priority needs for technical cooperation

There is no need for ILO technical cooperation to facilitate the realization of the principle of the elimination of all forms of forced or compulsory labour in Japan.

#### Report preparation

The content of this report was discussed in advance with the related ministries and agencies of the Japanese Government, but not the representatives of employers' and workers' organizations.

Copies of this report were sent to the Japan Business Federation and the Japanese Trade Union Confederation.

### Observations submitted to the Office by the Japanese Trade Union Confederation (JTUC-RENGO)

Observations on the Abolition of Forced Labour Convention, 1957 (No. 105)

The National Public Service Law (NPSL) article 98, paragraph 2, and the Local Service Public Law (LPSL) article 37, paragraph 1, mention a major barrier to the ratification of the Convention (No. 105) as follows:

- "Personnel shall not strike or engage in delaying tactics or other acts of dispute against the public represented by the national Government as employer, or resort to delaying tactics which reduce the efficiency of government operations, nor shall personnel or other persons attempt, conspire to effect, instigate or incite such illegal actions."
- "A person who conspires to effect, instigates or incites the illegal action defined in the first part of paragraph 2 of Article 98, or attempts such action" "shall be sentenced to penal servitude not to exceed three years or fined not to exceed 100,000 yen" (article 110, NPSL and article 61, LPSL).

RENGO has for years been demanding amendments to these related articles in the said laws, though to no avail so far.

The Government of Japan tries to reform the public service system, while maintaining the current restrictions on the fundamental labour rights of public servants, to strengthen the employers' organization, for instance ministers of various ministries have power on personnel issues. On this reform, RENGO runs a campaign to review the reform from the bottom for a public service system in line with ILO principles, and to achieve the ratification of Convention No. 105.

### Government observations on the Japanese Trade Union Confederation (JTUC-RENGO)'s comments

With regard to the comment made by the Japanese Trade Union Confederation (JTUC-RENGO) on the ratification of the Abolition of the Forced Labour Convention, 1957 (No. 105), the Government of Japan considers that the interpretation of the precise scope of forced labour prohibited by the Convention is not clear enough and therefore that a careful study is still needed mainly with respect to consistency between the provisions of the Convention and of the relevant national laws and regulations in force in Japan.

Furthermore, if RENGO is of the view that the prohibition of strikes provided for in article 98, paragraph 2, of the National Public Service Law and article 37, paragraph 1, of the Local Public Service Law is the obstacle to Japan's ratification of the Convention (No. 105), as pointed out in the reports of the ILO, this Convention merely prohibits the type of forced labour characterized to be "a punishment for having participated in strike" and does not deal with the issue of the right of workers to strike per se:

"Nor should it be forgotten that the 1957 Convention is not intended to provide for the workers' right to strike, it merely prohibits the use of forced labour as a sanction against participation in strike." (cf. General conclusions on the reports relating to the international labour Conventions and Recommendations dealing with forced labour and compulsion to labour (1962), paragraph 126.)

■ "It needs to be borne in mind that the Abolition of Forced Labour Convention, 1957 (No. 105) is not an instrument to guarantee freedom of thought or expression or other civil liberties as such, or to regulate questions of labour discipline or strikes in general." (cf. General Survey of the reports relating to the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105) (1968), paragraph 88.)

In addition, the National Public Service Law and the Local Public Service Law make only the principal actor of an unlawful act punishable, imposing criminal sanctions including imprisonment (imprisonment not exceeding three years or fines not exceeding 100,000 Japanese yen), illegality associated with such principal actors as those conspiring, instigating or inciting other public employees to strike or making such an attempt and those acting to cause other public employees to undertake illegal acts.

#### Korea, Republic of

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced or compulsory labour is recognized in the Republic of Korea. In this respect forced and compulsory labour is defined in its various forms in legislation and/or judicial decisions. According to article 6 of the Labour Standards Act:

"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".

All forms of forced and compulsory labour are prohibited in the country. This principle applies to all categories of persons or activities.

There is a national policy to realize the principle with the objective of the prohibition of all forms of compulsory labour. It has as scope and targets all citizens and all workers and follows the following implementation mechanism: the Constitution, the labour standards, and the Criminal Suit Act provide the principle of human dignity and values, physical freedom, prohibition of forced labour, imprisonment under court rulings, and sanctions against violation.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

With regard to the current factual situation, the Government recalls that all forms of forced labour are prohibited to all people.

In realizing the principle of the elimination of all forms of forced or compulsory labour, the following measures have been implemented in the Republic of Korea:

- awareness raising/advocacy;
- inspection/monitoring mechanisms;

- penal sanctions;
- civil or administrative sanctions;
- capacity building;
- employment creation/income generation;
- educational programmes;
- rehabilitation following removal from forced labour;
- international cooperation programmes or projects; and
- tripartite examination of related issues.

Within these measures no special attention is given to the situation of particular groups of people.

Employers' and workers' organizations have been involved in the development and implementation of government measures. Employees' and employers' organizations were consulted in revising or enacting laws related with the prohibition of forced labour.

The prosecutors' offices and police offices are in charge of sanctions against human trades and abuse of power of public servants engaged in the identification, emancipation and/or rehabilitation of persons subjected to forced labour. The Ministry of Labour monitors the implementation by employers of prohibition on forced labour.

The Government is actively cooperating with the Asia-Pacific ILO Office. It will hold the International Seminar on the Elimination of Child Labour attended by Asia-Pacific countries in October 2003.

Systems for gathering information are established, but there is no meaningful statistics on forced labour, because forced labour does not exist in effect in the Republic of Korea.

#### Priority needs for technical cooperation

There is no need for ILO technical cooperation to facilitate the realization of the principle in the Republic of Korea.

