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Dix-huitième séance, 10 juin 2025, 12 h 30 (suite)**Eighteenth sitting, 10 June 2025, 12.30 p.m. (cont.)****Decimoctava sesión, 10 de junio de 2025, 12.30 horas (cont.)**

Président: M. Tabai
Chairperson: Mr Tabai
Presidente: Sr. Tabai

Discussion des cas individuels (suite)**Discussion of individual cases (cont.)****Discusión de los casos individuales (cont.)****Népal (ratification: 1996)****Convention (n° 98) sur le droit d'organisation et de négociation collective, 1949****Right to Organise and Collective Bargaining Convention, 1949 (No. 98)****Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98)**

Président – Nous allons à présent passer à l'examen du deuxième cas individuel à l'ordre du jour. Il s'agit de l'examen du cas Népal de la convention (n° 98) sur le droit d'organisation et de négociation collective, 1949.

J'informe la commission que nous avons 14 délégués inscrits pour prendre la parole.

J'ai l'honneur à présent d'inviter l'honorable représentante du gouvernement du Népal, M Pradip Kumar Koirala, secrétaire adjoint du ministère du Travail, de l'Emploi et de la Sécurité sociale, à prendre la parole.

Government representative (Mr KOIRALA) – Today, I am pleased to be present here at the Committee representing Nepal to discuss the individual case concerning this Convention.

We take note of the observations made by the Committee of Experts. In a constructive spirit, we have provided the feedback on the status of collective bargaining in Nepal.

Nepal is firm in its commitments to effectively protecting, promoting and ensuring the right to organize and collective bargaining at the workplace. Collective bargaining is an established practice and culture in the Nepali labour market. We ratified the Convention in 1996 and since then we have put in place institutions and mechanisms for the effective implementation of the Convention in true spirit of tripartite cooperation and social dialogue.

Nepal is party to 11 ILO Conventions, including seven fundamental ones. The effective implementation of these instruments through domestic legal instruments and monitoring mechanisms is our core priority. We are also in the process of completing the internal procedures for ratification of an additional 9 ILO Conventions including the fundamental Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87).

In line with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No.144), tripartite culture remains at the heart of our labour governance. Our Government, workers and employers come together for constructive engagements, democratic discussions and a joint decision-making.

Article 34 of the Constitution of Nepal guarantees the right to labour as a fundamental right. In its sub-article 3, the Constitution guarantees the right to form and join trade unions and to engage in collective bargaining for every labourer. The Constitution has embraced the principles, and objectives of the Convention.

There are constitutional guarantees, comprehensive legal instruments, and a robust and well-established culture to uphold the right to organize and collective bargaining in the Nepali labour market. We have seen a smooth and effective implementation of the Convention in the labour market. A few stand-alone cases may arise. However, collective bargaining is well ensured in the general labour practice in Nepal.

In view of this, and despite the submission of inputs to the Committee earlier, we are concerned to be included in the final list of the individual cases as provided by the social partners. Nevertheless, we take note of the Committee of Experts' observations, on the implementation of the Convention and are happy to share our status and progress to the Committee. We take this as an opportunity to showcase to the Committee our excellent tripartite culture with comprehensive collective bargaining engrained in the labour market.

In line with Article 1 of the Convention, the Government is making steadfast efforts to ensure adequate protection against anti-union discrimination. Any form of discrimination is prohibited by the Constitution of Nepal which also applies for trade unions. The Labour Act, 2017 prohibits discrimination against workers. The Trade Union Act, 1992 is equally applicable to all trade unions, without any discrimination. Workers' and trade unions' rights are ensured in the core legal instruments and they are in smooth implementation. The principles of equality, non-discrimination among workers and trade unions are well enshrined in the prevailing labour laws as well as in the practice and it has become a culture in our labour market.

The Government acknowledges the request made by the Committee of Experts for an explicit provision that prohibits all forms and acts of discrimination against trade unions and sufficiently as well as effectively dissuasive sanction provisions if violated. In the same vein, a tripartite task force was formed including representatives from governments, workers and employers. This task force has been mandated to assess the current legislative provisions and propose amendments in order to better reflect the obligations under the Convention in both letters and spirit of the prevailing labour laws in Nepal.

Formal calls for submissions were made to the national representative organizations of workers (the Joint Trade Union Coordination Centre or (JTUCC)), which encompasses all major trade union federations, including the General Federation of Nepalese Trade Unions (GEFONT), and employers (the Federation of Nepalese Chambers of Commerce and Industry (FNCCI)). In addition, a public notice was issued inviting the recommendations from wider public communities, including civil society organizations, trade union activists, and independent stakeholders. The received submissions are now being thoroughly reviewed by the tripartite task force. Discussions are ongoing. The task force has already conducted several rounds of focused dialogue to ensure that all voices are well-reflected in the forthcoming amendment.

The Government, through clear legal provisions, is committed to end discrimination in all its forms and manifestations, be it in membership or participation or transfer or trainings.

Nepal also understands that anti-union discrimination is not a mere one-time legal reform to be made, however, it requires continuous and progressive implementation. The Government has parallelly taken effective action to ensure enforcement of existing protection mechanisms. In particular, the Department of Labour and Occupational Safety (DoLOS) is conducting regular targeted training and awareness programmes, especially designed for labour inspectors, trade union officials, and employers on an annual basis. These programmes

have been successful in raising awareness of legal protections against anti-union discrimination and in fostering a widespread culture of legal compliance and mutual respect. In collaboration with the social partners, joint awareness campaigns are being carried out at the national and regional levels. These campaigns promote workers' legal rights and underscore the Government's zero tolerance policy toward all sorts of discriminatory practices which obstruct the equal, unhindered, free, and full exercise of freedom of association.

Furthermore, the Government is taking swift actions in a few recent stand-alone cases involving allegations of anti-union discrimination. Two cases were received involving the unauthorized transfer of elected trade union officials – one in a commercial bank and another at a medical college. In both cases, the trade union leaders were transferred without their consent, raising serious concerns under section 23(a) of the Trade Union Act, 1992, which clearly states that enterprise-level trade union office-bearers cannot be transferred or promoted without their consent except in special circumstances. Upon investigation by the Department of Labour and Occupational Safety, both transfers were found to be unlawful and were promptly intervened. The Department issued official directives ordering the reversal of these actions and affirming the legal protections accorded to the union leaders. These interventions by the Government not just rectified the individual stand-alone cases of violations but also sent a broader message to the wider labour community regarding the Government's firm commitment to effectively enforcing anti-discrimination protections in practice.

In order to ensure the effective implementation of Article 2 of the Convention, the Government has made a number of significant efforts including awareness campaigns. To ease the workers' access to the Government for any complaints, including on the acts of interference, we have put in place a digital tool with an electronic case management mechanism. The Integrated Labour Management Information System (ILMIS) has provided all

of the workers, labour suppliers, trade unions, and enterprises an easy platform to lodge their grievances and complaints on all matters including the acts of interference as well as occupational accidents. The platform was upgraded in consultation with the stakeholders and with the technical assistance of the ILO.

