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Afghanistan (ratification: 1969)

Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Convention (n° 111) concernant la discrimination (emploi et profession), 1958

Convenio sobre la discriminación (empleo y ocupación), 1958 (núm. 111)

Discussion by the Committee

Chairperson: The first case on our agenda is Afghanistan on the application of the Discrimination (Employment and Occupation) Convention, that is Convention No. 111. I now invite the representative of the accredited delegation of Afghanistan to the International Labour Conference.

Government representative – The Embassy and the Permanent Mission of Afghanistan to the United Nations (UN) and other international organizations in Geneva appreciate the work of the Committee of Experts and notes its findings on this specific matter. We also thank the ILO and the ILO Office in Kabul for its recent report on exploring the impact of discrimination against women on Afghanistan's economy.

Between 2001 and 2021, Afghanistan had made significant achievements on progress in tackling various kinds of discrimination and creating a legal framework that respected equality of men and women. Women had an important role in the public life and the economy of Afghanistan. They could work in any fields. There were women Vice-Presidents, Ministers, Members of the Parliament, senior Judges, Ambassadors and Governors.

Just before 15 August 2021, 3.5 million girls were going to different educational institutions. Unfortunately, after 15 August and the military takeover of Afghanistan by the Taliban and the Doha Peace Process failure, the women have systematically been discriminated against. A situation that the very recent reports of the Human Rights Council, the Special Rapporteur on the situation of human rights in Afghanistan and the Working Group on discrimination against women and girls have hinted as an apparent "gender apartheid", which is unprecedented in the history of the world.

As the Committee of Experts rightfully mentions, there are numerous reports, resolutions and findings by the Security Council, the Human Rights Council, and other credible entities on the systematic violations of human rights in Afghanistan, which include the complete exclusion of women from the public life and violation of their rights, including the right to education and the right to work. As a result of these violations, a "gender apartheid" is being committed in Afghanistan.

I also want to draw the attention of the members of this Committee to the fact that the violations of human rights in Afghanistan do not end with the destruction of women's rights.

The men, the minorities and other groups are also systematically discriminated. Extrajudicial killings, arrests and dismissal of all judges, prosecutors and in the public administration, the influence on humanitarian organizations and very recently the banning women from working in UN and other international organizations, are the recent examples of this discrimination.

Unfortunately, the enabling legislative and the legal environment that existed before does not exist anymore. The Taliban have nullified the Constitution and the other laws and are ruling by decree. The courts are filled with unqualified persons in the judiciary which does not depend on the Constitution anymore.

With all this information in our hands, we understand that the international community, which has at its head the Secretary-General of the United Nations (António Guterres) is working tirelessly to put in place a framework of permanent peace and reconciliation of political process. This has begun in Doha in the beginning of May. We are hoping that this regional and international forum can find a solution for a political settlement in Afghanistan, where we can get an inclusive and representative Government with which we can address, not only the questions of discrimination at work but all different kinds of discrimination, and the economic issues that Afghanistan is facing. And until that time, I would suggest the Committee of Experts and this Committee defer the examination of the case of Afghanistan. If there are any questions, I will be happy to answer them.

Membres employeurs – Nous prenons bonne note de la présence des représentants du précédent gouvernement de l'Afghanistan et de leur intervention. Malheureusement, nous devons tenir compte de la réalité. Si je vivais en Afghanistan, je ne serais pas ici parmi vous. Je n'aurais pas pu accéder à cette tribune, uniquement parce que je suis une femme, interdite d'exercer une profession et empêchée de me déplacer.

Depuis la prise de pouvoir par les talibans en 2021, la situation des femmes et des jeunes filles en Afghanistan s'est dramatiquement détériorée. Elles ne bénéficient plus des droits fondamentaux consacrés par les conventions de l'OIT, tels que l'interdiction de toute discrimination dans la convention n° 111, ratifiée pourtant par l'Afghanistan. Les commentaires de la commission d'experts suscitent de sérieuses inquiétudes et une profonde préoccupation concernant l'application de cette convention. J'aborderai en premier lieu les aspects de procédure et, en second lieu, l'examen des principaux griefs.

Concernant la procédure, la convention n° 111 fait partie des conventions fondamentales de l'OIT et, à ce titre, elle doit faire l'objet d'une attention particulière et d'un contrôle prioritaire. Cette convention fondamentale vise à garantir la dignité humaine et l'égalité de chances et de traitement de tous les travailleurs, en interdisant toute discrimination fondée notamment sur la race, la couleur, le sexe, la religion, l'opinion politique, l'ascendance nationale ou l'origine sociale. L'Afghanistan a ratifié la convention le 1^{er} octobre 1969 ainsi que d'autres conventions de l'OIT. Il n'est donc pas acceptable que, depuis le 1^{er} juillet 2016, aucun rapport écrit n'ait été transmis sur l'application de cette convention fondamentale. Comme la commission d'experts, nous sommes très préoccupés par ce manque de collaboration des autorités. La commission d'experts a déjà formulé à 22 reprises des observations sur ce cas, c'est à dire presque chaque année depuis trois décennies. En outre, c'est la troisième fois que notre commission analyse ce cas individuel: en 1999, en 2000 et à nouveau cette année.

Concernant le fond, ce cas d'une extrême gravité est marqué d'une double note de bas de page. Se basant notamment sur les observations récentes et concordantes de plusieurs organes de haut niveau des Nations Unies en matière de droits de l'homme, la commission d'experts déplore vivement les discriminations dans l'éducation, la formation professionnelle et l'emploi dont sont massivement victimes les jeunes filles et les femmes afghanes.

Le premier grief concerne l'écartement systématique des femmes et des jeunes filles de toute éducation, formation professionnelle ainsi que de l'accès aux emplois. Les pays ayant ratifié la convention se sont engagés à appliquer une politique nationale d'égalité, en vue d'éliminer toute discrimination au sein de la population. Ces pays doivent donc abroger toute disposition législative ainsi que toutes instructions ou pratiques administratives qui sont incompatibles avec la politique nationale d'égalité. Les autorités doivent prendre des mesures positives pour que les femmes bénéficient des mêmes droits que les hommes pour accéder à l'éducation, à la formation professionnelle et à l'emploi. Or que constatons-nous? En droit d'abord, puis en fait. En droit: les droits fondamentaux des femmes et des jeunes filles sont réduits à néant depuis le mois d'août 2021; les femmes ne peuvent plus circuler librement; les femmes ne sont plus autorisées à travailler, y compris dans la fonction publique; les filles n'ont plus accès à l'enseignement secondaire et supérieur; le ministère aux Affaires féminines et la Commission des droits humains ont été dissous; les parquets et les tribunaux compétents pour lutter contre les violences envers les femmes ont été fermés.

