



# Governing Body

345th Session, Geneva, June 2022

Institutional Section

INS

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Fifth item on the agenda

## Report of the Director-General

### Second Supplementary Report: Report on developments in Myanmar

#### ▶ Introduction

1. At its 344th Session (March 2022), having considered the developments in Myanmar <sup>1</sup> and recalling the resolution for a return to democracy and respect for fundamental rights in Myanmar adopted by the International Labour Conference at its 109th Session (2021), the Governing Body:
  - (a) deplored the lack of progress towards respecting the will of the people, democratic institutions and processes, and the fact that the democratically elected government has not been restored;
  - (b) noted with profound concern the escalation of large-scale lethal violence against civilians, including children, and the arrest and torture of Aung Ko Latt, a member of the Mahlwagone Railway Union, and called on the military to end such action immediately;
  - (c) deplored the continued harassment, intimidation and arbitrary arrests and detentions of labour activists, trade unionists and others, including the Rohingya, in the exercise of their human rights, and repeated its call to the military authorities to cease such action immediately;

<sup>1</sup> GB.344/INS/12/Decision.

- (d) deplored the termination of citizenship of prominent democracy activists, including trade unionists, in violation of international law, and called upon Myanmar to immediately restore their citizenship;
- (e) expressed grave concern that there has been no demonstrable progress towards removing banking restrictions imposed on the ILO Liaison Office and urged the military authorities to desist immediately from such interference and to respect the status of the Office, in accordance with the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947;
- (f) repeated its call for Myanmar to uphold immediately its obligations under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and to ensure that workers' and employers' organizations are able to exercise their rights in a climate of freedom and security, free from violence, arbitrary arrest and detention, and again called for the immediate release of the General Secretary of MICS-TUF and other trade unionists and activists who have been detained;
- (g) repeated its profound concern over reports of increased use of forced labour by the military authorities and the fact that progress towards the elimination of forced labour has reversed since the military takeover, and called for the military authorities to end forced labour practices immediately;
- (h) repeated its call for the Civil Services Personnel Law, the Settlement of Labour Disputes Law and the Labour Organization Law to be amended without delay, in line with Convention No. 87, once the country returns to democracy;
- (i) requested that the Director-General report to its 345th Session (June 2022) on developments in Myanmar; and
- (j) decided in accordance with article 26(4) of the ILO Constitution to establish a Commission of Inquiry in respect of the non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Forced Labour Convention, 1930 (No. 29).

## ► General developments

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2. This document provides an update on the evolution of the situation in Myanmar since the Office reported to the Governing Body in March 2022 and covers developments up to mid-May 2022. The Office will provide further information orally to the Governing Body. Regarding the establishment of a Commission of Inquiry, a separate paper to the Governing Body will present the Director General's proposals concerning the appointment of the members of the Commission of Inquiry.
3. There has been no progress to restore democratic and civilian rule following calls by the Governing Body <sup>2</sup> and the International Labour Conference <sup>3</sup> to restore the democratically elected government of Myanmar and respect the will of the people.
4. It is reported that civilians continue to be killed, injured or displaced as a result of armed conflict across the country and from the use of heavy weapons, aerial bombardment, artillery fire, and landmines. United Nations' (UN) sources report that as of April 2022, 1,723 people, including more than 100 children, have been killed following the military takeover, not including those killed in armed conflict. There are also continued reports of severe physical

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<sup>2</sup> GB.343/PV, para. 266.

<sup>3</sup> ILO, [Resolution for a return to democracy and respect for fundamental rights in Myanmar](#), International Labour Conference, 109th Session, 2021.

abuse, torture and rape in prisons. As of May 2022, a total of more than 600,000 people have been internally displaced by conflict and insecurity since the military takeover, and a further 36,100 people are displaced to neighbouring countries. In addition, it is estimated that more than 8,000 civilian properties have been burned or destroyed. Thousands of internally displaced persons live in extremely vulnerable conditions. Essential humanitarian access to people in need is limited due to heavy restrictions on movement and ongoing fighting.

5. Civilians who protest against the military authorities, whether on the streets or on social media continue to be the target of detentions, principally under section 505A of the Penal Code which, inter alia, prohibits spreading “false news”. This has also been applied against a number of journalists who have reported on the military takeover, and have been arrested and then imprisoned.
6. The economy continues to be under stress and the World Bank has estimated GDP growth of 1 per cent to September 2022, following an estimated 18 per cent decline in 2021. According to the UN, as of May 2022, basic food prices are 32 per cent higher than the same time last year, driven particularly by a doubling of fuel prices. Insecurity continues to impact on supply chains in parts of the country, which is also affected by fuel price volatility. The energy sector has been under considerable pressure and currently there are large-scale daily electricity cuts and energy rationing.
7. In early April 2022, the Central Bank of Myanmar (CBM) announced that, with immediate effect, foreign currencies in Myanmar’s residents’ bank accounts must be converted to local currency at a prescribed exchange rate within 24 hours of receiving such payments. This would also apply retroactively to currency held in accounts before April. Subsequently the CBM clarified exemptions would apply to some organizations and businesses including UN agencies and citizens holding a UN laissez-passer.
8. On 5 April 2022, Myanmar’s state-run newspaper published a press release from the Ministry of Labour (MOL) objecting to the ILO Governing Body decision to establish a Commission of Inquiry stating that the report was based on highly politicized and “unfounded accusations” and that the Governing Body made a decision unilaterally in the absence of Myanmar’s participation “contrary to the ILO Constitution and due process”. On the same day, it also published a press release from the Ministry of Foreign Affairs objecting to and disassociating itself from a resolution in response to the grave violation of human rights in Myanmar of the UN Human Rights Council. It alleged that the Council’s decision and meetings concerning Myanmar in March were based on unfounded allegations and “made up” information.
9. On 6 May 2022, Cambodia, as the ASEAN Chair, convened a Consultative Meeting on ASEAN Humanitarian Assistance to Myanmar. The UN Special Envoy on Myanmar was not invited to participate in the meeting, but in a statement, urged ASEAN leaders and donors to prioritize principled engagement with diverse local humanitarian networks to effectively deliver aid to all communities in need.

## ► Impact on ILO social partners

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10. The situation facing the Confederation of Trade Unions Myanmar (CTUM), the Agriculture and Farmer Federation of Myanmar – International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (AFFM-IUF) and the Myanmar Industry, Crafts and Services Trade Union Federation (MICS-TUF) remains of serious concern as trade unionists continue to be targeted by military authorities. The ILO Liaison Office held bilateral

meetings with the Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI), the CTUM, the MICS-TUF and the AFFM-IUF in May 2022 about the situation facing the social partners.

11. It was reported that, on 20 April, two trade unionists from the CTUM and its affiliated Industrial Workers' Federation of Myanmar (IWFMM) were attacked and detained by soldiers when they were in a vehicle returning from a demonstration against the military on the outskirts of Yangon. At the time of reporting the two trade unionists are in Insein Prison in Yangon and have been charged under section 505A of the Penal Code. On 22 April 2022, the International Trade Union Confederation (ITUC) requested the Director-General's urgent intervention in this case. On 25 April 2022 by Note Verbale to the MOL, the Office urged the authorities to immediately release the two trade unionists and drop all charges against them for having exercised their rights to peaceful assembly. It urged that information on the steps taken in this regard be transmitted to the ILO without delay. These detentions add to the growing number of trade unionists and other activists who have been detained since the military takeover, many of whom have been detained under section 505A of the Penal Code.
12. The CTUM reports that it is also observing more cases of child labour and forced labour in garment sector factories, including workers forced to work on Sundays and holidays as well as undertaking compulsory overtime without pay. It also reports continued cases in garment factories of workers not receiving severance payments on the closure of factories.
13. It is also reported that there is continued targeting and harassment of trade unionists, including trade unionists' homes being searched. This is despite repeated calls by the Governing Body to immediately cease such activities, and to release from detention and drop any charges against trade unionists and others who have peacefully participated in protest activities.
14. The MICS-TUF reported in May 2022 that its General Secretary who was detained in 2021 remains in prison incommunicado and that there has been no access to him by lawyers or his family. The MICS-TUF requested that the ILO be granted access to him as it has concerns about his health and welfare. The MICS-TUF also reported that workers are fearful of raising issues about labour rights violations due to safety concerns, and thus labour rights violations are left unaddressed. This includes, for example, reported instances of forced unpaid overtime in factories. The AFFM-IUF also raised concerns about continued labour rights violations. This includes a reported incident involving 500 workers in a factory who were reclassified from permanent employees to temporary workers and lost their social security entitlements.
15. The UMFCCI reported that it continued to assist its members by sharing information on industrial relations through member companies, providing labour advisory services, conducting training workshops on dispute resolution and occupational safety and health (OSH), and assisting workers to receive the social security benefits. The UMFCCI published three employers' guidebooks on labour law, OSH and business continuity management. It has also established a mobile application for members to share information on its activities, including industrial relations. The Myanmar Garment Manufacturers Association is providing labour audit services to encourage Myanmar garment companies in cooperation with the UMFCCI to ensure compliance with labour standards.
16. At its 344th Session (March 2022), the Governing Body approved the 397th Report of the Committee on Freedom of Association, including its interim decision concerning Myanmar (Case No. 3405). In its interim decision:
  - (a) The Committee firmly urges the responsible military authorities to cease immediately the ongoing use of violence against peaceful protesters and to carry out independent

investigations into the deaths of all the above-named workers and trade unionists killed in relation to protest actions and the exercise of their basic civil liberties, including fundamental freedom of association rights, and to provide detailed information on the steps taken in this regard and the outcome of the investigations.

- (b) The Committee firmly urged the repeal and amendment of section 505A of the Penal Code, section 124 of the Criminal Code, section 38(c) of the Electronic Transaction Act (ETA), the withdrawal of the surveillance powers that were restored to the wards and villages under the amended Ward or Village-tract Administration Law and the withdrawal of the declaration of the trade unions declared as unlawful so as to ensure full respect for the basic civil liberties necessary for the exercise of freedom of association, including freedom of opinion and expression, freedom of assembly, freedom from arbitrary arrest and detention and the right to a fair trial by an independent and impartial tribunal so that workers' and employers' organizations can carry out their activities and functions without threat of intimidation or harm and in a climate of complete security.
- (c) The Committee expected that all the cases of trade unionists and workers arrested or detained for action in relation to the restoration of their trade union rights and democracy in the country will be investigated and that steps will be taken without delay to ensure their immediate release. It requests to be informed of all steps taken to this end.
- (d) The Committee once again called on the responsible authorities to reinstate any civil servants, healthcare workers or teachers dismissed or suspended for their participation in the CDM and to restore any benefits that may have been withdrawn.
- (e) The Committee recalled its previous recommendation that appropriate steps be taken to ensure that trade unionists and workers in the private sector are not penalized for having engaged in the CDM for the restoration of their trade union rights and requests to be informed of the specific measures taken in this regard.
- (f) Observing the magnitude of the task of reviewing all the cases brought before it, the Committee considered that the institution of an investigative authority independent of the military would be a necessary measure to bring justice to those who have peacefully exercised their rights of freedom of assembly, expression and association and requests to be informed of the measures taken in this regard.
- (g) The Committee urged the military authorities to recognize the critical importance of ensuring these rights and freedoms to the workers and employers of the country as a necessary prerequisite to any legitimate democracy and the sustainable development of the country.
- (h) The Committee draws the Governing Body's attention to the extreme seriousness and urgency of this case.

- 17.** It is recalled that the ILO Committee of Experts on the Application of Conventions and Recommendations reviewed the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) at its last session (November–December 2021) and, in its observation, requested Myanmar to present full particulars at the 110th Session of the Conference. Myanmar is included in the [final list](#) of the 22 individual cases regarding which Governments are invited to supply information to the Committee on the Application of Standards at its session held from 30 May to 10 June 2022. The Office will update the Governing Body orally on any developments at the International Labour Conference.

## ▶ ILO Decent Work Country Programme and cooperation activities in Myanmar

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18. The Memorandum of Understanding (MOU) on the Myanmar Decent Work Country Programme (DWCP) continues to be in effect until 20 September 2022, as was confirmed by the MOL in a letter of 19 October 2021. As reported in the 344th Session of the Governing Body in March 2022, the Liaison Officer and two other international staff members had had their visa extensions denied by the military in November 2021, and in March 2022 only the Liaison Officer has his visa application and stay permit approved by the MOL and he returned to Myanmar on 13 March 2022.
19. In April 2022, the MOL indicated in letters responding to two applications for visa extensions for international staff that it would not recommend the issuance of international staff visas until such time as the ILO collaborates with Myanmar as a Member State on labour affairs, including the implementation of the DWCP.
20. Since the last session of the Governing Body, the Liaison Office has continued to deliver technical assistance under reprogrammed development cooperation projects to support the people of Myanmar in difficult and challenging circumstances. This includes campaign activities for SAFEDAY in April; new legal guidance on OSH; the publication of a legal review of child labour laws; OSH training on a range of topics including mental health; technical support to coffee farmers; capacity-building on the Domestic Workers Convention, 2011 (No. 189) and digital literacy for 80 domestic workers; emergency cash assistance for domestic workers; labour-intensive income generation for families of migrants who lost jobs due to COVID-19, and capacity-building for migrant women's groups. A range of activities is forthcoming including: the launch of new training modules on child labour and labour law; forced labour capacity-building for trade unions, as well as the roll-out of a cash-for-training programme for unemployed workers in the garment sector to be piloted in June.
21. The Office delivers this work in accordance with United Nations Country Team (UNCT) One Plus Engagement Guidelines that came into effect on 8 March 2022, following endorsement by the UN Permanent Monitoring Group for Myanmar. The UNCT in Myanmar has taken a coordinated and coherent approach to engagement with stakeholders since the military takeover. Within a clear framework of programmatic and operational guidelines, the UN engages as necessary with stakeholders to ensure that essential humanitarian, COVID-19 and priority development assistance can be provided to the people of Myanmar.
22. In June 2021 the Governing Body acknowledged and expressed appreciation for the efforts of the ILO Liaison Office in Myanmar in its work to implement development cooperation programmes focusing on decent work and promoting labour rights.<sup>4</sup> The Liaison Office will continue to deliver development cooperation activities for the people of Myanmar as well as other essential work, including supervisory functions, forced labour monitoring and in other key areas based on the UN Guidelines and as approved by ILO headquarters.
23. The UN, including the ILO, is informed that continued operations in Myanmar are contingent on a valid MOU or similar agreement with the military authorities setting out the scope of operations and engagement. In this connection, the Office received correspondence from the MOL that it expects ILO's recognition, and the resumption of technical cooperation activities

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<sup>4</sup> GB.342/INS/5, para. 32(g), as amended by the Governing Body.



on labour issues. During bilateral meetings with social partners, they all expressed a desire for continued technical support from the ILO. Trade unions expressed a desire for the Office not to engage with the military authorities with respect to ILO technical assistance.

24. In May 2022, the MOL requested, at short notice, an urgent meeting with the Liaison Officer in which the Permanent Secretary raised concerns that Governing Body reports were one-sided, requested the ILO to provide balanced information and allow the MOL to attend the International Labour Conference in June. The Liaison Officer explained the process for preparing Governing Body reports and its participation in the International Labour Conference contingent to the decision of the UN General Assembly. He raised concerns about continued banking restrictions and the denial of, or lengthy approval process for, international staff visa extensions (including one visa extension that has been pending for eight months). The MOL responded that it would further consider international staff visas, as well as issuing a recommendation letter which would enable the ILO to enjoy full and unhindered banking services. Subsequently, the Office received a letter from the MOL declining a request to facilitate the sale of an international staff member's vehicle unless the ILO acknowledges the legitimacy of the MOL.

