

Committee on the Application of Standards

C.App./PV.18

Commission de l'application des normes

13.06.17

Comisión de Aplicación de Normas

106th Session, Geneva, June 2017

106^e session, Genève, juin 2017

106.^a reunión, Ginebra, junio de 2017

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17th sitting, 13 June 2017, 10.15 a.m.

17^e séance, 13 juin 2017, 10 h 15

17.^a sesión, 13 de junio de 2017, 10.15 horas

Chairperson: Mr Washington González

Président: M. Washington González

Presidente: Sr. Washington González

Work of the Committee

PVs 10, 11 and 12 were adopted as amended.

Travaux de la commission

Les PV 10, 11 et 12 ont été adoptés tel qu'amendés.

Trabajos de la Comisión

Las actas 10, 11 y 12 fueron adoptadas con las enmiendas correspondientes.

Discussion of individual cases (*cont.*)
Discussion sur les cas individuels (*suite*)
Discusión sobre los casos individuales (*cont.*)

Bahrain (ratification: 2000)

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)

A Government representative (Mr ALSHAMI) stressed the Government's keenness to positively interact with all comments and its commitment to the application of international labour standards. The Constitution of Bahrain stated, in its article 18, that people were equal in human dignity and equal in rights and duties to the law, without distinction as to race, origin or language, religion or creed. From this point of view, the legislator had been keen to define the rights and duties of all individuals governed by the laws without any discrimination. For example, the Labour Law in the Private Sector No. 36 of 2012 regulated the relationship between employers and workers in general and did not distinguish between a national and a migrant worker or between men and women. It was also expressly prohibited for employers to discriminate with regard to wages for reasons of gender, origin, language, religion or creed.

Bahrain had a distinct system for managing the labour market and regulating the relationship between employers and workers, based on partnership and transparency with the parties of production, and had taken the following pioneering initiatives in the region to promote the rights of workers according to international labour standards: (i) the right of an expatriate worker to move from one employer to another without the consent of the employer; (ii) the introduction of a flexible work permit system, which allowed any expatriate worker working in an unfair situation to apply independently for a personal permit to work without being associated with an employer, in accordance with the established regulations, thus avoiding any exploitation and guaranteeing access to all aspects of legal care and protection; (iii) the introduction of a national referral system to combat trafficking in persons, which ensured monitoring of any case or complaint relating to trafficking in

persons, as well as providing support to the victims and safeguarding their legitimate rights; (iv) the right of all workers to benefit from the system of insurance against unemployment without distinction between their categories or nationalities; (v) recognition of the right of representation for all workers in trade unions regardless of their nationality, the right to strike to defend their legitimate interests, full-time trade union activities and the protection of trade unionists from dismissal because of their trade union activity; (vi) application to domestic work of the basic provisions of the Labour Law concerning labour contracts, protection of wages, annual leave, end of service indemnity and exemption from litigation fees for domestic workers; and (vii) implementation of the Decent Work Agenda in cooperation with the ILO.

Many international reports had praised Bahrain's pioneering steps in terms of labour market regulation, and labour-exporting countries had expressed recognition during official meetings for the care and protection enjoyed by expatriate workers in the Bahraini labour market. The speaker pointed out that the comments of the Committee of Experts did not address the existence of serious violations or breaches but were limited to some formal points, which did not conflict with the existing trends and policies in the country. The comments concerned the lack of a comprehensive definition of discrimination in the Labour Law and the Legislative Decree No. 48 of 2010 regarding the civil service, the lack of a definition of sexual harassment at work in the Labour Law, and the need for procedures to protect expatriate workers.

With regard to the Committee of Experts' comments on the lack of a comprehensive definition of all forms of discrimination in line with the Convention, the speaker stressed that actual violations had not been monitored. However, the Government was ready to cooperate with the ILO and examine the possibility of developing a comprehensive definition of discrimination in these two laws in the light of international labour standards in accordance with specific constitutional and legislative mechanisms and procedures. All national laws were in conformity with the Convention. Section 39 of the Labour Law was

very explicit and clear in the definition and prohibition of discrimination. Section 168 of that law as well as Act No. 17 of 2007 on vocational training did not differentiate between workers in determining obligations of the employer regarding vocational training. There were a number of mechanisms available to workers in the private sector to submit complaints in accordance with the protection of their interests and their rights to work, such as the mechanism for settling individual and collective disputes in the Labour Law. The worker was entitled to file an administrative complaint alleging discrimination or to resort to the judiciary. As for public sector employees, the law required the formation of an internal committee in all government agencies to handle complaints filed by employees subject to the civil service law. If they were not settled, the civil servant could file a complaint with the Civil Service Bureau about any measure taken by the employer and had the right to appeal the decision to the courts.

Secondly, regarding the Committee of Experts' comments on the need to legally prohibit sexual harassment at work and to provide for remedies and deterrent sanctions, the Government representative indicated that sections 81 and 107 of the Labour Law and paragraph 33 of the Schedule of the Violations and Penalties in the Legislative Decree regarding the civil service, laid down the penalty of dismissal if a worker or employee violated public morals or honour. The Supreme Council for Women (SCW) monitored any violation of women's rights. There had been no monitoring of cases of sexual harassment in the workplace, and he believed that the Worker and Employer members of Bahrain shared this position. Should the Organization or any other party have information on any such case, the Government was fully prepared to study and respond to it firmly.

Thirdly, with regard to the Committee of Experts' comments concerning the protection of migrant workers, the speaker stated that national labour legislation provided legal protection in terms of regulating labour relations in line with international labour standards. The Ministry of Labour and Social Development and the Labour Market Regulatory Authority (LMRA) did not tolerate any practices of exploitation of migrant workers in the

labour market. Many support services had been put in place for migrant workers in the event of abusive practices by employers, such as mechanisms for submitting individual complaints to the Ministry of Labour for the purpose of amicable settlement and direct call centres in the LMRA, which operated in several languages and could inform the worker about the work permit status via various electronic means so as to ensure employers' compliance with their licences. At the same time, expatriate workers had the right to asylum. The Government had issued awareness publications in 14 different languages to be distributed to expatriate workers prior to their arrival and had established a special unit, the first in the region, to support and protect expatriate workers, which operated in seven languages and included a shelter centre that provided integrated services for migrant workers who were victims of exploitation by employers. The concerned bodies were also in contact with foreign embassies to resolve any outstanding problems and help them to correct the situation of expatriate workers. A grace period had been implemented in 2016, during which the Government had allowed expatriate workers to correct their legal status before the competent authorities.

Regarding the freedom of movement of expatriate workers, the Government representative indicated that the freedom of movement regime had been in place in Bahrain since 2009. Between 2015 and 2016, approximately 60,000 migrant workers had moved from one employer to another. Section 25 of the LMRA Law No. 19 of 2006 and Ministerial Decision No. 79 of 2008 regarding the procedures for the transfer of foreign workers to another employer were explicit and clear in this matter. Workers had the right to move from one employer to another without obtaining the employer's consent, while complying with the conditions and periods stipulated in the Ministerial Decision. The addition by the employer of a clause in the employment contract prohibiting the worker's transfer before a certain period of time, did not nullify the right of the worker to move to another employer. Rather, the procedure required the observance of such period and the employer who claimed

to be harmed could resort to the judiciary as a result of the worker's non-compliance with the contract of employment. However, no such cases had been registered at present.

The speaker recalled that the Governing Body had decided in March 2014 to close the complaint procedure under article 26 of the ILO Constitution, in view of the historical consensus of the tripartite partners who had signed the Supplementary Tripartite Agreement of 2014 under the auspices of the ILO, in particular with respect to financial settlements for the remaining cases of dismissals, and insurance coverage for the period of interruption. He expressed his Government's appreciation for the role played by the Organization in the signing of the two tripartite agreements. The Government, via the national tripartite committee, which included representatives of the Bahrain Chamber of Commerce and Industry (BCCI) and the General Federation of Bahrain Trade Unions (GFBTU), had made every effort to settle 98 per cent of the cases, by reinstating the dismissed workers to their jobs in the public and private sectors while preserving all their rights and pension benefits. One hundred and fifty-six of 165 unemployed persons on the list annexed to the Supplementary Tripartite Agreement of 2014 had been reinstated in their former or similar jobs or sometimes paid financial compensation. As for the few remaining cases, the national tripartite committee had found that they were either cases of dismissal unrelated to the events of February and March 2011 or that the workers had been convicted on criminal charges unrelated to work. Lastly, it was ensured that no worker would be harmed because of the interruption of payment of insurance contributions, in accordance with the 2014 Supplementary Agreement. The majority of large companies, at their own initiative, had generously covered all insurance contributions during the period of absence from work.

The Employer members recalled that the Government had ratified this fundamental Convention in 2000 and that the Committee of Experts had presented four observations on this case in 2008, 2009, 2012 and 2016. In June 2011, a complaint had been filed under article 26 of the ILO Constitution by some Workers' delegates at the Conference concerning the non-observance by Bahrain of the Convention. According to the allegations, in February

2011, suspensions and various forms of sanctions had been imposed on workers and trade union members, as a result of peaceful demonstrations demanding economic and social changes. The complaint alleged that the dismissals had taken place on grounds of workers' political opinion.

Subsequently, a Tripartite Agreement and a Supplementary Tripartite Agreement had been signed in 2012 and 2014, respectively, by the Government, the GFBTU and the BCCI. At its 320th Session (March 2014), the Governing Body had invited the Committee of Experts to examine the application of the Convention by the Government, and to follow up on the implementation of the reached agreements. According to the Tripartite Agreement of 2012, the national tripartite committee that had been put in place to examine the situation of the dismissed workers, should continue its work. Under the Supplementary Tripartite Agreement of 2014, the Government, the GFBTU and the BCCI had agreed to: (i) refer to a tripartite committee those cases that had not been settled which related to financial claims or compensation and, in the absence of consensus, refer to the judiciary; (ii) ensure social insurance coverage for the period of interrupted services; and (iii) reinstate the 165 dismissed workers back to the public service sector, to major corporations owned by the Government and to a select list of private companies. The Government had not furnished any information to the Committee of Experts in respect of measures taken to implement the reached agreements. In this regard, the Employer members, having noted the information provided, urged the Government to report to the Committee of Experts on the specific measures taken to implement the Tripartite Agreement of 2012 and the Supplementary Tripartite Agreement of 2014 to ensure the application of the Convention.

Furthermore, they referred to the comments of the Committee of Experts concerning the absence in national law of a definition of discrimination enumerating all prohibited grounds listed in the Convention, the limited protection against discrimination granted by the Labour Law, and the lack of a prohibition of discrimination in the Legislative Decree regarding the civil service. The Employer members, welcoming the commitment expressed

by the Government in this regard and encouraging collaboration with the ILO, urged the Government to draft, with technical assistance from the Office, a definition of discrimination in line with the prohibited grounds set out in the Convention. They also encouraged the Government to ensure the inclusion of a prohibition of discrimination in the Legislative Decree regarding the civil service, and to ensure the protection of equality of opportunity and treatment in employment. Welcoming the indication that existing legislation prohibited all forms of discrimination, they requested the Government to provide copies of the relevant laws and regulations.

With reference to the comments of the Committee of Experts concerning the absence of a legal definition and prohibition of sexual harassment, the Employer members noted the Government's indication that sections 81 and 107 of the Labour Law and paragraph 33 of the Schedule of the Violations and Penalties in the Legislative Decree regarding the civil service penalized sexual harassment with dismissal, and that the issue was being monitored by the SCW. Emphasizing that the Convention prohibited discrimination based on sex and that national legislation should therefore prohibit sexual harassment at the workplace, the Employer members urged the Government to provide additional information in this regard, in particular on the operation of the mentioned provisions in practice, the manner of presenting complaints, and the monitoring by the SCW.

As regards the comments of the Committee of Experts concerning protection of migrant workers, such as domestic workers, against discrimination in employment, the Government had referred to measures taken in relation to mobility and trafficking of migrant workers and freedom of association. They encouraged the Government to provide additional information, more responsive to the Committee of Experts' comments, as to how migrant workers were protected against discrimination in employment in line with the Convention. The Employer members encouraged the Government to engage with the ILO to work towards full compliance with the Convention.

Les membres travailleurs ont observé que certains commentaires de la commission d'experts concernant l'application de cette convention fondamentale portant sur la discrimination étaient particulièrement préoccupants. Ils ont souligné que les différences de traitement injustifiées sous-entendent que tous les êtres humains ne sont pas égaux, ce qui porte directement atteinte à la dignité. Comme toutes les sociétés sont confrontées à la discrimination, il est essentiel de mettre en œuvre, partout dans le monde, les dispositifs nécessaires à son élimination, comme le requiert la convention.

En février 2011, le pays a connu des manifestations réclamant des changements économiques et sociaux dans le contexte du «Printemps arabe». Il ressort d'une plainte déposée à la 100^e session de la Conférence internationale du Travail, en juin 2011, que des suspensions et des sanctions ont été infligées à des personnes ayant participé à ces mouvements. En 2012 et 2014, ont été respectivement conclus un accord tripartite et un accord tripartite complémentaire instituant un comité tripartite qui avait notamment pour objectifs: i) de réintégrer les travailleurs licenciés; ii) de statuer sur les indemnités financières en suspens; et iii) d'assurer une couverture en matière de sécurité sociale pendant la période d'interruption de service. Il convient de rappeler que la liberté d'expression est indispensable pour maintenir la vitalité de la société et la réalisation du progrès humain. Par conséquent, personne ne peut être discriminé ni subir un traitement défavorable uniquement en raison de son opinion politique, a fortiori lorsque cette opinion est contraire à l'opinion dominante. La constitution du comité tripartite témoignait d'une volonté partagée par les différentes parties prenantes de trouver une solution acceptable par tous. Malheureusement, le gouvernement n'a communiqué aucune information sur la mise en œuvre concrète de ces accords. Ces informations doivent être fournies, et les accords doivent être intégralement exécutés. Pour éviter qu'une telle situation ne se reproduise, des mesures législatives, telles que l'inclusion de l'opinion politique dans la liste des motifs de discrimination interdits, doivent être adoptées.

En qui concerne la législation nationale, il est essentiel qu'elle définisse précisément la notion de discrimination, qu'elle énonce l'ensemble des motifs interdits, qu'elle couvre tous les secteurs de l'économie et toutes les catégories de travailleurs – y compris les travailleurs agricoles et les travailleurs domestiques – et qu'elle interdise expressément la discrimination directe et la discrimination indirecte, dans tous les aspects de l'emploi et de la profession, y compris l'accès à la formation professionnelle et les conditions d'emploi. La législation actuelle est insuffisante au regard des dispositions de la convention pour lutter efficacement contre toutes les formes de discrimination. En outre, aucune information n'a été communiquée sur la manière dont le gouvernement assure une protection adéquate des travailleurs contre la discrimination, notamment via l'inspection du travail ou les tribunaux (nombre de cas traités, sanctions prononcées, etc.). Il convient aussi de remarquer que des secteurs entiers, comme l'éducation, font l'objet d'un traitement distinct et se voient privés des libertés les plus essentielles telles que la liberté syndicale.

S'agissant du harcèlement sexuel, les membres travailleurs ont souligné qu'il s'agit d'une forme de discrimination particulièrement grave mettant en cause l'intégrité et le bien-être des travailleurs et que les moyens qui lui sont consacrés doivent être à la hauteur du problème. Le gouvernement renvoie aux dispositions du Code pénal. Or, comme le souligne la commission d'experts, les poursuites pénales ne suffisent pas pour éliminer le harcèlement sexuel. Il doit être expressément interdit par la législation sociale qui doit prévoir des sanctions dissuasives et des compensations adéquates.

Les travailleurs migrants représentent 77 pour cent de la main-d'œuvre du pays et sont dans une situation particulièrement vulnérable, ce qui implique qu'il est primordial qu'ils puissent bénéficier d'une protection contre la discrimination fondée sur les motifs énumérés par la convention. Il convient de saluer les efforts accomplis par le gouvernement concernant le droit désormais reconnu à ces travailleurs de changer d'employeur sans obtenir l'autorisation préalable de leur précédent employeur, ainsi que la possibilité d'introduire des recours individuels sans avoir à supporter les frais de justice. Toutefois, il serait souhaitable

de faire en sorte que les règles adoptées à cette fin n'aient pas pour effet d'accroître leur dépendance vis-à-vis de l'employeur en leur imposant des conditions et des restrictions supplémentaires. Le gouvernement doit également communiquer des informations sur les points suivants: i) les activités de l'Autorité de régulation du marché du travail concernant les demandes de transferts, selon le sexe, la profession et le pays d'origine des travailleurs, ainsi que les cas de refus et les motifs invoqués; et ii) les mesures de sensibilisation des travailleurs migrants quant aux mécanismes leur permettant de faire valoir leurs droits.

Se référant à la demande directe de la commission d'experts, les membres travailleurs ont également insisté sur la question de l'égalité des chances entre hommes et femmes, notamment sur l'interdiction faite aux femmes par la législation d'accéder à certaines professions. Ces interdictions vont au-delà de ce qui est nécessaire pour protéger la maternité. Par ailleurs, certaines actions menées par le Conseil suprême aux affaires féminines mentionnées dans le rapport du gouvernement, telles que l'adoption du Plan national pour la promotion des femmes, doivent être saluées alors que d'autres continuent à véhiculer stéréotypes et préjugés sur les aspirations et aptitudes professionnelles des femmes. Tout en se déclarant conscients des liens étroits entre la situation actuelle et des raisons historiques et sociales qu'il n'est pas aisé de modifier, les membres travailleurs ont souligné que seule une action politique volontariste et déterminée, comportant des choix forts, peut permettre de modifier profondément les structures actuelles. Ils ont également invité le gouvernement à prendre les mesures nécessaires pour élaborer un plan national visant à éliminer la discrimination fondée sur la race, la couleur, la religion, l'opinion politique, l'ascendance nationale et l'origine sociale tel que prévu par la convention.

Les membres travailleurs ont souligné le rôle de pionnier que le Bahreïn a souvent joué dans la région, notamment en ce qui concerne les programmes nationaux du travail décent ou la sortie progressive du système de *kafala*. Afin de poursuivre la marche vers davantage de respect des droits humains et de justice sociale, ces acquis doivent être maintenus et

renforcés, et les efforts nécessaires pour mettre en œuvre la convention doivent être accomplis.

The Employer member of Bahrain (Mr ALSHEMERI) referred to the Government's keenness to launch continuous initiatives to protect and guarantee the right of workers to enjoy an appropriate healthy environment, access to justice and equal treatment, regardless of nationality or category. He commended the valuable cooperation between the Government and the social partners to give concrete expression to the principles of labour market transparency and the migrant workers' freedom to change employers. A new flexible work permit system had been established, allowing migrant workers to obtain work permits on an individual and direct basis without being linked to an employer, as well as to have access to employment insurance without discrimination based on nationality. Migrant workers' freedom to join unions was also guaranteed by the said system. Moreover, domestic workers were now covered by the Labour Law's basic provisions, including by the principles concerning labour contracts, protection of wages and annual leave.

The BCCI, in its capacity as a party to the Tripartite Agreement of 2012 and the Supplementary Tripartite Agreement of 2014, had followed all developments and progress made in implementing the agreements, such as the reinstatement of 98 per cent of the dismissed workers. The speaker welcomed the efforts made by the ILO and its Governing Body in supporting the implementation of the agreements and the cooperation between the social partners. The involvement of Bahrain's employers in the efforts made with a view to reinstating the dismissed workers was commendable. Employers had covered insurance premiums during the unemployment period, an initiative beyond the letter of the above-referred Agreements. The national employer representatives, through their intensive meetings and constructive dialogue in the national tripartite committee formed to follow up the implementation of these agreements, had contributed to overcoming the difficulties generated by the settlement of all the dismissal cases which occurred in 2011. There had been no accounts of discrimination against workers returning to their jobs.

As concerns the Committee of Experts' observations on the issue of migrant workers, he emphasized the absence of cases of discrimination among workers of different nationalities or categories. The private sector had succeeded in achieving rapid growth by providing jobs for migrant workers with stable working conditions and without discrimination. As for sexual harassment at the workplace, the existing legal instruments addressing this issue were sufficient to provide protection to any individual. The BCCI had committed itself to allowing migrant workers to move freely from one employer to another, in accordance with existing law.

The speaker encouraged the Government and the national workers' representatives to continue holding fruitful tripartite meetings, which would bring about further initiatives and actions promoting decent work opportunities, achieving equality and combatting discrimination in accordance with national legislation and international labour standards. He welcomed the resumption of development cooperation programmes between the Government and other stakeholders.

The Worker member of Bahrain (Mr SHEHAB) underlined the importance of social dialogue. The collaboration between the GFBTU and the International Trade Union Confederation (ITUC) had been crucial to defend the rights of workers and showed that the ILO was the best agency to promote social justice and achieve equality of workers in Bahrain. The efforts of the Director-General of the ILO, who had reaffirmed the right of workers to proper representation, were highly commended. With regard to discrimination, five elements were to be highlighted.

First, a project initiated in 2009 that planned the reinstatement of university graduates, had been interrupted in 2011, following the undue dismissal of dozens of employees. Second, the Government had been facing obstacles to the implementation of the Tripartite Agreement of 2012 and the Supplementary Tripartite Agreement of 2014, on the basis of which the complaint filed in 2011 under article 26 of the ILO Constitution had been withdrawn. On 28 May 2017, after two years of hiatus, and following repeated calls of the

GFBTU, the national tripartite committee established to implement the Tripartite Agreements at the national level had been restored. Third, workers in the public sector were facing instances of discrimination. A Government Decree of 2002 was still in force, despite the repeated calls for its repeal. It deprived thousands of employees from the public sector of their right to organize. Fourth, since the complaint filed in 2011, the Government had dissolved free trade unions and had imposed parallel trade unions at the local and international levels. The GFBTU had been hindered from meeting with international experts when meetings were planned internationally. For instance, the Government had attempted to modify the composition of the delegation of Bahrain to the International Labour Conference. Despite the supervision of the ILO, many programmes had been impeded. The Decent Work Programme in Bahrain had been frozen. Fifth, the GFBTU had called for the rectification of the imbalanced labour market and the implementation of the 2012 and 2014 Tripartite Agreements. Legislation that protected against discrimination based on gender and nationality was welcomed as it upheld the rights of workers, especially migrant workers. In the food industry, there had been cases of girls forced to engage in prostitution and cases where the workers were paid only in food.

The speaker expressed doubts as regards the possibility for migrant workers to file a complaint and denounced the absence of appropriate legislation, and the lack of implementation of the Tripartite Agreement of 2012 and the Supplementary Tripartite Agreement of 2014. The Government was called upon once again to implement the agreements. The Government had delayed this implementation, despite the supervision of the ILO. The decision adopted by the Ministry of Labour providing for the reinstatement of workers had still not been applied. The representatives of the GFBTU were not allowed to participate in meetings at the ILO Office in Beirut, in addition to banning workers from organizing at their workplace, which led to further deprivation of their rights.

The Government member of Malta (Mr MARSH), speaking on behalf of the European Union (EU) and its Member States, as well as Albania, Bosnia Herzegovina,

Montenegro, Norway and Serbia recalled the engagement of the EU in promoting the universal ratification and implementation of the ILO fundamental Conventions, as part of its Strategic Framework on Human Rights and Democracy. The case had already been discussed by the Governing Body of the ILO, following a complaint filed by Workers' delegates under article 26 of the ILO Constitution. Pursuant to the allegations presented in the complaint, suspensions and other sanctions had been imposed on trade union leaders and members, in retaliation for the peaceful demonstrations of February 2011 that had called for economic and social changes. In March 2012, a Tripartite Agreement had been reached under the auspices of the ILO and a national tripartite committee had been created. Updated information had to be provided regarding the settlement of the cases covered by the tripartite agreement, in particular in relation to the reinstatements and financial compensation of the workers that had been dismissed. Moreover, the Labour Law did not cover domestic workers and similar jobs, which were mainly held by migrant workers. The same law did not provide a clear and comprehensive definition of discrimination in employment and occupation. The Government was urged, in line with the observation of the Committee of Experts, to include a definition of discrimination covering all workers in all aspects of employment and prohibiting both direct and indirect discrimination, on the basis of all the grounds covered by the Convention. Civil servants also had to be protected against discrimination, including through the amendment of the Legislative Decree regarding the civil service. Furthermore, migrant workers were particularly exposed to discrimination in employment and occupation, and within this specific group, domestic workers, mostly women, were especially vulnerable. As domestic work was often viewed as a private matter, there were no precise legislative and administrative provisions regulating the relationship between domestic workers and their employers, which exposed them to abuses. The Government was urged to continue its efforts to raise awareness, and to take additional measures to protect migrant workers and ensure their access to complaint mechanisms. The speaker noted with strong interest the process initiated by the Government with a view to abolishing the *kafala* system. The Government was called upon to ensure that any regulation of the right of migrant

workers to change employer did not impose conditions or limitations that would increase the migrants' dependency on their employers. Lastly, although prohibited in the Penal Code, sexual harassment in the workplace was not regulated under the Labour Law. Given the sensitivity of the issue, the higher burden of proof and the limited range of behaviours covered by the Penal Code, the Government was called upon to include additional provisions in the labour or civil law, to prevent sexual harassment in the workplace, provide remedies to victims and establish dissuasive sanctions for perpetrators.

The Government member of Kuwait (Mr AL-ALI), speaking on behalf of the Gulf Cooperation Council (GCC), noted his appreciation for the efforts of the Government to guarantee the rights of workers regardless of their category or nationality, and to create an environment of justice and equality, free of discrimination. He welcomed the practical initiatives launched by the Government in collaboration with the other partners of production, such as: the labour market management system in cooperation with social partners; the conditions allowing migrant workers to freely change employers and allowing those subject to exploitation or unfair working conditions to obtain work permits without ties to a specific employer; the inclusion of all workers in insurance plans against unemployment, without discrimination on the basis of nationality; the freedom to join trade unions guaranteed by law to all without discrimination; the inclusion of domestic workers' working conditions in the Labour Law; and the other achievements praised in the report of the Committee of Experts. The speaker also expressed appreciation for the efforts made by the Government to settle the files of the persons dismissed in February and March 2011, its commitment to implementing the Tripartite Agreements of 2012 and 2014, and the reinstatement of the dismissed workers with the support of the social partners. In addition to this remarkable achievement, and as a result of fruitful social dialogue and of the Supplementary Tripartite Agreement of 2014, the continuation of pension rights and the obligations of companies to pay for employees' premiums throughout the dismissal period had been secured. The Government had undertaken several initiatives to protect migrant

workers, such as ensuring access to complaint mechanisms and to the judiciary without fee, and providing protection in the private sector under the Labour Law. On behalf of the GCC, the speaker welcomed these efforts to combat discrimination, achieve equality and justice for workers, and regulate the labour market, and trusted that this progress would continue. Reaffirming support for continued tripartite dialogue and initiatives promoting decent work opportunities, equality and non-discrimination in accordance with national legislation and international labour standards, he called upon the ILO to intensify its development cooperation programmes and thereby contribute to strengthening the commitment of GCC member States to the application of international labour standards.

The Employer member of the United Arab Emirates (Mr ALMULLA) noted with great satisfaction the steps taken by the Government in protecting workers and providing them with decent working conditions. The measures adopted by the Government to implement the Convention included the enactment of the Labour Law. The provisions on the relationship between employers and workers did not distinguish between a national and a migrant worker or between men and women, and prohibited discrimination in regard to wages. Furthermore, all workers benefited from the system of insurance against unemployment, without discrimination on account of nationality. The Government had also created a number of complaint mechanisms, available to workers in the private and public sectors.

With regard to sexual harassment, section 107 of the Labour Law provided for the dismissal of workers or employees who violated public morals. This legislation afforded protection against sexual harassment, by word or deed. Turning to the protection of migrant workers, the Government had created a special unit, the first in the region, to support and protect migrant workers according to international standards. The unit included a shelter centre, where integrated services were provided to migrant workers who had been victims of abuse. On the implementation of the Tripartite Agreement of 2012 and the Supplementary Tripartite Agreement of 2014, the Government had, according to its indications, succeeded

in settling more than 98 per cent of the cases of dismissals in the aftermath of the events of February and March 2011. Moreover, the Government had ensured the reinstatement of the workers concerned without prejudice to their acquired rights and pension benefits, and most major companies had voluntarily covered all insurance contributions during the period of absence from work. This initiative had benefitted the workers and had contributed to the rebuilding of trust between workers and employers.

The speaker concluded that these steps reflected the genuine will of the Government to establish a working environment that protected the dignity of workers and enabled employers to cooperate with all parties. The measures adopted to combat discrimination evidenced the efforts undertaken by the Government to offer to migrant workers working conditions equal to the ones of nationals. The Committee of Experts was called upon to acknowledge the Government's progress in the implementation of the Tripartite Agreement of 2012 and the Supplementary Tripartite Agreement of 2014, as well as the prohibition of discrimination in employment and occupation in the country.

The Worker member of Norway (Ms MJØBERG), speaking on behalf of the trade unions of the Nordic countries, was pleased to note that that the delegation from the GFBTU had arrived in Geneva, following the lifting of its travel ban. Seventy per cent of the workforce of Bahrain was composed of migrant workers, who were exploited and deprived of their main economic and social rights. As underlined by the Committee of Experts, the Labour Law excluded domestic workers from the scope of the non-discrimination provisions. This was not acceptable and made domestic workers even more vulnerable to exploitation. She deplored the remaining limitations on the possibility for migrant workers to change employers. The very low number of requests for transfers of employers accepted by the LMRA shared by the Government was concerning. Thousands of workers had not been paid salaries for many months, a situation that had deeply affected the workers concerned and their families abroad, waiting for remittances. The previous year, thousands of migrant workers had engaged in a strike over non-payment of their salaries, and more

recently, large numbers of construction workers had protested over unpaid wages. According to the GFBTU, there was no major progress on the issue of wage arrears. The Migrant Workers Protection Society (MWPS), had been supplying food and emergency kits to the affected workers living in labour camps. The speaker fully supported the recommendations of the Committee of Experts and urged the Government to take urgent action to ensure the payment of wages. In the absence of effective measures of protection against discrimination, including access to remedies, Bahrain's labour legislation had to ensure the legal protection of all workers, and in particular of migrant workers. The Government should exert pressure on companies to ensure their compliance with the legislation in force to protect the rights of all workers. The Government was urged to implement the Tripartite Agreement of 2012, as well as the Supplementary Tripartite Agreement of 2014, and to reinstate the workers dismissed during the peaceful demonstrations.

The Government member of Egypt (Mr NAZMY) appreciated the steps taken by the Government, notably the enacted legislation, the measures adopted concerning sexual harassment, such as the establishment of the SCW, and the measures taken to ensure the protection of migrant workers against discrimination in employment. He encouraged the Government to undertake more efforts to ensure compliance with the Convention and make use of the technical assistance of the Office in this regard

Le membre travailleur de la Tunisie (M. HFAIEDH) a déclaré qu'il partageait l'opinion des membres travailleurs et du membre travailleur du Bahreïn en ce qui concerne les violations de la convention. En l'absence de législation nationale appropriée, la ratification de la convention par le Bahreïn n'a aucune valeur. Les lois visant à mettre en œuvre la convention dans la pratique ne répondent pas aux exigences de la convention. Sur le terrain, des travailleurs sont discriminés en raison de leur nationalité, de leur sexe, de leur appartenance religieuse, de leurs opinions, de leur statut dans le pays ou de leurs rapports avec le pouvoir en place. Les travailleurs étrangers et les femmes sont victimes de discrimination. Les travailleurs paient au prix fort la chute des prix du pétrole qui a entraîné

une augmentation des impôts et de l'inflation. S'agissant des libertés individuelles et de la liberté syndicale dans le pays, si l'on peut parler librement, la situation s'est dégradée depuis 2010. Des cas de détention et de renvois de syndicalistes ont été signalés.

The Government member of Bangladesh (Mr HOSSAIN) noted the Government's efforts to address the comments of the Committee of Experts and to improve working conditions, particularly with regard to the protection of workers from sexual harassment. The Government's initiatives to ensure a transparent labour market management system, including the free movement of expatriate workers, were welcome. Moreover, it was encouraging that all workers, including domestic workers, were covered by the Government's unemployment insurance scheme. He also appreciated the progress made by the Government and the social partners at the national tripartite committee in addressing the issues contained in the complaint. The continuation of the ongoing social dialogue should be encouraged, as it was crucial for the enforcement of national legislation, the promotion of decent work and the fight against all forms of discrimination. The speaker encouraged the ILO to provide technical assistance to the Government with a view to achieving sustainable compliance with international labour standards. He hoped that the Conference Committee would take into account the significant efforts undertaken to address the issues raised by the Committee of Experts.

The Worker member of the United Kingdom (Ms BROWN), speaking also on behalf of Education International, recalled that, after the Arab Spring marches of 2011, the leaders of the Bahrain Teachers Association had been accused of political activism and arrested, and the union itself had been dissolved. Its President, Mr Mahdi Abu Dheeb, had been imprisoned and only released after five years, following significant international pressure, with a travel ban imposed against him, preventing him from speaking freely. She emphasized that discrimination was still firmly in place. Unions of teachers and other public sector unions remained banned. Many teachers involved in the peaceful protests had been discriminated against and dismissed. Contrary to previous statements, 120 teachers who had

lost their jobs and livelihood had still not been reinstated. There might be many more as the current illegality of the Bahrain Teachers Association entailed a general fear of speaking out. Instead of reinstating the dismissed teachers, the Government had recruited around 9,000 teachers from other Arab States. In contrast to the usual practice, the Government applied a different treatment to these expatriate teachers, granting them a fast-tracked route to employment and a lighter workload and employing them on more favourable terms and conditions. There was also clear evidence of systemic discrimination against Shia public sector workers in terms of recruitment and conditions of employment. In her view, the situation had not improved since the Committee's previous discussion of this case. The steps agreed upon through tripartite discussions had not been taken by the Government, and Bahraini teachers still faced continued discrimination in their access to employment and conditions of work, and in the exercise of their fundamental right to freedom of association.

The Government member of Pakistan (Mr KHAN) welcomed the steps taken by the Government and its constructive engagement with the supervisory mechanisms of the ILO. While the Committee of Experts underlined that the Labour Law did not cover all forms of discrimination and did not provide sufficient protection against sexual harassment, it did not point out any serious violation regarding these two points. According to the explanations provided by the Government, however, the national legislation defined and prohibited discrimination based on all the grounds enumerated in the Convention and ensured protection against sexual harassment. The speaker appreciated that the Government allowed the free mobility of expatriate workers, combatted human trafficking, covered all workers under insurance schemes and included domestic workers under the main provisions of the Labour Law. Moreover, irrespective of their nationality, all workers had the right to join trade unions and go on strike to defend their legitimate interests. The speaker also welcomed the efforts made in collaboration with the social partners and the work done by the national tripartite committee to resolve more than 98 per cent of the cases of dismissals related to the events of February and March 2011 as well as the initiatives taken by the major companies

with regard to insurance contributions. Finally, he encouraged the Government to continue social dialogue and invited the ILO to provide more technical assistance in the region to support member States on their efforts to comply with labour standards.

The Worker member of the United States (Ms DOMINGO) stressed that following the popular uprisings of 2011, the Government had revoked the citizenship of hundreds of workers and activists, in clear violation of the Convention, by way of ministerial orders. In 2014, the Government had amended the citizenship laws, to grant the Ministry of Interior the authority to revoke the citizenship of individuals who failed their “duty of loyalty” to the State. While the newly stateless activists could appeal the decision, Human Rights Watch reported that the court system had failed to provide fair trials and impartial verdicts. The revocation of the citizenship of political dissidents by the Government had had significant consequences for trade unionists. Workers who had lost their citizenship had also lost their jobs, their housing, their children’s right to education, and access to social security and other government benefits. Children born after the Government had revoked their parent’s citizenship had also lost their right to Bahraini citizenship. Moreover, in October 2015, the Government had issued a legislative royal decree that had deprived these persons and their beneficiaries of their pensions with immediate effect.

The speaker provided the examples of two activists whose citizenship had recently been revoked, in order to illustrate the situation. Habib Darwish had remained in the country, awaiting the decision from the court of appeal, at constant risk of deportation and unable to obtain a work permit. Although he had worked for his employer for 25 years, during which he had been contributing to his pension fund and to social insurance, he was prohibited from accessing his retirement fund. Hussain Kheirallah, had been allegedly immediately forced to leave the country and transferred to Lebanon, without being given an opportunity to say goodbye to his family, which had lost access to social insurance and to his pension fund. Because of their political opinions, their union activism, or their ethnicity, many workers had lost their retirement savings, nationality, jobs, housing, and in some cases their families.

The Government representative indicated that he disagreed with the statement of the Worker member of Bahrain concerning the establishment of a trade union by the Government and denied that the Government had imposed any new trade union. Concerning the construction company that had faced financial difficulties leading to wage arrears, wages had been paid without discrimination between local and migrant workers. This payment had occurred after an agreement had been eventually signed between the private company concerned and the Ministry of Finance. The news regarding the payment of wages would soon be published in the newspapers.

With regard to sexual harassment, the Committee of Experts mentioned that this issue was only regulated in one provision of the Penal Code. However, sexual harassment was also regulated under sections 81 and 107 of the Labour Law and paragraph 33 of the Legislative Decree regarding the civil service. These provisions provided that the worker found guilty of sexual harassment should be dismissed. A copy of these laws was at the disposal of the Committee.

Concerning discrimination, section 39 of the Labour Law prohibited discrimination in wages based on sex, origin, language, religion or creed, and there were no cases of discrimination in practice. The Government had taken note of all the interventions. All interventions made in the Committee would be taken into consideration by the Government to improve the situation of the labour market and promote decent work in Bahrain. The Government was committed to respect the conclusions adopted by the Committee, to improve the definitions contained in the Labour Law and to ensure compliance with the Convention, in particular with respect to the definition of discrimination and sexual harassment, the protection of migrant workers and the free movement of the labour force.

The Government welcomed the decision of the Governing Body that information be provided to the Committee of Experts on the application of the Convention and the implementation of the Tripartite Agreements of 2012 and 2014. The Government was committed to provide information in this respect in its report of 2018 and to achieve results

with the ILO technical assistance. The Ministry of Labour and Social Development was discussing and coordinating with the ILO Regional Office in Beirut in this regard.

In conclusion, the speaker hoped that the Committee would take into consideration the achievements made by the Government and emphasized that the Government was fully ready to cooperate with the Conference Committee and the Committee of Experts in providing all the information requested.

Les membres travailleurs ont souligné que les explications et les précisions apportées par le représentant gouvernemental renforcent leur conviction selon laquelle le gouvernement est décidé à faire respecter la convention. Toutefois, des actions concrètes sont indispensables. Il est en effet essentiel que le gouvernement mette intégralement en œuvre les accords de 2012 et de 2014, selon un calendrier précis, et qu'il communique des informations sur les mesures prises en ce sens. Il doit également procéder aux modifications législatives nécessaires afin de couvrir tous les motifs de discrimination énumérés par la convention et d'interdire la discrimination indirecte. Le gouvernement doit également communiquer des informations sur l'application de la législation et prendre les mesures nécessaires pour l'étendre à tous les secteurs. En particulier, les discriminations existant entre le secteur privé et le secteur public doivent cesser. Une attention particulière doit être accordée aux travailleurs migrants afin de ne pas leur imposer des conditions discriminatoires qui accroîtraient leur dépendance. Davantage d'informations devraient être communiquées par le gouvernement sur les actions menées auprès des travailleurs migrants pour les informer de leurs droits et sur les activités de l'Autorité de régulation du marché du travail en matière d'immigration.

Les membres travailleurs ont incité le gouvernement à élaborer un plan d'action national ayant pour but de lutter contre toutes les formes de discrimination, en recourant à l'assistance technique du BIT. Ils ont également sollicité l'envoi d'une mission de contacts directs, compte tenu du contexte décrit dans plusieurs interventions au sein de la présente commission. Le gouvernement devrait s'inspirer de la maxime suivante: «Le chemin le plus

droit, le plus court et le plus sûr, celui dont jamais un gouvernement ne devrait s'écarter, est l'égalité devant la loi.»

The Employer members welcomed the Government's commitment to ensure compliance with the Convention. Regretting the Government's inactivity in reporting the measures taken to implement the Tripartite Agreement of 2012 and the Supplementary Tripartite Agreement of 2014, they encouraged the Government to report to the Committee of Experts in this respect. Certain issues required legislative attention in terms of drafting new or amending existing provisions. The Employer members encouraged the Government to ensure that the definition of discrimination protected workers both in the private and public sectors, included all prohibited grounds for discrimination required by the Convention and provided protection of equality of opportunity and treatment in employment including for women. They also encouraged the Government to ensure that sexual harassment was adequately prohibited in national labour legislation and to provide clarifications as to the existing complaint mechanism in the field.

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