En pratique, les discriminations, le harcèlement et la violence envers les femmes sont banalisés et restent impunis. En raison de leur interdiction de travailler, les femmes ont perdu leur capacité de subvenir à leurs besoins. Ceci atteint fondamentalement leur dignité humaine. À présent, il est temps que les droits fondamentaux des jeunes filles et des femmes afghanes soient rétablis. Pour le bien de la société afghane en général et des femmes afghanes en particulier, il faut agir sans délai pour éliminer toute législation et toute pratique discriminatoires envers les filles et les femmes dans l'éducation, la formation et l'accès à l'emploi, ainsi que pour prévenir et combattre tout harcèlement et toute violence ciblant les filles et les femmes dans ce pays.

Le deuxième grief concerne les termes très vagues de la législation anti-discrimination au travail. L'article 9 de la loi sur le travail, tant dans le secteur privé que dans le secteur public, ne couvre pas de manière suffisamment explicite et détaillée l'ensemble des motifs visés par la convention (article 1 (1) a)), c'est à dire «toute distinction, exclusion ou préférence fondée sur la race, la couleur, le sexe, la religion, l'opinion politique, l'ascendance nationale ou l'origine sociale». Cette insuffisance législative a été mentionnée depuis plusieurs années, sans qu'aucune amélioration n'ait été communiquée aux organes de l'OIT par les gouvernements de l'Afghanistan. Dans un précédent rapport, le gouvernement avait indiqué qu'un projet de loi relatif à la lutte contre la discrimination avait été élaboré et que ce texte contenait une définition de la discrimination directe ou indirecte et interdisait toute discrimination dans l'emploi et la profession. Nous aimerions savoir quel est le statut actuel de ce projet de loi. En tout état de cause, il est urgent de mettre la législation nationale en conformité avec la convention.

Le troisième grief concerne les discriminations envers les filles et les femmes porteuses de handicap. Bien que l'article 15 de la loi relative aux droits et aux prestations pour les personnes en situation de handicap consacre l'égalité des droits des personnes en situation de handicap en matière de participation à la vie sociale, économique et éducative, le Conseil des droits de l'homme a constaté, avec une profonde préoccupation, que les femmes et les filles en situation de handicap étaient souvent exposées à des formes multiples, aggravées ou croisées de discrimination ou de désavantage. La commission d'experts a réitéré sa demande afin que des mesures spécifiques soient prises pour faciliter l'accès des personnes en situation de handicap, en particulier les filles et les femmes, à l'éducation et à la formation professionnelle et aussi pour promouvoir leurs possibilités d'emploi dans les secteurs privé et public. Il est urgent, pour la société afghane, qu'il soit mis fin en droit et en pratique à cette double discrimination.

Le quatrième grief concerne les discriminations dans l'accès à la justice. La Haute-Commissaire aux droits de l'homme a constaté que, à partir d'août 2021, les systèmes juridique et judiciaire ont cessé de fonctionner correctement et que le personnel judiciaire a été mis à l'écart. Les «autorités de facto» ont ensuite mis progressivement sur pied un système judiciaire national et des tribunaux, qui sont désormais basés sur le droit islamique. Cette réforme du système judiciaire n'offre cependant pas les garanties de respect des droits humains fondamentaux ni des libertés fondamentales consacrés par le droit international coutumier et par les instruments relatifs aux droits de l'homme. Par conséquent, nous demandons instamment que toutes les mesures nécessaires soient prises pour garantir l'accès à des mécanismes de justice formelle non discriminatoires et à des recours efficaces. Les «autorités de facto» sont priées de respecter elles-mêmes les principes de non-discrimination et d'égalité. Il est en outre de leur devoir de sensibiliser largement le public à ces principes fondamentaux.

Pour conclure, nous ne pouvons qu'encourager l'Afghanistan à examiner et à réviser, avec les partenaires sociaux, les lois et pratiques jugées discriminatoires à l'égard des jeunes filles, des femmes et des minorités, notamment ethniques et religieuses. L'assistance technique du Bureau international du Travail devrait être sollicitée à cet effet. Enfin, le développement des capacités de toutes les parties (autorités, entreprises, syndicats et travailleurs) en matière de lutte contre les discriminations doit être encouragé et soutenu de manière énergique.

Membres travailleurs – Nous discutons du cas de l'Afghanistan dans un contexte particulier, étant donné l'absence de reconnaissance internationale des autorités en place, et en présence d'un représentant gouvernemental accrédité par cette Conférence. Ce contexte est à tout le moins perturbant, étant donné que nous avons l'habitude d'adresser nos commentaires à des autorités reconnues qui sont en mesure d'infléchir la situation.

Nos échanges doivent néanmoins avoir un mérite, ne serait-ce que pour souligner la gravité de la situation et les préoccupations qu'elle engendre. Il nous appartiendra aussi d'envisager des pistes concrètes pour améliorer la situation sur le terrain tout en tenant compte de la situation du pays dans le concert des nations.

Les problèmes exposés par la commission d'experts s'articulent autour de trois points. D'abord, il y a l'absence de rapport depuis 2019, qui ne facilite pas l'examen de la situation par la commission d'experts. Le point central relevé par celle-ci concerne la discrimination structurelle dont sont victimes les femmes. Cette discrimination entrave de manière flagrante leur accès à l'éducation, à la formation et à l'emploi. Et cette situation fait suite à une phase durant laquelle certaines améliorations avaient pu être enregistrées. Toutefois, depuis le changement de régime intervenu en août 2021, le retour de l'ancien régime s'est traduit par un retour aux anciennes pratiques et options politiques, et ces pratiques reposent sur une discrimination systématique des femmes. Comme le relève la commission d'experts, elles constituent une violation manifeste de la convention et du principe fondamental d'égalité entre les femmes et les hommes.

