



Governing Body

322nd Session, Geneva, 30 October–13 November 2014

GB.322/INS/14/1

Institutional Section

INS

Date: 31 October 2014

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FOURTEENTH ITEM ON THE AGENDA

Report of the Officers of the Governing Body

First report: Complaint alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), made by delegates to the 103rd Session (2014) of the International Labour Conference under article 26 of the ILO Constitution

1. At the 103rd Session of the International Labour Conference, the Director-General received a communication dated 12 June 2014, signed by the following delegates: Mr Luc Cortebeeck (Belgium), Ms Nermin Sharif (Libya), Mr Mazen Maayta (Jordan), Mr Mohamed Kabbaj (Morocco), Ms Keth Thapper (Sweden), Mr Sam Gurney (United Kingdom), Mr Jens Erik Ohrt (Denmark), Ms Marjorie Alexandre (France), Mr Lucien Royer (Canada), Mr Zahoor Awan (Pakistan), Mr Francis Atwoli (Kenya) and Mr Hassine Abassi (Tunisia) in which the aforementioned delegates, under article 26 of the International Labour Organization Constitution, filed a complaint against the Government of Qatar relating to the violation of Convention No. 29 and Convention No. 81. The text of the aforementioned communication is appended.
2. At the 14th plenary sitting of the Conference, held on 14 June 2014, Mr Jens Erik Ohrt made a statement introducing briefly the complaint with the purpose of serving notice to the Government of Qatar and to all members of the Conference.¹

¹ See *Provisional Record* No. 17, International Labour Conference, 103rd Session, Geneva, 2014, p. 13.

3. At the 321st Session of the Governing Body (June 2014), the Worker Vice-Chairperson, Mr Luc Cortebeeck, orally informed the Governing Body of the complaint presented during the Conference.²
4. Article 26 of the ILO Constitution provides as follows:
1. Any of the Members shall have the right to file a complaint with the International Labour Office if it is not satisfied that any other Member is securing the effective observance of any Convention which both have ratified in accordance with the foregoing articles.
 2. The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the government in question in the manner described in article 24.
 3. If the Governing Body does not think it necessary to communicate the complaint to the government in question, or if, when it has made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may appoint a Commission of Inquiry to consider the complaint and to report thereon.
 4. The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a delegate to the Conference.
 5. When any matter arising out of article 25 or 26 is being considered by the Governing Body, the government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the government in question.
5. Convention No. 29 was ratified by Qatar on 12 March 1998, and has been in force in the country since 12 March 1999. Convention No. 81 was ratified by Qatar on 18 August 1976, and has been in force in the country since 18 August 1977. On the date of the complaint, its authors were Workers' delegates of their respective countries to the 103rd Session of the ILC. Accordingly, under article 26, paragraph 4, of the ILO Constitution, those delegates were entitled to file a complaint. This means that the conditions set out in article 26, paragraphs 1 and 4, of the ILO Constitution for determining the receivability of the complaint are satisfied.
6. No discussion on the merits of the complaint is admissible at this stage. Indeed, it would be inconsistent with the judicial nature of the procedure provided for in article 26 and the following articles of the ILO Constitution that there should be any discussion in the Governing Body on the merits of the complaint until the Governing Body has before it the contentions of the government against which the complaint is filed, together with an objective evaluation of these contentions by an impartial body.
7. ***Taking into account that the conditions contained in article 26 of the ILO Constitution appear to be fulfilled, the Officers of the Governing Body consider the complaint to be receivable and recommend the Governing Body to:***
- (a) ***request that the Director-General transmit the complaint to the Government;***
 - (b) ***invite the Office to obtain relevant information from the Government and employers' and workers' organizations of Qatar, and to report to the Governing Body at its 323rd Session (March 2015); and***

² See GB.321/PV, para. 58.

- (c) *place this issue on the agenda of its 323rd Session of the Governing Body in order to decide whether further action on the complaint is required in the light of the information provided by the Office in connection with paragraph (b).*

Appendix

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 Director-General
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Alfonso
12.06.14
11.30 am
Art. 26

12 June 2014

Complaint under Article 26 of the ILO Constitution against the Government of Qatar for non-observance of Convention No. 29 on Forced Labour and Convention No. 81 on Labour Inspection

We, the undersigned worker delegates to the 103rd Session of the International Labour Conference (Geneva, 2014) request the establishment without delay of a Commission of Inquiry against the Government of Qatar (GoQ) for its egregious non-observance of Convention No. 29 and Convention No. 81, which were ratified in 1998 and 1976 respectively.

The fact of widespread and systematic violations of Convention 29 in Qatar, namely human trafficking for forced labour, is not in any doubt. Indeed, this has been recently confirmed by the United Nations Human Rights Council (2014 Universal Periodic Review),¹ the UN Special Rapporteur on the Human Rights of Migrants,² the International Labour Organization (ILO),³ the US Department of State,⁴ Human Rights Watch,⁵ Amnesty International⁶ and countless media outlets around the world, including The Guardian. Indeed, even the international law firm hired to advise the GoQ suggests that the problems they identified could contribute to the exaction of forced labour.⁷

Since well-documented concerns regarding the regular exaction of forced labour were presented to the GoQ, it has undertaken no effective measures to stop it. At best, the government has moved from outright denial of the problem to significantly downplaying it. Earlier this year, the GoQ made vague promises to reform the kafala

¹ Human Rights Council Working Group on the Universal Periodic Review, Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, February 2014.