#### Report preparation

In preparing this report, consultations were made with employers' and workers' organizations as well as with other governmental authorities outside the Ministry. The consultations were made through paper works.

Comments on the report were received from the employers' or workers' organizations.

A copy of the report was sent to the Korean Employers' Federation, the Federation of Korean Trade Unions, and Korean Confederation of Trade Unions.

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

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

Despite the Government's comment describing the current factual situation that "all forms of forced labour are prohibited to all people", the KCTU finds various forms of forced/compulsory labour at workplaces:

- Workers in small to medium enterprises, workers engaged in various atypical employment arrangements suffer from low wages and long working hours. For them, overtime work and work on rest days is tantamount to forced labour. The precariousness of their employment status denies them the right and power to refuse overtime work; and the economic condition compels them to accept the work.
- Forced labour is rampant among migrant workers. Most "industrial trainees" have to give up their passports to employers when they arrive in the Republic of Korea and begin to work. Employers say this is to prevent losses, but, in reality, it is aimed at preventing the workers moving to other workplaces. Migrant workers are subjected to ban on leaving their place of accommodation, (they are allowed only with "guides"), locked up in company dormitories, subjected to confinement and beatings to force them to work.
- 260,000 undocumented workers suffer from similar situations, accentuated by their "illegal" status.

The Government's statement that "systems for gathering information are established, but there are no meaningful statistics on forced labour because forced labour does not exist in effect in the Republic of Korea" is indicative of its very blindness to actual forced labour taking place in workplaces, especially those which involve migrant workers. There is a genuine need to develop a capacity to bring these realities, its extent and depth, to light for effective public policy action.

### Government observations on the Korean Confederation of Trade Unions' (KCTU) comments

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

Though it is difficult to state that legal provisions banning forced labour are adequately enforced and that forced labour is completely eradicated in the Republic of Korea, a case concerning this phenomenon has never been reported or inspected in the country. Thus, a separate statistical work has not been conducted on forced labour. Now that labour inspection work has been computerized, it is expected that separate statistics on forced labour may be compiled.

In terms of the issue of forced labour of foreign workers, the Government has made active efforts to prevent workplaces from forcing foreign workers to work.

#### Lao People's Democratic Republic

#### Note from the Office

The Office received no report from the Government for the annual review of 2004.

#### Latvia

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced or compulsory labour is recognized in the Republic of Latvia. [Latvia ratified in 1993 the Abolition of Forced labour Convention, 1957 (No. 105).]

Although there are no definitions of forced or compulsory labour in national legislation or judicial decisions, all forms of forced or compulsory labour are prohibited.

The principle applies to all categories of persons or activities. Indeed, the general prohibition of forced labour is provided for in article 106 of the Constitution: "everyone has the right to freely choose their employment and workplace according to their abilities and qualifications. Participation in the relief of disasters and their effects, and work pursuant to a court order shall not be deemed forced labour".

There is no national policy for realizing this principle and the Government of Latvia does not intend to adopt any. However, the Government would appreciate receiving ILO assistance in this respect.

In instances where the Government finds that the principle has not been respected, the following shall apply: the currently effective regulatory acts do not provide for liability for employing a person is held liable in accordance with administrative procedures if the above regulations are violated. The control and supervision function in the field of employment legal relationships is performed by the State Labour Inspection. Furthermore, if a person's rights are violated, he/she can apply to the National Human Rights Office or the court institutions.

In Latvia there are no cases under review regarding the matters related to forced or compulsory labour. There are no indications of groups of the population that are most vulnerable, because of the lack of statistics on forced or compulsory labour.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

In realizing this principle, the following measures have been implemented:

- legal reform
- penal sanctions;
- civil or administrative sanctions; and

tripartite examination of related issues.

Within these measures no special attention is given to the situation of particular groups of people.

In this respect, employers' and workers' organizations have been involved in the development and implementation of government measures, as follows:

- Indeed, the social partners play an active role in the preparation of new legislation through the National Tripartite Cooperation Council. All draft projects of conceptions, programmes, as well as laws, regulations of the Cabinet of Ministers and other regulatory enactments are discussed with social partners.
- The main task of the National Tripartite Cooperation Council is to ensure and promote cooperation of the Government, trade unions at national level with the objective of ensuring such coordinating solution of social economic development problems that corresponds to needs of the whole society and the State by elaborating and implementing strategies, programmes and regulatory enactments on social and economic issues which would guarantee social stability and increase the welfare level in the State. As well it would increase co-responsibility of the social partners for the adopted resolutions and their implementation.

Latvia has already made a first step towards the ratification of the Forced Labour Convention, 1930 (No. 29), and the recommendation for the ratification of this Convention has been received from the National Tripartite Cooperation Council and a cooperation project has been established with the ILO to finance the translation of this Convention. The Convention will be translated in 2004 and afterwards the Ministry of Welfare will prepare the necessary documents for the ratification and pass them to Parliament.

The main task of the National Tripartite Cooperation Council is to ensure and promote cooperation of the Government, employers' organizations and employees' organizations (trade unions) at national level with the objective to ensure such coordinated solution of social economic development problems that corresponds to needs of the whole society and the State by elaborating and implementing strategies, programmes and regulatory enactments on social and economic issues which would guarantee social stability and increase the welfare level in the State. As well it would increase coresponsibility of social partners for the adopted resolutions and their implementation.

No specific government authority is responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour.

The Government does not work with any multilateral agencies, bilateral donors or non-governmental organizations at the multilateral level, and does not collect any statistics relevant to the elimination of forced or compulsory labour.

### Difficulties concerning the realization of this principle and right

Nature of difficulty	Forced labour due to debt bondage	Forced due to trafficking
Lack of public awareness and/or support	Х	X
Lack of information and data	X	X
Lack of social dialogue on this principle	Х	X

#### Priority needs for technical cooperation

To facilitate the realization of the principle of the elimination of all forms of forced or compulsory labour in Latvia, ILO technical cooperation would be needed in the following areas, in order of priority (1 = most important; 2 = second most important; 3 = third most important).

Type of technical cooperation desired	Ranking
Assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle	1
Strengthening data collection and capacity for statistical collection and analysis	2
Sharing of experiences across countries/regions in forms of seminars	3
Expert advisers	3

#### Report preparation

In preparing this report, employers' and workers' organizations were consulted in particular to discuss the priority needs for technical cooperation, but only employers' organizations made comments on it.

A copy of this report has been sent to the Latvian Employers' Confederation and the Latvian Free Trade Union Association.

#### Madagascar

#### Government

#### Recognition of this principle and right

Madagascar has so far ratified seven Conventions on the fundamental principles and rights at work out of the eight contained in the Declaration. The Abolition of Forced Labour Convention, 1957 (No. 105), is the only fundamental instrument not yet ratified by Madagascar. [Madagascar ratified in 1960 the Forced Labour Convention, 1930 (No. 29).]

The Government hopes that this number will increase and will rank the country alongside all the States which have already ratified all of the ILO's fundamental Conventions.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

The Government has made efforts to ensure the effective elimination of forced or compulsory labour in Madagascar. However, three stages were planned to be undertaken with the assistance of the International Labour Office (ILO) prior to the actual ratification of Convention No. 105:

 the conduct of a broad advocacy campaign to convince national opinion of the need to abolish forced labour;

- a national survey to obtain full knowledge of the true situation, and;
- a national tripartite forum involving the ministries affected by the application of the Convention, notably the Ministry of Justice and the Ministry of the Armed Forces, to consider the recommendations of the national survey concerning the State.

Of these three stages, the first on advocacy has already been undertaken according to plan, but the other two, unfortunately, for reasons connected with the post-election crisis in the country (late 2001-02), could not be implemented.

The next step in the activities will be to resume the appointment of the consultant to carry out the national survey.

#### Priority needs for technical cooperation

The Government is anxious to reiterate its political will to combat the phenomenon of forced or compulsory labour in the country. This determination was confirmed in its letter No. 030-MTLSjSGjDGTESEjSNRI-03 of 20 March 2003 to the ILO requesting technical and financial assistance.

The actions will then allow the question of the ratification of Convention No. 105 to be addressed.

#### Malaysia

#### Government

#### Recognition of this principle and right

The principle of elimination of all forms of forced or compulsory labour is recognized in Malaysia.

There are no definitions of forced or compulsory labour in national legislation or judicial decisions. However, all forms of forced or compulsory labour are prohibited. This principle does not apply to activities concerning rehabilitation work by prison inmates.

As regards national policy, article 6 of the federal Constitution provides that no forced labour is allowed, except as provided for by national law.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

The principle of the elimination of all forms of forced or compulsory labour has been respected and no incidents of forced labour have been noted in Malaysia.

In realizing this principle, the following measures have been implemented:

- awareness raising/advocacy;
- legal reform;
- inspection/monitoring mechanisms;

- penal sanctions;
- civil or administrative sanctions;
- special institutional machinery;
- capacity building;
- employment creation/income generation;
- educational programmes;
- rehabilitation following removal from forced labour;
- international cooperation programmes or projects; and
- tripartite examination of related issues.

Within these measures no special attention is given to the situation of particular groups of people.

The federal Constitution can be regarded as a successful example of the elimination of forced or compulsory labour as follows:

Article 6.2. All forms of forced labour are prohibited but Parliament may by law provide for compulsory service for national purposes.

Article 6.3. Incidental work to the serving of sentence of imprisonment imposed by a court of law shall not be taken to be forced labour.

Employers' and/or workers' organizations have not been involved in the development and implementation of government measures.

No specific government authority is responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour.

### Progress and achievements concerning this principle and right

Since the Government's last report, the major change concerning the principle of the elimination of all forms of forced or compulsory labour is the amendment to clause 3 of article 6 of the Malaysian Federal Constitution regarding work or service as a consequence of a conviction of guilt in a court of law (11 January 2001).

#### Priority needs for technical cooperation

There is no need for ILO technical cooperation to facilitate the realization of the principle of the elimination of all forms of forced or compulsory labour in Malaysia.

#### Mongolia

#### Government

#### Recognition of this principle and right

The principle of elimination of all forms of forced or compulsory labour is recognized in Mongolia. Nevertheless, there are no definitions of forced or compulsory labour in national legislation or judicial decisions.

This principle applies to all categories of person or activity, but there is no national policy for its realization. However, the Government intends to adopt a policy on this subject in 2003 and would appreciate receiving ILO assistance in this respect.

In instances where the Government finds that the principle has not been respected, the following shall apply:

- Article 16.4 of the Constitution: "The citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms: the right to free choice of employment, favorable conditions of work, remuneration, rest and private enterprise. No one shall be unlawfully forced to work".
- Article 7 of the Labour Code: "No one shall be required to perform illegally a forced or compulsory labour".
- Article 31 of the Labour Code: "Prohibiting performance of work not specified on an employment contract, an employer may not demand a worker to perform work not specified in his contract of employment, except as otherwise provided in this law".
- Article 141.1 (penalties for violation of the Labour Law): "In case of a violation of the labour law does not involve criminal liability, the following punishments shall be imposed. If a worker is compelled to work illegally, a judge shall impose a fine on an officer of 5,000 to 30,000 tugriks, and shall impose a fine on a business entity or organization of 100,000 to 250,000 tugriks (about US\$4 to 26, as of September 2003)".
- Article 4 of the Employment Promotion Law: "Citizens shall be involved in any employment promotion activity only on voluntary based principle".

