



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: VIET NAM

THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)

REPORTING	Fulfillment of Government's reporting obligations	YES, except for the 2003 and 2004 Annual Reviews (ARs). No change report under the 2001 AR.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Viet Nam Chamber of Commerce and Industry (VCCI), the Viet Nam Cooperatives Alliance of Small and Medium Enterprises (VCASME), the Viet Nam National Council of Cooperatives (VNC) and the Viet Nam General Confederation of Labour (VGCL) through consultations and communication of government's reports.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2008 AR: Observations by the VCCI. 2007 AR: Observations by the VCCI.	
	Workers' organizations	2008 AR: Observations by the VGCL. 2007 AR: Observations by the VGCL. 2006 AR: Observations by the VGCL.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Viet Nam ratified the Forced Labour Convention, 1930 (No. 29) (C.29) in 2007 but has not yet ratified the Abolition of Child Labour Convention, 1957 (No. 105) (C.105).
		Ratification intention	<p>YES, since 2000, for C.105.</p> <p>2008 AR: According to the Government: the ratification of C.29 was approved by the President on 29 January 2007 and was submitted to ILO on 5th of March 2007. As for C.105, amendments are currently being made to the Labour Code in order to comply with the International Labour Standards (ILS). Once the law review is completed, C.105 will be ratified. The VCCI supports the ratification of C.105. The VGCL indicated that the ratification of C.29 had already been completed and supported the ratification of C.105, which is currently being discussed between the social partners.</p> <p>2007 AR: According to the Government: Section 5 of the Labour Code clearly prohibits all forms of forced or compulsory labour. In that spirit, an interagency taskforce (Ministry of Labour, Invalids and Social Affairs, (MoLISA), Ministry of Justice; Ministry of Public Security; VCCI and VGCL) has been</p>

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex

			<p>established. The MoLISA has been cooperating with the ILO in conducting comparative analysis between national laws and the provisions of C.29 and C.105, as part of a move to ratify these instruments. The VCCI and the VGCL support ratification of these Conventions.</p> <p>2006 AR: According to the Government: After the resolution of technical differences, it is likely that Viet Nam will ratify C.29 and C.105. The survey on the status of forced or compulsory labour is proceeding to its second phase, which consists in comparing the country's legislation with the provisions of both Conventions to lay foundation for their ratification (starting with C.29). The VGCL mentioned that it was developing and implementing an action plan to move forward the ratification of C.29 and C.105 by Viet Nam.</p> <p>2001 AR: Based on information in GB.282/LILS/7 and GB.282/8/2 (2002): The Government confirmed its intention to ratify C.29 and C.105.</p> <p>2000 AR: The Government considered that it was «high time» to ratify C.29 and C.105 «in order to prevent misunderstandings».</p>
<p>Recognition of the principle and right (prospect(s), means of action, basic legal provisions)</p>		Constitution	NIL
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy 2005 AR: According to the Government: National policy to eliminate all forms of forced and compulsory labour is enshrined in section 5 of the Labour Code. • Legislation 2006 AR: According to the Government: The Labour Code prohibits forced labour under any form and manifestation. • Regulations 2006 AR: The Government indicted that it had issued regulations against the different forms of forced labour in consultation with the social partners. The VGCL stated that it had participated actively in the formulation of regulations on the various forms of forced labour.
		Basic legal provisions	(i) Labour Code (section 5); (ii) Resolution No.44/2003/ND-CP of 9 May 2003 (provision 1, section 11); and (iii) Resolution No.113/2004/ND-CP of 16 April 2004.
		Definition of forced or compulsory labour	2005 AR: «Maltreatment and forced labour are the case in which a worker is beaten, insulted or forced to work in jobs inappropriate to gender, detrimental to health and dignity» (Resolution No. 44/2003/ND-CP of 9 May, 2003, provision 1, section 11).
		Judicial decisions	NIL
<p>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</p>	<p>Exercise of the principle and right</p>	Special attention to particular situations	2005 AR: According to the Government: Women and children.
		Information/Data collection and dissemination	<p>2007 AR: According to the Government: A survey is being completed to provide more information on the real situation concerning forced labour.</p> <p>2005 AR: According to the Government: A survey on the extent of forced labour in the country is</p>

