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16th sitting, 6 June 2018, 10.40 a.m.

16^e séance, 6 juin 2018, 10 h 40

16.^a sesión, 6 de junio de 2018, 10.40 horas

Chairperson: Mr Rorix Núñez Morales

Président: M. Rorix Núñez Morales

Presidente: Sr. Rorix Núñez Morales

Discussion of individual cases (cont.)

Discussion sur les cas individuels (suite)

Discusión sobre los casos individuales (cont.)

Nigeria (ratification: 1960)

Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Convention (n° 98) sur le droit d'organisation et de négociation collective, 1949

Convenio sobre el derecho de sindicación y de negociación colectiva, 1949 (núm. 98)

A Government representative (Ms AKPAN) indicated that the Government was fully committed to meet its obligations under the Convention, which had been ratified in 1960. The allegations relating to anti-union discrimination and impediment to collective bargaining were unfounded. Employers and workers had the right to establish and join organizations of their own choosing in full freedom. The right to freedom of association and to organize derived from the Constitution and the Trade Unions Act. Such Act made the recognition of registered trade unions obligatory for employers whenever workers expressed

their interest to join a trade union. The only categories of workers excluded from unionization were those engaged in essential services such as the Customs and Excise Department, the Immigration Department, the Prison Services and the Central Bank of Nigeria. Those exclusions were due to national interests and security reasons. However, the Joint Consultative Committees established in those institutions protected the interests of the workers, who were often afforded better working conditions than those engaged in other sectors of the public service. On the issue of impediment to collective bargaining, trade unions or workers' representatives had the right to bargain collectively with their employers for the purpose of setting terms and conditions of work without any interference whatsoever by the Government. Moreover, the issue of prohibiting an employer from granting a general wage increase without the approval of the Minister as stipulated in section 19 of the Trade Disputes Act, would be brought to the attention of the Tripartite Technical Committee which was currently reviewing labour legislation. Yet, it was important to affirm that in practice, there were no restrictions whatsoever as to general or percentage increases in wages by an employer. The national minimum wage was stipulated by law and the social partners needed to reach a consensus with the tripartite plus body before a minimum national wage could be fixed. The statutory requirement of depositing collective agreements with the Federal Ministry of Labour was purely for record purposes and for monitoring their implementation. In relation to export processing zones (EPZs), trade unions were now fully operating and involved in resolution of disputes. Trade unions operating in the EPZs included the Amalgamated Union of Public Corporations, the Civil Service Technical and Recreational Services Employees (AUPCTRE), the National Union of Food, Beverage, and Tobacco Employees (NUFBTE), the National Union of Hotels and Personal Services Workers (NUHPSW), the National Union of Civil Engineering, Construction, Furniture and Wood Workers (NUCECFWW), the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) and the Nigeria Union of Petroleum and Natural Gas Workers (NUPENG).

The Employer members addressed the following issues raised by the Committee of Experts in 2010, 2012 and 2017: the denial of the right to organize to certain categories of employees and anti-union discrimination; the requirement for collective agreements to be approved by the Minister of Labour; and the handling of employer–employee disputes by the authorities. According to the Committee of Experts, acts of anti-union discrimination included the use of blacklists against trade union officers; transfers, relocation, demotion, withdrawal of benefits, restrictions of all kinds non-renewal of contracts, and dismissals. At the national level, the Trade Disputes Act included the Central Bank of Nigeria, the Nigerian Security Printing and Minting Company Limited, any corporate body licensed to carry out banking business under the Banking Act, postal service, sound broadcasting, maintaining ports, harbours, docks or aerodromes, transportation of persons, goods or livestock by road, rail, sea or river, road cleaning, and refuse collection in the definition of essential services. The Employer members recalled that the Committee of Experts had observed that certain categories of workers were denied the right to organize (such as employees of the Customs and Excise Department, the Immigration Department, the Nigerian Security Printing and Mining Company Limited, the prison services and the Central Bank of Nigeria) and therefore were deprived of the right to collective bargaining. It had also considered that essential services included “those the interruption of which would endanger the life, personal safety or health of the whole or part of the population”. Nigeria had listed a number of services as essential services, considering their importance to national security and stability. The Employer members did not agree that the definition of essential services was broad as observed by the Committee of Experts. The list was in response to the national needs of Nigeria and therefore in compliance with Articles 5 and 6 of the Convention. However, taking into account the concerns raised by the trade unions regarding these exceptions, the Government had elaborated the Collective Labour Relations Bill which had expressly removed the exceptions. The Employer members expressed their satisfaction at the tripartite process that had led to the development and validation of the Bill and looked forward to its submission to Parliament for enactment.