Les femmes ne sont plus autorisées à travailler, y compris dans l'administration publique, où tous les fonctionnaires sont des hommes. Depuis septembre 2021, les femmes et les filles n'ont plus accès à l'enseignement secondaire ou supérieur et, même lorsque les filles sont autorisées à aller à l'école, l'enseignement est limité en raison de l'absence d'enseignantes.

Le ministère aux Affaires féminines et la Commission indépendante des droits humains de l'Afghanistan ont été dissous. Les tribunaux spécialisés chargés de l'élimination de la violence à l'égard des femmes et les parquets ont été fermés, ce qui prive les femmes de possibilités d'accès à la justice.

Je ne m'attarderai pas sur les deux autres points, qui font l'objet des commentaires de la commission d'experts, à savoir le caractère insuffisant de la définition de la notion de discrimination dans la loi afghane et l'absence de mécanisme d'accès à la justice formelle. Je ne m'attarde pas car, en dépit de l'importance de ces questions, elles sont la conséquence de la discrimination structurelle que nous avons décrite et que d'autres organes des Nations Unies ne cessent de dénoncer.

Les membres travailleurs seront particulièrement attentifs aux suggestions qui seront faites durant nos discussions et qui auraient pour objectif de solutionner les problèmes soulevés.

Worker member, Afghanistan – I speak as President of the National Union of Afghanistan Workers and Employees (NUAWE), the largest trade union confederation in Afghanistan. Since the takeover of my country by the Taliban in August 2021, many trade union leaders including myself have been forced to relocate and leave the country.

During the past 20 years, the people of this country have improved the rights and well-being of the people of Afghanistan, whose life had been devastated under the previous rule of the Taliban between 1996 and 2001. Afghanistan was progressing towards democratization and promoting the status of women which can be clearly seen from the presence of 64 women in Parliament, 17 women in the Senate, 4 women in Cabinet, 4 women ambassadors, and 261 women judges in the courts and judiciary under the previous administration. Some 1,500 women were working as defence lawyers, 2,500 women as journalists in private free media, 3,650 women in the security forces. 3.5 million girls were engaged in education, and thousands of women were working in the private sector, altogether constituting 30 per cent of the labour force in the Afghan labour market.

Unfortunately the takeover of the country by the Taliban in 2021 has reversed the course of the development of our country. Since 15 August 2021, the people of Afghanistan have been living in a vacuum of law. The interim Cabinet of Taliban has declared the country's Constitution, Parliament, and hundred-year-old laws invalid: the Afghanistan Labour Code, the Elimination of Violence against Women Law, regulation of women's support centres and the Child Rights Protection Law, which stipulated fundamental rights and equality of treatment and opportunities between men and women, are no longer applicable. In September 2021, the Taliban closed the Ministry of Women's Affairs and replaced it with the Ministry of Prosperity and Prohibition, which had existed under their previous regime to police behaviour of citizens and enforce a strict interpretation of Sharia law according to Taliban's interpretation.

Twenty decrees have been announced by the Taliban to impose their religious beliefs, as well as the way of life, attire, and ethics based on the Taliban's interpretation of Sharia Law. Non-observance of these set of rules is not tolerated. Penalties, including corporal punishments, are imposed.

Women have been effaced from the public sphere. They are prohibited from receiving education, going to work, or even going to parks, markets, spas or traveling within and outside the country. The Taliban Ministry of Good and Prohibition and the Ministry of Information and Culture have imposed restrictions on the role of women in publications, broadcasting series and films, and banned some on the ground that they do not comply with the rules.

Since September 2021, the return of all Afghan girls over the age of 12 to school has been banned: 1.1 million girls and young women do not currently have access to formal education. Currently, 80 per cent of Afghan girls and young women who are eligible for school – which reaches to 2.5 million – have been thrown out of school. Thirty per cent of girls in Afghanistan

have never entered primary education. In December 2022, university education for women was suspended until further notice, affecting more than 100,000 female students who were studying in public and private higher education institutions.

The economic crisis has worsened the situation for women, minors and those marginalized in the country. Presently, at least 90 women have been arrested, imprisoned and abused by the Taliban in three northern provinces – in the Faryab, Samangan and Jawzjan provinces – under various allegations of breaching the Taliban-imposed Islamic laws and rules. They remain in prison without any investigative procedure, legal representation or trial. Sixteen of them fell pregnant due to rape. Forced abortions in local hospitals have also been reported.

LGBTI persons in Afghanistan continue to face grave human rights violations perpetrated by the Taliban, including threats, targeted attacks, sexual assaults, arbitrary detentions and other violations. Many LGBTI persons remain fearful that past discriminatory practices by the Taliban will resurface. These, historically, included the death penalty for those believed to be engaging in same-sex relations. Many LGBTI persons remain in hiding, fearing a risk to their lives.

The space for free media shrank drastically as the Taliban created an increasingly intimidating environment, forcing many media outlets to close. Journalists face growing restrictions including arbitrary arrest, unlawful detentions, and torture for reports criticizing the Taliban, leading many to self-censorship. Journalists are beaten and face other forms of torture while detained. Many journalists fled the country. Women television reporters are forced to cover their faces almost completely. The Afghanistan Independent Human Rights Commission (AIHRC), the national human rights institution, remains closed, and the space for civil society organizations to document and report on human rights has shrunk significantly. Independent human rights groups are unable to work freely. The Taliban arrested and unlawfully detain those who criticized them on social media. The Taliban dismantled any space for peaceful assembly, demonstration or gathering. The Taliban police uses excessive and unnecessary force against demonstrators, and peaceful protesters are arbitrarily arrested, detained, tortured and forcibly disappear. Detained protesters face physical and psychological torture. Family members prevented their female relatives from protesting out of fear of repercussions, further shrinking the space for freedom of assembly. Democratic and human rights institutions have been shut down or ceased to operate.

The NUAWE is the only trade union, at the national level, defending the rights of male and female workers, and promoting gender equality through trainings and programmes. The Taliban have refused to return the trade union assets, offices and properties of the NUAWE which had been seized under the previous government. It has become impossible for our affiliates to operate or pursue normal activities to redress gender-based violations. The Supreme Labour Council and the commission for resolving disputes arising from work have ceased to function. Social dialogue, which is one of the essential means for solving labour disputes and promoting an inclusive economic and social policy framework in the country, has also been paralyzed.

Since 2021, 97 per cent of the population has been living below the poverty line. Some people were forced to sell their body parts. Forced marriage of minor girls, as well as child labour of boys and girls engaging in hazardous work, has increased. The Taliban's repeal of all the rights and equality of treatment and opportunities once enjoyed by the people of Afghanistan, and the absence of international intervention to stop it, poses a threat before this

house concerning the enforcement of the fundamental labour Conventions in such a failed state.

We request the international community and the United Nations authorities to take practical and serious measures so that the people of Afghanistan – without discrimination based on sex, race, extraction of social origin, religion and political opinions – can have access to personal security, basic rights and freedoms, as well as employment, education and development opportunities.

Government member, Sweden – I have the honour to speak on behalf of the **EU and its Member States**. The candidate countries **Albania, Bosnia and Herzegovina, the Republic of North Macedonia, the Republic of Moldova, Montenegro, Serbia**, the EFTA countries **Iceland and Norway**, members of the European Economic Area, align themselves with this statement.

The EU and its Member States are committed to the promotion, protection, respect and fulfilment of human rights, including labour rights. We actively promote the universal ratification and implementation of the fundamental international labour standards. We support the ILO in its indispensable role to develop, promote and supervise the application of ratified international labour standards and of fundamental Conventions in particular.

The principle of equality and non-discrimination is a fundamental element of international human rights law. In the European Union's founding treaties and the Constitutions of the Member States, the prohibition of discrimination is a core principle. ILO Convention No. 111 is the translation of this fundamental human right to the world of work.

We are deeply concerned about the steep deterioration of the overall human rights and fundamental freedoms situation in Afghanistan since the Taliban forcefully took power in 2021. The Taliban have structurally and systematically violated economic, social and cultural, political and civil rights of the people of Afghanistan, especially of women and girls. Afghanistan is the only country in the world that prohibits education beyond primary level for girls. We note with concern that lack of access to education hinders future possibilities of employment or income-generating activities for women and girls.

We are deeply concerned that women have been largely removed from the workforce, including in public administration, legal professions, and especially in sectors providing humanitarian aid and basic needs support, despite women's role in providing humanitarian aid. We note the only country-wide exceptions of health and primary education. Excluding women from the workforce is not only unacceptable from a human rights' perspective but also economically disastrous. We strongly condemn the Taliban's decisions to ban Afghan women from working for international and national NGOs and UN agencies and bodies.

We strongly regret that the Ministry of Women's Affairs and the Afghanistan Independent Human Rights Commission have been disbanded and that specialized courts addressing the elimination of violence against women and prosecution offices have also been closed; this leaves women without access to justice. According to the recent report of the UN Special Rapporteur on the situation of human rights in Afghanistan, women are particularly affected by human rights violations and restrictions, hindering the promotion of full, productive and freely chosen employment and therefore their ability to sustain themselves and their dependents. By early 2021, women-owned businesses were creating jobs, but by March 2022, 61 per cent of women previously economically active had lost their jobs or income-generating activities. Movement restrictions including the Taliban's requirement that women travel with a male chaperone or a "mahram" and market closures prevent women in the informal sector

from selling products in markets, and those who continue to work often face harassment and abuse.

We fully echo the call of the Committee of Experts to urgently remove bans, discriminatory practices and unequal treatment based on sex that hinder girls' and women's access to education, vocational training, employment and occupation and increase their exposure to sexual and gender-based violence. We share the Committee of Experts' urgent requests to the de facto authorities in Afghanistan to provide information on measures taken and results in achieving equal participation of women in employment and education, including statistical data disaggregated by sex and occupation.

We also urge the de facto authorities in Afghanistan, in line with the Committee of Experts' report, to undertake urgent actions required to ensure the implementation of specific measures to improve equal access to education at all levels, vocational training and employment opportunities for persons with disabilities, with a particular focus on girls and women in both the private and public sectors. We note that girls and women with disabilities are often subject to multiple, aggravated or intersecting forms of discrimination and disadvantages.

We are deeply concerned by the previously operating legal and justice systems becoming dysfunctional and the lack of a legal framework addressing discrimination in employment and occupation. Afghanistan must meet the obligation it committed itself to, by voluntarily and willingly ratifying international conventions and human rights treaties, including Convention No. 111. Therefore, it is essential to take all the steps required to explicitly define and prohibit discrimination based on at least all of the grounds listed in the Convention.

In support of and with respect to the interests of the Afghan people, especially women and girls, and in absence of a recognized Government, the EU has re-established a minimal presence in the country and continues to be a key donor in support of humanitarian and basic needs support to the Afghan people. We will continue to monitor the situation closely.

Government member, United Kingdom – I have the honour to deliver this statement on behalf of **the United Kingdom, Australia, Canada and the United States**. The United Kingdom, Australia, Canada and the United States unequivocally condemn the human rights abuses taking place in Afghanistan. Since taking power, the Taliban have repeatedly and systematically undermined international human rights and failed to live up to their promises. We share the Committee of Experts' deep concern at the deterioration of the situation of women and girls, as well as ethnic and religious minorities, in Afghanistan since 2021. Through a series of egregious decrees, the Taliban are subjecting women and girls to devastating, systematic discrimination, denying them their human rights and fundamental freedoms. This includes restrictions on access to education and training, freedom of movement, and employment.

We also express our concerns on the lack of legal framework explicitly defining and prohibiting direct and indirect discrimination as required by the Convention, to which Afghanistan has been a State party since 1969. The international community has a responsibility to hold the Taliban to account for their actions. The United Kingdom, Australia, Canada and the United States have repeatedly called on the Taliban to abide by international law including by respecting the human rights and labour rights of all the citizens of Afghanistan and bringing an end to the repressive measures which will prevent Afghanistan from achieving longer-term stability and prosperity. We call on the Taliban to respect women and girls' equal opportunity in employment and occupation, including access to education and vocational training. Not only is it an affront to the human rights of women and girls in Afghanistan, the

Taliban's pursuit of discriminatory practices is also an act of harm against their own country, risking further unemployment, poverty, illiteracy, and skill shortages in critically needed professions. Women and girls' public and economic participation and leadership are fundamental for stability and progress in Afghanistan. As women and girls make up half the workforce, their participation in public life is fundamental to the economic development of Afghanistan. Excluding half the population from social and economic spheres will only perpetuate the economic crisis affecting all Afghans.