In order to maintain privacy of the complainant, to protect their confidentiality, to prevent them from the fear of reprisals or intimidations, the digital platform also provides the space for anonymous submissions. With secure and efficient data storage as well as tracking system, the management, follow-up, data analysis as well as future policy feedback has been made easy by the new ILMIS platform.

In addition, targeted and institutionalized capacity-building programmes are launched with special emphasis on preventing acts of interference in trade union activities. The training sessions, workshops, awareness campaigns are part of the Government's regular work. Labour inspectors are trained to identify and address both overt and subtle forms of interference in the exercise of trade union rights.

The Government is effortful in further simplifying the process through the digital platform used for a complaint registration process, recording system with easy, wider and smooth access for all concerned.

Regarding Article 4 of the Convention, the right to collective bargaining is enshrined in the Constitution of Nepal as a fundamental right. The Labour Act, the Trade Union Act and other related legal bodies further strengthen the right. The Government has implemented administrative mechanisms to facilitate fair elections to identify the most representative trade union at the enterprise level.

In the current fiscal year (2024/25), a total of 31 trade unions have been certified as authorized bargaining agents in their enterprises through the elections at enterprise level.

During the same period, 53 collective agreements have been officially registered with the Labour and Employment Offices.

These figures reflect the continued progress in institutionalizing collective bargaining practices across the country. As of the end of the previous fiscal year, a total of 1,018 enterprise-level collective agreements had been registered. Earlier, data on these agreements were collected manually, leading to incomplete records in cases where agreements were not physically submitted. To address this issue, the Government is currently upgrading the ILMIS system to allow digital registration and systematic tracking of collective bargaining agreements. This upgrade will support the generation of accurate, disaggregated data on collective bargaining and enable better monitoring and evaluation of trends and outcomes in this area.

Although enterprise-level collective bargaining has become more common, sectoral or group level bargaining remains underutilized. Section 123 of the Labour Act, 2017, permits such bargaining where enterprises operate within the same sector or produce similar goods or services. Despite this provision, no sectoral agreements have been registered to date. Thus, it is not the case that the Government has not provided any information concerning the number of the sectoral collective agreements as stated in the observations of the Committee of Experts. The Government is willing and ready to share the information; however, the number remains zero to date. The Government also acknowledges the need to better operationalize this provision and is actively considering revisions of section 123 as part of the Labour Act reform process. The aim is to create a more enabling environment for sectoral bargaining by clarifying procedures, roles, and responsibilities. Consultations with JTUCC, FNCCI, and other social partners are ongoing in this regard, and the Government remains committed to aligning its legal provisions with the requirements of the Convention through the forthcoming legal amendment.

To conclude, our efforts and actions are in line with the implementation of the Convention. It is a matter of priority for us. We are committed to further strengthening these provisions.

Président – J'invite maintenant les deux porte-paroles à faire leurs observations introductives. Je donne la parole à M^{me} Clare Middlemas, porte-parole des travailleurs, pour sa déclaration.

Worker members – We are here today to address Nepal's continued non-compliance with the Convention.

The Workers' group remains concerned about Nepal's failure to fully implement the Convention, particularly Articles 1 and 2 which guarantee protection against anti-union discrimination and acts of interference.

Despite years of repeated recommendations from the Committee of Experts, Nepal's legal framework still lacks clear and specific prohibitions against anti-union discrimination. The relevant provisions in the Labour Act, 2017, sections 8 and 163 are overly general and insufficient. Even the Government has acknowledged this gap.

In sectors like hospitality, this legal gap enables abuse. Workers are kept in bogus traineeships and internships or hired through successive short-term contracts denying them stable employment and the fundamental right to organize. As the ILO's supervisory bodies have repeatedly emphasized, job insecurity undermines and deters trade union activity. These abusive practices disguise real employment and block access to representation and collective bargaining. Worse, trade unionists defending workers in the hospitality service face reprisal.

At one renowned Katmandu Hotel, a union leader was dismissed after supporting 11 workers falsely engaged as trainees who had challenged seven years of exploitation in the court. Alarmingly, the Supreme Court of Nepal handed down a ruling in February 2025 which excludes the entire banking and financial sector from the provisions of the Labour Act. This

decision effectively strips thousands of workers from their fundamental labour rights including the right to organize and bargain collectively. It represents a serious setback for workers' rights in Nepal and must be urgently addressed.

We are further concerned by the Government's report that no complaints of anti-union discrimination or interference were registered during the reporting period. This absence may not reflect compliance but rather fear of reprisal and lack of accessible and effective complaint mechanisms.

Without robust legal safeguards, workers remain vulnerable to intimidation and retaliation. That said, we acknowledge recent efforts made by the Government. A tripartite task force comprising Government, employer and worker representatives is currently reviewing the Labour Act to address existing gaps and align national law with the Convention. We also note the Government's steps to strengthen enforcement through regular training for labour inspectors, union officials and employers as well as public awareness campaigns.

The Government also conducts national and regional awareness campaigns in partnership with social partners, highlighting workers' rights and making known the Government's firm zero tolerance stance on discrimination.

Further, we note the upgrade of the ILMIS, developed with ILO support. The system now allows for online and anonymous complaint submission, increasing accessibility and protecting workers from retaliation. Regular capacity-building programmes for labour inspectors have also been institutionalized, helping to detect interference in trade union activities.

We encourage the Government to pursue these efforts and to urgently adopt legislative reforms that explicitly prohibit anti-union discrimination covering all stages of employment and interference and protect all workers including in the hospitality sector, the banking and the financial sectors. These reforms must be developed in full consultation with the social

partners and must be backed by swift enforcement, effective remedies and dissuasive sanctions.

Workers and their organizations in Nepal face further significant hurdles in engaging in collective bargaining. Since the COVID-19 pandemic, elections of trade unions authorized to bargain collectively were suspended. The Committee of Experts has called for the Government to proceed without delay with elections of trade unions authorized to bargain effectively and has reiterated its request that negotiation with non-union actors should only occur where no trade union exists.

We take note of the written information submitted by the Government according to which in the year 2024/25, 31 unions have been certified as bargaining agents and 53 collective agreements have been registered. Cumulatively over 1,000 enterprise-level agreements have been registered to date. While these figures are encouraging, the full realization of the Convention still requires the development of effective voluntary collective bargaining mechanisms at all levels.

Section 123 of the Labour Act which provides a special regulatory regime for collective bargaining in specific sectors can unduly restrict enterprise-level bargaining where sectoral agreements exist. Section 123 should be amended in order to ensure its compatibility with the principles of collective bargaining which must be promoted at all levels.