Concerning the registration of collective agreements with the Ministry of Labour, the Employer members had always considered that the sections of the Wages Board and Industrial Council Acts and the Trade Dispute Act, which made it an offence for an employer to generally adjust wages upwards without approval of the Minister, were irrelevant, had never been enforced and should therefore be repealed. They disagreed with the Committee of Experts' view that private sector collective bargaining rights were restricted by the requirement of the Government's approval of any collective agreements on wages. Sectorial unions and the respective employers' organizations in the private sector freely negotiated and entered into collective agreements every two years. The agreements were then filed with the Ministry of Labour whose main role was to assist in the event there was a need for mediation.

Finally, the Employer members indicated that, under the 1992 Decree on Export Processing Zones, the functions of the EPZ Authority included the resolution of disputes between employers and employees in consultation with the Federal Ministry of Employment, Labour and Productivity. The Authority's role was to facilitate and serve as observer through collective bargaining between sectorial unions and the respective employers. This was in line with the consultative nature of its functions under the Decree. Therefore, the rights of workers to organize and bargain collectively had been preserved.

In conclusion, the Employer members considered that the Convention had been adhered to, but Nigeria had, in a consultative manner, put in place mechanisms to better implement its provisions. The Collective Labour Relations Bill responded to concerns raised by the trade unions regarding the exemptions from the rights to organize and bargain collectively and unions, such as the Technical and Recreational Services Employees, had started organizing their members within the EPZs. They therefore encouraged the Government to expedite the processes of enactment.

The Worker members considered that the right to organize and bargain collectively had witnessed a steady and systematic erosion. For a number of years, the Committee of

Experts had been pointing to serious violations of the Convention and had been asking the Government to bring its laws and practice into line with the Convention and to report on all progress made in this regard. However, the last time the Government had submitted its report was in 2012. Since then, it had ignored the Committee of Experts' requests and disregarded its reporting obligations. This was a case of serious failure to report and was to be regretted. The very essence of the ILO supervisory system was in the dialogue with the constituents. This system was based on the information on the application of the Conventions provided by governments. The failure to submit reports undermined the supervisory system and the very functioning of the ILO. The Worker members called on the Government to live up to its reporting obligations as a matter of urgency.

The Convention was interwoven with the realization of other fundamental rights at work and it was unfortunate that many new violations had occurred in the country since 2012. Those without the right to organize were also denied the right to bargain collectively. Anti-union dismissals, transfers, relocations, demotions, non-renewal of contracts of employment, pressure and harassment and withdrawal of benefits or non-payment of remuneration had been taking place in the public and private sectors alike. In January 2018, 21,000 primary school teachers had been dismissed by the Kaduna State for having protested against the introduction of a competency test administered without due consultations and aimed at unilaterally reducing the number of teachers on the payroll of the State. Kaduna State had also failed to implement the collective bargaining agreements. When the Nigerian Labour Congress (NLC) had expressed its solidarity with the affected teachers it had received public threats of sanction from the State Government. The Governor of the State had prohibited trade union activities. In this respect, it should be emphasized that the Convention applied to public sector workers and only the rights of those involved in the defence and security forces and those directly engaged in the administration of the State could be restricted. The Convention did not exclude persons employed by the Government, workers in public enterprises or autonomous public institutions, nor teachers. Furthermore,