We regret that Afghanistan has not provided a report to the Committee of Experts, especially in light of its urgent appeal in 2021. We strongly emphasize our support to the ILO in its request for Afghanistan to reply in full to the comments made in the Committee of Experts' report. We will continue to work with like-minded countries to secure a better future for Afghan women and girls, where they are free to express themselves in the public sphere and pursue their educational interests and working lives.

Membre gouvernementale, Suisse – La Suisse regrette que la question de l'application de la convention en Afghanistan doive à nouveau être discutée devant la commission, et ce malgré les nombreuses observations formulées par la commission d'experts et les dialogues menés au cours des quinze dernières années.

Depuis l'automne 2021, les femmes et filles afghanes ont vu leurs droits et leurs libertés fondamentales être bafoués au quotidien, notamment leur droit à une participation pleine, égale, significative et sûre dans toutes les sphères de la vie publique. Ces restrictions touchent également d'autres minorités. La Suisse condamne, avec la plus grande fermeté, les restrictions en matière d'accès à l'emploi et à l'enseignement supérieur imposées aux femmes et aux filles afghanes et rappelle que ces mesures violent leurs droits fondamentaux, notamment le principe de non-discrimination et le droit à l'éducation pour les filles au-delà de la sixième année.

Les femmes afghanes ne sont par exemple plus autorisées à travailler pour des organisations non gouvernementales (ONG) ou pour les Nations Unies, sauf des exceptions négociées, tandis que l'enseignement secondaire et supérieur est interdit aux femmes et aux filles. Ces mesures sont contraires à la convention qui vise à prévenir, lutter et éliminer toutes formes de discrimination en matière d'éducation, de formation professionnelle et d'accès à l'emploi. De plus, comme l'a déjà rappelé la Suisse à plusieurs reprises au sein du Conseil de sécurité, les restrictions pour les femmes afghanes de travailler pour les ONG et les Nations Unies entravent l'aide humanitaire, qui doit être accessible rapidement aux personnes dans le besoin en vertu du droit international. Cela a un impact dévastateur pour l'ensemble de la population afghane.

À cet égard, la Suisse soutient les conclusions et recommandations de la commission d'experts et appelle les talibans à modifier leurs décisions et à se conformer aux obligations énoncées dans la convention.

Membre employeur, France – On sait depuis Platon que les hommes et les femmes sont égaux puisqu'ils proviennent d'un être unique, séparé par moitié, tel que nous est rapporté le mythe dans *Le Banquet*.

Le cas de l'Afghanistan est malheureusement simple. La commission d'experts s'est penchée 22 fois sur le sujet et la cause est portée devant notre commission pour la troisième fois. Il s'agit d'un dossier d'une extrême gravité, faisant l'objet d'une double note en bas de page. Que nous dit la convention n° 111? C'est une convention fondamentale, qui vise à garantir la dignité humaine, ainsi que l'égalité de chances et de traitement de tous les

travailleurs, en interdisant chaque forme de discrimination, notamment celle fondée sur le sexe.

Selon les dernières observations qui émanent des Nations Unies, la situation des femmes afghanes s'est dégradée depuis le changement de régime politique, en août 2021. La liste des violations de leurs droits fondamentaux vous a été donnée précédemment, je me contenterai de rappeler que les femmes et les jeunes filles ne peuvent pas circuler librement et ne sont pas autorisées à travailler, même dans la fonction publique, que l'accès à l'enseignement leur est refusé, que les discriminations, le harcèlement et la violence envers les femmes sont banalisés et restent impunis, etc. Qui peut prétendre qu'un tel régime respecte les droits humains?

Il est urgent de rétablir les droits des femmes afghanes en matière d'accès à l'éducation, à la formation professionnelle et à l'emploi. Il est urgent de faire cesser toute discrimination à l'encontre des femmes afghanes, afin de mettre en conformité la loi nationale avec les dispositions de la convention, sans oublier la situation douloureuse des femmes porteuses de handicap. Il est urgent de garantir aux femmes afghanes l'accès à une justice libre et indépendante, dans le respect des libertés fondamentales consacrées par le droit international.

Bien entendu, c'est en qualité d'employeur, membre de l'OIT, que je m'exprime ici aujourd'hui, mais c'est d'abord en qualité d'être humain. Comment peut-on se taire devant la situation injustement tragique subie par ces femmes et ces jeunes filles, plongées vivantes dans la nuit du désespoir? Nous nous trouvons au-delà des manquements graves aux dispositions de la convention, même au-delà de la violation des droits humains les plus élémentaires. Nous sommes tout simplement face à la négation des principes qui fondent notre Organisation. Pour toutes ces raisons, la commission devra faire preuve, au nom de la justice sociale, de la plus grande sévérité à l'encontre d'un régime qui piétine à ce point la dignité humaine. Enfin, je voudrais conclure en citant un poète français, qui s'appelait Louis Aragon et qui aimait éveiller nos consciences, par cette formule forte, et qu'on ne prononce jamais sans une pointe d'espoir: *La femme est l'avenir de l'homme*.

Government member, Japan – First, Japan would like to express gratitude to the Office and the Committee of Experts for their efforts in pursuit of the principles enshrined in the ILO Constitution.

Japan is deeply concerned about the deteriorating human rights' situation that the Afghan people, especially women and girls, are facing and we strongly condemn the Taliban's measures that restrict the rights of women and girls. It is important that the international community continues to engage with the Taliban in order to make positive changes. Japan continues to support Afghanistan to address the complex challenges faced by the Afghan people by using every opportunity, including through our direct contact with the Taliban.

As a responsible member of the ILO Governing Body, Japan strongly expects that Afghanistan provides necessary explanation to the Office and all the ILO constituents. We request Afghanistan to address in good faith the points raised in the Committee of Experts' report and to follow the procedure to be adopted by this tripartite structure.

Membre travailleuse, France – Il y a presque deux ans, le 15 août 2021, les talibans sont entrés dans Kaboul. Un voile mortifère a recouvert la moitié de la population de ce pays. La situation sur le front des inégalités de traitement et de la discrimination au regard du genre est terrifiante. Les talibans veulent effacer, faire disparaître les femmes. La négation des femmes n'est poussée à cette extrémité nulle part ailleurs dans le monde.