Workers and their organizations must retain the ability to negotiate at the enterprise level for better conditions even when sectoral frameworks are in place. Further to this legal barrier, we note that according to the written information submitted by the Government, no sectoral agreements have yet been concluded, reflecting the underutilization of sectoral or multi-employer bargaining structures. These agreements are vital to achieving fair labour standards across entire industries, especially where enterprise-level bargaining is weak or fragmented.

Sectoral bargaining plays a crucial role in setting minimum conditions, reducing inequalities and ensuring broad worker coverage.

Finally, the Workers' group remains concerned about the broad scope of compulsory arbitration permitted under the Labour Act. The Committee of Experts has emphasized that compulsory arbitration should be strictly limited to essential cases consistent with the Convention, specifically in the public service involving state administration, during acute national crises or in essential services in the strict sense. Regarding the latter, we note with concern that the list of essential services under the Essential Service Act is defined in a very broad manner. We urge the Government to review this list in consultation with the social partners so as to align it with the provisions of the Convention.

We note the Government's ongoing review of these legal provisions in consultation with the social partners. Proposals have been submitted to restrict compulsory arbitration to clearly defined exceptional cases and to ensure it is only used as a last resort.

Simultaneously, a new arbitration procedure is being developed to guarantee impartiality, transparency and compliance with international fair trial standards. This initiative is included in the Government's budget and programme for the fiscal year starting July 2025.

We acknowledge the establishment of the Tripartite Task Force to revise the Labour Act as an important step forward.

However, we expect the Government of Nepal to act promptly and decisively to fully align its legislation with the Convention. This includes enacting clear provisions against anti-union discrimination, introducing effective sanctions, ensuring accessible complaint mechanisms and sustaining awareness efforts.

We also address the need for continued steps in strengthening collective bargaining, particularly through union elections, prioritizing negotiations with representative trade unions and reviewing section 123 to support free and voluntary bargaining at all levels.

We look forward to tangible results from these commitments for stronger collective bargaining in Nepal.

Président – Je donne la parole à M^{me} Juliana Manrique Sierra, porte-parole des employeurs, pour sa déclaration liminaire.

Miembros empleadores - Deseamos agradecer al Gobierno de la República de Nepal por la información oral y escrita proporcionada en relación con el cumplimiento, en la regulación y en la práctica, del Convenio. En la forma acostumbrada quisiéramos dar información de contexto, para la mejor comprensión del caso.

Esta es la primera vez que la Comisión discute este caso. Nepal ratificó el Convenio en 1996, y la Comisión de Expertos ha realizado observaciones al respecto en siete ocasiones desde 2006.

Previo al estudio de los comentarios de la Comisión de Expertos, los empleadores queremos subrayar la importancia del Convenio como uno de los diez convenios fundamentales. En su contenido, el Convenio requiere a los Estados la adopción de medidas efectivas, en la regulación como en la práctica, orientadas a proteger la libertad sindical. Para el Grupo de los Empleadores el cumplimiento de este Convenio es de la mayor importancia, no solo porque se trata de un convenio fundamental, sino, además, porque estamos convencidos de la importancia de promover acciones eficaces que garanticen el derecho de asociación, prohíban la discriminación sindical, así como los actos de injerencia, al tiempo que se promueva la negociación colectiva. Al reflejar un consenso universal y un firme compromiso tripartito, el Convenio nos recuerda la importancia absoluta de garantizar el derecho de

sindicación del cual son titulares tanto los trabajadores como los empleadores. Para los empleadores, es, por tanto, determinante que todos los Estados Miembros cumplan plenamente con sus obligaciones contenidas en dicho Convenio.

Permítanme entonces, antes de analizar en detalle las observaciones realizadas por la Comisión de Expertos sobre el estado de cumplimiento de los diversos artículos del Convenio, comenzar reconociendo el compromiso sostenido del Gobierno de Nepal con los principios consagrados en este Convenio fundamental, ratificado en 1996. A pesar de los desafíos estructurales, institucionales o sociales que enfrenta el país, observamos con esperanza que Nepal ha demostrado una voluntad política de avanzar hacia el cumplimiento pleno de sus obligaciones internacionales en materia de libertad sindical y negociación colectiva. No obstante, persisten algunas brechas, tanto en la regulación como en la práctica.

Dicho esto, es importante tener en cuenta que el presente caso nos convoca para discutir la implementación efectiva de medidas apropiadas que cumplan los mandatos contenidos, específicamente, en los artículos 1, 2 y 4 del Convenio. Y por ello dividiré mi intervención en cuatro secciones, analizando, de forma diferencial, los compromisos internacionales que se derivan de cada uno de estos mandatos.

En primer lugar, protección contra la discriminación. El Gobierno ha reconocido que, si bien existen disposiciones generales en la Constitución Política de 2015, la Ley del Trabajo de 2017 y en la Ley de Sindicatos de 1992 que buscan garantizar el derecho a la igualdad; no existe aún, en la legislación, una prohibición explícita de los actos de discriminación sindical, que a su vez esté acompañada de sanciones disuasivas.

Desde el Grupo de los Empleadores valoramos positivamente la creación de un grupo de trabajo tripartito para revisar la legislación nacional, con participación de los interlocutores sociales representativos y, en consecuencia, aprovechamos la ocasión para instar al Gobierno

a que continúe suministrando información a esta Comisión respecto a los avances orientados a incluir, en la legislación nacional, una prohibición explícita de la discriminación contra los trabajadores por motivo de su afiliación sindical o de su participación en actividades sindicales. Solicitamos al Gobierno que todo cambio en materia regulatoria se realice en consulta con interlocutores sociales más representativos.

En lo que respecta a la práctica del Convenio en relación con la prohibición de actos de discriminación sindical, valoramos que el Gobierno reconoce la existencia de brechas importantes en cuanto a la eficacia material de los mecanismos de prevención en actos de discriminación sindical. No obstante, los empleadores queremos resaltar los esfuerzos gubernamentales encaminados a tomar acciones tanto a nivel general como a nivel particular. En general, la autoridad nacional del trabajo ha desarrollado programas de entrenamiento para mejorar las capacidades de la inspección del trabajo; y, en particular, el Gobierno refiere haber tomado medidas específicas en los sectores bancario y de salud, a través de investigaciones relacionadas con actos de discriminación sindical. Esto demuestra que, aunque persisten vacíos normativos, hay una voluntad institucional de aplicar la ley y proteger los derechos sindicales en la práctica.

Finalmente, para cerrar el análisis del artículo 1, estimamos que, con la asistencia técnica de la OIT el Gobierno debe avanzar en el fortalecimiento de los sistemas de información relativos al número de casos de discriminación antisindical tratados por las autoridades competentes.

En segundo lugar, en cuanto a la protección frente a los actos de injerencia, el Gobierno ha dado pasos importantes para fortalecer los mecanismos institucionales. Primero, porque la Ley del Trabajo de 2017 prohíbe, de forma explícita y específica, los actos de injerencia sindical, y segundo, a través de la modernización del Sistema Integrado de Gestión de la Información

Laboral, que permite la presentación electrónica y anónima de quejas, lo cual mejora la accesibilidad y la protección frente a represalias.