the denial of the rights to organize and bargain collectively, and lack of protection of trade unionists from violence and hostility may have very serious consequences. It could result in violent murders of trade unionists. The Worker members recalled the assassination of Abdulmumuni Yakubu, the branch chairperson of the Non-Academic Staff Union of Kogi State (NASU) at his home by an unknown gunman in November 2017. This murder had occurred at the height of negotiations with the Kogi State Government and strike actions over prolonged non-payment of wages. Kogi State had effectively banned the academic and non-academic staff unions in the tertiary institutions. They further recalled the assassination of Mr Alhaji Saula Saka, the Lagos Zonal Chairman of the National Union of Road Transport Workers in 2010. Both cases remained unresolved and reflected the dangerous situation trade union leaders were confronting and the absence of security and protection in the performance of their activities. The Government must arrest and prosecute the perpetrators and stop the growing and brazen impunity. In the private sector, the situation was equally serious. According to the Association of Senior Staff of Bank and Financial Institutions, 337 workers had been dismissed in June 2015 for having tried to join a union. About 700 workers of another company had been dismissed in Lagos in September 2015 for the same reason. The situation was no different for workers in the telecommunications sector. In some cases they had to denounce their intention of unionization as a condition of employment.

The Wages Board and Industrial Council Act was particularly alarming as it provided that every agreement on wages must be registered with the Ministry of Labour for approval or disapproval as to its binding nature. It also made it an offence for an employer to grant a general or percentage increase in wages without the approval of the Minister. In practice, the effect of this was that national minimum wage negotiations were used as a pretext to frustrate, prevent, delay and, in some cases, deny, voluntary collective bargaining over wages. This was not in compliance with the Convention, which required member States to ensure that collective bargaining was implemented through a voluntary mechanism. Furthermore, the Convention applied to workers in EPZs. However, sections 3(1) and 4(e)

of the Decree on Export Processing Zones run counter to the right to organize and the right to collective bargaining. Its section 4(e) provided that “employer–employee” disputes were not matters to be handled by trade unions but rather by an authority managing the zone. Section 3(1) also made it very difficult for workers to form or join trade unions by making it almost impossible for workers’ representatives to gain free access to such zones. The Worker members believed that this situation of violation, anti-union discrimination, interference and lack of protection for trade unionists existed because of the gaps in the labour legislation and the very weak labour administrative mechanisms. Section 11 of the Trade Unions Act denied the personnel of the Customs and Excise Department, the Immigration Department, the Nigerian Security Printing and Minting Company, the Prison Services, Nigeria Telecommunications and the Central Bank of Nigeria the right to organize and thus, to collective bargaining. They expressed their concern at section 7(9) of the Trade Unions Act, which empowered the responsible Minister to revoke the certificate of registration of trade unions without a judicial process or clearly outlined administrative procedures and guarantees. Section 8 of the Act automatically imposed trade union membership on federal government teachers without their consent. They further regretted that section 3(1) and (2) of the Act required a very high threshold of a minimum of 50 workers to establish a trade union at the enterprise level and restricted the formation and registration of other unions in sectors where one union already existed. They noted with concern that sections 30 and 42 of the Act imposed restrictions on the right to collective action and provided for imprisonment for non-recognized strikes and for compulsory arbitration with an overly broad definition of essential services. Sections 39 and 40 granted the registrar of trade unions the power to supervise union accounts at any time. Furthermore, the Collective Labour Relations Bill, which had been drafted with the support of the ILO and the involvement of the social partners and which had been pending for a decade or so, had been unilaterally amended by the Government ignoring the views of the social partners. The Worker members, like the Committee of Experts, requested that the Bill be brought into

full conformity with the Convention and further urged that the Bill be adopted without unnecessary delay.

The situation of the near breakdown in collective bargaining was systemic and was the outcome of the existing legislation and the way the governance institutions functioned in Nigeria. It was therefore urgent for the Government to take a holistic review of its labour legislation to ensure that it was amended to reflect international labour standards and to give effect to the principle of free collective bargaining. The labour administration mechanisms and institutions, including the police and other law enforcement agencies, needed to receive training in order to effectively inspect and supervise compliance with international labour standards to avoid any abuses and prevent impunity. Many of the serious violations of the Convention could have been prevented if the Government had followed the recommendations of the Committee of Experts. The Worker members urged the Government to comply with its obligations and restore, in full consultation with the social partners and in cooperation with the ILO, the right to organize and to bargain collectively in the country.

The Worker member of Nigeria (Mr ADEYEMI) stated that Nigeria operated a federal system with 36 states with their own governments, a Federal Government Territory and a central Government. Issues of labour relations were in the Exclusive List of the Nigerian Constitution with federal government supervision and oversight. While infractions with respect to the Convention existed in the private sector, most of those in the public sector were perpetrated by State Governments. In 2017, the Government of Kaduna State had dismissed 38,000 workers, of which 21,000 teachers, about 5,000 local government council staff and over 8,000 from ministries, departments, agencies, as well as those in the tertiary institutions under the guise of a vague reform. Dismissal had been carried out without any respect or consideration for the established rules, notably the provisions in the existing public sector collective bargaining procedures. The NLC had officially reported this violation to the Ministry of Labour, with no tangible outcome to date from the intervention proposed by the Ministry, while the situation continued to deteriorate. The disregard for collective

bargaining laws and practices was such that the Nigeria Union of Teachers had challenged the dismissal in court, had obtained a restraining order to hold the dismissal until the substantive lawsuit was decided, but nonetheless the court order had been disregarded by the State Government. The Kaduna State Government had also violated section 16(A) of the Trade Unions Act, which made it mandatory for employers to deduct and remit union members' dues to trade unions, not only by withholding seven months deductions to all the unions, but also by issuing a circular to stop deduction completely. All the affected trade unions had filed legal complaints against such actions of the State Government.

In Kogi State, the Government was refusing to abide by the collective agreement concerning the payment and protection of wages. Workers and pensioners were owed over seven months' salary and pension benefits, in spite of repeated genuine efforts by the federal Government to ameliorate the problem through the granting, three times, of financial bailout to all affected States. In July 2017, instead of negotiating with the teaching and non-teaching staff in the tertiary institutions, the Kogi State Government had proscribed and confiscated the assets of the affected unions, in violation of article 40 of the Nigerian Constitution. The NLC had officially reported such infractions to the Ministry of Labour, who had in turn invited the Kogi State Government to a mediation meeting which the latter did not attend. In November 2017, Abdulmumuni Yakubu Branch Chairman of the NASU had been violently murdered during the period his union was in a hard and difficult negotiation with the Kogi State Government. The non-respect for the provisions of the Convention impacted on people, households and their communities, as the State Government had failed to honour collective bargaining agreements, especially on salaries and wages.

He recalled that interference in collective bargaining in the private sector had been a cause of worry to the Committee of Experts since 2009, but there were still benchmarks for wages, since the Government's approval was required for any collective agreement before it became implementable, allegedly to ensure that there would be no "undue economic disruption". This contradicted Article 4 of the Convention. It was reported that the National

Minimum Wage Bill would not be finalized by September 2018, contrary to the agreement with the social partners. The Minister was thus unilaterally determining the negotiation outcome, in infraction to the Convention.

Discussions on the Collective Labour Relations Bill were ongoing for over ten years. The process had been very slow and delayed, which raised concerns as to the Government's intention. Against the advice of the Committee of Experts to bring labour laws into conformity with the Convention, the Government had been using the process to weaken and destroy trade unions. Indeed, the new version of the Collective Labour Relations Bill foresaw that if after two years of commencement of its application, the NLC had not amended its constitution to conform to it, the latter would stand proscribed. Such Bill was not a product of consultation, as it was largely different from the one the unions had made inputs to, and would have surreptitiously been passed into law, but for their vigilance and Parliament's due diligence. He concluded by asking the Committee to call on the Government to allow for genuine and good faith engineering of the intended labour law reforms and to ensure that the Government worked genuinely with the high-level mission that had been proposed on several occasions.