² UN Human Rights Council, Report of the Special Rapporteur on the human rights of migrants, François Crépeau, April 2014.

³ ILO Governing Body, Report of the committee set up to examine the representation alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), made under article 24 of the ILO Constitution by the International Trade Union Confederation and the Building and Woodworkers International, March 2014.

⁴ US Department of State, Trafficking in Persons Report, Qatar (June 2013).

⁵ Human Rights Watch, Building a Better World Cup, Protecting Migrant Workers in Qatar Ahead of FIFA 2022, June 2012.

⁶ Amnesty International, Qatar: 'My Sleep Is My Break': Exploitation Of Migrant Domestic Workers In Qatar, April 2014; Amnesty International, The Dark Side Of Migration: Spotlight On Qatar's Construction Sector Ahead Of The World Cup, November 2013.

⁷ DLA Piper, Migrant Labor in the Construction Sector in the State of Qatar, April 2014.

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system and to shift to a “contract system.” However, the few details available to date point to a reform in name rather than in substance. Moreover, no reforms have been enacted and no timetable has been put forward. Given the number of long-overdue promises, including legislation to protect domestic workers, the undersigned delegates remain skeptical.

The problem of forced labour affects the migrant worker population of roughly 1.5 million. From the moment migrant workers begin the process of seeking work in Qatar, they are drawn into a highly exploitative system that facilitates the exaction of forced labour by their employers. This includes practices such as contract substitution, recruitment fees (for which many take out large, high interest loans) and passport confiscation. The GoQ fails to maintain a legal framework sufficient to protect the rights of migrant workers consistent with international law and to enforce the legal protections that currently do exist.⁸ Of particular concern, the sponsorship law, among the most restrictive in the Gulf region, facilitates the exaction of forced labour by, among other things, making it very difficult for a migrant worker to leave an abusive employer.

The country’s labour inspection and justice system have proven highly inadequate to enforce the few rights that migrant workers do have under Qatari law. Indeed, the inspectorate is miniscule compared to the task (roughly 200), and is unable to speak the languages of most workers. Inspectors have little power to enforce findings and fines are far from dissuasive or in some cases non-existent. The different complaint mechanisms available are ineffective. Migrants have difficulty accessing these mechanisms, partly because of lack of information, legal aid and interpreters and partly because they fear retaliation. Indeed, the valid fear of retaliation is an important obstacle to the use of existing mechanisms, leaving many workers to suffer the exploitation. Moreover, workers working outside of Doha find it difficult to get the time off or the transportation necessary to file a claim in person in the limited hours when the complaints department is open. In any case, employers often fail to appear in the complaints process, allowing claims to languish. Workers brave enough to lodge complaints face the additional hurdle of supporting oneself through the process. Workers often have no income or legal accommodation through this process, making the pursuit of a remedy daunting at best.

Finally, not only is there no effective redress but the victims of trafficking for forced labour trafficking are sometimes further victimized by the GoQ. Authorities arrest, detain and deport potential trafficking victims for immigration violations and running away from their employers or sponsors. Some trafficking victims languish in detention centers for months because of debts or false charges of theft filed against them by employers.⁹

We note that the ILO Governing Body has already found that, “it would appear to the committee that certain migrant workers in the country may find themselves in situations prohibited by the Convention, due to several factors enumerated above, such as contract substitution, restrictions on leaving either the employment relationship or the country, the non-payment of wages, or the threat of retaliation.”¹⁰

⁸ The employment of migrant workers in Qatar is governed largely by three laws - Law 14 of 2004 (Labour Law); Law 4 of 2009 (Sponsorship Law); and, Law 15 of 2011 (Trafficking in Persons Law).

⁹ TIP Report, p. 308.

¹⁰ *Id.*, fn. 3.

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Its decisions should also guide the work of the members of the Commission of Inquiry if and when established.

In conclusion, there has been no progress whatsoever on ensuring that laws and practices are brought into conformity with Convention No. 29, and ineffectively small steps with regard to Convention No. 81. The undersigned delegates to the 103rd International Labour Conference therefore request the establishment of a Commission of Inquiry.

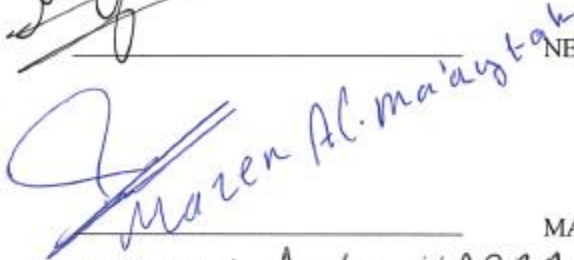
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LUC CORTEBEECK, BELGIUM



NERMIN SHARIF, LIBYA

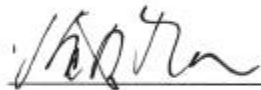


Mazen Al. maayta

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KETH TAPPER, SWEDEN



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JENS ERIK OHRT, DENMARK



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LUCIEN ROYER, CANADA

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ZAHOOR AWAN, PAKISTAN

Francis Atwoli

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HASSINE ABASSI, TUNISIA

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