Además, entendemos que se han institucionalizado programas de formación para inspectores y funcionarios para identificar y prevenir las distintas formas de injerencia de actividad sindical.

Para cerrar el examen de este punto, los empleadores invitamos al Gobierno a que continúe proporcionando información sobre el número de denuncias presentadas, haciendo hincapié en las sanciones aplicadas por actos de injerencia en contra de las organizaciones sindicales.

En tercer lugar, sobre la promoción de la negociación colectiva (artículo 4 del Convenio), de acuerdo con la información oral y escrita, hay avances en materia de promoción de la negociación colectiva, de la mano de esfuerzos administrativos para facilitar la celebración de elecciones justas para determinar cuál es el sindicato más representativo y facultado para negociar colectivamente se han certificado 31 sindicatos. Además, es importante destacar la implementación del sistema ILMIS, que permite el registro digital y el monitoreo sistemático de los convenios colectivos, lo que facilita la trazabilidad y la generación de datos.

Hacemos un llamado al Gobierno para que, de la mano de los interlocutores sociales representativos, continúe adoptando las medidas necesarias que garanticen la realización ininterrumpida de elecciones para determinar los sindicatos más representativos y facultados para negociar colectivamente a nivel de empresa, y continúe proporcionando información sobre los mecanismos implementados.

En cuanto a la negociación colectiva en diferentes niveles, tomamos nota de la información proporcionada por el Gobierno sobre la ausencia de acuerdos sectoriales

registrados. El Gobierno ha manifestado su intención de revisar el artículo 123 de la Ley del Trabajo, para clarificar los procedimientos aplicables.

Sobre el particular, los empleadores queremos señalar que el Convenio no exige la promoción de un nivel específico de negociación colectiva, sino únicamente que se adoptarán, cuando sea necesario, medidas adecuadas a las condiciones nacionales para fomentar y promover el pleno desarrollo y utilización de procedimientos de negociación voluntaria entre empleadores y trabajadores.

En este sentido, instamos al Gobierno a que, de acuerdo con el principio de la negociación colectiva libre y voluntaria establecido en el artículo 4, establezcan en su normatividad procedimientos claros para dicha negociación colectiva, de tal forma que la determinación del nivel dependa esencialmente de la voluntad de las partes y no sea impuesto en virtud de la legislación ni de decisiones administrativas. Lo anterior, preservando la flexibilidad necesaria para adaptar los acuerdos a las realidades específicas de cada sector y empresa.

Finalmente, en cuarto lugar, arbitraje obligatorio y composición de órganos de arbitraje, el Gobierno de Nepal está llevando a cabo una revisión del marco normativo sobre arbitraje obligatorio con el propósito de fortalecer la transparencia del sistema y garantizar la independencia de sus órganos arbitrales.

Ahora, es importante resaltar que el derecho a la negociación, consagrado en el Convenio, protege la autonomía de empleadores y trabajadores en la regulación de sus condiciones laborales. En particular, el artículo 4 establece que deben adoptarse medidas para fomentar esa negociación colectiva voluntaria; y en ese mismo sentido, la Recomendación sobre la negociación colectiva, 1981 (núm. 163) reconoce que los procedimientos en la resolución de conflictos pueden incluir laudos arbitrales, siempre que se ajusten a la práctica nacional y respeten los principios.

Es así como el arbitraje obligatorio es reconocido como un mecanismo legítimo para garantizar la estabilidad económica y social, asegurando la continuidad de sectores estratégicos y además, la protección del empleo. La Comisión de Expertos ha señalado que este mecanismo puede ser aplicado en circunstancias excepcionales.

Actualmente entendemos que el Gobierno de Nepal está desarrollando un procedimiento específico sobre arbitraje para reforzar la transparencia del sistema y garantizar la plena independencia de sus órganos arbitrales y agradecemos por la información suministrada a este respecto.

Président – Nous allons maintenant prendre la pause du déjeuner.

La séance est levée à 13 h 10.

The sitting closed at 1.10 p.m.

Se levantó la sesión a las 13.10 horas.

Dix-neuvième séance, 10 juin 2025, 15 h 30 (*suite*)
Eighteenth sitting, 10 June 2025, 3.30 p.m. (*cont.*)
Decimoctava sesión, 10 de junio de 2025, 15.30 horas (*cont.*)

Président: M. Tabai
Chairperson: Mr Tabai
Presidente: Sr. Tabai

Discussion des cas individuels (*suite*)
Discussion of individual cases (*cont.*)
Discusión de los casos individuales (*cont.*)

Népal (ratification: 1996) suite

Convention (n° 98) sur le droit d'organisation et de négociation collective, 1949
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98)

Président – Veuillez nous excuser, nous avons une question urgente dont il fallait discuter entre les deux groupes, le bureau et la présidence. Merci pour votre compréhension.

Je vous souhaite la bienvenue à cette 19^{ème} séance de notre commission. Avant de continuer la discussion sur le cas du Népal pour la convention n° 98, je voudrais attirer votre attention sur le fait que les procès-verbaux verbatim du PV.14 concernant la discussion du cas de la Hongrie sur la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948, et du PV.15 concernant la discussion du cas de la République islamique d'Iran sur la convention (n° 111) concernant la discrimination (emploi et profession), 1958, sont disponibles sur la page Web de la commission. Les délégués peuvent soumettre des amendements à leurs déclarations jusqu'à demain mercredi, 11 juin, 13 heures.

La procédure d'amendement des projets de procès-verbaux verbatim peut être consultée sur la page Web de la commission. À cet égard, je vous rappelle que les amendements devraient se limiter à éliminer des erreurs de transcription, comme indiqué dans le document D.1 sur nos méthodes de travail.

Je vous informe également que la période d'amendement du PV.12, concernant la discussion du cas de Honduras sur la convention n° 87, est maintenant terminée. Le PV.12 est adopté, tel qu'amendé.

Travaux de la commission

La commission a adopté le PV 12, tel qu'amendé.

Work of the Committee

PV 12 are adopted, as amended.

Trabajos de la Comisión

Las actas 12 se adoptaron, en su tenor modificado.

Nous continuons maintenant l'examen du cas du Népal sur la convention n° 98.

Je donne la parole au distingué délégué des travailleurs du Népal, M. Shrestha Binod.

Worker member, Nepal (Mr SHRESTHA) – The trade union movement in Nepal expresses our sincere concern regarding the application of the Convention in our country.

Let me begin by providing some context. Nepal ratified the Convention in 1996 but our country has not ratified Convention No. 87.

We, the trade union movement in Nepal, supported the amendment of the Labour Act and promulgation of the Law on Social Security in 2017 in the hope of creating an environment that could balance labour flexibility and job creation with strong protection of labour rights and universal social protection.

However, there are significant legal gaps in the law and barriers in practice to our full exercise of trade union rights.

Today, the trade union density in Nepal is about 6 per cent with nearly 85 per cent of the workforce engaged in the informal economy. Collective bargaining agreement covers only

around 10 per cent of formal sector workers. The limited coverage has resulted in wage stagnation and over reliance on minimum wage adjustment to improve workers' livelihood. Moreover, only about 71 per cent of firms comply with minimum wage provisions.

Despite legal provisions, several challenges impede the effective exercise of collective bargaining rights:

- Enforcement of arbitration decisions is rare. Labour Offices are understaffed with only 11 offices and 18 inspectors nationwide. Workplace infection is inadequate and ineffective.
- There is no legal remedy on anti-union practices, intermediation and retaliation against union leaders and members which undermine the bargaining power of workers.
- The election of an authorized union for collective bargaining has been suspended due to bureaucratic delays, lack of personnel, employer obstruction and delaying tactics.

Some processes have prolonged for over two years which expose trade union organizers and members to retaliation.

Second, under the Essential Services Act, the State is vested with the power to designate any sector "essential" through notification in the *Nepal Gazette*. An industrial dispute in the essential services and in the special economic zones (SEZs) will be forwarded for compulsory arbitration.

There is no alternative dispute resolution or bargaining mechanism.

The Government has ignored the recommendation of the Committee on Freedom of Association to repeal this restriction since 2016.

We are not allowed to strike in 25 essential services such as water supply, electricity, telecommunication, transport, health service and banking. This has been misused to suppress trade union rights rather than to safeguard public welfare.

Third, our ability to organize, represent and bargain collectively for workers and our members has been eroded by labour casualization. Without any regulation, outsourcing, internships, trainee programmes, platform work have grown at fast speed.

The scope of the Labour Act is limited and unable to cope with these challenges in the labour market. Workers in the informal economy and the SEZs are also not covered by the Labour Act.

Moreover, there is a sharp decline in regular employment and a rise in outsourcing. These workers are often prohibited by contract from joining unions. They are excluded from collective agreements and user-company benefits.

Interns, trainees and temporary workers are being used to replace regular employment on a large scale. Some trainees are not even paid for their work.

Outsourced and temporary workers in the garment, construction, IT/BPO, transport, and health sectors are denied job security, benefits, and the right to organize. This constitutes a gross violation of the Convention.

This year, the Supreme Court of Nepal ruled that the Labour Act does not apply to the banking sector.

This decision endangers the rights of thousands of workers in a sector that is highly structured, profitable, and influential in Nepal's economy – leaving them vulnerable to arbitrary dismissal, union-busting, and exploitation.

The Supreme Court's ruling threatens decades of progress on labour rights and sets a dangerous precedent on mass exclusion. The Government has obligations to ensure that the application and interpretation of domestic laws are in line with the Convention.

Nepal has made important commitments to international labour standards. However, these commitments are being undermined by un-regulated labour flexibilization, contradictory laws and judicial interpretations, as well as absence of oversight.

Indeed, job creation and promoting investment are key to improving the livelihood of workers in Nepal and retention of talents. Every year, thousands of Nepali youths are seeking employment abroad usually in precarious sectors. However, job creation must not be an excuse for exploitation.

The trade union movement in Nepal stands committed to working with the Government and social partners for a wholistic labour law reform.

We believe the discussion in this Committee on the Convention will provide the ground and framework for social partners to bring our laws and practices to compliance with international standards.

Président – Je donne la parole au distingué représentant de la République islamique d'Iran, M. Hasheminejad Ehsanollah.

Je constate que le distingué représentant de la République islamique d'Iran n'est pas dans la salle. Passons donc à l'orateur suivant. J'invite la distinguée déléguée des travailleurs de la République de Corée, M^{me} Ryu Mikyung, à prendre la parole.

Worker member, Republic of Korea (Ms RYU) – On behalf of Korean workers, I would like to draw the Committee's urgent attention to our recent Supreme Court ruling that gravely undermined the rights that Nepali workers should enjoy under the Convention.

On 14 February this year, the Supreme Court delivered a devastating decision on labour law applicability to the workers in the banking sector. A group of employees of the Swabalaban Bank has simply sought their rightful employment protection and benefits under the Labour

Act of 2017. Earlier, both the Labour Court and the Labour and Employment Office had ruled in favour of the employees directing the bank to comply with the labour law provisions.

However, the bank appealed, arguing that as a regulated financial institution under the Banks and Financial Institutions Act (BAFIA), of 2017, it should not be subject to general labour legislation.

The Nepal's highest court in a full bench decision led by the Chief Justice completely reversed these rulings. The court ruled that the Labour Act does not apply to banks and the financial institutions as a whole. Even though the Labour Act defines the worker and establishment broadly, the court found that the bank employees are not workers and the banks are not establishments under this law. This decision was grounded in the fundamental legal principle that special law overrides general law, establishing that BAFIA constitutes a comprehensive specialized regulatory framework that supersedes general Labour Act provisions.

This redefinition of the regulatory landscape for bank and financial institutions raises significant questions regarding the protection of fundamental labour rights, particularly concerning the collective bargaining and anti-union discrimination as guaranteed by the Convention. Now, the entire workforce in the banking sector loses protections available to other workers including: workers' access to independent labour courts; protection against unfair dismissal; the right to union representation and collective bargaining; and legal mechanism to ensure fair treatment and job security.

Furthermore, this legal approach could set a dangerous precedent for other sectors governed by the specialized legislation, potentially leading to a fragmentation of labour law application across various industries in Nepal.

This is a serious regression from Nepal's commitment to protect workers' rights under international law.

According to the Committee of Experts' authoritative interpretation, the Convention covers all workers and employers in both private and public sectors regardless of whether the service is essential. The only authorized exceptions are the armed forces, police and public servants engaged in state administration. Banking employees fall into none of these categories.

A general exclusion for an entire category of workers in the financial sector from labour protections and collective bargaining is not compatible with the Convention according to the Committee of Experts' interpretation.

The Government must make sure that the unique regulatory environment of banks and financial institutions does not diminish fundamental labour rights which are protected by the Convention.

It must ensure the universal application of the Labour Act, the general legal frameworks in labour relations to all workers across sectors.

Président – Je donne la parole au distingué délégué des travailleurs de l'Inde, M. Boji Surendran.

Worker member, India (Mr BOJJI) – I speak on behalf of Indian workers to express the concerns we share with our brothers and sisters in Nepal regarding the inability of workers in Nepal to enjoy the rights protected under the Convention.

We are alarmed by the rapidly growing trend of informalization of regular employment in Nepal. Outsourcing, internship and the daily labour have proliferated across sectors without

any effective regulations. In some cases, 100 per cent of the employees are hired via labour outsourcing companies.

These workers are not covered by the collective bargaining agreement of the user company and receive discriminatory treatments.

In a pharmaceutical company that hires 205 employees in Kathmandu only 60 of them are provided with legal entitlements in full. The employer transferred the rest of the employees to an outsourcing company when they started demanding negotiation for equal treatment. Fifty-nine trade union activists were subsequently fired. Moreover, the outsourcing company explicitly prohibits workers from making demands that are higher than the terms already provided in the employment contract.

India and Nepal share an open border and a deep historical relationship rooted in cultural, economic, spiritual and social ties. The 1950 Treaty of Peace and Friendship between India and Nepal permits free movement of people.

However, the Treaty and the open-border arrangement – while beneficial in many ways – have increasingly become a source of concern due to the absence of formal employment arrangement between the two countries. The arrangement is often misused by employers to bypass formal labour regulations – including the obligations to enter into collective bargaining provided by the Nepali laws.

The Indian workers working across the border in Nepal are often placed to working under sub-standard conditions. Despite their significant contribution to the growth of the Nepalese economy, they often work longer hours yet are paid lower wages than their regional counterparts.

Most Indian outsourced workers in Nepal are unable to join or form unions due to fear of job loss, deportation and retaliatory measures.

The informal nature of their employment further excludes them from the same right to free association and bargain collectively under Nepal's laws.

The right to collective bargaining has no meaning if it is applied only to some and not all.

We stand in solidarity with the speech of our Nepali brother and urge the Government of Nepal to ensure that same right to free association and collective bargaining is applied to all workers regardless of their nationality and employment status.

At the same time, we respectfully urge the Government of Nepal to establish a formal employment mechanism, particularly for Indian migrant workers and outsourced workers including work permits, hygienic working conditions and ethical employment contracts.

Président – je donne la parole à la distinguée déléguée des travailleurs du Japon, M^{me} Norimatsu Yoshiko.

Worker member, Japan (Ms NORIMATSU) – I speak on behalf of workers in Japan joined by French workers.

I will address the systematic deprivation of workers in Nepal from rights protected under the Convention, by means of the abusive use of internships and training programmes.

In Nepal, internships and training programmes have become a shadow economy of cheap and often unpaid labour. This is not training. This is not capacity-building. This is economic exploitation.

Across sectors - healthcare, hospitality, media, law, development and even government institutions - interns are required to work full-time hours and take on responsibilities equivalent to regular employees.

In some cases, they even work without pay. These young people are not protected by the Labour Act in actuality. They are silenced by fear, the fear that if they speak up, their careers

will be over before they begin. Many are forced to pay for the privilege of being exploited, paying for food, transportation and even training fees while contributing their skills and time to institutions that do not recognize them as workers.

Here are some examples identified by the trade unions in Nepal. In a renowned five-star hotel in Katmandu, 11 workers have been engaged as trainees continuously for over seven years on a renewed contract every six months. They are bachelor students under hotel management programmes and vocational training institutes. Despite their long-term service and regular work duties, they were denied permanent employment status. Although the Labour Court has ruled in favour of six of the trainee workers, the employer sought appeal to the Supreme Court while at the same time, the management dismissed one of the trade unionists involved in organizing the trainee workers in retaliation.

The Labour Act of Nepal includes a provision for permanent recruitment after 240 days of continuous work. Sections 16 to 18 of the Labour Act limit the use and terms of internships to be strictly based on the educational curriculum of no longer than three months, otherwise the interns should be regularized.

Sections 17 and 18 further stipulate the access of interns and trainees to the minimum wage and benefits provisions. Yet according to the study of GEFONT, abuse of trainee workers rose by 20 per cent compared to 2023.

Eighty-eight per cent of companies failed to follow the law requirements for interns and trainees.

I speak with a particular sense of urgency on this matter because clearly it is a blatant violation of the Convention.

The use of traineeships and internships is a measure to replace regular works, reduce labour costs and suppress unionization efforts. It fosters an environment of insecurity, wage theft and labour exploitation.

As a trade unionist from the teaching profession, I speak strongly about this matter because this is unethical.

The widespread and abusive use of internships and trainees must be put under effective regulation with guarantee of the fundamental right to freely associate and bargain collectively with the user company.

Président – J'invite la distinguée déléguée des travailleurs de Singapour, M^{me} Choo Sylvia, à prendre la parole.

Worker member, Singapore (Ms CHOO) – I stand before you to address a grave injustice that threatens the very fundamental of workers' rights and freedoms, a situation that demands our immediate attention and action to safeguard the dignity and rights of workers under the Convention.

In Nepal, the right to collective bargaining exists on paper but is denied in practice. Only 6 per cent of Nepal's total workforce is unionized, while up to 85 per cent of the working population is employed in the informal economy. Collective bargaining agreements cover only 10 per cent of the workers in the formal economy.

The Labour Act mandates that enterprises with ten or more workers must establish a collective bargaining committee aiming to foster fair and effective negotiation between workers and employers. This provision has, however, effectively excluded the right of workers in the informal sector, 85 per cent of the working population, to bargain collectively for their occupational interests.

The Labour Act further provides for the procedures of collective bargaining and dispute settlement, yet the Government has fallen short of the measures under the Convention.

Workers in Nepal are being systematically denied their right to collective bargaining. Employers are obstructing the right through delay, rejection and outright defiance. Prohibition clauses against trade union membership are commonly found in employment contracts via the subcontractors and outsourcing companies.

In a country where jobs are scarce and critical to workers' livelihood, such clauses represent an unfair coercion that should not be tolerated. Workers should never have to choose between their livelihoods and the right to organize. Even when collective bargaining agreements are signed, employers routinely fail to implement them with impunity.

As part of the standard legal procedure, the trade union at a five-star hotel submitted its charter of demands to the hotel management in July 2023. The management failed to respond within the legally mandated period. In accordance with the Labour Act, the union filed a case at the Labour Office after 21 days of inaction. The case was elevated to an arbitration committee which ruled in favour of the workers, directing the hotel management to implement the collective bargaining agreement.

Refusing to comply with the arbitration committee's decision, the management engaged in a continued harassment of the trade union leaders during working hours. Trade union leaders were harassed during working hours. The hotel management broke the lock of the union office and removed the union property including the furniture and official documents. It has been almost two years.

As per the provision, a new collective bargaining agreement should take place every two years. But due to this delay, the entire collective bargaining agreement process has been affected, including the election of the authorized union.

Let us not forget that the hotel sector is classified as an essential service under the Essential Services Act which prohibits strikes leaving workers without other means to further their interests.

We note that the Government has expressed interest in receiving ILO technical assistance concerning anti-union discrimination and collective bargaining. However, we must ensure that this interest translates into concrete actions to protect workers' rights.

We must stand together and demand that the Nepalese Government uphold its commitment to international labour standards. The Nepalese workers deserve much better. They deserve the right to organize, to bargain collectively and to work in an environment free from fear and intimidation.

In conclusion, let us remember that the strength of a nation lies in the strength of the workforce. By protecting the rights of the workers, we uphold our moral and ethical obligation and ensure a more just and equitable society.