			being conducted.
	Prevention, monitoring, enforcement and sanctions mechanisms	<p>2006 AR: The Government reported that it had been instructing ministries, relevant agencies and local authorities to work jointly with social organizations to prevent and combat proactively cross-border trafficking in women and children. It further indicated that trafficking in persons was considered as a criminal offence under national law and subject to prosecution.</p> <p>2005 AR: According to the Government: The following measures have been implemented to realize the principle and right (PR) in Viet Nam: inspection/monitoring mechanisms and penal, civil or administrative sanctions. Where the principle has not been respected (use of forced labour), Resolution No. 113/2004/ND-CP of 16 April 2004 provides for administrative penalties in the form of fines (ranging from VND 15 to 20 million).</p>	
	Involvement of the social partners	2005 AR: According to the Government: Involvement of the social partners through tripartite examination of related issues.	
	Promotional activities	<p>2008 AR: According to the Government: a plan of cooperation with the ILO on sensitization on forced labour is already in force. Several trainings are being conducted for labour inspectors, the police and magistrates and two workshops dedicated to workers and employers were organized. Moreover, the current national legal framework is under review for possible ratification of C.105. The VCCI indicated that it was also collaborating in the awareness raising programmes. The VGCL indicated that it organized on regular basis trainings in order to raise awareness and to explain to workers the PR.</p> <p>2007 AR: According to the Government: Workshops have been organized to raise awareness on the PR, in cooperation with the ILO</p> <p>2006 AR: The VGCL mentioned its participation in the survey to determine the magnitude of forced labour in the country.</p> <p>2005 AR: According to the Government: In realizing the PR, the following measures have been implemented: employment creation/income generation and educational programmes.</p>	
	Special initiatives/Progress	2006 AR: According to the Government: Law enforcement agencies have tightened their control to combat trafficking, in particular through: (i) patrols and fight against networks of human traffickers; and (ii) cooperation with mass organizations to disseminate information and raise public awareness on the PR. At the same time, efforts at poverty reduction and employment programmes are designed to prevent women and children from being victims of trafficking. Furthermore, a case study on C.29 and C.105 is being undertaken with ILO assistance by an inter-agency task force (comprising representatives of ministries, agencies and employers' and workers' organizations), with a view to establishing an overview of the legal framework and comparing national laws with relevant ILO Conventions.	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL
		Workers' organizations	NIL
	According to the Government	<p>2008 AR: The Government mentioned the following challenges: (i) lack of capacity building (ii) poverty (iii) lack of training and education on the definition of forced labour. It added that some forms of labour, which are not exempted by C. 105 still exist in the country, such as prison labour, minor communal work and services, rehabilitation labour for drug addicts and prostitutes.</p> <p>2006 AR: In practice, the majority of victims of trafficking come from poor, rural areas, with low public awareness and insufficient information, therefore the victims are vulnerable to enticement and deception.</p> <p>In response to VGCL's comments, the Government supports VGCL's observations, in particular with respect to ratification and the need to strengthen ILO technical cooperation to promote and realize the PR in the country.</p>	

		<p>2005 AR: The main difficulties are as follows: lack of public awareness and/or support; lack of information and data; social and economic circumstances; legal provisions; lack of capacity of employers' organizations; lack of capacity of workers' organizations; and lack of social dialogue on the PR.</p>
TECHNICAL COOPERATION	Request	<p>2008 AR: The Government requested ILO technical assistance for the elaboration of training programmes on forced labour. The VGCL requested ILO assistance for awareness-raising activities and that a country assessment be undertaken on the Declaration Follow-up.</p> <p>2007 AR: The Government thanked the ILO for its active cooperation, and mentioned that it would appreciate further ILO technical cooperation to improve the realization of the PR in the country.</p> <p>2006 AR: The Government thanked the ILO for its active cooperation and advice to governmental agencies and social partners and would appreciate receiving further support from the ILO in this regard. The VGCL thanked the ILO for its valued support for the promotion and realization of the PR, and wished the extension of this ongoing technical cooperation.</p> <p>2005 AR: According to the Government: ILO technical cooperation is needed to facilitate the realization of the PR in the country in the three following priority areas: (1) assessment in collaboration with the ILO of the difficulties identified and their implication for realizing the PR; (2) awareness-raising, legal literacy and advocacy; sharing of experiences across countries/region; strengthening capacity of employers' and workers organizations; employment creation, skills training and income generation for vulnerable workers; and (3) strengthening data collection and capacity for statistical collection and analysis; training of other officials (e.g. police, judiciary, social workers, teachers) and coordination between institutions (e.g. various ministries and relevant commissions).</p>
	Offer	ILO (awareness raising activities and case study on the PR).
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAS) welcome the fact that Viet Nam had ratified C.29, and listed Viet Nam among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. Concerning the interpretation and application of exemptions by C.105 regarding of some forms of forced labour, the IDEAs requested the Government of Viet Nam to seek ILO assistance for compliance. They further noted that a number of governments, employers' or workers' organizations in various countries, including Viet Nam, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO (Cf. Paragraphs 41, 45 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs encouraged Viet Nam to consider ratification of C.105 (Cf. Paragraph 40 of the 2007 AR Introduction – ILO: GB.298/3).</p> <p>2005 AR: The IDEAs hoped that ratification intentions expressed by Viet Nam would be soon realized (paragraph 185 of the 2005 Annual Review Introduction). They are also glad to receive concrete information on progress made in the elimination of all forms of forced or compulsory labour in Viet Nam, in cooperation with the ILO. In this respect, the Special Action Programme to combat Forced Labour (SAP-FL) should receive additional and substantial donor support to help countries make further progress in promoting and realizing the PR. Social Programmes should be maintained and supported to enable the effective elimination of all forms of forced or compulsory labour (Cf. Paragraph 192 of the 2005 Annual Review Introduction – ILO: GB.294/2).</p>	
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL	