

Committee on the Application of Standards

CAN/PV.5

Commission de l'application des normes

08.06.21

Comisión de Aplicación de Normas

109th Session, Geneva, 2021

109^e session, Genève, 2021109.^a reunión, Ginebra, 2021

Warning: this document is a draft and may contain omissions or errors. It is made available solely for the purpose of verification and correction. Persons referred to in this document are not to be regarded as bound by statements attributed to them. The ILO declines all responsibility for any errors or omissions which this document may contain, or for any use which may be made of it by third parties.

Avertissement: ce document est un projet, qui peut comporter des omissions ou des erreurs et n'est rendu public qu'à des fins de vérification et de rectification. Les mentions contenues dans ce document provisoire n'engagent pas les personnes dont les propos sont rapportés. La responsabilité du BIT ne saurait être engagée à raison des éventuelles erreurs et omissions entachant ce document, ou de l'utilisation qui pourrait en être faite par des tiers.

Advertencia: el presente documento es un proyecto y puede contener omisiones o errores. Solo se publica a efectos de comprobación y rectificación. Las declaraciones que se atribuyen en el presente documento provisional a las personas citadas en él no comprometen su responsabilidad. La OIT queda exenta de toda responsabilidad respecto de cualquier error u omisión que pudiera figurar en el presente documento o que pudiera derivarse del uso del documento por terceros.

Sixth sitting, 8 June 2021 (cont.), 2.20 p.m.**Sixième séance, 8 juin 2021 (suite), 14 h 20****Sexta sesión, 8 de junio de 2021 (cont.), 14.20 horas**

Chairperson: Ms Mvondo

Présidente: M^{me} Mvondo

Presidenta: Sra. Mvondo

Discussion of individual cases (cont.)**Discussion des cas individuels (suite)****Discusión de los casos individuales (cont.)****Zimbabwe (ratification: 1998)****Abolition of Forced Labour Convention, 1957 (No. 105)****Convention (n° 105) sur l'abolition du travail forcé, 1957****Convenio sobre la abolición del trabajo forzoso, 1957 (núm. 105)**

Présidente – Nous passons maintenant à la discussion du cas concernant le Zimbabwe et la convention n° 105. À la lumière du nombre d'orateurs inscrits pour la discussion du cas concernant le Zimbabwe et comme prévu dans les méthodes de travail, le bureau de la commission a décidé de réduire le temps de parole à deux minutes pour

les délégués intervenant à titre individuel. Je tiens à préciser à tous les membres de notre commission que nous respectons strictement le temps imparti et les délégués qui iront au-delà du temps imparti se verront la parole couper. Je vous remercie de votre compréhension.

Je vous rappelle également que le gouvernement du Zimbabwe en prélude à l'examen de son cas a envoyé des informations écrites qui sont disponibles sur la page de la commission.

Government representative (Mr Paul MAVIMA, Minister of Public Service, Labour and Social Welfare) – It is an historic session as we are conducting the Committee's business online for the first time. I have no doubt that your collective experience will ensure that the business is conducted smoothly in that your conclusions to each of the cases will be fair. My delegation therefore looks forward to a focused discussion and to a fair conclusion that takes into account the terms of listing the submissions as well as objectives and constructive interventions by members that elected part of this discussion. It is important to note that the credibility of the supervisory machinery rests on fair conclusions. Predetermined and misdirected conclusions are a danger to the mechanism which is at the heart of the ILO. We would like conclusions that are embraced by the examined governments for their soundness, fairness and veracity. It is self-defeating to hear of conclusions that may be ridiculed. With your permission let me say a few words about the criteria used in coming up with this list of 19. My delegation believes that the listing criteria together with fair discussions and fair proposals speak to the credibility of this august Committee.

At this session, three countries from southern Africa, one of the five subregions of Africa are lined up for discussion. One would want to question the criteria used to list three countries from the same subregion, albeit under different Conventions. My

delegation is of the view that the geographical spread criteria was not applied within Africa as a region. Furthermore, the three cannot be regarded as cases of serious violations nor situations that require urgent attention.

The three were not the only countries provisionally listed under fundamental and priority Conventions. The final list lacked a balance between developing and developed countries. I can go on and on citing and analysing all the remaining criteria listed in document CAN/D.1, dated 13 May 2021. The final list lacks a balance of the criteria. One would have expected at most one country from Southern Africa to be discussed in this session of the International Labour Conference, especially with the final list of 19 countries instead of 24.

Secondly, the parties responsible for listing need to pay full attention to the reforms of the working methods of this Committee that we agreed to in 2015. Zimbabwe is not against the mechanism but it is after objectivity and transparency. These are the pillars of a credible mechanism. Collectively we should strengthen the mechanism for each to remain to relevant.

Let me turn to the issues raised by the Committee of Experts concerning Zimbabwe under Convention No. 105 on the abolition of forced labour. I wish to start by pointing out that there is no forced labour in Zimbabwe, be it in the prisons, in the workplaces and in the society at large.

The Committee of Experts has never established that there is forced labour in the prisons of Zimbabwe. The rehabilitative labour of the prison system in Zimbabwe is consistent with the Constitution, international and regional best practices. Offenders are sentenced to imprisonment under the presumption that the term of imprisonment is adequate punishment. The Committee of Experts argues that penalties of imprisonment, including compulsory labour under the Prison Act and its regulations, may be imposed

under circumstances falling within Article 1(a) of the Convention in the Public Order and Security Act and the Criminal Law Codification and Reform Act, Chapter 9, point 23. I wish to point out that the Public Order and Security Act was repealed in 2019. I will come back to it later on. Furthermore, I wish to submit that the proposition being advanced by the Committee of Experts is unfortunately based on the submission made by Zimbabwe Congress of Trade Unions within the realm of freedom of association and the present system. The Committee of Experts cites unfounded fears expressed by the Zimbabwe Congress of Trade Unions, that 20 of its members who were arrested in 2018 were to face forced labour in prison if they were to be convicted.

The sentencing of prisoners to labour was outlawed in Zimbabwe's jurisdiction. Imprisonment for violating a provision cannot be interpreted to mean forced labour. Such an imprisonment is in fact a criminal punishment that is in sync with the criminal justice system. At any rate, the members who are feared to be subjected to that, to what the Committee of Experts terms "forced labour", were acquitted by the courts in 2019, before it made to come up with a report which is the subject of this discussion.

In its report, the Committee of Experts also made reference to the repealed Public Order and Security Act and its successor, the Maintenance of Peace and Order Act, which is called MOPA, in short. That was gazetted in November 2019. Unfortunately, the bulk of what is in the report of the Committee of Experts is an analysis of the maintenance of peace and order bill, which is now an act which was submitted to it by the Zimbabwe Congress of Trade Unions. Furthermore, the Committee of Experts cites in its report the comments on the bill made in September 2019 by the United Nations Special Rapporteur on the rights to freedom and peaceful assembly and of association. Ironically, in the same report the Committee of Experts acknowledges the statement by the Government that the Public Order and Security Act was replaced by MOPA. One wonders about the

logic of the Committee of Experts in proceeding to analyse a bill when an act was or is already in place. Alternatively why should it include an analysis of bill in its supplementary report in which it is making reference to an act.

It is given that the Committee of Experts is still to analyze the MOPA. Hence it becomes an academic exercise for us to dwell on provisions that were in a bill. However, let me point out that section 9 of the MOPA explicitly exempts meetings convened by registered unions for bona fide trade union purposes for the conduct of business, in accordance with the Labour Act, Chapter 28:01, from the requirements stipulated under sections 5, 6, 7 and 8 of the same Act which includes notifying police about public gatherings being planned.

Last but not least, the Committee of Experts was informed some time ago about the agenda to remove from the Labour Act reference to penal sanctions involving compulsory labour as a punishment for having participated in an illegal strike. This has been done so that the Labour Act is in conformity with the Convention, and more importantly for it to be in sync with the criminal justice system.

Sections 102(b), 104(2)-(3), 109(1)-(2), and 122 of the Labour Act, Chapter 28:01 will be repealed. The Committee of Experts acknowledges this aspect and also the totality of the labour law reform. However, it regrets replace the lack of progress. Let me point out that the labour reform has been affected by the COVID-19 pandemic. Despite the pandemic, the labour amended bill is now before the Cabinet.

Worker members – We are examining the Government of Zimbabwe's application of the Convention in Zimbabwe. Over many years, our Committee has examined Zimbabwe's application of one Convention or another or its failure to comply with reporting obligations. This is the 14th such examination. This is the first time we are examining the application of this Convention with respect to Zimbabwe but the issues

are certainly not new – many of them have been raised over the 13 examinations of individual cases.

Workers in Zimbabwe still face penal sanctions involving compulsory labour as a punishment for the expression of views opposed to the established political, social or economic system or for having participated in strikes. This is in spite of the five observations and ten direct requests of the Committee of Experts.

In the 2009 Commission of Inquiry report, a number of concerns were raised about provisions in the then Public Order and Security Act, the Criminal Act and the Labour Act, which were applied in a manner to limit the civil liberties and fundamental labour rights of the workers of Zimbabwe, exacting heavy fines and long-term prison terms with compulsory labour for any infringement.

We deplore the fact that the Government has failed to fully implement the Commission of Inquiry's recommendations in law and practice, and has sought to criminalize the exercise of civil liberties with the threat of exorbitant fines and long-term imprisonment to deny workers their rights.

In January 2019, the President and Secretary-General of the ZCTU, Peter Mutasa and Japhet Moyo, were arrested following a ZCTU protest action against unjustified increases of petrol prices and general economic hardships. They were both charged for "subverting constitutional Government" under section 22 of the Criminal Code which made them liable, on conviction, to imprisonment for a period not exceeding 20 years without the option of a fine.

Section 76(1) of the Prisons Act and section 66(1) of the Prisons Regulations makes compulsory prison labour, in practice, the norm for all prisoners.

On 18 December 2020, a gender officer of the Amalgamated Rural Teachers Union of Zimbabwe (ARTUZ) was arrested and convicted, under section 37 of the Criminal Code, after a trade union protest action against the erosion of teachers' salaries by Government. She was jailed for 16 months and underwent compulsory prison labour until she was granted bail.

In practice, nothing has changed with regard to the Maintenance of Peace and Order Act (MOPO). We recall that the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, after his visit to Zimbabwe in September 2019, stated as much. We point to the example on notification to hold public gatherings. In section 25 to 27 of POSA, failure to notify the authorities of the intention to hold public gatherings and violations of the prohibition of public gatherings or public demonstration was sanctioned with imprisonment of up to six months. Now under sections 7(5) and 8(11) of the MOPO Act, a similar offence will earn you one year in prison. And compulsory labour is guaranteed by virtue of the Prison Act.

Further, let us consider the provisions of the Criminal Law Act. This law accords excessively harsh prison penalties for acts covered by Article 1(a) of the Convention. Section 31 of the Criminal Code creates and sanctions the offence of "publishing or communicating false statements prejudicial to the State" with imprisonment of up to 20 years. Section 33 accords the penalty of imprisonment of up to one year for "undermining authority of or insulting the President". Section 37 of the Criminal Code sanctions "participating in gatherings with intent to promote public violence, breaches of the peace or bigotry" with imprisonment of up to five years. Section 41 accords the penalty of imprisonment of up to six months for "disorderly conduct in public place." These provisions were clearly mentioned in the Commission of Inquiry report as some of those legislation which must not be used to undermine the exercise of civil liberties

and trade union rights. However, these criminal provisions, together with their prison terms and compulsory prison labour, are used to drag trade union leaders and workers seeking to exercise their civil liberties and fundamental rights through the criminal justice system. The associated judicial harassment and pre-trial detention is to stop them from expressing views opposed to the established political, social or economic system contrary to the Convention.

We emphasize that these laws and regulations have a profound impact on the trade union movement in Zimbabwe. We note that 20 members of the ZCTU faced criminal charges under section 37 of the Criminal Law for having participated in a public protest organized by the ZCTU in October 2018. There are many more cases, which my colleagues from the Workers' group will elaborate upon.

Now, we would like to discuss laws that allow for penal sanctions involving compulsory labour as punishment for having participated in strikes.

Sections 102, 104, 109, and 112 of the Labour Act contradict Article 1(d) of the Convention. These provisions allow to punish workers engaged in peaceful collective action with excessive penalties, including lengthy periods of imprisonment, deregistration of trade unions and dismissal of employees involved in collective job action. The Committee of Experts has been calling on the Government to repeal these provisions since 2002. The provision remains the same.

Violations of the Convention where arrests, criminal charges, imprisonment and compulsory labour are imposed as punishment for the expression of views critical to the Government or for having participated in strikes or public protests continue in Zimbabwe. The interrelationship between the fundamental Conventions Nos 87 and 105 is in this case clear for all to see. The Government is using the criminalization of civil liberties and freedom of association, imprisonment and compulsory prison labour in

violation of Convention No. 105 to further violate Convention No. 87 and disregard the recommendations of the Commissions of Inquiry.

The Government has failed to bring its laws and practices into line with the Convention despite numerous opportunities to do so and ILO technical assistance to comply with these obligations.

Employer members – At the outset, the Employer members would like to remind all the ILO Member States of the importance of respecting the eight ILO fundamental Conventions, which includes the Abolition of Forced Labour Convention, 1957 (No. 105).

This fundamental Convention prohibits forced or compulsory labour as a means of political coercion or punishment or holding or expressing political views or views opposed to the established political, social or economic system.

Such form of forced labour seriously undermines fundamental human rights, including the right to freedom of expression and the right to freedom of assembly and association.

Zimbabwe ratified Convention No. 105 in 1998. The Committee of Experts has issued observations in respect of the Government of Zimbabwe's application of this Convention five times since 2010. We note, however, that this is the first time that we discuss this case in the Committee.

The Employer members would like to thank the Government for the information provided here today on the developments of the legislative reforms and the written information submitted for this case.

We are pleased to hear that the 20 members of the Zimbabwe Congress of Trade Unions (ZCTU) who were arrested for participating in the October 2018 strike have since been acquitted by a court in November 2020.

We also thank the Government for its report provided in 2019 and the supplementary information provided in light of a decision adopted by the Governing Body at its 338th Session in June 2020.

This case relates to the Government's forceful response to the nationwide protests sparked by the worsening economic conditions in that country. Reports indicated that many civil society activists, political opposition leaders and other critics of the Government were arbitrarily arrested, abducted, beaten, tortured. Some reports have also indicated that the Government had used excessive, disproportionate and lethal force against protestors, through the use of teargas, batons and live ammunition. We are deeply concerned as employers with these allegations of human rights violations.

Turning now to the two main issues that have been observed by the Committee of Experts. The first issue is penal sanctions involving compulsory labour as a punishment for the expression of views opposed to the established political, socio-economic system.

The Committee of Experts identified penalties of imprisonment involving compulsory prison labour in a number of provisions of national legislation namely, the Public Order Security Act (POSA) and the Criminal Law Codification and Reform Act. In particular, these provisions aim to punish those who engage in publishing or communicating false statements prejudicial to the State, undermining authority or participating in meetings or gatherings with the intention of disturbing peace, security or public order.

The Committee of Experts noted that a new Maintenance of Peace and Order Bill had been introduced to replace the POSA, but noted with concern that the new Bill potentially violates international human rights norms and standards. Under the MOPO Bill, the exercise of the right to peaceful assembly is not fully guaranteed as law enforcement agencies are still given broad regulatory discretion and powers.

We note that Article 1(a) of the Convention expressly prohibits any form of forced or compulsory labour as a means of political coercion or education or as punishment for holding or expressing political views or views ideologically opposed to the established political social or economic system.

This is important not only from the recognition of the freedom to express political or ideological views, but also to other rights, such as the right of association and of assembly which citizens should be able to enjoy free from political coercion.

We agree with the Committee of Experts to urge the Government to take the necessary measures to ensure that sections 31, 33, 37 and 41 of the Criminal Law Code and sections 7, subsection 5 and 8, subsection 11, of the MOPO Bill are repealed and amended to bring them into conformity with the Convention.

We trust that the Government will repeal these laws in consultation with the most representative employers' and workers' organizations through the tripartite negotiating forum and to provide up-to-date information to the Committee of Experts on the application of these provisions in law and in practice, including those people who have been arrested under these laws.

The second issue observed by the Committee of Experts relates to penal sanctions involving compulsory labour as a punishment for having participated in strikes.

The Committee of Experts noted in its earlier comments that several provisions of the Labour Act punish persons with compulsory prison labour for engaging in an unlawful collective action. Such provisions are directly incompatible with Article 1(d) of the Convention, which prohibits any form of forced or compulsory labour imposed as a punishment for having participated in strikes.

We highlight that the Committee of Experts noted with deep regret the lack of progress made by the Government on the labour reforms and the lack of information provided in this regard.

We take note from the written information provided by the Government, and also the statement made by the Government in this meeting earlier, that a labour amendment bill is currently before Cabinet to repeal the provisions of concern in line with the comments made by the Committee of Experts.

We understand that the COVID-19 pandemic had delayed this progress, but we trust that the Government will continue its efforts to make progress on these reforms in consultation with the most representative employers' and workers' representatives through the tripartite national forum.

We echo the Committee of Experts' strong urge to the Government to ensure that provisions of the Labour Act are amended so that no sanctions of imprisonment may be imposed for organizing or peacefully participating in strikes in conformity with Article 1(d) of the Convention.

We also call on the Government to provide the Committee of Experts with information on the progress made on these law reforms and the application of these provisions in law and in practice.

Worker member, Zimbabwe (Mr MUTASA) – I speak on behalf of the workers of Zimbabwe. My country is here again, in this Committee, for the 14th time. The continuous appearance of my country before this Committee shows us a big story about its length of commitment to its obligations.

As already stated by the Worker members, and in accordance with the findings of the Committee of Experts on this matter, my country's criminal laws and labour laws

remain an impediment to the enjoyment of our rights under this Convention. The Criminal Law (Codification and Reform) Act, The Maintenance of Peace and Order Act, that replaced the Public Order and Security Act, the Labour Act and the Prisons Act, have provisions that trample on our rights as workers and as citizens in the broader sense. Our Constitution guarantees the freedom to demonstrate and petition as well as political rights.

Let me demonstrate how the said laws continue to infringe our rights. I will start with the case of Sheila Chisirimunhu, of the Amalgamated Rural Teachers Union of Zimbabwe. She was arrested and charged in terms of section 37 of the Criminal Code “Participating in gathering with intent to promote public violence, breaches of the peace or bigotry”. She was convicted on 18 December 2020 by a magistrate court after a trade union protest action against the erosion of teachers’ salaries. She was jailed for 16 months. She endured forced labour in prison for 18 days at Mutimurefu prison and released on 5 January 2021 following an appeal in the High Court. If this appeal is dismissed, she will go back to prison to perform forced labour.

On 31 July 2020, civil society organizations called for a protest action against economic hardships. The protest was banned, the military and police were deployed and ordered people to stay indoors. Scores of people who came out to protest were arrested for participating in the protest action. Those arrested include prominent author Tsistsi Dangarebga and journalist Hopewell Chin’ono, who later got another charge of communicating falsehoods prejudicial to the State. They endured life in prison that varied from 7 days to 50 days with bail being denied by the lower courts. Their cases are still pending and if convicted, these people will be subjected to forced labour.

In June 2020, nurses on the frontlines contributing to the fight against COVID-19 protested against poor wages and lack of personal protective equipment, had their leaders arrested and prosecuted in terms of the Criminal Code.

In February 2020, a ZCTU labour forum in the City of Mutare was banned by the Zimbabwe Republic police in terms of the MOPO Act for insufficient notice, despite the exemption provided in law.

In January 2019, Japhet Moyo, the Secretary-General of the ZCTU, Masaraure of ARTUZ and I were arrested following a ZCTU protest action against unjustified increases of petrol and economic hardships. After two years of court appearances, the charges were then withdrawn before plea. The State can still resume this matter and if we are to be convicted, we will go to jail for 20 years without an option of fine and be subjected to forced labour. Again, on 19 December 2019 ARTUZ members on a salary march were arrested and charged for criminal nuisance. A court discharged them.

With regard to the Labour Act, the provisions identified by the Committee of Experts remain unchanged. The right to strike, though recognized in section 65 of the Constitution of Zimbabwe, is very difficult to undertake in practice because of complicated procedures. A good example is a labour court judgment in the case of *ZIBAWU v. POSB* in which the court declared the strike illegal for failing to comply with section 104, which section the Committee of Experts identified as problematic. Labour law reforms remain stalled with Government producing drafts that ignore some of the comments of the Committee of Experts. When we complain we are accused of delaying the process.

The ILO's 1972 resolution concerning trade union rights and their relation to civil liberties is very clear on these issues. It provides that the absence of these civil liberties remove all meaning from the concept of trade union rights.

Let me end by urging your Committee to consider that it is now 19 years of Government's disrespect of the Committee of Experts' comments on freedom of association and civil liberties which are interlinked with Convention No. 105, 11 years of snubbing the recommendations of the Commission of Inquiry. Follow-up missions and technical assistance has been provided by the Office but here we are, with our empty hands. A special paragraph is an appropriate conclusion on this matter.

Government member, Portugal (Mr CLAUDINO DE OLIVEIRA) – I have the honour to speak on behalf of the European Union and its Member States. The candidate countries, the Republic of North Macedonia, Montenegro and Albania, and the EFTA country Norway, member of the European Economic Area, align themselves with this statement.

The EU and its Member States are committed to the promotion, protection, respect and fulfilment of human rights, including labour rights and the abolition of forced and compulsory labour.

We support the indispensable role played by the ILO in developing, promoting and supervising the application of international labour standards and of fundamental Conventions in particular, in law and in practice.

We welcome Zimbabwe's efforts to increase the protection of labour rights and eliminate child and forced labour. We strongly encourage further stepping up of these efforts, including on improving the effectiveness of tripartite social dialogue and the functioning of the Tripartite Negotiating Forum (TNF). We will continue to closely monitor these developments, not in the least in the context of ongoing negotiations aiming at deepening the existing Economic Partnership Agreement, where special attention is paid to freedom of association and collective bargaining, non-discrimination and forced labour and child labour.

Regarding ILO Convention No. 105, we note with deep regret the Committee's observations on penal sanctions involving compulsory labour in Zimbabwe. According to the Committee of Experts, under various provisions of national legislation, such as the earlier Public Order Security Act (POSA), the current Maintenance of Peace and Order Act (MOPA) and the Criminal Law Code, penalties of imprisonment, involving compulsory prison labour and forced labour are being used to ban trade union protests and criminalize peaceful expression of views opposed to the established political, social or economic system.

Moreover, the provisions of the Labour Act continue to enable the imprisonment, with compulsory prison labour, of trade union activists engaged in organizing or peacefully participating in strikes.

In line with the Committee of Experts' recommendation, the EU and its Member States strongly urge the Government of Zimbabwe to take the necessary measures to ensure that legislation, such as sections 31, 33, 37 and 41 of the Criminal Law Code, sections 7(5) and 8(11) of the MOPA and certain provisions of the Labour Act, are repealed or amended in order to bring them into conformity with the Convention.

With reference to the related Forced Labour Convention, 1930 (No. 29), we commend the Government for having ratified the Protocol 29 in 2019. In line with the second Trafficking in Persons National Plan of Action (NAPLAC 2019–21), we call on the Government to take the necessary measures to ensure the effective implementation of the Trafficking in Persons Act and to provide information on the convictions and penalties applied, both for cases of sexual and labour exploitation.

The EU and its Member States will continue to support the Government of Zimbabwe in its endeavours to respect all Conventions it has ratified, including, in particular, the fundamental labour Conventions, both in law and in practice.

Interpretation from German: Worker member, Germany (Ms HOFMANN) – I am speaking on behalf of the DGB and the FNV.

The Government of Zimbabwe persistently ignores the findings of the ILO monitoring bodies. Where problematic regulations are supposedly being changed, they are being reintroduced elsewhere or expanded with more drastic provisions.. This is what is happening with the Patriotic Bill, which seeks to criminalize activities that go against the national interest. Such a law is a blanket authorization for the criminalization of any view that the State dislikes and the case is exactly the same when it comes to replacing the Public Order and Security Act (POSA) with the now enacted Maintenance of Peace and Order Act (MOPA). This MOPA continues to contain sweeping restrictions on freedom of association, a fundamental civil liberty at the core of union activity.

Completely out of proportion is the law's provision to punish violations of MOPA with imprisonment of up to one year, which is also linked to forced labor through the provisions in the Labor Act. An analysis of POSA and MOPA also shows that the period for giving notice was increased from 4 days under POSA to 5 days' notice in the case of public meetings and 7 days in the case of demonstrations and processions and the penalties were also increased from 6 months imprisonment to one year. Even a mere failure to notify the authority of a postponement or cancelled meeting attracts the same sanction.

Although certain provisions of the MOPA exempt unions from the notification requirement, this section is ignored in practice. In February 2020, the police banned a ZCTU labour forum in Mutare and they threatened to arrest participants if they gathered despite the notice from the ZCTU. How can union members freely exercise their rights when repressive laws put them at risk of being punished with imprisonment and forced

labour just for the actions they are taking “Worse than hell” this is how the reality in Zimbabwe’s prisons is described. We therefore call on the Government of Zimbabwe to finally adjust the regulations of the MOPA, the Criminal Law Code and the Labour Act and the application of these laws in practice in a way that it is in line with the Convention.

Interpretation from Russian: **Government member, Russian Federation (Mr KRUTSKIKH)** – The Russian Federation shares the assessment given by Zimbabwe, with reference to the implementation by Harare of the Convention.

The accusations levelled at Zimbabwe are accusations we consider to be groundless when it comes to the use of forced labour within the framework of the national penitentiary system. Our basic premise is that punishment by way of corrective work appointed as such within the Penal Code of the country has no relation whatsoever with the shameful practice of forced labour.

Further, the legislation in question is fully in line with the Constitution of Zimbabwe with regional and international legal standards. We hope then that the Committee will reach a favourable conclusion with reference to the detailed report presented today and with reference to all of the information submitted to us by our Zimbabwean colleagues, and will thus conclude the consideration of the issue.

Generally speaking, we think it is unacceptable to use the platform of the ILO in a way that attempts to link thematic and country reports with the internal events that take place in a particular country. Such a practice leads to acute politicization of materials and to decisions being taken that, in fact, cannot be implemented by the respective capitals. We will therefore call upon the ILO and its Committees to refrain from partial and confrontational behaviour and rather to focus on constructive, mutually respectful cooperation, focusing on finding common solutions to our common problems, relating

to the concept of decent work and improving the instruments that we have available to protect the interests of both workers and employers.

Worker member, Canada (Ms NORGANG) – I am speaking on behalf of the Canadian Labour Congress.

By virtue of Zimbabwe's Criminal Law Codification and the Maintenance of Peace and Order Act (MOPA), forced labour may be imposed as a penal sanction for the expression of political views. This includes placing restrictions on participating in public gatherings, demonstrations or meetings.

While this, in itself, is in contravention of the ILO Convention on the abolition of forced labour, it is important to also note that this threat of forced labour is moreover being used as a means to discourage trade union organizing and activities, and is undermining freedom of association in Zimbabwe.

Following their participation in a 2018 protest action, criminal charges were brought against 20 members of the Zimbabwe Congress of Trade Unions. After enduring two years of trial where, if convicted, they may have been subject to forced labour, they were finally acquitted in November 2020.

In another instance, on 6 June 2020, security forces disrupted a nurses' strike and arrested and then judicially persecuted 12 strike leaders. These nurses were striking for an improvement in their wages and working conditions, and for adequate personal protective equipment. These 12 individuals have since been acquitted by a magistrate's court, but without a strong legal team they may have easily found themselves subjected to imprisonment and forced labour.

It is increasingly clear that the penal sanction of forced labour is a key tactic used by the Government to dissuade workers from organizing and is undermining the right to freedom of association in Zimbabwe.

As such, we support the Committee of Experts' recommendation that the Government take the necessary measures to ensure that sections of the Criminal Law Code and the Maintenance of an Order Act are repealed or amended in order to bring them into conformity with the Convention.

Interpretation from Arabic: Government member, Egypt (Mr ALIAN) – We have taken due note of the measures undertaken by the Government of Zimbabwe in seeking to implement the Convention.

We have also noted, with satisfaction, all of the efforts that have been made by the Government of Zimbabwe in seeking to bring its national and domestic legislation into line with international labour standards, especially when it comes to laws governing the penitentiary system.

We heard the Government of Zimbabwe state that the penitentiary system in Zimbabwe was a system that had nothing whatsoever to do with forced labour. We also heard it stated that the POSA legislation was going to be repealed and that there would be new legislation on the maintenance of good order and peace in the country that would then be introduced.

We wish to congratulate the Government on all of these positive steps intended to bring domestic legislation into line with international labour standards and other instruments. We would encourage the Government to continue to pursue dialogue with social partners, especially through the tripartite forum.

This should also allow them to work in consultation with trade unions as well as the forces of law and order. We have noted that the Government intends to revise the Labour Code in Zimbabwe, as well as the national guide on freedom of association and other civil rights and freedoms. All of this will be done again in consultation with employers' and workers' organizations.

Worker member, South Africa (Ms LOSI) – I am speaking on behalf of the Southern Africa Trade Union Coordination Council (SATUCC).

We note for the past two decades, that the Government of Zimbabwe has used both violence and the law to restrict the ability of their citizens to express political views or views opposed to the political, social and economic order, resulting in sanctions involving compulsory labour. Such restrictive measures have seen trade union leaders and their members arrested for exercising their rights.

The restrictive measures have even been broadened to cover even ordinary citizens posting messages on Twitter, Facebook or WhatsApp about the economic and government ills and mishap. Citizens face arrest, abduction, intimidation, and threats among others. By speaking against government policies that negatively affect the welfare of workers and citizens at large, some civil society organisations and the Zimbabwe Congress of Trade Unions have been labelled terrorist organizations.

The right to demonstrate, which is enshrined in the Constitution of Zimbabwe, is not available in practice. On 1 August 2018, citizens that were protesting for delay of election results were shot and six killed in Harare for expressing their political views. The Motlanthe commission of inquiry that investigated the incident noted the excessive use of force by the security forces and made recommendations that are still to be fully implemented. The families that lost family members due to the shooting are still to be compensated and the security forces that shot them are still to be prosecuted. During

the January 2019 protest actions, ZCTU leaders were arrested and charged for subversion. They face a 20-year jail sentence. If convicted; they will be subjected to forced labour.

The inability to express political views or views opposed to the political, social and economic order has impacted the region through immigration.

Government member, India (Mr ARYAN) – India welcomes the delegation of the Government of Zimbabwe and thanks it for providing the latest update on the issues under consideration.

India appreciates the commitment of the Government of Zimbabwe to fulfil its international labour obligations, including those related to ILO Convention No. 105, to progress the implementation of the relevant recommendations of the ILO, and the willingness to constructively work with it.

We take positive note of the efforts made by the Government of Zimbabwe in carrying forward the labour reforms, despite the difficulties caused by the current pandemic situation. We also look forward to completion of the labour reform process as soon as the pandemic situation normalizes.

We welcome the enactment of the progress and maintenance of the Maintenance of Peace and Order Act that replaced the previous Public Order and Safety Act of 2019 and duly incorporates provisions for the convening of meetings by the registered trade unions in accordance with the National Labour Act of Zimbabwe.

We request the ILO and its constituents to fully support the Government of Zimbabwe and provide all necessary technical assistance that it may seek in fulfilling its labour-related obligations. We take this opportunity to wish the Government of Zimbabwe all success in its endeavours.

Interpretation from Chinese: Government member, China (Mr WANG) – We would like to thank the representative of Zimbabwe for the statement we read, the report of the CEACR, and the written materials submitted by the Government of Zimbabwe.

We note that, since the promulgation of the Maintenance of Peace and Order Act, the Government has adopted various measures to strengthen cooperation with the social partners within the framework of the Tripartite Negotiating Forum. This greatly facilitates communication between the law enforcement agencies and trade unionists.

The national law enforcement agencies have a full grasp of, and implement seriously Chapter 9 of the Act, which provides for the safeguard of lawful activities by registered trade unions. We would like to commend this.

Although gravely affected by COVID-19, the Government of Zimbabwe has overcome all kinds of difficulties to make important progress on labour law reform, which has been amended currently, following the Committee of Experts' recommendation. After adopting, in May of this year, the Constitutional amendment, the public service act is also set to be amended so as to play a greater role once harmonized with the Labour Act.

We would like to remind Committee to attach great importance to the following information provided by the Government. Zimbabwe's judicial system does not permit forced labour, and its Prison Act and Regulations are in conformity with both the Constitution and international or regional customs. We believe that, in the process of this review, the progress made by the Government of Zimbabwe on the Convention should be fully acknowledged. We hope the ILO will continue its dialogue with Zimbabwe and provide them with necessary support in regard of the Convention's application to further promote the concrete implementation of the Convention.

Miembro gubernamental, Cuba (Sra. PITA RODRÍGUEZ) — Señora Presidenta, el Gobierno de Zimbabwe ha informado que sus regulaciones en materia penal no guardan relación con el trabajo forzoso y tienen su fundamento en la Constitución del país, así como las buenas prácticas regionales e internacionales.

Igualmente ha informado que se han realizado modificaciones a la legislación y que se llevan a cabo procesos de cambios a la legislación en materia de trabajo, los que se han visto afectados por la incidencia de la pandemia de COVID-19, pero el Gobierno ha manifestado su voluntad de continuar avanzando en tal sentido.

Por lo anterior, mi delegación considera que el diálogo, la cooperación y la asistencia técnica pueden constituir un apoyo para el Gobierno de Zimbabwe.

Government member, Ethiopia (Ms GUADEY) – My delegation has listened carefully to the statement delivered by the Minister of Zimbabwe, Mr Paul Mavima.

We have noted from the information provided by the government of Zimbabwe that, first, its prison system is not associated with forced labour; second, the POSA (Public Order and Security Act) was repealed and replaced by the Maintenance of Public Order Act in conjunction with the Convention; and third, there is progress in the reforming of their labour laws.

These measures in our view are positive steps towards the full application of the Convention in law and in practice.

That said, we are of the view that the economic and social circumstances of certain countries may not be adaptable to the ILO supervisory system, which justifies complexity and the need for flexibility to take into account national realities.

The efforts undertaken by the Government of Zimbabwe in the advancement of the application of the Convention in point is encouraging. We would like therefore to

encourage the ILO to avail technical assistance to complement the Government's efforts to strengthen the labour inspectorate system in the country and ensure the full application of the Convention.

Finally, we hope the Committee in its conclusions will take into consideration the efforts taken by the Government of Zimbabwe.

Government member, United Kingdom of Great Britain and Northern Ireland

(Ms HATIA) – I am speaking on behalf of the United Kingdom of Great Britain and Northern Ireland.

The UK supports the role of the ILO in developing, promoting and supervising the application of international labour standards and fundamental Conventions. We are committed to the promotion, protection and respect of human and labour rights and safeguarding by the fundamental ILO Conventions.

The UK Government is also committed to the eradication of all forms of modern slavery, forced labour and human trafficking as set out in the Sustainable Development Goals.

Zimbabwe is one of the UK's top 30 human rights priority countries and we are seriously concerned about the arrests of prominent opposition and civil society figureheads. We have been clear that the Government of Zimbabwe must meet its international and domestic obligations by respecting the rule of law, safeguarding human rights and committing to genuine political and economic reform for the benefit of all Zimbabweans.

We recall the need to ensure public order and security should not be used as an argument to limit the rights of trade unions and ban protest actions. In the context, we welcome the Government of Zimbabwe's efforts to roll back key repressive Mugabe-era

legislation, including the Access to Information and Protecting Privacy Act and the Public Order and Security Act (POSA), and bringing these in line with the Constitution. We note with interest that the Public Order and Security Act stipulates that the Government will work with the social partners through the tripartite negotiation forum and encourage Zimbabwe to build on this step to institutionalize tripartite dialogue.

We note progress in bringing on the labour and public service legislation into conformity within the Convention. We call on the Government to amend the Labour Act and Public Service Act without delay and in full consultation with key stakeholders.

The UK continues to be on the side of the Zimbabwean people. We will readily engage with the Government of Zimbabwe and we hope we can work together on human rights.

Membre gouvernementale, Suisse (M^{me} FITCHETT) – La Suisse a pris note des conclusions et recommandations de la commission d'experts.

Elle appelle le gouvernement du Zimbabwe à mettre sa législation et sa pratique en conformité avec la nouvelle Constitution de la République du Zimbabwe datant de 2013, sans délais, et avec la convention.

Les citoyens et les travailleurs du Zimbabwe risquent d'être soumis au travail obligatoire à titre de punition pour avoir participé à des grèves ou manifestations non violentes. Ceci est contraire à la convention qui vise à éliminer le travail forcé ou obligatoire sous toutes ses formes.

La Suisse appelle le Zimbabwe à donner suite aux réformes initiées il y a quelques années, pour assurer la conformité du Code pénal à la convention, en respectant les droits fondamentaux, tels que la liberté d'expression, la liberté de réunion et la liberté d'association.

Government member, Malawi (Mr NYANGULU) – Malawi has taken note of the comments raised by the Committee of Experts in reference to Zimbabwe regarding the application of the Convention, as contained in the 2020 supplementary report of the Committee of Experts.

At the same time, the Government of Malawi has taken note of the information provided by the Government of Zimbabwe regarding the implementation of the said Convention.

Malawi notes that there is no forced labour in Zimbabwe as provided for by some delegates by Zimbabwe.

Malawi applauds the positive steps taken by the Government of Zimbabwe in its legislative reforms to ensure that the country's jurisdiction and laws are in line with the provisions of the Convention. In particular, the Government of Malawi notes with appreciation that the Labour Amendment Bill is currently with Cabinet and is hopeful that Zimbabwe will ensure that it is duly adopted and implemented.

The Government of Malawi would like to encourage the social partners to continue to cooperate and provide their inputs to the ongoing process of reviewing the development of the laws in Zimbabwe.

Government member, Ghana (Mr. SAKYI) – The abolition of Forced Labour Convention, and the Freedom of Association and Protection of the Right to Organise Convention, are two fundamental rights of workers which were ratified by the Government of Zimbabwe as far back as 1999 and 2003, respectively.

It is important for this Committee to acknowledge the effort of the Government of Zimbabwe in putting in place measures to ensure that their legal systems address the major requirements in the two Conventions.

It is refreshing to know that the Government of Zimbabwe has gone further to initiate reforms towards the full provisional requirements of the two Conventions. We support the honest admission by the Government of Zimbabwe that the COVID-19 has further delayed the implementation of the necessary reforms by Government due to country restrictions.

The Government of Ghana supports any attempts to ensure mutual respect, social dialogue, promoting social justice and cooperation among tripartite constituents in championing this course. With Ghana's rich experience in tripartism and social dialogue, we look forward to the same for the Government of Zimbabwe as well as greater participation of trade unions in matters that affect workers as a way of deepening tripartism and social dialogue at a country level.

We are urging the ILO Office to provide the Government of Zimbabwe with the necessary technical support in their quest to reform their laws in compliance with the requirements of the Conventions. With the above in place, we are convinced that the Government of Zimbabwe will be in a position to adopt measures to align its laws and practice in line with the comments of the Experts.

Government member, Kenya (Ms MULI) – The Kenya delegation thanks the representative of the Government of Zimbabwe for the detailed response to the issues raised by the Committee. Kenya takes note of the legislative reforms being undertaken to ensure conformity with the provisions of the Conventions, including the enactment of the Maintenance of Peace and Order Act, and other proposed legislative amendments' reforms currently before the Cabinet. These measures represent important steps towards full compliance and should be encouraged. We urge the Government of Zimbabwe to expedite the process.

The Kenya delegation further welcomes the Government's commitment to fully consult with social partners in the process of implementing the legal and political forms and calls on the social partners, particularly the workers, to take advantage of such initiatives to advance the workers' concerns.

Finally, it is our view that this Committee in its conclusion should take note of the efforts undertaken by the Government of Zimbabwe while continuing to monitor progress under the existing reporting mechanisms.

Interpretation from Arabic: **Government member, Algeria (Mr MEKHAZNI)** – The Algerian delegation fully supports the statement made by the Government of Zimbabwe and we welcome the progress made in terms of implementing the Convention. This progress is documented in the additional information received.

We take note of the legislative measures taken to ensure that the penitentiary system has no links with forced labour and that the system does not violate the physical and psychological integrity of persons who might be victims of this system.

Furthermore the Algerian delegation would like to encourage the implementation of strategies that will make it possible to guarantee that any work done or services rendered by prisoners happen in conditions which are akin to those governed by a labour contract, thus ensuring that there is a ban on the use of any kind of forced labour.

Finally, Algeria would like to lend our support to the Republic of Zimbabwe in supporting their new vision, which strives to update their labour legislation and ensure that there is a consistency between their practices in the criminal justice system and the penitentiary system and the international human rights protection instruments and the fundamental rights at work.

Government member, Namibia (Ms NICODEMUS) – Namibia take this opportunity to join the discussion on the Convention by the Government of Zimbabwe.

Namibia notes the Committee's concerns that the Zimbabwe Congress of Trade Unions (ZCTU) members who were arrested for having participated in a strike in 2018 could be subjected to forced labour, if convicted. We are reliably informed that those members of ZCTU were acquitted already in 2019.

The world of work has been disrupted by the COVID-19 pandemic and this affected the work on the amendments to the Labour Act. Thus we call upon the Committee to take note of the progress of the Labour Amendment Bill which is before the Cabinet and to allow the Zimbabwean Government to conclude the labour law reform process.

Government member, Botswana (Mr BALOPI) – We have carefully reflected on the statements presented by the representative of the Government of Zimbabwe. Clearly, the statement shows that the Government of Zimbabwe has addressed some of the concerns or issues raised in the report of the Committee of Experts, and is continuing to address others.

We therefore consider the enthusiasm and commitment by the Government of Zimbabwe to address the concerns raised by the Committee of Experts as a step in the right direction. Most importantly, the Government of Zimbabwe has reported progress on the labour law reforms which will result in the repeal of the problematic sections of the Labour Act.

Although the pace of the labour law reform has been adversely affected by the COVID-19 pandemic, it is evident that the Bill to this effect has been drafted and ready for consideration by Cabinet.

On the basis of the measures undertaken by the Government of Zimbabwe thus far on this matter, we consider it appropriate for this Committee to note the progress made and to urge the Government of Zimbabwe to bring all the pending issues to finality.

Government member, United Republic of Tanzania (Ms MANONGI) – My delegation thanks the delegation of Zimbabwe for the constructive engagement on the deliberations of the Committee. We welcome various efforts by the Government of Zimbabwe in fulfilling its obligations under ILO Conventions, including the steps taken in labour law reforms despite the challenges of the COVID-19 pandemic.

We note with gratitude that the prison system of Zimbabwe is not associated with forced labour and congratulate the Government of Zimbabwe on the enactment of Maintenance of Public Order Act (MOPA) that has replaced the Public Order and Security Act (POSA) as well as the progress made by the Government in reforming the labour laws.

In conclusion, my delegation would like to encourage the Government of Zimbabwe to continue engaging with the social partners in fulfilling its international obligations and we request the ILO to provide the necessary support to the Government of Zimbabwe in addressing challenges in the labour reforms and implementation of the international labour Conventions.

Government member, Angola (Ms IZATA) – Angola would like to congratulate the Zimbabwean delegation for the presentation of the report, as well as for its willingness to continue to collaborate with mechanisms of this Organization regarding the application of Conventions and Recommendations.

The Government of Zimbabwe is once again asked to present to this Committee the developments made regarding the recommendations issued during the last session of the Committee of Experts regarding the Convention.

It appears that certain changes in labour legislation has been requested.

We acknowledge that the progress of legislative amendment and modifications takes time. Therefore, we commend the Government of Zimbabwe on the progress made in response to the recommendations issued, which has revoked and replaced the Public Order and Security Act by the Maintenance of Peace Act (MOPA).

Bearing in mind the progress made, the Angolan delegation encourages the Government of Zimbabwe to continue with the process of legislative reforms under way in order to improve labour legislation and bring into line with the international standards in force at the ILO.

Membre travailleur, République démocratique du Congo (M. KUKU GEDILA) –

Partout, et à chaque fois que le travail forcé est pratiqué, en particulier lorsqu'il est utilisé comme un outil pour réprimer et faire taire la dissidence, il y a danger pour la démocratie et les libertés et la justice. Précisément dans le cas du Zimbabwe contesté par le non-respect de la convention, les travailleurs de la République démocratique du Congo appellent au gouvernement du Zimbabwe, que l'article 2 de cette convention exige des États qui l'ont ratifiée à abolir immédiatement et complètement le travail forcé.

Les travailleurs de la RDC notent que le Zimbabwe a mis en place un processus concerté pour traiter la question du travail forcé. Cependant, lorsque le même gouvernement utilise consciemment le travail forcé pour produire et imposer la suppression des droits, alors l'intervention réelle du plan devient suspecte.

De plus, les processus en place nous semblent insuffisants, car les victimes de cette pratique continueront à subir des atrocités au cours du processus qui est encore long. En attendant l'issue du processus, les travailleurs de la RDC exhortent le Zimbabwe et les autres pays, qui sont interrogés sur ce point, à mettre en place des dispositions transitoires ou un moratoire à effet immédiat, qui permettront d'atténuer les impacts

négatifs de cette pratique vis-à-vis des victimes, et conformément à l'article 1 de la présente convention.

Nous exhortons le Zimbabwe à lancer un véritable et large processus de collaboration pour débarrasser son pays du travail forcé.

Government representative (Mr MAVIMA, Minister of Public Service, Labour and Social Welfare) – Allow me to thank all delegates who have contributed to the discussion of my country. However, I wish to give particular and sincere to those speakers who took note of the present system in Zimbabwe and commended the legislative agenda that we have embarked on.

The Government of Zimbabwe also took note of the various constructive ideas that were flagged during the discussion. Indeed, the whole purpose of discussion and discussing individual countries is to help them to improve where necessary. However, there were some unfortunate interventions that defied the logic of the engagement. They were not in good faith. They might, of course, have been driven by political motivations. I want to inform this Committee that Zimbabwe is not being discussed under Convention No. 87: yes, it was discussed several times under Convention No. 87, but this does not mean we continue to discuss all issues as Zimbabwe is listed under Convention No. 105.

The comments by the Workers' delegates of South Africa on behalf of SATUC are unfortunate as, by and large, they are not in the context of the terms of this discussion. Earlier on, I indicated that it will not do for delegates to dwell on issues that do not form the basis of this discussion. It is not about the particular areas related to Convention No. 105 that need improvement. We should be focused. I raised this aspect in my opening statement with a view to reminding all of us about the need to adhere to the terms of listing and discussion.

It will not help us to dwell on issues that are not linked to Convention No. 105 on the abolition of forced labour. Forced labour is non-existent in Zimbabwe. My Government is serious and committed to achieving its set goals as a Member of the ILO, and does not tolerate derailment of its well-meaning national programmes by those that are bent on furthering political goals or supporting wrong causes in my country.

We should shun negativity and refrain from scoring cheap political goals. Playing to the international gallery is not the solution. If there are genuine issues which the Zimbabwe congress of trade unions (ZCTU) believes ought to be looked into, or to be revisited, surely they should bring them to the Tripartite Negotiating Forum (TNF). The TNF is our collective forum that exists to recommend to Government action to be taken on socio-economic issues affecting the country, and the workers in particular.

And what ought to be done to advance the decent work agenda in our picture? The ZCTU knows that the dialogue door is always open, and we have collaborated well with them. Yet, they give presentations portraying a different picture in international meetings. This is unfortunate, and retrogressive. They cannot be allowed to abuse the ILO structures for playing political games. The various cases cited by the Workers' delegation from Zimbabwe, including the nurses' representatives, the amalgamated rural teachers' representatives, were arrested for violating COVID-19 lockdown measures, meant to contain and manage the pandemic. So that presentation was very unfortunate and misleading.

Let me also take the opportunity to respond to some of the issues raised during the debate. However, I will not respond to issues that are intrinsically predicated in the political domain. These are issues of another platform and another day. In my initial address to this august house, I did indicate that there is no forced labour in the prisons

of Zimbabwe, which is the subject of the Convention. There is no forced labour in the prisons of Zimbabwe.

It will be misleading for the Committee of Experts to focus on things that are not there if we allow it to be preoccupied by suppositions. In my opening statement, I did point out that the Committee of Experts should not have engaged in the academic exercise when it examined and provided us with comments on a view when the Act is already there. For the benefit of the Employer members, I want to repeat that the Committee of Experts did not analyse the new Zimbabwe public order legislation, the MOPA. They analysed a Bill when the Act was already in place. We are not talking of a bill, but a new Act, which is now in force.

Unfortunately, some interventions present glaring evidence of motivated false moves and distorting the positive realities on the ground in Zimbabwe. Presumptive definitions are even proffered, as amply illustrated by the speculation that in the 20 ZCTU members being convicted, they would have been subjected to forced labour. Why use these hypothetical suppositions? The people were not convicted, and where do we get this notion that they would have been forced, that they would have been subjected to forced labour? The motives that inspire such claims are at best obscure. We should therefore be worried of using the ILO as a machine to advance political agendas. The ILO stands for social justice in the world of work. Let us always be guided by these values.

The laws, other than the prison legislation system that the Committee of Experts dwelled on, largely do not feed into what happens in the prisons of Zimbabwe. It is not disputed that the Committee of Experts did not establish that forced labour exists in the prisons of Zimbabwe. Indeed, we acknowledged the need to repeal sections in the Labour Act that are not in line with our criminal justice system. We are proceeding to

repeal them. That Bill is on its final stages within the Cabinet, and will soon be going to the legislature.

Regarding the maintenance of public order, the Committee should appreciate that the Committee of Experts has not examined it in any context. My delegation suggests that the Committee of Experts should examine the Act with a caveat. It will not be creating unnecessary linkages with the Convention. This submission is premised on the fact that the Act in question addresses broader issues that fall under the purview of Convention No. 87 on freedom of association and the right to organize, which the Committee made reference to in this report.

These broader issues were unfortunately raised in the discussion. Without myself getting into the political arena, I should want to inform this august house that my Government respects the freedom of association and expression on the part of all Zimbabwe, and indeed on the part of all workers, as the bill of rights in our Constitution.

Finally, my delegation looks forward to sharing conclusions. Consultations are deemed to be fair if they relate to the terms of appearance and to positive elements that are flagged in the discussion.

Employer members – The Employer members would like to thank the Government of Zimbabwe for the useful information, especially on the developments of the law reforms. We are pleased to hear that those consultations have been undertaken by the Government with its social partners under the Tripartite Negotiating Forum.

Nevertheless, once more the Employer members would like to recall the importance of respecting ILO fundamental Conventions as well as the fundamental rights to freedom of speech and the freedom of association.

In light of the debate the Employer members would like to recommend the Government to:

1. intensify its efforts to amend and repeal the criminal law code, at least the provisions that offend Article 1 of the Convention;
2. submit any information to the Committee of Experts in respect of its observations on the maintenance of peace and order, a bill, which is now an act, as well as to amend or repeal those provisions of the Labour Act that conflict with Article 1(d), in consultation with the most representative employers' and workers' organizations through the Tripartite Negotiating Forum and to bring these legal instruments into conformity with the Convention;
3. ensure that no penalties involving forced labour may be imposed for the peaceful expression of political opinions opposed to the established system of order;
4. ensure that no penalties involving forced labour may be imposed on those who participate in strikes. Then to provide detailed information of the developments of the legislative reforms and the application of those in practice as well as to seek ILO technical assistance to align these laws to the Convention.

Worker members – We thank the Government of Zimbabwe for its comments.

We note that the examples discussed by my colleagues show clearly that the Government uses the criminal provisions in the MOPO, the Criminal Act and the Labour Act, which has stiff punishments including compulsory prison labour, to deny workers and trade unionists the right to exercise their fundamental rights and civil liberties.

In the 2019 conclusion of this Committee regarding the Government of Zimbabwe's compliance with Convention No. 87, it called upon the Government to repeal the POSA

and ensure that the replacement legislation on public order does not violate workers' rights.

But as we have already indicated, the replacement legislation, the MOPO, according to the UN Special Rapporteur on Freedom of Peaceful Assembly and Association, the MOPO "has worrying similarities to the POSA" in a manner in which the exercise of the right to peaceful assembly is not fully guaranteed. In fact, in many ways, the maintenance of MOPO is more draconian than the POSA.

Again, the Committee of Experts has expressed regret that the repealed provisions on POSA remain potent and well under provision of the Criminal Code.

The Government must fully implement the recommendations of the 2009 Commission of Inquiry without further delay to ensure that no forms of forced or compulsory labour is used in law or practice, as punishment for exercising civil liberties or fundamental trade union rights, including holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Government must fully implement the 2019 conclusions of the Committee without further delay to ensure that no forms of forced or compulsory labour are used in law or practice as punishment for exercising civil liberties or fundamental trade union rights, including holding or expressing political views or views ideologically opposed to the established political, social or economic system.

The Government must immediately take the necessary measures to ensure that the relevant sections of the criminal code imposing sentences and penalties involving compulsory labour are not imposed on persons who hold or express political views or ideologically opposed to the established political, social or economic system.

The Government must provide to the Committee of Experts, at its next sitting, information on the application of any such provisions in practice including court decisions.

The 2019 conclusions of the Committee also called on the Government to ensure that the Labour Act is amended in compliance with Convention No. 87. As we have clearly seen, the provisions relating to the punishment of persons engaged in unlawful collective actions, with sanctions of imprisonment and with compulsory prison labour, remain in the Labour Act and are applied in a manner that violates Convention No. 105.

The Government must, as a matter of urgency, amend the law to ensure that no sanctions of imprisonment may be imposed for organizing or peacefully participating in strikes, noting that the Committee of Experts has been calling on the Government to repeal these provisions since 2002.

After five observations since 2010, ten observations since 2002, failure to implement the recommendations of the 2009 Commission of Inquiry on relevant legislation and failing to implement the conclusions of the Committee on relevant provisions including in 2019, and given the numerous times Zimbabwe has failed to comply with obligations affecting civil liberties and the exercise of fundamental rights in law and practice, we call on the Government to avail itself of all the opportunities for technical assistance by the ILO including the pending direct contacts mission to ensure that it complies with the conclusions of the Committee, including the conclusions adopted today, with respect to Convention No. 105.

We will request that this Committee include its conclusions on this case in a special paragraph of its report.

The sitting closed at 4 p.m.

La séance est levée à 16 heures.

Se levantó la sesión a las 16 horas.