Président – Je donne la parole au distingué représentant de la Confédération syndicale internationale (CSI), M. Gottwald Eric.

Observer, International Trade Union Confederation (ITUC) (Mr GOTTWALD) – I would like to open by noting with deep concern that the most representative workers organization in the United States, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), was not accredited to this Conference in an act of retaliation for their legitimate trade union activities.

We are contesting this decision in the Credentials Committee and welcome support from those committed to respect for the ILO Constitution and authentic social dialogue.

Turning to the case at hand, the Committee of Experts has once again found that Nepal's overbroad definition of essential services is inconsistent with the Convention, denying whole categories of workers their fundamental right to engage in industrial action and bargain collectively.

It is well established by the ILO's supervisory mechanisms that the imposition of compulsory arbitration to end a collective labour dispute violates the Convention except in a narrow set of circumstances.

One of these narrow exceptions deals with the provision of essential services, services the interruption of which would endanger life, personal safety or health of the population. Examples include services such as health, education, communities, telecommunications, transport, police and firefighting.

In 2016, the Nepalese Government issued a notification under its Essential Services Act declaring 17 sectors of the economy to be essential including hotels, restaurants, casinos and banking. Today this list has been extended to 25 so-called essential services.

While we appreciate the importance of the tourism industry to Nepal's economy, luxury hotels, resorts, casinos and restaurants clearly cannot be considered essential services within the meaning of the Convention. This misclassification has had a particularly pernicious effect for workers and Nepal's hotel sector.

For example, in July 2023, a collective bargaining agreement was concluded between the trade unions and the management of the Radisson Hotel in Kathmandu. As per the agreement both parties agreed to provide workers with a 5.5 per cent share of their hotel's billing revenue. However, the management failed to implement this provision for more than 14 months.

In response to the breach of this collective bargaining agreement, workers organized a three-day strike demanding the implementation of the agreed benefit. Instead of addressing

the workers' legitimate demands, the management declared the strike illegal, falsely claiming that the hotel falls under the category of essential services. Workers were also subjected to threats and intimidation.

To conclude, we strongly urge the Nepalese Government to follow the Committee of Experts' clear recommendation to amend the Trade Union Act so that the use of compulsory arbitration is properly restricted in line with the Convention.

In addition, we join the Committee of Experts' recommendation for ILO technical assistance in the hopes that it will contribute to full implementation of the Convention in this country.

Président – Je donne la parole au distingué représentant de l'Internationale des travailleurs du bâtiment et du bois, M Tolentino Apolinar.

Observer, Building and Wood Workers' International (BWI) (Mr TOLENTINO) –Nepal ratified the Convention in 1996.

Despite the urge by the Nepali trade union movement, the Government remains reluctant to ratify Convention No. 87.

The national law, that is the Labour Act of 2017, does not provide any provision to protect workers from anti-union discrimination and interference in trade union activities or in collective bargaining processes as reported by the trade unions, including in the construction sector.

In a 140-megawatt hydro project being organized by a BWI affiliate, aside from the violations of basic labour and worker provisions such as delayed payment of wages, limited working security coverage, non-provisioning of occupational safety and health and inadequate accommodation facilities, workers were faced with anti-union discrimination when they were

pushing back coercive management measures during COVID-19 outbreak such as forcing them to work without adequate safety protective measures.

Workers were pressured by the management dissuading them from meeting union leaders and the management avoided dialogue with the union to discuss improvement of working conditions.

In the course of organizing this project site, the union submitted a nine-point charter of demands that included occupational safety and health provisions, but the management accepted only part of the demands.

In 2020, workers staged a strike in protest of the lack of COVID-19 safety protocols. The dispute ended with the signing of a bilateral agreement that included the union's demand for a wage rate fixed by the Labor District Committee. The following year, however, the union reported that the wage increase has not been aligned with the adjustment made by the Labor District Committee. This is a manifestation of bad faith in negotiation and implementation of a bilateral agreement. This bad faith in negotiation and implementation of the agreement, particularly on occupational safety and health, has resulted unfortunately in two fatal accidents at the site very recently.

In another flagship government project, another BWI affiliate likewise experienced impediments to union organizing such as management refusal to allow union leaders access to the work site to meet workers despite written requests.

Workers are discouraged to interact with union representatives.

Along with other similar cases reported before this Committee, we are requesting the Government of Nepal to ensure a prohibition of anti-discriminatory action against workers exercising their rights to join a union.

Similarly, the Labor Act and the Trade Union Act should be reviewed to provide effective regulatory measures to ensure negotiation, conclusion and implementation of collective bargaining agreements are in good faith.

Président – Je ne vois pas d'autres intervenants sur la liste.

J'ai donc l'honneur d'inviter à nouveau l'honorable représentant du gouvernement du Népal, M. Koirala, à prendre la parole pour ses observations finales.

Government representative (Mr KOIRALA) – Thank you for the concern, questions and feedback expressed in the constructive spirit.

We take good note of the discussion and engagements made here in this Committee. We appreciate all the social partners and Member States for their observation and support to the progress made by Nepal. They will act as an important guidance for us to further enhance the status of our labour market.

I would like to reaffirm to you all in front of this Committee that collective bargaining is effectively ensured in the Nepal labour market. There can arise a few stand-alone cases that do not reflect the overall and general scenario of the Nepal labour market.

Our focus now is to revise the legal provision in line with international obligations as well as a voluntary pledge made by Nepal.

In addition to the legal reform, our targeted programmes of capacity enhancement, institutional strengthening, procedural improvement are in action together.

The Tripartite Task Force is engaged in the legal reform tasks in a comprehensive manner. We will soon conduct the revision and amendment in our legal provisions to clearly define anti-union discrimination to make this available in the informal sector as well. The Tripartite Task Force is trying to find the practical solution to make this happen.

We earlier presented the example of prompt, effective, efficient intervention from the Government in case of violation. Our practices are based on the grounds of anti-discrimination protection.

Considerable progress has been made in the legal framework, capacity, enforcement mechanism and the data system necessary to protect freedom of association and the right to collective bargaining.

Ongoing legislative reform, improved complaint and monitoring system, targeted training and strong collaboration with social partners reflect a comprehensive and sustained approach.

As for the implementation of Article 2 of the Convention, our ILMIS remains open for anonymous complaints. This information, data and privacy of the complaints as well as the complainant always remain protected. Opportunities for anonymous submission prevent the chances of reprisal or intimidation. Also, even in case of no complaint, whenever the Government receives any information regarding the violation of labour rights, by any means, the Government promptly intervenes in the matter and takes needful action effectively.

We would like to assure all the workers, employers and stakeholders that no one should hesitate or fear to lodge a complaint in case of violation.

The Government is committed to protect the confidentiality, privacy and dignity of all.

In regard to the enterprise-level and sectoral collective agreements, I would like to reiterate that we are launching effective training as well as awareness programme at the national, provincial and local levels. And we are ever ready to share information on this matter.