## ► Monitoring the situation concerning the use of forced labour

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25. Since the ILO database on complaints concerning forced labour was established in February 2007, as of 6 May 2022, the Office had received a total of 5,717 cases, of which 3,066 were determined to be within the definition of forced labour. Among those cases: 1,338 cases have been successfully resolved and recorded as closed; 288 cases have been temporarily closed due to insufficient information; 406 cases are pending the Office's assessment; 283 cases were referred to the Country Task Force on Monitoring and Reporting (CTFMR) and are awaiting an outcome from the authorities; and 751 cases were referred to the national committee to eliminate forced labour (and subsequently the National Complaints Mechanism (NCM)), and are pending an outcome. Since February 2021, the ILO received 13 individual complaints that are subject to further assessment and no cases have yet been submitted to the NCM.
26. There continue to be reports from monitoring organizations about the use of forced labour, predominantly by the military and its associated armed groups. Six recorded incidents of forced labour since January 2022 alone involved more than 280 people.
27. The forced labour incidents that have come to the attention of the Office since March 2022 that are being verified by the Office include:
- (a) use of civilians as guides, and forced portering for constructing military outposts and carrying military equipment in Kayin and Shan State and Sagaing Region;
  - (b) forced recruitment to join the police force in several locations;
  - (c) forced recruitment of young persons and adults under instructions from the military authorities for people's security forces in Magway Region;
  - (d) use of human shields in the Sagaing region;
  - (e) use of convicted prisoners in armed operations at the front line for mine clearances and their deployment to conflict zones;
  - (f) use of forced unpaid overtime in some garment sector factories; and
  - (g) use of at least 52 people for forced portering of food and weapons in Kayin.

## ▶ Draft decision

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28. In the light of the developments in Myanmar outlined in document GB.345/INS/5/2 and recalling the resolution for a return to democracy and respect for fundamental rights in Myanmar adopted by the International Labour Conference at its 109th Session (2021), the Governing Body:
- (a) deplored once again the lack of progress towards respecting the will of the people, democratic institutions and processes, and the fact that the democratically elected government has not been restored;
  - (b) called on the military authorities to immediately end the large-scale lethal violence against civilians, including children, and the arrest and torture of trade unionists;
  - (c) called on the military authorities to immediately end the harassment, intimidation and arbitrary arrests and detentions of labour activists, trade unionists and others, including the Rohingya, in the exercise of their human rights;
  - (d) repeated its call for Myanmar to immediately restore the citizenship of prominent democracy activists, including trade unionists;
  - (e) repeated its call for Myanmar to uphold immediately its obligations under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and to ensure that workers' and employers' organizations are able to exercise their rights in a climate of freedom and security, free from violence, arbitrary arrest and detention, and again called for the immediate release of the General Secretary of MICS-TUF and other trade unionists and activists who have been detained;
  - (f) repeated its profound concern over reports of increased use of forced labour by the military authorities and the fact that progress towards the elimination of forced labour has reversed since the military takeover, and called for the military authorities to end forced labour practices immediately;
  - (g) repeated its call for the Civil Services Personnel Law, the Settlement of Labour Disputes Law and the Labour Organization Law to be amended without delay, in line with Convention No. 87, once the country returns to democracy;
  - (h) called on the military authorities, in accordance with the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947, to take immediate action to remove all restrictions on the operation of the ILO's bank account, approve international staff visa extensions, and facilitate the ILO's continued operations to bring benefits to the people of Myanmar despite the expiry of the MOU of the DWCP in September 2022; and
  - (i) called upon Myanmar to fully cooperate with the Commission of Inquiry and facilitate its work, including as regards a possible country visit.