With respect to the current factual situation in Mongolia (according to the employment rights survey conducted by the National Human Rights Commission, the State Social Welfare and Labour Inspection Agency, and the Mongolian Employers' Federation in 2001), there have not been any registered cases and practices of forced labour because:

- traditional industrial relations from the socialist period still exist; and
- forced or compulsory labour is not defined in national legislation and judicial decisions in its various forms.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

In realizing the principle of the elimination of all forms of forced or compulsory labour, the following measures have been implemented:

- awareness raising/advocacy;
- inspection/monitoring mechanisms;
- penal sanctions;
- civil or administrative sanctions;
- special institutional machinery;
- employment creation/income generation; and
- tripartite examination of issues.

In addition, legal reform, capacity building, educational programmes, rehabilitation following removal from forced labour, and international cooperation programmes or projects are envisaged.

Within these measures, no special attention is given to the situation of particular groups of people.

Employers' and/or workers' organizations have been involved in the development and implementation of government measures, as follows:

#### (1) The National Tripartite Committee on Labour and Social Consensus

This body is composed by representatives of the Government, and employers' and workers' organizations (MSWL, CMTU and MONEF):

- CMTU Confederation of the Mongolian Trade Union;
- MONEF Mongolian Employers' Federation; and
- MSWL Ministry of Social Welfare and Labour.

The national committee is a state level organization representing and protecting the rights and legal interests of the Government, employers and workers. According to the Labour Code, the number of the representatives from the three parties shall be equal. The rule of the National Committee shall be approved by the Government, with the consent of the state level organizations representing and protecting the rights and legal interests of workers and employers. The Prime Minister shall approve the chairman, vice-chairman and composition of the National Committee for a term of six years and the vice-chairman of the National Committee shall be appointed for a term of two years from the representatives of the three parties upon their agreement. The National Committee shall exercise the following rights:

 to develop the system of tripartite social compromise, a state police concerning labour matters, and influence its implementation;

- to settle collective disputes occurring within the scope of protecting citizens' labour rights and associated economic, social, and legal interests;
- to supervise implementation of the tripartite national agreement of labour and social consensus, and to consult on relevant economic and social policy issues; and
- other rights referred to in legislation.

#### (2) The Tripartite Subcommittee Promoting ILO Standards

This body is composed of representatives of the Government, and employers' and workers' organizations (MSWL, CMTU and MONEF).

#### (3) The Tripartite Subcommittee on Occupational Safety and Health

This body is composed of representatives of the Government, and employers' and workers' organizations.

#### (4) The National Employment Council

This Council, partly consisting of government representatives and national organizations representing rights and legal interests of the employers and workers, should be established. Each part shall have an equal number of representatives in the National Council. The Government, in consensus with employers' and workers' organizations, shall approve the statutes of the National Council. The composition of this Council shall be approved by the Prime Minister for a four-year term, based on proposals made by the parties. The Cabinet member responsible for labour issues will chair the Council. The National Council shall have the following composition:

- each member from the public administration responsible for labour, finance and education issues, representing the Government;
- three members from the employers' organization which represents and protects the rights and legal interests of the majority of employers at the national level; and
- three members from trade unions which represent and protect the rights and legal interests of the majority of workers at the national level.

The vice-chairman shall be approved upon consultation between parties by the majority votes of the members present at the councils' meeting. The director and staff of employment offices are not allowed to be part of the National Council. The National Council shall have the following competencies:

- to discuss, make conclusions and proposals on reports and information submitted by the employment administration concerning the employment promotion activities and, in case of need, to submit some issues to relevant institutions to make decisions;
- to supervise the observance of the legislation concerning the employment and the income and expenditure of the Employment Promotion Fund;
- to discuss and make conclusions and proposals on semi-annual or annual budget reports of the Employment Promotion Fund; and
- to issue recommendations on matters concerning employment.

Members of the National Council could be rewarded on a quarterly basis, depending on their contribution to the Council's activities. The amount of the reward should be defined, by the Public Administration Institution responsible for labour issues.

- (5) Tripartite seminars, training and inspection measures
- (6) Government policy and laws related to the labour and industrial relations

In this respect frequent comments and proposals are received from MONEF and CMTU.

The National Human Rights Commission, and the State Social Welfare and Labour Inspection Agency are responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour. Indeed, this Agency is responsible for inspecting and examining implementation of laws and legislation concerning labour and social protection issues, by imposing administrative and civil penalties and compensating according to the legislation.

The Government does not collect any statistics or other information relevant to the elimination of all forms of forced or compulsory labour, but plans to do so by:

- a legal reform, namely revision of the relevant laws and legislation defining forced or compulsory labour officially;
- collecting information and data about practices and cases of forced labour; and
- conducting surveys and studies exploring current conditions.

### Progress and achievements concerning this principle and right

[This is the first report from Mongolia.] The major changes concerning the principle are:

- the revision in July 1999 of the Labour Code, including new provisions (an article) prohibiting forced and compulsory labour; and
- the establishment of the National Human Rights Commission of Mongolia, in January 2001.

#### Priority needs for technical cooperation

To facilitate the realization of the principle of the elimination of forced or compulsory labour in Mongolia, ILO technical cooperation would be needed in the following areas, in order of priority (1 = most important; 2 = second most important; 3 = third most important; 0 = not important):

Type of technical cooperation desired	Ranking
Legal reform (labour law and other relevant legislation)	1
Capacity building of responsible government institutions	1
Training of other officials (e.g. police, judiciary, social workers, teachers	1

Type of technical cooperation desired	Ranking
Rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, micro-finance)	2
Awareness-raising, legal literacy and advocacy	2
Strengthening data collection and capacity for statistical collection and analysis	2
Sharing of experiences across countries/regions	2
Policy advice	2
Strengthening capacity of employers' and workers' organizations	2
Employment creation, skills training and income generation for vulnerable workers	2
Cross-border cooperation	2
Development of social systems	3
Assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle	C
Coordination between institutions (e.g. various ministries and relevant commissions)	C

#### Report preparation

In preparing this report, only workers' organizations were consulted, and made comments on it.