Au cours des vingt-quatre derniers mois, les violations des droits humains des femmes et des filles se sont progressivement aggravées. Malgré les promesses de départ, à l'effet que les femmes seraient autorisées à exercer leurs droits dans le cadre des lois de la charia – y compris le droit de travailler et d'étudier –, les talibans ont systématiquement exclu les femmes et les filles de la vie publique. Les femmes ont été empêchées d'entrer dans les parcs et les gymnases, entre autres lieux publics, des mesures discriminatoires d'une époque que l'Europe voudrait pouvoir oublier.

Après avoir drastiquement limité l'accès des femmes et des filles à l'éducation ou au travail au cours de la première année de leur règne, les talibans continuent de choquer avec de nouvelles restrictions. Fin 2022, ils ont interdit aux femmes de poursuivre leurs études dans les universités. Auparavant, ils avaient déjà interdit aux femmes d'étudier certaines disciplines comme les sciences vétérinaires, l'ingénierie, l'économie ou l'agriculture. Les talibans affirment que les femmes ne sont pas aptes à être juges ou avocates, car elles ne connaissent pas assez la charia. Exclues du système légal, les femmes sont devenues des cibles de représailles des talibans. En janvier 2023, la Rapporteuse spéciale des Nations unies sur l'indépendance des juges et des avocats et le Rapporteur spécial sur la situation des droits de l'homme en Afghanistan ont dénoncé l'exclusion des femmes du système légal, qualifiée d'«acte de discrimination éhonté», et ont appelé la communauté internationale à leur offrir une protection et un passage sûrs. Et, comble du cynisme, l'ONU a été informée par les autorités de facto que, avec effet immédiat, aucune femme afghane n'est autorisée à travailler pour l'ONU en Afghanistan et que cette mesure sera activement appliquée. Cette décision prolonge la directive précédemment annoncée le 24 décembre 2022, interdisant aux femmes afghanes de travailler pour des organisations non gouvernementales nationales et internationales.

Enfin, pour compléter cette insupportable litanie, la violence liée au genre ne peut pratiquement plus être signalée, car les femmes ne peuvent plus se rendre seules dans un poste de police pour dénoncer la violence au sein de la famille. Les refuges pour femmes ayant été fermés par les talibans, les femmes et les filles ont perdu leurs derniers refuges sûrs. Cela a entraîné d'innombrables coûts et risques physiques et psychosociaux pour les Afghanes, comme des mariages d'enfants, des dépressions ou des suicides en raison de l'exclusion et du manque de perspectives. Le risque d'être victime de violence domestique a également augmenté. Selon Amnesty International, on constate déjà une augmentation des mariages d'enfants, des mariages précoces, des mariages forcés, des avortements mortifères depuis le changement de pouvoir.

À la vue de ces exactions à l'encontre de la population féminine, c'est une condamnation immédiate et sans appel du régime taliban que notre commission se doit de prononcer, en respect de la souffrance des femmes afghanes.

Worker member, Philippines – We, the Nagkaisa Labour Coalition, ITUC affiliates in the Philippines, namely the Federation of Free Workers, the Central and the Trade Union Congress of the Philippines, as well as those with the All Philippine Trade Unions, stand in unshakable solidarity with the people of Afghanistan and unequivocally condemn the dangerously high and heart-breaking deterioration of human rights in the said central Asian country.

The human rights situation in Afghanistan has declined sharply since the Taliban's return to power in August 2021, despite the Taliban leadership's public commitment to uphold and respect human rights. Amnesty International and Human Rights Watch have repeatedly documented violations of international laws including Convention No. 111 and serious human rights abuses carried out by the Members of the Taliban since then.

In an alarming development, according to Amnesty International, individuals publicly critical of the Taliban's oppressive rule against women, and ethnic and religious minorities, have been arrested and others were killed extra-judicially. Many of these individuals are prominent advocates for civil liberties and equality, including Narges Sadat, a women's rights defender; Professor Ismail Mashal, a champion for women's education; Fardin Fedayee, a civil society activist; Zekria Asoli, an author and activist; Mortaza Behboudi, an Afghan-French journalist; former senator Qais Khan Wakili; and Afghan journalist Muhammad Yar Majroh. As of a recent Amnesty International update, only Professor Ismail Mashal has been reported released, a fact that magnifies our grave concern. The Taliban often provides no reasons for these arrests, and the whereabouts of the detainees frequently remain undisclosed, amounting to enforced disappearances.

The arbitrary arrest and silencing of the human rights advocates is part and parcel of the discriminatory environment under which the continuous assaults on the rights of women and girls, the targeted killings of ethnic Hazara people are sanctioned to impair their access to equal treatment and opportunities.

Human Rights Watch said that the situation is further exacerbated by the threats faced by religious minorities from extremist groups such as the Islamic State of Khorasan Province (ISKP). The Hazara, a predominantly Shia ethnic group, have been subjected to numerous attacks by the ISKP, leading to the death of at least 700 people.

Worker member, Norway – I am speaking on behalf of the trade unions in the Nordic countries. Afghanistan is discussed here today under Convention No. 111. In addition to discrimination of women, there is also discrimination based on ethnicity and religion. Women continue to be discriminated in access to employment and job security. After the Taliban took over, all severe restrictions have been imposed on women's rights including freedom of movement and access to education and employment. Women have not even the right to justice. In addition, Afghanistan's ethnic minorities and others who do not adhere to the strict interpretation of Sunni Islam are at grave threat of being a target of violence. Afghanistan had not been a safe country where ethnic and religious diversity was respected under the previous Government. The situation has drastically deteriorated after the Taliban's take over.

Between August 2021 and June 2022, the UN in Afghanistan had recorded 2,106 civilian casualties associated with religious intolerance by the Islamic State Khorasan Province (ISKP), which continued to carry out systematic and targeted attacks on minority ethnic and religious groups. The attacks include bombing religious and education centres and attacking public transportation taken by the minority groups. Such instances included an incident of attack on a Sikh temple in Kabul on 18 June, and the bombing of an education centre in a primarily Hazara neighbourhood on 30 September. The latter killed at least 52 teenagers, mostly girls. The Taliban authorities have failed to investigate these attacks or take adequate steps to protect the ethnic religious minorities. Instead, security measures set up under the former Government to protect these minority groups have been removed.

In areas of ongoing armed resistance against the Taliban, civilians continue to face death, arbitrary arrest, torture, and restricted movement enforced by local Taliban authorities. Locals also report that the Taliban carried out forced evictions in these areas, particularly in Panjshir.

The ethnic and religion-based discrimination and violence in Afghanistan in no way comply with the obligations under the ratified ILO Conventions. We urge for a stop of all kinds of discrimination, violence and attacks on women, ethnic and religious minorities urgently.

Observer, Educational International (EI) – On behalf of teachers' unions worldwide, Education International expresses deep concern regarding the status of teachers and the access to education for Afghan girls. Many comments have already been made about education, but I would like to stress the profound impact those developments have had on the personal and professional well-being of teachers.

The policies on education since August 2021 have been fragmented and often incoherent, making it difficult to obtain a comprehensive picture of the situation. Effective national and international independent monitoring has been challenging. Moreover, the Afghan media has been muzzled and censored, resulting in limited coverage of the real ongoing situation in education settings. Afghanistan has endured decades of devastating wars and has faced immense challenges in various aspects of life, including education. Throughout these difficult times, Afghan teachers have tirelessly served the youth with dedication. The past two decades have been marred by systemic corruption and mismanagement, squandering the financial assistance provided by the international community and pushing Afghan teachers to the brink of poverty.

The recent takeover by the Taliban has only exacerbated an already difficult context. The imposition of strict rules within the work environment, enforced transfers, and the ban on girls' education have placed significant psychological and economic pressures on teachers, leaving them even more vulnerable. The decision by the Taliban to prohibit girls from pursuing education beyond the sixth grade and to segregate schools and teachers based on gender has had a profound impact. It is disheartening to note that despite initial promises of allowing adolescent girls to return to school, these commitments were never fulfilled. Instead, more and more restrictions on education in general, and on women and girls specifically, have been enforced. Tertiary institutions have been closed to female students and staff, and recently, women and girls have been denied the ability to leave their homes without a male chaperone, to work, or to participate in any aspect of life outside the home.

As a result, many female teachers have been forced to remain at home, while others have been compelled to work in schools located far away from their homes. This has significantly reduced their purchasing power as they now have to spend a portion of their income on transportation costs. Furthermore, teachers have gone months without receiving their salaries due to the lack of cash in most banks, the waiting period for payments, and the devaluation of the Afghani currency. Retired teachers are also not receiving their pension payments. This dire situation has led many teachers to abandon the profession. The right to education goes beyond simply opening schools. It encompasses the working conditions and payment of teachers, dress codes and conduct rules, access to teaching and learning materials, changes to the curriculum, gender segregation of classes and staff, and how schools are administered, and I do not even mention their collective union and labour rights as workers.

We urge the ILO and the Government of Afghanistan to take immediate and decisive action to ensure that the rights at work of teachers, both female and male, are protected, their financial security is restored, and that the future of education in Afghanistan is not compromised.

Observer, IndustriALL – I am speaking here on behalf of IndustriALL Global Union. My organization and my affiliates around the world are extremely concerned about the future of Afghanistan under the Taliban control, particularly about human and labour rights, as well as the situation for women and girls. Women are in permanent danger. Over the last 20 years, they gradually won back some of their rights, only to see their fight for dignity reduced to nothing in a few hours. We consider it outrageous that the Taliban ban most education for girls

and women imposing brutal punishments and confinement of women to their homes unless a male family member escorts them. Attacks on woman at work and in education have resumed, as have forced marriages. Their lives, their dignity and their integrity are very seriously threatened. Trade unionists are also prime targets of this regime. As soon as they arrived in Kabul, the Taliban confiscated the property of the trade unions and banned their activities, accusing them of violating Islamic laws. The Taliban have repealed laws and removed institutions that guaranteed equality and provided remedies towards the elimination of harassment and violence against women, and an end to discrimination in vocational training, employment, and occupation.

Therefore, we call on Afghanistan to reinstate a legal framework explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds set out in the Convention, in all aspects of employment and occupation, as well as the lack of access to non-discriminatory formal justice mechanisms and effective remedies to guarantee equal participation of women in employment and occupation; and remove without delay all bans, discriminatory practices and unequal treatment based on sex imposed on girls and women to prohibit, limit or impede their access to secondary and higher education, vocational training, employment and all types of occupations in all sectors; and prevent and address violence and harassment against girls and women; to give access and ensure completion of education at all levels; enhance participation in a wide range of training programmes; promote employment opportunities of persons with disabilities, in particular girls and women, both in the private and public sectors; and finally, provide access to non-discriminatory formal justice mechanisms and effective remedies and to organize activities to raise public awareness of the principles of non-discrimination and equality.

Government representative – I will be very brief, since I really concur and could not agree more with most of the statements which were made here today from all the sides: Governments, Employer and Worker members. I also wanted to raise this issue of the discussion on Afghanistan a little bit above the level of what we are discussing here today. We appreciate and highly value this very timely discussion which is happening here in this international Organization and with this importance attached to the issue of Afghanistan. Again, I understand, and I concur that it is the responsibility of Afghanistan to report on Convention No. 111, ratified in 1969. If there were difficulties to fulfil our reporting obligations in the past, it was a problem of capacity rather than a problem of political will. But what we are facing right now in Afghanistan – this discussion is a small part of it – is an anomaly and it is a threat to the whole international system of which the ILO and the International Labour Conference are just one part.

So, that is why I wanted to raise the level of the discussion and I am glad that many people did, like the Employer member from France. The issue that we are facing in Afghanistan and that we are discussing in this hall, impacts all of us as human beings and as citizens of the twenty-first century world. In the third decade of the twenty-first century, we are experiencing a takeover of a country by a group that does not believe in this Convention. It is not a matter of how to report but rather to what extent they will accept the norms and international system to which Afghanistan belongs and is a party to, such as the Universal Declaration of Human Rights and this Convention.

