

108th Session, Geneva, June 2019

Committee on the Application of Standards

Following the decisions made during the informal tripartite consultations on the working methods of the CAS in March 2019, governments appearing on the preliminary list of individual cases have now the opportunity, if they so wish, to supply on a purely voluntary basis, written information before the opening of the session of the Conference.

Information on the application of ratified Conventions supplied by governments on the preliminary list of individual cases

Malawi

Forced Labour Convention, 1930 (No. 29)

Malawi (ratification: 1999). The Government has provided the following written information:

1. *Articles 1(1) and 2(1) of the Convention. 1. Debt Bondage.* Government of Malawi has taken note of the comments and observations made by the Committee of Experts on Application of Conventions and Recommendations (CEACR). The Committee may wish to take note that Government through the Ministry of Labour, Youth Sports and Manpower Development has submitted to Cabinet a draft amendment to the Employment Act after thorough consultations with the workers' and employers' organizations. The Amendment seeks to abolish the Tenancy labour system in Malawi. Section 4(1) the proposed amendment provides that **"A person shall not be required to perform forced or tenancy labour."**

The Committee may wish to take note that the Bill is yet to be enacted into law and once this is done, a copy will be shared with the Committee as requested and the provisions of the law will be enforced accordingly.

The Committee may further wish to take note that ILO is providing technical and financial assistance to the Government of Malawi to conduct a census of tenants and their socio-economic profile that will enable Government plan the abolition properly. Furthermore, the Committee may wish to take note that Malawi has intends to ratify the Protocol of 2014 to the Forced Labour Convention in response to the ILO Centenary ratification campaign. Communication to this effect has already been sent to the ILO.

2. *Trafficking in persons.* Government of Malawi has taken note of the comments and observations made by the Committee of Experts on Application of Conventions and Recommendations (CEACR). The Committee may wish to take note that the Government has embarked on a number of activities to give effect to the provisions of the Trafficking in Persons Act of 2015 and these include:

- a. Drafting of disbursement guidelines for the anti-trafficking in persons fund by the Ministry of Home Affairs and Internal Security. Under the TIP Act the National Coordinating Committee against trafficking in persons is mandated to open an account into which the Committee will deposit all moneys due to the Fund.¹

The Fund shall consist of such amount of money as may be appropriated by Parliament for payment into the Fund and other sources that would include voluntary contributions to the Fund from individuals and organizations; grants from bilateral and multilateral sources; proceeds from sale of confiscated property connected with trafficking offences; as well as money from any other source approved by the Minister of Home Affairs and Internal Security and the Minister responsible for finance.

The purpose of this Fund is to help the coordinating committee and implementing body to be effective in carrying out its designated duties. The funds will also be used to provide adequate provision of care and support to victims of trafficking in persons. It will also cater for the training of enforcement officers, protection officers and any other personnel engaged in any capacity to effect the provisions of the Act.²

- b. Draft regulations pertaining to exploitative labour have been developed. They provide for principles of recruitment of migrant labour that include: no fees charged to migrant worker; clarity and transparency of worker contracts; inclusive policies and procedures; non-retention of passports or ID documents and academic certificates; regular, direct, equal and timely remuneration; right to worker representation; safe and decent working conditions; safe and decent living conditions; access to remedies (administrative, judicial, etc); and freedom to change employment and safe return guaranteed.
- c. Draft Standard Operating Procedures for Identification and Assistance to Victims of Trafficking in Persons and National Referral Mechanism have been developed and are targeting investigating officers, law enforcement agencies and institutions to enable them enforce the Trafficking in Persons Act of 2015. The institutions and agencies include: Malawi Police Service; Ministry responsible for Homeland Security; Ministry responsible for Social Welfare; Ministry responsible for Health; Ministry responsible for Labour; Ministry responsible for Justice; Ministry responsible for Foreign Affairs; Malawi Prison Service; Immigration Department; Legal Aid Department; Judiciary; Malawi Human Rights Commission; Civil Society Organizations; Media; Anti-Corruption Bureau; Office of the Ombudsman; United Nations Agencies and Faith Based Organizations.
- d. Draft regulations in relation to shelter of victims of trafficking in persons³ have been developed. They provide for minimum standards in terms of quality of the shelters as well as the range of services to be provided to the victims of trafficking.

¹ Section 53 (1) of the Trafficking in Persons Act (2015)

² Draft Anti-Trafficking in Persons Disbursement Guidelines p2

³ Draft Victims of Trafficking in Persons' Shelter Regulations, 2019.

e. Draft Witness Protection Regulations have also been developed and are designed to compliment and support enforcement and investigative mechanisms. A witness is defined as a person who-

- (a) has made a statement, or who has given or agreed to give evidence in relation to the commission or possible commission of an offence under the Act;
- (b) because of his or her relationship to or association with a person referred to in sub-regulation (a), may require protection or other assistance under this Act; or
- (c) for any other reason, may require protection or other assistance under the Act.

All the above draft documents have been finalized and are only awaiting Ministerial approval before they can be gazetted as subsidiary legislation.

A Communication strategy on the Trafficking in Persons Act is also being developed as well as the review of the Malawi Police Recruit Training Curriculum to include Trafficking in Persons Act and skills building for investigations and prosecutions of human trafficking cases. The Committee may wish to further take note that a Resource Mobilization Strategy for the Trafficking in Persons Fund is also being developed.

Furthermore, the Committee may also wish to know that a training on Trafficking in Persons Data Collection System and Management for IT Officers from all law enforcement agencies including the Ministry Labour will be conducted in June 2019. A training on the enforcement of the Trafficking in Persons Act for newly appointed enforcement Officers which includes Labour Officers has also been planned for during the same period.

Copies of this report have also been shared with the representatives of employers and workers organizations.