However, copies of this report have been sent to the Mongolian Employers' Federation (MONEF) and the Confederation of the Mongolian Trade Union (CMTU).

#### Note from the Office

The Office received no report from the Government for the annual review of 2004.

#### **Myanmar**

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced labour is recognized in the country. [Myanmar ratified in 1932 the Forced Labour Convention, 1930 (No. 29).] In this respect, forced or compulsory labour is defined in its various forms in the national legislation and/or judicial decisions, and is prohibited in the country. Section 374 of the Penal Code defines forced labour as a person who is forced to work without his/her consent.

All forms of forced and compulsory labour are prohibited. No recourse to forced labour in any form is allowed. The Ministry of Home Affairs, on 5 May 1999 and 27 October 2000, issued Order No. 1/99 and the Order Supplementing Order No. 1/99. These Orders were translated into the various ethnic languages and disseminated throughout the country. This principle applies to all categories of persons or activities.

There is a national policy for realizing the principle of the elimination of all forms of forced or compulsory labour. Complaints can be referred to Peace and Development Councils, the courts and the police.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

In realizing this principle, the following measures have been implemented in Myanmar:

- awareness raising/advocacy;
- legal reform;
- inspection/monitoring mechanisms;
- penal sanctions; and
- civil or administrative sanctions.

Within these measures, no special attention is given to the situation of particular groups of people.

The Government works with various governments, multilateral agencies, non-governmental organizations and the ILO, in relation to the elimination of forced or compulsory labour.

The Department of General Administration collects statistics and other information relevant to the elimination of all forms of forced or compulsory labour.

### Progress and achievements concerning this principle and right

Since the Government's last report, the major change concerning the principle of the elimination of all forms of forced or compulsory labour consists in the acceptance in October 2002 of an ILO Liaison Officer in the country; and a Joint Plan of Action was launched subsequently.

#### Priority needs for technical cooperation

To facilitate the realization of the principle of the elimination of forced or compulsory labour in Myanmar, ILO technical cooperation would be needed in the following areas:

- assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle; and
- sharing of experiences across countries/regions.

#### Report preparation

In preparing this report, consultations have been held with the most representative employers' and workers' organizations, as well as other governmental authorities outside the Ministry of Labour, which transmitted this report form to the concerned departments and organizations and the replies reflected from them. The comments by the most

representatives of employers' and workers' organizations concerned have been taken into account in the report.

Moreover, copies of this report have been sent to the following governmental authorities outside the Ministry of Labour:

- Attorney-General's Office;
- Ministry of Agriculture;
- Ministry of Construction;
- Department of Prison;
- General Administration Department under the Ministry of Home Affairs;
- Irrigation Department; and
- Department of National Races and Border Area.

Copies have also been sent to the Union of Myanmar Federation of Chamber of Commerce and Industries (UMFCCI), and the workers' welfare associations concerned.

#### Nepal

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced or compulsory labour is recognized in Nepal. [Nepal ratified in 2002 the Forced Labour Convention, 1930 (No. 29).]

Article 20 of the 1990 Constitution protects all citizens from exploitation. It prohibits practices such as human trafficking, slavery, serfdom or forced labour in any form. Similarly, the Civil Code states that no one shall employ anybody against his/her will. Any violation of the provisions relating to forced labour is punishable under law.

All forms of forced or compulsory labour are prohibited. The Constitution and the laws of the country do not proscribe the State from making people work for "public cause" and according to the prevalent laws.

In Nepal, the principle of the elimination of forced or compulsory labour applies to all categories of person or activity, and there is a national policy to realize this principle. The Government has declared all bonded labourers free and has remained effortful to rehabilitate them. The Government has enacted the Bonded Labour (Prohibition) Act, which makes all forms of bonded labour illegal and punishable. The Civil Code provides that label trafficking is a serious crime. The Tenth Development Plan has systematic rehabilitation of former bonded labours as one of its policy objectives. It also aims at empowering them by imparting them training on life skills and productive vocation. Currently, the Ministry of Land Reform and Management has been coordinating the multidonor (including ILO/IPEC), multi-agency and multi-sectoral integrated programme. Apart

from the central Government, several international NGOs, local government institutions, local NGOs are also involved in the district level committees formed for the implementation of this programme. Besides, the Time Bound Programme for the Elimination of Child Labour being implemented by ILO/IPEC has been implementing three action programmes in collaboration with three national level trade unions targeting the agricultural sector which still exhibits the vestiges of some forms of exploitative labour relations. Similarly, a National Plan of Action against Trafficking in Women and Children for Sexual and Labour Exploitation has been under implementation since the last few years, under the coordination of the Ministry of Women, Children and Social Welfare.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

Violations of the provisions made in the Constitution, the Bonded Labour (Prohibition) Act, the Civil Code, the Labour Act or any other relevant law is punishable. The cases related to such incidences are registered and dealt with by the District Court, the Labour Court and the District Administration Office. However, no compiled data is available on these incidences.

Despite the efforts made by the Government to eliminate all forms of forced labour, some forms of bonded relationships are reported in the informal sector, including the agricultural sector. Poverty is the main reason behind this situation. Due to the lack of alternatives, many poor people are caught in some debt relationship that eventually may turn out to be a form of bondage. Limited resources as well as [lack] of enforcement and monitoring capacity by the Government make effective prevention difficult. Certain castes or ethnic groups, including *dalits*, *Tamags*, *Magars*, *Tharus* and women-headed households, tend to be more vulnerable to this practice.