The Government member of Zimbabwe (Ms CHIVAKE) welcomed the information submitted by the Government, in particular in relation to the current review of the legislation on collective bargaining. It was encouraging that trade unions were now allowed to fully operate in the EPZs and were involved in the dispute resolution mechanisms. That was also a sign of progress and the result of an effort to meet the social partners' needs. All social partners were urged to show the same commitment in complying with the Convention. The ILO's technical support to the Government and its social partners was necessary to strengthen their tripartite structures.

An observer representing Public Services International (PSI) (Mr RUBIANO) pointed out that section 11 of the Trade Dispute Act prohibited workers in a number of sectors and state-run companies to organize and thus deprived them of the right to bargain

collectively. Moreover, the right of firefighters to organize was also denied pursuant to the Trade Unions (Prohibition) (Federal Fire Service) Order. In 2013, under the Universal Periodic Review, at its 17th Session, the Human Rights Council had also recommended to the Government to amend the Trade Unions Act in order to guarantee freedom of association and the effective recognition of the right of collective bargaining. He drew the Committee's attention to the fact that workers in the public sector, including in such critical sectors as health services, across more than half of the 36 States were currently owed monthly salaries for a period of between three and 18 months. While the Government had announced in October 2017 its intention to make another tranche of bailout funds available to address the situation, it appeared that the funds had not been yet secured. The lack of an appropriate system of social dialogue had made this problem even worse and the situation had led to unrest and protests in many sectors in those States. The Committee should request the Government to fully involve the unions in the legislative reform and to ensure that the bailout funds, once released, were fully disbursed for the payment of outstanding salaries to public sector workers, with no part thereof being diverted or otherwise appropriated by the State Governments.

Le membre gouvernemental de l'Algérie (M. MEKHAZNI) a exprimé son soutien au gouvernement du Nigéria et l'a encouragé à poursuivre les efforts déployés pour remplir les obligations découlant de la convention. Le gouvernement est conscient de ses obligations et a pris toutes les mesures nécessaires pour s'y conformer, tant sur le plan législatif que dans la pratique. Ainsi, par exemple, la protection des droits des travailleurs est-elle garantie dans les services essentiels par l'intermédiaire des comités consultatifs mixtes. Les informations fournies sur la négociation collective permettent à la commission de maintenir un lien avec la réalité. Il est en effet essentiel que la commission prenne en considération l'environnement socio-économique des Etats dans son évaluation de leur performance en vue de respecter la souveraineté nationale.

The Worker member of Eswatini (Mr DLAMINI), speaking also on behalf of trade unions in the Southern African Trade Union Coordinating Council (SATUCC), recalled the ILO definition of essential services. The Trade Disputes Act classified employees in the Customs and Excise Department, the Immigration Department, the Nigerian Security Printing and Minting Company Limited, the Prisons Services and the Central Bank of Nigeria as persons providing essential services who could not enjoy the right to organize. That list was familiar as it was similar to the list of essential services in the South African region. The basis for services to be qualified as essential was unclear. The list referred not only to services related to the safety and security of people, but also to workers engaged in currency printing and in fiscal and monetary management. Workers in charge of essential services made sacrifices for the economy and their communities. Their rights should not be stifled. Experience proved that when workers had an organized platform to express their grievances, industrial disharmony was substantially reduced. In October 2017, in Kaduna State and in January 2018 in Delta State, personnel of the police force had peacefully protested for the non-payment of two months' salary. If the personnel were allowed to organize, they certainly would have made use of their organization to negotiate and resolve the issue. To allow those workers to organize themselves into unions of their free choice was a right unambiguously provided for by the Convention. The Government should avail itself of ILO technical assistance to comprehensively reform the Trade Disputes Act with the genuine and full consultation and participation of the social partners.

The Government member of Libya (Mr TAMTAM) supported the statement made by the Government of Nigeria and indicated that Nigeria was in compliance with the Convention. The Constitution guaranteed the right to freedom of association without interference whatsoever by the Government. The willingness of the Government to ensure compliance with the Convention was also proved by the bills brought before Parliament. It was important to support the efforts made by the Government in collaboration with the social

partners and it was hoped that the Committee would consider those efforts when adopting its conclusions.

Le membre travailleur du Mali (M. KATILE) a exprimé sa solidarité avec la population du Nigéria et s'est référé au défi de l'insécurité liée à la présence de forces criminelles et extrémistes au Nigéria comme au Mali. Le fait que les travailleurs et les dirigeants syndicaux du Nigéria soient attaqués, intimidés, licenciés et même tués en raison de leur activité syndicale constitue une source de grave préoccupation. Il en est de même de l'absence d'enquêtes ou d'arrestations concluantes, de poursuites initiées ou de sanctions prononcées dans ces affaires. Tel est le cas du meurtre, en 2010, d'Alhaji Saula Saka, Président de la section locale du Syndicat national des travailleurs des transports routiers de Lagos, ainsi que de l'assassinat de Mallam Abdulmumuni Yakubu, président de l'Union syndicale non universitaire des sciences et technologies qui a trouvé la mort à la fin de l'année 2017 au moment où son syndicat était engagé dans une négociation difficile avec le gouvernement de l'Etat de Kogi. Il est inacceptable que ces deux meurtres n'aient pas été élucidés et que les coupables n'aient pas été traduits en justice. Cette impunité a des conséquences. Tout d'abord, l'intimidation, le harcèlement, les menaces et les décès font partie des outils que les autres partenaires sociaux utilisent pour interagir avec les travailleurs et leurs dirigeants. Ces pratiques ont pour but de faire peur aux syndicalistes, de les disperser, de nuire à leur volonté de jouir de leurs droits humains et d'autres libertés civiles nécessaires à leur organisation et à leur engagement dans les négociations collectives. Ensuite, l'impunité qui entoure ces actes odieux est érigée en règle et elle empêche toute responsabilité et équité. Elle doit par conséquent être combattue. En conclusion, le gouvernement doit être exhorté à prendre des mesures dissuasives pour mettre fin aux attaques subies par les travailleurs et les dirigeants syndicaux et à diligenter rapidement les enquêtes appropriées et initier les poursuites judiciaires concernant les affaires de meurtre. Enfin, il importe de créer un climat propice, et exempt d'intimidation, dans lequel les organisations syndicales pourront s'engager de manière constructive dans le dialogue social.

La membre gouvernementale du Cameroun (M^{me} ANGONEMANE MUONDO) a exprimé son soutien au gouvernement du Nigéria et l'a remercié pour les informations produites devant la commission. Des mesures ont été mises en place pour assurer une meilleure application de la convention, notamment à travers la préparation des textes de loi qui sont soumis au Parlement. Le gouvernement doit être encouragé à poursuivre sur cette voie, avec la nécessaire coopération technique du Bureau.

