

Committee on the Application of Standards

Date: 22 May 2023

Governments appearing on the list of individual cases have the opportunity, if they so wish, to supply written information to the Committee.

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

Cambodia (ratification: 1999)

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

The Government has provided the following written information as well as copies of the Law on Amendment to the Criminal Code, 2018, Code of Criminal Procedure and the Law on Prisons.

The Kingdom of Cambodia, as a reflection of its resolute commitment to abolish forced and compulsory labour within its jurisdiction, has duly ratified Convention No. 105. This ratification underscores the Kingdom's steadfast determination to eradicate such practices throughout the nation. In the spirit of diligent adherence to this commitment, the Ministry of Labour and Vocational Training (MLVT) endeavours to elucidate the application of the Convention in Cambodia as outlined below.

Ensuring that no compulsory labour is imposed on persons who express political views or views opposed to the established system

We wish to underscore the fact that all Cambodian citizens are vested with unassailable freedoms, including the right to express their opinions peacefully and to partake in political activities. Such freedoms are safeguarded by the Constitution of the Kingdom of Cambodia, as well as the accompanying laws and regulations. It is therefore important to reaffirm that, in the jurisdiction of Cambodia, there exists no punitive measures for individuals who peacefully express their political views, including opposition members, human rights defenders, and journalists, provided that such acts do not infringe upon the rights of others in accordance with the boundaries set by existing laws and regulations.

Human rights, as enshrined under the United Nations Charter, the Universal Declaration of Human Rights, and the other instruments relating to human rights, womens' rights and children's rights, are unequivocally recognized and upheld by the Constitution. As articulated in article 36 of the Constitution, Khmer citizens of all genders are conferred the right to seek any employment, contingent upon their capabilities and societal requirements.

In adherence to international labour standards, Cambodia's Labour Law (section 15) unequivocally proscribes forced or compulsory labour, aligning with the Forced Labour Convention, 1930 (No. 29). This provision extends to all individuals, including domestic or household and agricultural workers.

In accordance with the Basic Principles for the Treatment of Prisoners, as declared by the United Nations General Assembly resolution 45/111 on 14 December 1990, conditions have been implemented to enable prisoners to engage in remunerated employment. This serves to foster their reintegration into the labour market, contribute to their own financial support and that of their families, and these principles have been enshrined in the national legislation, specifically within the Law on Prisons.

Prison labour is primarily a rehabilitative process aimed at facilitating the reintegration of prisoners into society. As per the Law on Prisons 2011 (sections 68 and 69), low-risk convicted individuals possessing the requisite physical capabilities may be called upon to engage in work as part of the daily prison routine, or to perform tasks benefiting the community or participate in prison industry, prison handicraft, and the prison farming industry. Such employment is not assigned based on political opposition, human rights advocacy, or journalistic activity, and safety measures are diligently implemented.

The Government continually affirms its commitment to the principles enshrined in the Constitution of the Kingdom of Cambodia, as well as in the UN Charter, Universal Declaration of Human Rights, and various human rights instruments. All Cambodians, irrespective of race, colour, gender, language, religion, political views, origin, nationality, socio-economic class, or possession, are equal before the law.

The MLVT has never encountered instances of convicted individuals being forced into prison labour on account of political opposition, human rights advocacy, or journalistic activity. The MLVT stands ready to cooperate with the relevant authorities to take swift action should it be informed of such an occurrence. Furthermore, no tangible evidence has been uncovered that suggests prison labour is being utilized as a form of punishment for those individuals voicing political views or dissenting from the established system. The MLVT, therefore, invites the ILO and relevant stakeholders to provide detailed information should any evidence arise.

Information regarding the draft Cybercrime Law and the Law on Amendment to the Criminal Code

With respect to the formulation of the draft Cybercrime Law, the Ministry of Interior is steadfastly committed to upholding the constitution and laws of the Kingdom of Cambodia. Endeavour is grounded in a strong recognition of human rights as enshrined in the United Nations Charter, the Universal Declaration of Human Rights, and other instruments relating to human rights, women's rights, and children's rights. In this regard, a dedicated working group has convened a review meeting, engaging with a technical team from the Ministry of Interior, and hosted an inter-ministerial technical retreat that featured representatives from the Ministry of Justice, Ministry of Post and Telecommunication, Ministry of Information, Ministry of Industry, Science, Technology, and Innovation, and the Ministry of Commerce. This collaborative process has facilitated the advancement of this initiative. . In the meantime, the draft Cybercrime Law is under deliberation with all relevant stakeholders, with a concerted effort being made to integrate and harmonize input from all parties to ensure the law's effectiveness, efficiency, pertinence, and coherence.

Prohibiting compulsory labour as sanction for peaceful strikes

With reference to the matters involving Mr Van Narong and Mr Pel Voeun, the cases are still subject to the appeals process. It is significant to note that both Mr Van Narong and Mr Pel Voeun are actively employed, thus invalidating any alleged imprisonment.

As to the arrest of union leaders at the casino, the MLVT is compelled to clarify that the strike carried out by union leaders in question breached the legal prerequisites for the exercise of the right to strike. Indeed, it is an entitlement for workers to organize a strike, but certain legal conditions must be met before such an action can take place. These conditions entail the Arbitration Council's (AC) failure to deliver or notify of its decision within the legal time frame, and the occurrence of an objection to a non-binding arbitral award. It is crucial to note that these conditions were not met in this instance.

Consequently, on 16 December 2021, the Phnom Penh Court of First Instance issued a provisional ruling indicating the collective labour dispute at Naga World as one that needed to go through the AC's procedure and mechanism. The court further ruled that any new demands, which had not yet been subjected to the AC's process, could not be a valid cause for a strike, as specified in the Labour Law. However, despite this ruling, the terminated workers initiated their strike outside Naga World.

Naga World's former employees were held accountable for their actions and subsequently detained, following charges under section 494 (incitement) and section 495 (incitement to commit felony) of the Criminal Code. This legal action stemmed from the fact that their participation in the strike, deemed illegal, had created substantial disturbances to public order and safety.

Additional arrests were made when these individuals were found to be infringing on others' rights to life amidst the COVID-19 pandemic. This violation was predicated on their refusal to comply with the government-mandated COVID-19 preventative measures, notably the omission of rapid testing and disregard for social distancing protocols during the course of the strike. In total, the transgressions led to the arrest of 11 strikers.

In response, these individuals wrote a letter to the MLVT, requesting its intervention through legal means to secure their bail release. They further promised to strictly adhere to health guidelines, desist from obstructing COVID-19 sample testing, and abstain from any gatherings or protests that could potentially compromise public order, peace, and security as part of their endeavours to amicably resolve the labour dispute.

In concordance with their plea, and following the provision of legal assistance from the MLVT and the Ministry of Justice, the Phnom Penh Court of First Instance delivered a ruling on 14 March 2022. The court ordered the bail release of the former workers, thereby addressing their pleas.

The case of the arrested leaders of the Workers Friendship Union Federation is currently ambiguous due to insufficient information about their employer. Thus, the MLVT invites the ILO and relevant stakeholders to share detailed information, facilitating appropriate action.