In realizing the principle of the elimination of all forms of forced or compulsory labour, the following measures have been implemented:

- awareness raising/advocacy;
- legal reform;
- penal sanctions;
- special institutionary machinery;
- capacity building;
- employment creation/income generation;
- educational programmes;
- rehabilitation following removal from forced labour;
- international cooperation programmes/projects;
- tripartite examination of related issues; and
- poverty alleviation programmes.

Moreover, inspection/monitoring mechanisms and civil/administrative sanctions are envisaged.

Within these measures special attention is given to the situation of women and children. These measures particularly target the *Kamaiyas*, *Dalits*, child labour prone families and children. Some of the measures being taken against trafficking in women and children are under implementation. Poverty alleviation programmes, particularly microfinance and social safety net programmes, tend to focus on women's groups.

The Small Farmer Development Programmes and the Production Credit for Rural Women are two examples of successful government interventions in the area of poverty alleviation and economic empowerment of marginal farmers and women, which have brought them out of the traditional debt relations and prevented them from entering debt bondage.

The Government involves all the relevant stakeholders, including employers and workers, in developing or adopting government measures as and where appropriate.

The Ministry of Land Reform and Management is responsible for the systematic rehabilitation of about 19,000 bonded labourers recently freed by a government decree. It is coordinating with all other government organizations and local and international NGOs in implementing a multi-sectoral integrated programme, which includes aspects such as provision of land and money for building houses, education, health, drinking water, sanitation, skill training, and income-generation activities. District committees have been formed representing all stakeholders to implement the programme. The ILO is one of the main contributors to the programme.

The Government works with multilateral agencies, donors bilaterally and/or with non-governmental organizations at the multilateral level in relation to the elimination of forced or compulsory labour such as: ILO, UNICEF, DFID, the Asian Development Bank, FAO, WFP, GTZ, Action Aid, the Norwegian Embassy, DANIDA, Save the Children US and many local NGOs and trade unions (including the General Federation of Nepalese Trade Unions, the Democratic Confederation of Nepalese Trade Unions, the Nepal Trade Union Congress). All these institutions are collaborating, in particular in the former Kamaiya districts of Mid and Far Western Terai.

The Government collects statistics and other information relevant to the elimination of all forms of forced or compulsory labour, especially data on bonded labourers in Kamaiya districts. However, the data has tended to vary over time as new people are coming in claiming the status of bonded labourers and all the facilities and services accorded to them. According to recent claims, there are about 20,000 freed bonded labourers. However, the total number of people under debt relationship is not available.

### Progress and achievements concerning this principle and right

The major changes concerning the principle of the elimination of all forced forms of forced or compulsory labour are as follows:

three action programmes have been implemented since June 2003 by three national trade unions in Kamaiya districts and their neighbourhood to unionize agricultural workers which is expected to contribute significantly in the elimination of forced labour practices and child labour under the Time Bound Programme;

- the Government and the ILO have brought out a comprehensive Poverty Reduction Strategy Paper focusing on decent work since 2003, which was subsequently incorporated into the Tenth Five-Year Development Plan;
- a National Plan of Action Against Trafficking in Women and Children for Commercial Sexual Exploitation has been implemented since 1998.

### Difficulties concerning the realization of this principle and right

The main difficulties encountered with respect to realizing the principle of the elimination of all forms of forced or compulsory labour are the following:

Nature of difficulty	Forced labour due to debt bondage	Forced due to trafficking
Lack of public awareness and/or support	Х	Х
Lack of information and data	Χ	Χ
Social values, cultural traditions	Χ	Χ
Social and economic circumstances	Χ	Χ
Political situation	Χ	Χ
Prevailing employment practices	Χ	Χ
Lack of capacity of responsible government institutions	Χ	Χ
Lack of capacity of employers' organizations	Χ	Χ
Lack of capacity of workers' organizations	Χ	Χ

#### Priority needs for technical cooperation

There is a need for ILO technical cooperation to facilitate the realization of the principle of the elimination of all forms of forced or compulsory labour in Nepal, in particular in the following areas (1 = most important, 2 = second most important, etc.).

Type of technical cooperation needed	Priority
Assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the principle	2
Awareness-raising, legal literacy and advocacy	2
Strengthening data collection and capacity for statistical collection and analysis	1
Sharing of experiences across countries/regions	2
Policy advice	2
Legal reform (labour law and other relevant legislation)	3
Capacity building of responsible government institutions	2
Training of other officials (e.g. police, judiciary, social workers, teachers)	3
Strengthening capacity of employers' and workers' organizations	2
Employment creation, skills training and income generation for vulnerable workers	1
Development of social protection systems	1
Rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, micro-finance)	1
Cross-border cooperation mechanisms	2

Type of technical cooperation needed	Priority
Coordination between institutions (e.g. various ministries and relevant commissions)	3

The first three priority technical cooperation needs are based on the following:

- it is necessary that reliable information and statistics be in place so as to identify the vulnerable families;
- employment creation, skills training and income generation for vulnerable workers are necessary to provide them with an opportunity of self-employment;
- rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, micro-finance) to provide employment opportunity and income for people who cannot earn their living through self-employment.

#### Report preparation

In preparing this report, consultations have been held with the most representative employers' and workers' organizations, but not with governmental authorities outside the Ministry of Women, Children and Social Welfare. The comments made by the most representative employers' and workers' organizations concerned, were integrated in the report.

Moreover, a copy of the report was sent to the following employers' and workers' organizations:

- Federation of Nepalese Chambers of Commerce and Industries (the only representative organization of employers);
- General Federation of Nepalese Trade Unions,
- Nepal Trade Union Congress; and
- Democratic Confederation of Nepalese Trade Unions.

#### **Oman**

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced labour is recognized in Oman. In this respect, forced or compulsory labour is defined in its various forms in national legislation and/or judicial decisions, and is prohibited in the country.

This principle applies to all categories of persons or activities, and there is a national policy for its realization.

In instances where the principle of the elimination of all forms of forced or compulsory labour has not been respected, legal actions are taken against offenders and penalties are imposed by the judicial system, depending on the type of violation.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

In realizing this principle, the following measures have been implemented in Oman:

- awareness raising/advocacy;
- legal reform;
- inspection/monitoring mechanisms;
- penal sanctions;
- civil/administrative sanctions:
- employment creation/income generation;
- educational programmes;
- rehabilitation following removal from forced labour; and
- tripartite examination of issues.

In addition, special institutional machinery, capacity building and international cooperation programmes/projects are envisaged.

Within these measures, no special attention is given to the situation of particular groups of people.

The basic law prevents any [forms of] forced labour; and all employment laws have the same ability to eliminate forced or compulsory labour.

Employers' and/or workers' organizations have been involved in the development and implementation of government measures.

The Government does not work with multilateral agencies, bilateral donors or other organizations in relation to the elimination of forced or compulsory labour.

Usually, the Inspection Department of the Ministry of Manpower collects statistics relevant to the elimination of all forms of forced labour, as the case may be.

### Progress and achievements concerning this principle and right

Since the Government's last report, the major change concerning the principle of the elimination of all forms of forced or compulsory labour is the issuance of the new Omani Labour Law in 2003.

#### Priority needs for technical cooperation

There is no need for ILO technical cooperation to facilitate the realization of the principle of the elimination of forced or compulsory labour in Oman.

#### Report preparation

In preparing this report, consultations have been held with the most representative employers' and workers' organizations, as well as other governmental authorities outside the Ministry of Manpower. No comments were received from them.

A copy of the report was sent to the following employers' organizations:

- the Chamber of Commerce and Industry; and
- the Board of Employers;

and to the trade unions of the following companies:

- the Gralfor Group of Companies;
- the Oman Oil Company;
- the Dhafar-Omani French Bank; and
- Port Qaboos.

#### **Philippines**

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced labour is recognized in the country. [Philippines ratified in 1960 the Abolition of Forced Labour Convention, 1957 (No. 105).] In this respect, forced or compulsory labour is defined in its various forms in national legislation and/or judicial decisions, as mentioned in the following article 274 of the Revised Penal Code:

- Service rendered under compulsion in payment of debt. The penalty of "aresto mayor" in its maximum period to prison correctional in its minimum period shall be imposed upon any person who, in order to require or enforce the payment of a debt, shall compel the debtor to work for him against his will, as household servant or farm labourer.
- Similarly, section 3 of Republic Act No. 9208 (Anti-trafficking in Persons Act of 2003) includes forced labour as one of the unlawful acts of trafficking in persons. It also provides for a definition of forced labour and slavery, that is, the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt bondage or deception.

All forms of forced or compulsory labour are prohibited in the country. However, the utilization of prison inmates in the penal colony as workers, is for rehabilitation and reformative purposes.

This principle applies to all categories of persons or activities, and there is a national policy for its realization, as mentioned below:

The Constitution of 1987 under the Bill of Rights provides that no person shall be detained solely by reason of his political beliefs or aspirations.

"The State affirms labour as a primary social economic force. It shall protect the rights of workers and promote their welfare." (Article 2, section 18, on state policies.)

"The rights of the people, including those employed in public and private sectors, to form unions, associations or societies for purposes not contrary to law shall not be abridged." (Article 3, section 8, Bill of Rights.)

"The State shall afford full protection to labour, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all."

"It shall guarantee the rights of all workers to self-organization, collective bargaining, negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law."

"The State shall promote the principle of shared responsibility between workers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace."

"The State shall regulate the relations between workers and employers, recognizing the right to labour to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth." (Article 13, section 3, on social justice and human rights.)

Based on the above constitutional provisions, in no case therefore, can there be a form of forced or compulsory labour to be enforced or allowed in the Philippines.

Republic Act (RA) 9208 declares in section 2 that the State values the dignity of every human person and guarantees the respect of individual rights. In pursuit of this policy, the State shall give highest priority to the enactment of measures and development programmes that will promote human dignity, protect the people from any threat of violence and exploitation, eliminate trafficking in persons, and mitigate pressures for involuntary migration and servitude of persons, not only to support trafficked persons but more importantly, to ensure their recovery, rehabilitation and reintegration into mainstream society. The Act also provides for implementing mechanisms, which include, among others, the following:

- confidentiality or the right to privacy of the trafficked person and the accused;
- prosecution of cases;
- penalties and sanctions;
- prescriptive period;
- trust fund;
- programmes that address trafficking in persons;

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- legal protection to trafficked persons;
- preferential entitlement under the Witness Protection Program; and
- Inter-Agency Council against Trafficking, etc.

There are no available statistics that describe the situation in the Philippines with respect to forced or compulsory labour.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

In realizing this principle, the following measures are envisaged in Philippines:

- awareness raising/advocacy;
- penal sanctions;
- educational programmes; and
- rehabilitation following removal from forced labour.

Within these measures, special attention is given to the situation of women and children.

There is a government authority responsible for the identification, emancipation and/or rehabilitation of persons subject to forced labour. RA 9208 under section J6 (programmes that address trafficking in persons) provides that the Department of Social Welfare and Development (DSWD) shall implement rehabilitative and protective programs for trafficked persons. It shall provide counselling and temporary shelter to trafficked persons and develop a system for accreditation among NGOs for purposes of establishing centres and programmes for intervention in various levels of the community.

It is envisaged by RA 9208 that the Department of the Interior and Local Government (DILG) shall institute a systematic information and prevention campaign and likewise maintain a database for the effective monitoring, documentation and prosecution of cases on trafficking in persons.

#### **Qatar**

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced labour is recognized in the country. [Qatar ratified in 1998 the Forced Labour Convention, 1930 (No. 29).] In this respect, forced or compulsory labour is defined by national laws as imposing work on a person without his/her consent, or forcing him/her to exact a work or an activity. Yet, there is no explicit general definition of forced labour.

The Labour Code and the Penal Code prohibit all forms of forced and compulsory labour, and the principle applies to all categories of person or activity. The application of both codes is deemed to be an effective national policy in relation to the principle.

In instances where the principle of the elimination of all forms of forced or compulsory labour has not been respected, the Penal Code applies (articles 187-196).

Nevertheless, there has been no violation of these laws.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

In realizing this principle, the following measures have been implemented in Qatar:

- awareness raising/advocacy;
- inspection/monitoring mechanisms;
- penal sanctions;
- civil or administrative sanctions; and
- employment creation/income generation.

Within these measures, no special attention is given to the situation of particular groups of people.

The ratification of Convention No. 29 by Qatar can be regarded as a successful example in the elimination of the principle of forced or compulsory labour in the country.

Employers' and/or workers' organizations have not been involved in the development and implementation of government measures; and no government authority is responsible for the identification, emancipation, and rehabilitation of persons subject to forced labour.

The Government does not work with multilateral agencies, bilateral donors or other organizations in relation to the elimination of forced or compulsory labour. No statistics or information relevant to the elimination of all forms of forced or compulsory labour are collected in the country, since this phenomenon does not exist in Qatar. Had forced labour existed, it would have appeared in statistics as well as in the courts' decisions.

### Progress and achievements concerning this principle and right

Since the last report, no changes have been noted in the country concerning the principle.

#### Priority needs for technical cooperation

There is no need for ILO technical cooperation to facilitate the realization of the principle of the elimination of forced or compulsory labour in Qatar, since there is no forced or compulsory labour in the country.

#### Report preparation

In preparing this report, consultations have been held with the most representative employers' and workers' organizations, as well as other governmental authorities outside the ministry. No comments were received from them.

A copy of the report was sent to the Chamber of Commerce and Industry of Qatar, and to the Committee of Workers of Qatar.

#### Sao Tome and Principe

#### Government

#### Recognition of this principle and right

The principle of the elimination of all forms of forced or compulsory labour is recognized in Sao Tome and Principe under articles 22, 23, 42 and 43 of the Constitution of 29 January 2003, as well as national legislation and case law.

This principle does not apply to all categories of persons or activities. Thus, article 7 of Law No. 3/2003 (Execution of sentences and imprisonment act) [sets conditions of detention, with the possibility of remunerated activity and social security for prisoners aimed at ensuring their reintegration in the community. The same article also provides for the possibility of organizing labour gangs to employ prisoners in public enterprises or services].

There is no national policy on the application of the principle, but the Government envisages adopting such a policy between now and 2004, following ratification of the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105). The assistance of the Office is sought in developing this policy.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

No particular measure has been introduced or is envisaged in Sao Tome and Principe to eliminate all forms of forced or compulsory labour. Nevertheless, the Government endeavours to respect the right to justice and human rights. The process of ratification of Conventions Nos. 29 and 105 is in hand. In addition, the IPEC programme is financing a study on child labour in the cocoa plantations which will begin shortly.

There is no government agency responsible for identifying, liberating and/or rehabilitating persons subjected to forced or compulsory labour, and the Government does not cooperate with multilateral organizations other than the ILO, bilateral donors or non-governmental organizations concerning the elimination of this phenomenon. Moreover, there are no government statistics or other data on this subject.

### Progress and achievements concerning this principle and right

[This is the first report by Sao Tome and Principe.] The National Council for Social Dialogue (CNCS) will be tasked with the question of the abolition of forced and compulsory labour in national law.

#### Priority needs for technical cooperation

The assistance of the Office is sought to develop, in 2004, a national policy concerning the application of the principle of the elimination of all forms of forced or compulsory labour, following ratification of Conventions Nos. 29 and 105, which is in hand.

#### **Singapore**

#### Government

#### Recognition of this principle and right

Singapore ratified in 1965 the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105). However, Convention No. 105 was subsequently denounced in 1979, due to the fundamental difficulties Singapore faced with regard to the implementation of this Convention.

Nonetheless, Singapore does not have any problem of forced or compulsory labour.

### Efforts made or envisaged to ensure respect, promotion and realization of this principle and right

As reported in last year's annual review, the Government engages in active social dialogue with employers' and workers' organizations to ensure that forced or compulsory labour does not exist in the country.

### Progress and achievements concerning this principle and right

There has been no change in the national legislation and practice since the last annual review.

#### Report preparation

A copy of the report has been forwarded to the Singapore National Employers' Federation and the National Trade Union Congress.

#### Solomon Islands

#### Note from the Office

The Office has never received a report from the Government since the start of the annual review process in 1999.

#### **United States**

#### Government

Since the Government's last report, there has been no change in the United States in relation to the principle of the elimination of all forms of forced or compulsory labour [The United States ratified in 1991 the Abolition of Forced Labour Convention, 1957 (No. 105).]

# Observations submitted to the Office by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) through the Government

The AFL-CIO strongly disagrees with the draft update to the report on the elimination of all forms of forced or compulsory labour prepared by the Government of the United States for the year 2003.

#### **Viet Nam**

#### Note from the Office

The Office received no report from the Government for the annual review of 2004.