

**Committee on the Application of Standards**  
**Commission de l'application des normes**  
**Comisión de Aplicación de Normas**

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108.<sup>a</sup> reunión, Ginebra, junio de 2019

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**Sixteenth sitting, 19 June 2019, 10.20 a.m.**  
**Seizième séance, 19 juin 2019, 10 h 20**  
**Decimosexta sesión, 19 de junio de 2019, 10.20 horas**

*Chairperson: Mr Rochford*  
*Président: M. Rochford*  
*Presidente: Sr. Rochford*

**Work of the Committee**

*PVs 12, 13, 14 and CCL.1 were adopted as amended.*

**Travaux de la commission**

*La commission a adopté les PV.12, 13, 14 et CCL.1, tels qu'amendés.*

**Trabajos de la Comisión**

*Las actas 12, 13, 14 y CCL.1 se adoptaron en su tenor modificado.*

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

***Philippines (ratification: 1953)***

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)  
Convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948  
Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (núm. 87)

**Government representative (Mr BENAVIDEZ)** – This invitation is a great opportunity to report to the Committee on what our country had done in the recent past, what we have been doing in the present, and what we intend to do in the near future to further advance the freedom of association in the Philippines.

In pursuance of the recommendations of the 2017 direct contacts mission, the Philippine Government and its social partners adopted the National Action Plan on the Freedom of Association and Collective Bargaining with the support from the ILO Manila and European Union Generalized Scheme of Preference (GSP+). We are of the belief that the most appropriate enabling environment for the free and full exercise of the freedom of association is a secured employment in safe and healthy working conditions in all places of work free from violence and harassment. The 2019 Philippine Workers' and Trade Union Report on the Sustainable Development Goals even notes that the rampant contractualization and informalization of formal work is one of the causes of union decline. This scheme impairs the workers' inherent rights to freedom of association and collective bargaining. Job insecurity compounded by the low labour standard compliance, unsafe working conditions and inadequate social protection is a creeping grave threat to the freedom of association.

Given this consideration, the Philippine Government has intensified its inspection since 2016. Inspection already covers matters involving unions and collective bargaining agreements and more importantly issue on security of tenure. From 2016–18, we have inspected more than 180,000 establishments covering more than 12 million workers and resulting to the regularization of more than 400,000 workers. This intensified inspection has

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created a wider democratic space for freedom of association. This has never been done before. The Philippine Government have an additional 136 labour inspectors as of December 2018, and another 500 more labour inspectors this year. All inspectors were trained and capacitated with the assistance of ILO Manila and support from the United States Department of Labor. In the spirit of social dialogue and tripartite engagement, the Philippine Government has enlisted trade unions' and employers' representatives as deputized labour inspectors. They can now join labour inspectors in the conduct of inspection of establishments. As of January 2019, we have 241 deputized social partners.

Last year, our President promulgated Executive Order No. 51, which sets the underlying policy of the present Government in dealing with the issue of job security which to our mind is an indispensable component of the freedom of association. To ensure full and free exercise of this right however and given the inherent limitation on the executive power in a working democracy, this policy has to be pursued through legislation. Speaking of legislation, let me first share with the Committee major legislative reforms in labour and employment. Recently, the Philippine Government enacted the Expanded Maternity Law, the Telecommuting Act, the Social Security Reform Act, the Occupational Safety and Health Standards, the Universal Health Law and the Magna Carta of the Poor. These measures which will further enable more workers in the informal sector to exercise their freedom of association, are all in accord with the 2030 Sustainable Development Goals.

As this representation earlier stated, the most appropriate enabling environment for the free and full exercise of the freedom of association in our country is a secured employment in safe and healthy working conditions in all places of work free from violence and harassment. The proposed Security of Tenure Act has now passed the Philippine Congress. It is now awaiting endorsement to the President for his appropriate action. Job insecurity, low labour standard compliance, unsafe working conditions and inadequate social protection are the common proximate causes of labour disputes in the Philippines which disputes led sometimes unfortunately to reported cases of violence and harassment. On this note, let me

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assure the Committee that the institutionalized National Tripartite Industrial Peace Council–Monitoring Body (NTIPC-MB) continues to effectively function with the issuance of Administrative Order No. 32 defining the functional relationship of the NTIPC-MB and the Regional Tripartite Monitoring Bodies. There are 16 Regional Tripartite Monitoring Bodies across the country ready to be mobilized anytime and anywhere when needed. The Tripartite Validating Team whose volunteer members are assured of security assistance and funding may be engaged, if warranted. Mobilizing the concerned Regional Tripartite Monitoring Bodies at the regional level brings about immediate response and concrete appropriate function. Most recently, the concerned Regional Tripartite Monitoring Body in coordination with the concerned Philippine National Police has been immediately mobilized to investigate and monitor one reported case in Southern Luzon.

It is worthy to note that in view of the strengthened partnership between social partners and the functioning monitoring mechanism, we observe a marked decline in reported cases of killings. There were 50 reported cases from January 2001 to June 2010, 16 cases from July 2010 to June 2016 and three cases from July 2016 to December 2018. As we have previously indicated, of the 66 cases from 2001 to June 2016, 11 were considered Administrative Order 35 (AO35) cases. With specific reference to the observation in the report, the case of Miralles in 2016 is being investigated. The forensic digital examination conducted by the Philippine National Police (PNP) Anti-Cyber Crime Group on the submitted CCTV footage did not yield positive results. Investigator-on-Case could not also find any relevant information, thus the Philippine National Police – Directorate for Investigation and Detective Management (PNP-DIDM) continues to conduct case review for the possible identification of suspects. Now focusing on the technical aspect of the investigation, ballistic and cross-matching examination on the recovered evidence has been undertaken. Also referred in the report, the case of Abangan in 2016 has been investigated not only by the PNP but also independently of the Commission on Human Rights. The PNP continues to profile the alleged suspect, and to convince the parents of minor witnesses and

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victim's relatives to testify. In a separate resolution, the Commission on Human Rights, an independent body, found that the incident is a private concern. Serious efforts to build a good case against the perpetrator continue. These two particular cases mentioned in the report are being continuously monitored by the Regional Tripartite Monitoring Bodies of the National Capital Region and Region VII. The cases of Embang in 2012, Pango in 2014 and Romano in 2015 are subject to further investigation. Like other previous cases, however, the lack or insufficiency of evidence hinders the successful investigation and prosecution. The new, yet fewer, reported cases are very unfortunate and by all parameters are condemnable in the strongest possible terms. These cases and all others were timely acted upon by the appropriate agencies to appropriate investigation, case build-up, prosecution and trial. These are now being closely monitored by the concerned Regional Tripartite Monitoring Bodies in the regions including the AO35 Inter-Agency Committee which will soon reconvene after the strategic planning conducted last March of 2019 regarding the inclusion of the Department through this representation in the Inter-Agency Committee and the provision of adequate assistance and protection to witnesses under the Witness Protection Program.

Consistent with the tripartite-agreed National Action Plan (2017–22), the Philippine Government has continuously conducted capacity-building trainings of social partners, prosecutors, enforcers and relevant actors, especially in criminal investigations last November of 2018 in Pampanga, 15 January 2019 in Cebu, 25 January 2019 in Davao and 4 February 2019 in Manila. We are now finalizing the “Training Manual on Freedom of Association” for workers, the “Diagnostics of Compliance with Labor Standards” for employers, the Freedom of Association (FOA) Training Module for the Commission on Human Rights and the FOA e-Learning Module on International Standards and Labour Rights for everyone. We already had exploratory meeting and workshop on 17 December 2018 and 7 March 2019, respectively, with the concerned Department, particularly, the Local Government Academy for the incorporation of International Labour Standards, particularly, freedom of association, and the Guidelines in the regular orientations and training of local

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chief executives, and another meeting in January and August 2018 with PNP and armed forces of the Philippines (AFP) on the inclusion of the same subjects in their curriculum and trainings.

At this point, and again with reference to the Report, we wish to clarify that the activities conducted by the Armed Forces of the Philippines-Human Rights Office in Mindanao, were actually barangay visitations under the Community Support Program of the Armed Forces of the Philippines. It is a community-oriented and issue-oriented operational concept employed in conflict affected areas. This was not meant to decimate trade unions. AFP has re-affirmed its commitment to the Guidelines, it even issued directives to all military units to respect the rights of workers. It likewise redistributed the Guidelines to personnel to guide them in their engagements. Recently, lectures and orientations on Freedom of Association and Trade Unionism, were held on 1 February 2019 and 7 May 2019 attended by AFP and PNP personnel.

Our work is not yet done. In the spirit of social dialogue, I call on our social partners, given our national conditions and circumstances, to work and continue to work on and further pursue significant reforms at the national level for the realization of our social contract as embodied in the National Action Plan. This representation so requests, and with the usual support of our social partners, to be given the sufficient reasonable opportunity to complete and accomplish the activities and programmes in the National Action Plan within the tripartite-agreed specific time-bound deadlines. While it is true that trade unions and employers' groups are not part of Government, we are all partners in governance.

To conclude, the Philippine Government continues to affirm its strong and unwavering commitment to obtain substantial progress in compliance with the Convention, in law and practice, and to ensure a better enabling environment for the free and full exercise of the Freedom of Association in the Philippines. Maraming Salamat, Ginoong Tagapangulo.

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**Worker members** – We recall that in 2016, the Committee examined the Government’s application of the Convention. This resulted in a direct contact mission in 2017 with urgent recommendations regarding civil liberties, trade union rights and the promotion of a climate conducive to freedom of association. However, since then the protection of civil liberties and rights have further deteriorated and the Government has still not made any progress in amending its national legislation after it has repeatedly announced to the supervisory bodies its efforts.

The rising number of extrajudicial killings is simply shocking. The Committee of Experts noted with regret that there remain numerous cases of trade union murders and other acts of violence for which the perpetrators have yet to be identified and punished. Moreover, the Committee of Experts note with deep concern the new and grave allegations of the assassination of two trade union leaders. Indeed, just two weeks ago, Leonides Dennis Sequeña, a veteran trade union organizer was assassinated while meeting a group of workers. He was shot by a gunman who arrived riding on a motorcycle. Before his assassination, Mr Sequeña had been working on several petitions for certification elections in three companies inside the Cavite Export Processing Zone (EPZ) in Rosario. The politically charged atmosphere created by the military’s war on the so-called “reds” is a recipe for violence and reminiscent of the years when unionists were targeted, harassed, arrested, jailed, abducted and murdered after being tagged falsely as “reds”.

We call on the Government, as well as the military, to refrain from using language that may stigmatize trade unionists or condone any retaliatory acts against them for the views they defend. We also note with deep concern the military’s intervention in industrial disputes. We recall that between 26 May and 2 June 2017 armed soldiers threatened striking workers of a tropical fruit company and broke up a picket. These military interventions in trade union affairs occur with approval of the Government which on several occasions threatened striking workers with military and police action. As the Committee and other parts of the supervisory system have repeatedly highlighted, a climate of violence and

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murder of trade union leaders constitutes a serious obstacle to the exercise of trade union rights and a grave violation of the principles of freedom of association. The Government's consistent failure to protect workers and their leaders from such acts creates an atmosphere of impunity that reinforces the climate of fear and uncertainty and harms the exercise of trade union rights.

The extrajudicial killings and the violence perpetrated against workers is now at the level of a humanitarian crisis. Yet, the Government continues to refrain from putting effective monitoring mechanisms into place to address this impunity and ensure accountability. We note that the Inter-Agency Committee (IAC) on extra-legal killings, enforced disappearances, torture and other grave violations of the right of life, liberty and security of persons (AO35) has yet to reconvene due to pending staff changes in the Department of Justice. We note that the NTIPC-MB is a non-judicial or investigative body monitoring matters of industrial peace. It is alarming that the NTIPC submitted 65 cases of extrajudicial killings affecting trade unionists but only 11 were verified by the IAC. The cases of Florencio "Bong" Romano, discussed by the Committee in 2016, and of Victoriano Embang, murdered in 2014, are still under police investigation. The IAC must be given resources to investigate and prosecute all complaints of extrajudicial killings of trade unionists. The NTIPC must also be resourced to monitor the climate of justice and security for trade unionists. We call on the Government to provide all necessary resources for the speedy and effective investigation of the serious allegations of killings of trade union leaders and guarantee the security of witnesses.

We deeply regret that over many years, various aspects of the legislation of Philippines that are non-compliant with the Convention remain intact and are applied in practice. There appears to be an absence of good faith by the Government to work expeditiously to adopt the necessary measures that would bring its legislation into compliance with the Convention. For a number of years now, the Government has been referring to several bills that are still pending. For example, sections 284 and 287(b) of the Labor Code restrict foreigners from



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joining unions contrary to Article 2 of the Convention. The Government has pointed to House Bills No. 1354 and No. 4488 that allegedly, when passed, will permit foreign individuals to engage in trade union activities including self-organization. As noted by the Committee of Experts, these bills are still pending in spite of various sessions of the House of Representatives where they could have been adopted.

Numerous categories of workers are excluded from the right to form or join trade unions. They include workers in managerial positions or with access to confidential information; firefighters; prison guards and other public sector workers; temporary or outsourced workers; and workers without an employment contract. These exclusions stand in clear contradiction with Article 2, which affords the right to freedom of association to all workers without distinction. The Government has referred to House Bills Nos 4533 and 5477 and Senate Bill No. 641, which it claims will address these violations. However, it must also take necessary steps in good faith to ensure that these bills are finally passed into law with the full involvement of the social partners.

Moreover, there are aspects of the legislation that restrict the right to establish trade unions without previous authorization. Under section 240(c) of the Labor Code, independent unions must meet a membership threshold of 20 per cent in order to organize. The Committee of Experts have repeatedly made it clear that the minimum membership requirement was excessive and therefore constituted an obstacle to freely form workers' organizations. The Government is pointing again at pending Bills that aim to reduce minimum threshold without providing a credible explanation concerning the delay in the adoption of the amendments that are necessary.

Furthermore, we are deeply concerned that Article 3 protections of non-interference and protection against interventions that impair the exercise of these freedoms are continuously undermined. Under section 278(g) the Government has the power to unilaterally intervene in labour disputes affecting essential services and to order compulsory arbitration. We note the Government's issuance of Order No. 40-H-13 to align the list of

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industries of national interest with the Convention's essential services. However, the Government retains an expansive instead of strict and limited definition of essential services contemplated by the Convention. The designation of essential services must correspond to those services whose interruption would directly endanger the life, personal safety or health of the whole or part of the population. The House of Representatives have been going through four bills to address these concerns under Bill Nos 175, 711, 1908 and 4447 and Senate Bill No. 1221. We stress the need for the Government to take urgent steps to ensure that a definition of essential services compliant with the Convention is adopted in consultation with social partners. In this context, it is also deeply troubling that sections 279 and 287 of the Labor Code impose penal sanctions against workers for participating in or carrying out a peaceful strike. This is undoubtedly a breach of Articles 3 and 8 of the Convention. And regrettably, the House Bills Nos 175, 711, 1908 and 4447, which aim to address this issue, are still pending in the House of Representatives. We regret that these Bills have been pending for several years now. The Government must take immediate and time-bound steps to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike irrespective of the agreed procedure. Equally, we note that the requirement of section 285 of the Labor Code, for prior approval from the Secretary of Labour before trade unions can receive foreign assistance, violates Article 3 of the Convention. The Government has introduced House Bill No. 1354 and No. 4448 to withdraw the prohibition and regulate other aspects of foreign assistance to Philippine trade unions. Again, this has been pending for a while in the House of Representatives.

Finally, the Government has not given full effect to Article 5 of the Convention. Section 244 of the Labor Code sets an excessively high threshold of organizing ten union locals or chapters duly recognized as collective bargaining agents in order to register a federation or national union. Again, the Government has indicated that House Bill No. 1355, which reduces the minimum membership requirement, is pending, along with Senate Bill No. 1169. We are also deeply concerned about excessive use of short-term contracts and its

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negative impact on freedom of association. Legislative processes have been pending for too long without any concrete steps undertaken. We reiterate that supervisory bodies have noted the vital importance of social dialogue and tripartite consultation on matters of labour-related legislation and policy. We call on the Government to pursue full, frank and meaningful consultations on these Bills. It is our expectation that all necessary steps to ensure the amendments are adopted will be taken without further delay.

**Employer members** – We thank the Government for its comments, and also to the workers, because there was a lot of useful detail in the comments that have just been made. As we know, the Convention is a fundamental Convention ratified by the Philippines in 1953. The Philippines has ratified 37 Conventions, including all eight fundamental Conventions, and that is noteworthy because it means that they take the principles of these fundamentals seriously, or should do. This case has been examined by the Committee before, in 2007, 2009 and 2016, and there have been 15 observations from the Committee of Experts since 1995, including seven in the last ten years and that is again noteworthy. Countries that are commented on frequently, have issues that need to be dealt with more importantly. It is a long standing case, as we heard from the workers, it has got multiple features, and it is also a case involving the Convention, over which as we all know, from interminable comments, that there are issues, the employers have issues with. Just to recap, the employers disagree with the views of the Committee of Experts concerning the right to strike under the Convention and we hold the view that there are no ILO standards on strikes, and therefore, that the scope and conditions of the exercise of the right to strike should be regulated at the national level. So, insofar as the right of workers in the Philippines to take strike action is concerned, we would simply reflect that it is for the Government to regulate this matter.

On its face, this case is a case of systemic discrimination by the state against workers' organizations and their members. I say on its face advisedly, as closer examination of the issues suggests that the case of the Philippines is actually not one story but two. The first is

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the specifics of the complaints of workers and unions, and the second is the Government's responses, and the context of those responses. So, looking at each of those stories in turn.

In relation to the complaints of the unions and workers – over many years the Committee has received complaints of violations of trade union rights and worse, including the alleged killing of trade union leaders, arrests, and false criminal charges filed against trade union leaders, and physical assaults on striking workers. There are too many to detail here in the time available. Once again, the observations concern serious allegations of human rights violations, including: the killings and attempted assassination of trade union officials; the violent suppression of strikes and other collective actions by the police and the armed forces and; the harassment of unionists and prevention of people from joining trade unions in EPZs. Let me be clear, the employers in no way denigrate the seriousness of the issues brought to the attention of the Committee. However, it is important to note that these are not just issues of freedom of association, which is the subject of this case. They also include issues of human rights and by definition there are also cases of law and order. Cases such as these cannot go unchallenged, but, we have to be careful that we challenge them here in the context of freedom of association. We have no jurisdiction in the matters of law and order in particular, nor arguably human rights, although there are inevitable overlaps. Much of the detail of this year's case is the same as last time it was discussed. The murders referred to in 2016 have been discussed before. So, we need to examine not just the details, but also whether the situation is getting better or worse and which bits are better or worse. This year it seems there are just as many, if not more issues, but also that the Government has a long way to go in dealing with them.

In relation to the Government's response – the second story relates to the Government's responses to the various allegations leveled against it. Over several years, its response has been multifaceted and on its face comprehensive. Regrettably however, it dates back several years and little seems to have changed in the interim. To recap, the Government for several years now, has provided information about its work on reforming its labour laws in

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conformity with the Convention. Two critically important elements of this activity have been what was called: (i) The National Monitoring Mechanism, which has a mandate to monitor the nation's progress on the resolution of human rights violations, prioritizing, in the short term, cases of extrajudicial killings, enforced disappearances and torture, and to provide legal and other services. We do acknowledge that several convictions for unlawful killings have resulted as a result of this, but there are many, many, unsolved issues, some of which have yet to even be investigated. (ii) The IAC on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons, which was created in November 2012 and also charged with the investigation of cases of extrajudicial killings, enforced disappearances, torture and other grave human rights violations perpetrated by the state and non-state forces and to prioritize unsolved cases, and to create special investigation teams. We welcomed it at the time it was set up, but we note with regret, that it appears to have fallen to abeyance since this case was last discussed. This is a serious concern and the employers urge the Government to promptly resume the previous activities and address the growing back log of cases. We also echo the call of the Committee of Experts for the Government to report on progress made in ensuring the collection and processing of information that will bring cases of violence to the courts, and to report on the outcome of those cases. It is not sufficient, we believe, to have as we heard from the Government, 16 regional tripartite bodies that can be called upon when needed to investigate issues – when needed, is now and they should be active now.

While investigations into the allegations of acts against union members and officials are serious issues in their own right, so too is the context in which the Government must investigate these allegations. This makes the Philippines' Human Security Act perhaps the heart of the second story. This Act reflects the Government's commitment to preserve the security of its citizens against a long-standing background of political and civil instability, including armed insurrection. It is this background that the employers believe has not been given sufficient weight in the consideration of this case, both now and in the past. This is

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important because the IAC operational guidelines define extrajudicial killings so as to include cases where the victim was a member of, or was affiliated with, a labour organization, or was apparently mistaken or identified to be so, and the victim was targeted and hurt or killed because of the actual or perceived membership. Not every human rights violation is a breach of labour rights, this is especially true if this person against whom the violation was committed, was in fact committing an unlawful or criminal act at the time. It is therefore, vital to consideration of cases that it be made clear, what law was being transgressed and whether that law conforms to international standards. This is not always clear and any lack of clarity can only inhibit a fair consideration of the case. In the context of freedom of association, it is important to distinguish between cases where union members were specific targets because of their union membership or activities, or simply became victims, alongside other victims and other citizens, of more generally directed violence. We have a mandate in the first respect but we do not in the second. Unions have expressed concerns that the Human Security Act can be misused to suppress legitimate trade union activities. For its part, the Government has stated that this Act cannot be used against the exercise of trade union rights, especially legitimate trade union activities, and that guidelines exist to ensure that the armed forces and the police may only intervene in trade union activities if expressly requested to do so by the authorities. The evidence that we see in front of us, and that we heard is that, that may be more words than real. In terms of monitoring and investigation, employers welcomed the establishment of the National Monitoring Mechanism and the IAC, at the time. The trouble is that, while initially active, they seem to have fallen into disuse. We do understand that there has been a change of regime, and a number of activities have been interrupted in recent times. However while that is a fact, it is not an excuse. We urge the Government to “get back on track” as soon as possible.

The Government has previously indicated that it has engaged in cooperation with the ILO Manila, a Technical Cooperation Programme on training and capacity building of all relevant stakeholders on international labour standards, including freedom of association and

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collective bargaining. We request that the Government provide an update on the status of this work and any results that have been achieved.

With respect to the Labor Code, we note government proposals to make changes to ensure greater consistency with international labour standards, particularly with the Convention and that a tripartite labour code review team was a partner in the drafting process. However, once again, this is a change that has been in train for a long time, it is a welcome change, but once again, it does need to be finished.

