

C. 87

Extracts of the Direct Contacts Mission Report

Myanmar 1 to 4 October 2018

Conclusions and recommendations

The mission held a debriefing session for the tripartite constituents and thanked all parties for the open and frank manner in which they engaged in the process, enabling the mission to gain a greater understanding of the concerns within the country. The mission especially expressed its deep appreciation to the government for its cooperation in ensuring that the mission could meet with all parties concerned and carry out its work effectively.

- While issues in relation to the full application of Convention No. 87 remain in both law and in practice, the mission was particularly struck by the degree of commitment of all parties to build the climate for full respect of freedom of association in the short time that has elapsed since the entry into force in 2012 of the first legislation creating the framework for the right to organize in several decades. The awareness levels of each of the tripartite partners of the importance of freedom of association and the efforts to build capacity and create institutional settings for its promotion were noteworthy.
- With a view to building upon the current foundation, and bearing in mind a number of broad concerns raised by all parties, albeit sometimes indirectly linked to Convention No 87, the mission made the following recommendations.

For the practical application of the LOL and proposed amendments

- Given the constructive social dialogue framework provided by the Tripartite National Dialogue Forum (NTDF), the government should envisage institutionalizing this process perhaps through a mention of its space for dialogue in the amendments to the LOL
- MOLIP instructions to the township labour officers to clarify matters necessary for registration should also be communicated to the trade unions and posted in workplaces so that workers are aware not only of what they must provide but also of the elements that are not required
- The institutionalization of a tripartite working group to review on a regular basis the practical obstacles to registration that may be encountered and consider appropriate solutions
- Amend the LOL to facilitate organizing for workers and employers taking into account their structures and the need to allow for sectoral organizations and cross-factory, single enterprise organizations

- Ensure that informal workers and the self-employed are not hindered in their organizing rights by any amendments to the law
- Amend the law to eliminate the undue restrictions on election of officers
- Eliminate all sanctions of imprisonment in the law for both workers and employers

For amendments to the SLDL

- Ensure broad scope for workers and employers under the law
- Ensure sufficiently dissuasive sanctions for anti-union discrimination, including protection against blacklisting, while eliminating any sanctions of imprisonment
- Ensure that the promotion of collective bargaining does not include nonunionized workers where trade unions exist and the enterprise and sectoral level

For capacity building and development of dispute resolution mechanisms

- Focus on prevention with the use of conciliation mechanisms before disciplinary action is taken
- Distinguish between rights disputes (whether individual or collective) and interest disputes in the use of arbitration bodies and consider that the former be resolved by an independent arm of the arbitration bodies, specifically trained to rapidly and impartially address rights disputes
- Awareness-raising for all workers on workers' rights and responsibilities
- Effective enforcement of the law so that all parties understand their rights and responsibilities in the relatively new paradigm of freedom of association
- Train, in the trainer programme, to ensure outreach to all township labour officers even in remote places
- Train the arbitrators at local and national level on international labour standards relating to freedom of association and effective arbitration
- Continue the dialogue with parliamentarians in relation to the country's international labour obligations
- Further support awareness-raising activities on labour rights in the SEZs
- Review the Peaceful Assembly Law to ensure it does not restrict or intimidate workers or employers in the exercise of their civil liberties

- Given the concerns about the legislative process and the possible adoption of drafts that would not respond to the ILO supervisory body comments or the concerns raised by the tripartite partners, the mission suggested that the area office could rapidly organize a meeting of the Technical Working Group on Labour Law Reform (TWG-LLR) to review the latest MOLIP draft Labour Organization Law, bearing in mind the above recommendations, before it is submitted to Parliament.
- Additionally, the mission recommended that the tripartite partners consider including the above recommendations into the "5-point Roadmap on Labour Law Reform" when they next meet in the NTDF in December. The mission has full confidence in the social partners to draw the path for supporting freedom of association in the country and encourages them to ensure that their voice is effectively heard at all levels of government and that the government's international obligations are fully met.