The Worker member of Ghana (Mr ANSAH) pointed out that the case was being discussed by the Committee not to shame the Government but rather in order to obtain additional information on the alleged violations of the Convention with a view to seek better implementation thereof. The reported infractions included threats, arrests, beatings and detention used as strategies to discourage and frighten workers and trade union leaders from organizing and pursuing collective bargaining. In April 2015, Aminu Kolawole, the chairperson of the Air Transport Services Senior Staff Association of Nigeria (ATSSSAN) and Lawson Imotto, the secretary, together with Chukwu Jude and Kingsley Ejiogu, the chairperson and the secretary of the National Union of Air Transport Employees (NUATE), were dismissed for organizing workers and demanding that the management enter into negotiation with the union. Lawson Imotto was arrested and taken to an unknown destination. In September 2015, over 700 workers were fired in one swoop in south-west Nigeria for having wanted to exercise their right to freedom of association. The workers had only found out about their dismissal when they had returned to work and found the gate locked with a notice of employment termination. The company in question had prevented workers from unionizing even after the intervention by the Ministry of Labour. The tactic of firing trade union leaders was a direct way of undermining the right to organize: “deal with the leader, and the members will flee”. The cases of four leaders, Akeem Ambali, the chairperson of the NLC in Ogun State (south-west Nigeria) and three other officers, Dare Ilekoia, Nola Balogun and Eniola Atiku, who in April 2017 had been suspended along with 15 others for demanding that the State Government respect the agreement it had reached

with the union on salary payment, was another case in point. While 15 of the 19 suspended workers had been reinstated, the leaders remained suspended indefinitely. Mr Joseph Ogunyemi, former chairperson of an automobile union, had demanded that working conditions be regulated through collective bargaining and had suffered a similar fate. The speaker called on the Committee to urge the Government to accept an ILO high-level mission to improve and advance Nigeria's industrial relations practice.

The Worker member of Norway (Ms MJØBERG), speaking on behalf of trade unions in the Nordic countries, recalled that since 2010, several serious allegations of violation of the Convention had been observed, including restrictions on the right to organize and the right to bargain collectively. The Trade Disputes Act denied the right to organize to certain categories of workers. The Decree on Export Processing Zones made it almost impossible for workers to form or join trade unions as these did not have free access to the EPZs, which operated as "protected territories". It appeared that article 40 of the Nigerian Constitution, which gave the right to freely assemble, associate and to form trade unions and other associations was not operational. As a result, a large number of workers were deprived of the right to collective bargaining. Every agreement on wages needed to be registered and approved by the Ministry of Labour. This did not contribute to free collective bargaining. She fully supported the recommendations of the Committee of Experts and urged the Government to ensure that the legislation be amended so as to ensure that workers could bargain collectively, and to step up social dialogue with workers and employers instead of limiting fundamental workers' rights.

An observer representing IndustriALL Global Union (Ms JUNQUERA) expressed concern at the reported anti-union activities of international oil companies operating in Nigeria which were preventing tens of thousands of contract workers from joining a union and defending their rights. The fragmentation of contracts to frustrate unionizing efforts was common and the practice of casualization and precarious working conditions were entrenched in the Nigerian oil industry. Workers were obliged to sign a pre-engagement

commitment not to become a union member. This made precarious workers dread association with the union. The companies refused to implement rulings of Industrial Arbitration Panels whenever they ruled against them and severed ties with a contracting company if the latter had unionized workers. Denied collective bargaining powers, contract workers endured poverty wages, dire health and safety conditions, and absence of job security and labour rights. This had led to social deprivation and an upsurge in crime and defiant behaviour. The repressive anti-labour activities of oil and gas companies had accentuated the social upheavals in the Niger Delta region, resulting in revolts in the form of organized attacks on installations, hostage taking and community insurgence. She called on the Government to ensure that all workers at international oil companies had the right to organize.

The Government representative took note of the discussions and reiterated the Government's full commitment to the application of the Convention. As stated by the Worker member of Nigeria, the country operated a very complex social and economic structure, with a Federal State and 36 State Governments. She clarified that the infringements under examination had been made by State Governments and not by the federal Government and that the latter had no control whatsoever over the autonomous State Governments. The federal Government had the constitutional responsibility to administer labour issues. When infractions by a State Government were brought to its attention, the federal Government did not fail to invite the parties to solve the issues. That had also occurred in relation to the case of Kogi State mentioned above. It was important to note that the transactions related to the case had lasted approximately seven months and the State Governor had engaged with the social partners but no agreement had been reached. The Ministry of Labour was still engaging with Kogi State Governor to find a solution. With regard to the decision of the State Governor of Kaduna State to terminate 21,000 teachers in public primary schools, it was important to clarify that many of those teachers had been appointed fraudulently and were not qualified for their work. Before reaching that decision, the State Governor had

engaged with the national union of teachers for a period for two years to solve the issue. That dismissal had been the result of an investigation and only teachers that had fraudulent documents had been dismissed. She requested the Committee to take that information into account when preparing the conclusions. In relation to salaries, most cases of non-payment of wages affected State Governments, therefore the federal Government was not involved. On the contrary, the federal Government had released 1.8 trillion naira to State Governments for solving the issue of wage arrears. However, some State Governments had not prioritized that issue. The federal Government had therefore engaged with the social partners concerned to ensure that resources were used for the purpose for which they were allocated. With regard to the assassination of trade union leaders, the speaker indicated that the statements made during the present discussion were ungrounded. The issue of security was prominent in Nigeria and episodes of murders did not only concern trade unionists. Investigations were being carried out and the cases were before national courts awaiting decisions. The Government committed to provide further information on the outcome once the decisions became available. With regard to the Collective Labour Relations and other Bills, there had been progress but, based on the comments of the Committee of Experts and the Conference Committee, the Government had recalled the bills to improve their content and bring them into conformity with international labour standards. It was also important to underline that the Government carried out consultations with the social partners concerned with a view to reform legislation and ensure its conformity with international labour standards and with Convention No. 98 in particular.

The Worker members, while welcoming the Government's stated intention to comply with the obligations under the Convention, expressed disappointment at the attitude of denial that serious problems with regard to trade union rights existed in the country. Noting the Government's explanation on the separation of powers between the federal and State Governments, they recalled that when a member State ratified a Convention, it was the responsibility of the federal Government to ensure compliance therewith. The Worker

members expressed their serious and grave concerns about the gradual and systematic erosion of collective bargaining rights in Nigeria as well as the failure of the Government to submit its reports in response to the observations of the Committee of Experts. They further regretted that legal gaps and disregard for collective bargaining rights had resulted in systematic and repeated anti-union discrimination. The Worker members expressed concern at the harassment, intimidation and anti-union discrimination of workers who had expressed the desire to join a union and to bargain collectively in the private sector, including in the telecommunications, and oil and gas sectors. They were equally concerned about the denial of the right to organize to some public sector workers, including those engaged in the EPZs, customs, and the Central Bank of Nigeria. To address the growing impunity, the Government should investigate the killings of trade unionists, arrest and prosecute the perpetrators. The Government must reform the labour governance mechanisms to ensure effective supervision and regular inspections backed by an efficient labour market information system for monitoring and evaluating compliance with the Convention. The Government should also build the capacity of labour inspectors and administrators, the police and law enforcement authorities and provide them with adequate resources and training to deliver on their mandate. The Government must, in consultation with social partners, amend relevant laws, including the Trade Unions Act, the Wages Board and Industrial Council Act, the Decree on Export Processing Zones and the Collective Labour Relations Bill. In order to effectively address these concerns and engage in the necessary reforms, the Worker members urged the Government to accept an ILO direct contacts mission and avail itself of ILO technical assistance.

The Employer members considered that the Government was acting in good faith and had responded with clear arguments to the numerous allegations made against it. Nigeria continued to comply with the Convention. The Employer members expressed their condolences to the Worker members and to the families of murdered trade unionists. The respective cases had already been submitted to the competent courts and were awaiting

decisions. It was important to underline that Nigeria operated in a complex government system and that the Convention left it to national law to determine which categories of employees could be excluded from its application. Consultations were still taking place on the adoption of the Collective Labour Relations Bill. The Government should be encouraged to fast track the process and to avail itself of ILO technical assistance with a view to addressing the issues raised. In relation to EPZs, taking note of the fact that certain employers did not have unions in place, the Government needed to support those employers in allowing unionization in those areas, as employers were also subject to the principles of freedom of association and collective bargaining.

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