I think this group unfortunately was negotiated by and with a large number of Member States who are present here, and the promises which were made, were perhaps made in a way to deceive the representatives of these countries. So, I would say that the situation in Afghanistan is a challenge to the whole international norms and system. I believe that we need to pass and ponder and think about why and how we came to this situation. We also need to

think about how we can remedy to the situation and how we can move forward. Because, in Afghanistan, people will say that the Taliban are the reality of Afghanistan. Actually, the reality is that around 100,000 hard-line extremists suicide bombers have taken hostage a country of 38 million people. These 38 million were tired and sick of all the decades of war, broken promises and betrayals. So, now we have in front of us a situation which, of course, is related to this very specific discussion but it is also related to the whole international system and international human rights system. So, how do we solve this issue and how do we face this problem, and go above and beyond the discussions? We need another approach to solve this problem because the consequences of the situation in Afghanistan have repercussions all around the world. If we do not raise our voice as ILO and International Labour Conference members (I really appreciate what happened today in this hall) together with the concerned citizens of the world, the Security Council, the United Nations, and countries in the region, I think the situation would get even worse than what it is now.

Membres travailleurs – La situation à laquelle nous sommes confrontés dans ce pays est extrêmement préoccupante. Le Conseil de sécurité a clairement indiqué, dans sa résolution n° 2593, les attentes de la communauté internationale. La reconnaissance pleine et entière des droits des femmes en fait intégralement partie. Notre commission peut rappeler et insister sur ces éléments. L'ONU et l'OIT continuent à avoir des activités sur le terrain. Celles-ci sont certes limitées, mais il convient de les mettre à profit de sorte à pouvoir améliorer, ne serait-ce qu'un tant soit peu, la situation des femmes et petites filles dans ce pays. Ce travail technique est fortement entravé par les décisions récentes du pouvoir en place qui interdisent aux femmes afghanes de travailler avec l'ONU ou avec les ONG. Nous suggérons que le Bureau procède à une analyse des conditions permettant de continuer ce travail et d'en augmenter l'impact. Il conviendrait que cela se fasse en associant les parties qui peuvent apporter leur expertise et leur connaissance du terrain.

Eu égard à la gravité de la situation, les membres travailleurs demandent que ce cas fasse l'objet d'un paragraphe spécial.

Membres employeurs – Comme rappelé dans l'Étude d'ensemble de 2012, «[a]fin d'éliminer la discrimination dans l'emploi et la profession, les États doivent formuler et appliquer une politique nationale d'égalité aux multiples facettes. La mise en œuvre d'une politique nationale d'égalité présuppose en effet l'adoption d'une série de mesures spécifiques et concrètes, notamment, la mise en place d'un cadre législatif clair et global, afin d'assurer que le droit à l'égalité et à la non-discrimination soit appliqué dans la pratique. Enfin, des mesures volontaristes sont nécessaires pour traiter les causes sous-jacentes de la discrimination et les inégalités de facto résultant d'une discrimination profondément enracinée». Ces principes fondamentaux s'appliquent de manière générale à tous les États.

Au vu de ce qui se passe en Afghanistan, nous condamnons, comme l'ensemble de l'audience ici, le fait que ce pays reste gravement en défaut d'appliquer la convention. Les membres employeurs demandent aux «autorités de fait»:

- 1) de fournir des informations complètes sur tout progrès accompli pour mettre fin aux discriminations;
- 2) de prendre les mesures nécessaires pour définir et interdire expressément en droit toute discrimination directe et indirecte;
- 3) de prendre des mesures spécifiques pour faciliter l'accès des personnes en situation de handicap à l'éducation, à la formation professionnelle et à l'emploi;

- 4) de prendre les mesures nécessaires pour garantir l'accès à des mécanismes de justice formelle non discriminatoires et à des voies de recours efficaces.

Le chemin à parcourir est encore long. L'important est de l'entamer de manière volontariste. Non seulement l'arsenal légal anti-discrimination doit être amélioré, mais il devra être appliqué. Ceci nécessitera de s'attaquer aux causes profondes des discriminations, qui reposent sur des préjugés ancrés profondément dans la tradition, ou dans certains types de traditions.

En raison de l'extrême gravité de ce cas, les membres employeurs demandent avec insistance qu'un paragraphe spécial sur l'Afghanistan soit ajouté dans les conclusions des travaux de notre commission. Celle-ci doit jouer pleinement son rôle et faire ainsi partie des moyens de pression internationaux pour faire respecter les droits de l'homme partout dans le monde.

Conclusions of the Committee

The Committee noted with deep concern the repeated failure of the Government to respond to the Committee's comments since 2019.

The Committee expressed its very deep concern at the significant deterioration of the situation of women and girls, including the situation of vulnerable groups of women, and other minorities since 2021.

The Committee deeply deplored the discriminatory prohibitions, bans and restrictions based on sex imposed on girls and women since 2021, which adversely impact on their ability to enjoy fundamental human rights and freedoms. The Committee also deplored the lack of legal framework explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds set out in the Convention, in all aspects of employment and occupation, as well as the lack of access to non-discriminatory formal justice mechanisms and effective remedies, in line with the Convention.

Taking into account the discussion, the Committee urges that, in consultation with the social partners, effective and time-bound measures be taken to:

- **remove without delay all bans, discriminatory practices and unequal treatment based on sex imposed on girls and women to prohibit, limit or impede their access to secondary and higher education, vocational training, employment and all types of occupations in all sectors, and provide information to the Committee of Experts on the measures taken in this regard, and on the results achieved;**
- **put in place the necessary laws, policies and implementation strategy to prevent and address violence and harassment against girls and women, and provide information to the Committee of Experts on the measures taken in this regard, and on the results achieved;**
- **amend section 9 of the Labour law in order to explicitly define and prohibit in law direct and indirect discrimination in line with the Convention;**
- **ensure access to non-discriminatory formal judicial mechanisms and effective remedies;**
- **organize activities and implement a campaign to raise public awareness of the principles of non-discrimination and equality protected under the Convention;**

- provide information on the adoption of all the above-mentioned measures on any progress made in that regard, as well as the results achieved on the equal participation of women in employment and occupation, including by providing statistical information, disaggregated by sex and occupation, on the participation of girls and women in education, vocational training and employment; and
- develop a multidisciplinary and multi sectoral action plan to combat discrimination in employment, occupation and education, with ILO technical assistance and in close cooperation with the social partners and other relevant civil society organizations. In addition, coordinate with other UN agencies operating in the territory.

The Committee also calls for specific action to be taken in order to facilitate access to education and vocational training and promote employment opportunities of persons with disabilities, in particular girls and women.

The Committee decided to include its conclusions in a special paragraph of its report.