The Government is reviewing its approach to dispute resolution and compulsory arbitration. Concern has been raised about the scope of compulsory arbitration and its

potential to limit the voluntary nature of collective bargaining. These concerns are being taken with serious attention and the Government is currently reviewing the relevant provisions in close consultation with the social partners.

Proposals have been submitted to limit the use of compulsory arbitration and to ensure its use as a last resort in clear legally defined circumstances.

At the same time, the Government is developing a new arbitration procedure that emphasizes impartiality, transparency and adherence to the international fair trial standard. This initiative has been included in the Government's annual budget and programme for the upcoming fiscal year beginning July 2025.

The new procedure will establish independent and transparent mechanisms for the appointment of arbitrators and the conduct of arbitration proceedings. It helps to ensure that both workers and employers can have confidence in the neutrality and fairness of the arbitration process.

The Government also expresses its strong interest in continuing to receive the technical assistance from the ILO in this area as well, particularly in designing institutional framework, training arbitrators, raising public awareness.

We hold the view that the collective endeavour of the Government in partnership with employers and workers as well as the ILO will result in a more comprehensive and natural state of collective bargaining within the country.

The Government will continue to promote constructive social dialogue, support the employment to trade unions and ensure that both employers and workers can exercise their right in a fair and equitable environment.

A further report will provide updated information, and the Government looks forward to maintaining its cooperative engagement with the ILO and its supervisory bodies.

Therefore, let me reiterate that the principle of free and voluntary collective bargaining is effectively in implementation amidst Nepali social partners and labour market mechanism despite the challenges. We are making our best effort to address the challenges through social dialogue and cooperation.

To conclude, I once again reaffirm the Government's unwavering commitment to our effective implementation of the Convention through harmonized legal provisions, aware workers and a well-functioning mechanism of collective bargaining, complaint registration, dispute settlement and others.

Thank you all for the constructive discussion today.

Président – Je vous remercie, M. Koirala, pour votre participation à cette séance. La commission a bien pris note de toutes les informations que vous avez présentées.

Je donne la parole à présent à M^{me} Manrique Sierra, porte-parole des employeurs, pour sa déclaration finale.

Miembros empleadores - Los miembros empleadores queremos dar las gracias a los distintos oradores que han hecho uso de la palabra y expresado sus puntos de vista sobre esta cuestión, incluida la del representante gubernamental.

Confiamos en que el representante gubernamental tenga en cuenta los comentarios formulados durante la discusión; en particular, aquellos que hicieron referencia específica al cumplimiento en la legislación y en la práctica del Convenio, que es el Convenio que hoy nos convoca.

A la luz de las observaciones de la Comisión de Expertos, y a la discusión de hoy, los miembros empleadores queremos recomendar al Gobierno de Nepal lo siguiente: 1) que suministre información a esta Comisión respecto a los avances orientados a incluir en la legislación nacional una prohibición explícita de la discriminación contra los trabajadores por motivos de su afiliación sindical o su participación en actividades sindicales; 2) que proporcione información sobre el número de denuncias presentadas, haciendo hincapié en las sanciones aplicadas por actos de injerencia en contra de las organizaciones sindicales; 3) que establezca, en consulta con los interlocutores sociales más representativos, procedimientos claros para la negociación colectiva, de tal forma que la determinación del nivel dependa esencialmente de la voluntad de las partes y no sea impuesto en virtud de la legislación y tampoco de decisiones administrativas, y 4) instamos al Gobierno a seguir recurriendo a la asistencia técnica de la OIT para poner en práctica las mencionadas recomendaciones y las futuras obligaciones en materia de presentación de memorias y a mantener el diálogo tripartito para continuar trabajando en el pleno cumplimiento del Convenio.

Finalmente, y para cerrar esta intervención, el Grupo de los Empleadores reconoce el trabajo que el Gobierno de Nepal viene haciendo a través de la adopción de reformas legislativas y la implementación de prácticas nacionales orientadas a dar cumplimiento al Convenio, y solicitamos al Gobierno que cualquier modificación y actualización legal o normativa que se llegue a plantear en adelante se realicen consultas con los interlocutores sociales más representativos y con la asistencia técnica de la OIT.

Président – Je donne la parole à M^{me} Middlemas, porte-parole travailleur, pour ses observations finales.

Worker members – We wish to thank all the delegates who have contributed to this discussion today.

In closing, the Workers Group acknowledges the Government of Nepal's recent efforts.

However, we remain concerned that nearly three decades after ratifying the Convention, Nepal has yet to establish a clear and comprehensive legal framework to protect against anti-union discrimination and acts of interference.

This legal gap acknowledged by the Government itself continues to expose workers especially in the hospitality sector to abuse through bogus traineeships, outsourcing and insecure contracts that deny them stable employment and the right to organize.

These practices not only block access to representation and collective bargaining but also invite retaliation against union leaders who dare to defend affected workers.

Most alarmingly, the recent Supreme Court ruling excluding the entire banking and financial sector from the Labor Act further erodes fundamental labour rights for thousands.

These are not isolated issues. They reflect a systemic failure that demands urgent legislative reform and concrete action to protect workers and uphold international labour standards.

We urge the Government to act swiftly to codify explicit prohibitions and ensure that these are backed by effective enforcement mechanisms, accessible complaints procedures and dissuasive sanctions and to ensure that as prescribed by the Convention, all workers are protected including in the hospitality sector and the banking and financial sector.

The list of essential services must be reviewed in a manner consistent with the Convention. These amendments to the Labour Act and to the Essential Services Act must be the result of full and frank consultation with the social partners.

We also highlight the pressing need to strengthen the framework for collective bargaining. While over 1,000 enterprise-level agreements have been registered and recent

figures indicate renewed activity, the absence of sectoral agreements remains a significant gap.

We call on the Government to take concrete measures to promote voluntary collective bargaining at all levels including by reviewing section 123 of the Labour Act, facilitating union elections and ensuring negotiations take place with representative trade unions.

Finally, we urge the Government to align its approach to compulsory arbitration with the Convention's strict standards, reserving it only for exceptional cases and to ensure that any arbitration procedure is transparent, impartial and fair.

We hope to see Nepal translate its stated commitments into meaningful legislative reform and practical implementation.

Given the challenges to the full implementation of the Convention remain significant and require immediate attention from the Government, our group calls on the Government of Nepal to accept a direct contacts mission.

Président – Nous avons maintenant terminé la discussion de ce cas. Les conclusions seront adoptées dans la matinée du jeudi, 12 juin.

Le procès-verbal concernant la discussion de ce cas, le PV.18, sera disponible sur la page Web de la commission demain, mercredi, autour de 10 heures du matin. Les délégués pourront proposer des amendements sur leurs propres interventions jusqu'à jeudi, 12 juin, 10 heures du matin.

La séance est suspendue à 16 h 20.

The sitting closed at 4.20 p.m.

Se levantó la sesión a las 16.20 horas.