With respect to Article 2 of the Convention, which is the Right of workers to establish and join organizations. We note that Bill 5886, while allowing non-citizens to participate in trade union activities, only assigns the right to aliens with a valid working permit. Nor does it deal with concerns over the exclusion of trade union rights for certain public servants, the likes of firefighters, prison guards, and the like, public sector employees in policymaking positions or with access to confidential information.

We welcome the news that the Philippines has ratified the Labour Relations (Public Service) Convention, 1978 (No. 151). However this is still a step short of reality. It is the domestic laws that will give effect to these Conventions that now need to be expedited and we again urge the Government to act quickly to bring these laws to fruition.

The Employers recall that, while it is possible under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) , which deals with the right to bargain collectively to exclude certain public servants from collective bargaining, this is not a matter contemplated by the Convention, which deals with the right to organize. Accordingly, the employers hope that the proposed legislative amendments and any other relevant legislative measures will be in accordance with the above-mentioned principles, to ensure that all workers, including those excluded from collective bargaining have the right to organize. Employers request the Government to provide information on all developments in this regard.

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With respect to Article 3 of the Convention, concerning the right of organizations to organize their administration and activities and to formulate programmes without interference, we note the Government's indication that the proposed changes will harmonize the list of industries, essential industries, indispensable to the national interest. As in previous years, we welcome this initiative to limit the Government's intervention leading to compulsory arbitration. However, once again we want to see the legislation enacted, we have heard about it for too long, we need to see it done. We also once again, welcome news that the thresholds to establish unions will be lowered so that the exercise of freedom of association in terms of establishing organizations is as free as possible. In relation to the Committee of Experts' remarks about the principle according to which no penal sanctions should be imposed against workers for having carried out peaceful strikes we do have concerns. Given how my previous remarks about the Convention, given that there is no consensus about the existence of a right to strike, the Committee of Experts' remarks can only be construed as a reference to the extent to which national law provides for penalties to be imposed in instances of unlawful strikes. We can only hope that the Government will adopt a balanced and fair approach to these matters.

In conclusion, the things that we need to see, or the one thing we need to see, is action. We would like to see the rejuvenation of the work of the IAC and what was the, National Monitoring Mechanism. We would like to see the amendments to the Labor Code brought into full conformity with the Convention, including permitting all workers and employers without distinction to form and operate organizations of their choosing. We want to Government to ensure that workers are not penalized exercising lawful rights under national law and we want to see an update as soon as possible on the status of the technical cooperation project established with the ILO, we hope that all of these matters will be expedited as soon as possible.

**Employer member, Philippines (Mr PAYOS)** – The Employer members are in full accord with the report of the Government representative in the significant improvements



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with respect to the application in law and practice of freedom of association under the Convention. They also support the 2017 National Action Plan on the Freedom of Association and Collective Bargaining and its concomitant action points in respect of civil rights and trade union rights. In the legislative issues, in response to the recommendations and comments from the ILO supervisory bodies, there are indeed several remarkable and consequential reforms on labour and employment as heretofore narrated before by our Government representative. The Employer members wish to add a landmark but albeit, controversial law, that gave more flesh and meaning to the right of workers to organize and conduct collective bargaining, rights guaranteed under our Constitution and our law. We said it is controversial as there are provisions that raised serious concerns by business. This law relaxes and lessens the once too strict and complex prerequisites for union recognition. It hastens local enterprise union organizing by simply letting a federation or national union issue a charter certificate as its local chapter. While the issuance of a chapter certificate gives the local chapter legal personality only for purposes of filing a petition for certification election, there are features in the law that raise hackles from the business community, among which are the following: (i) In a petition for certification election, the employer is considered merely as a by-stander. The employer's role in such proceedings shall be limited to being notified or informed of the petition and to submit the list of employees during the pre-election conference. It creates a sad spectacle of the Government and the union talking about the future of the company while its social partner, the employer, is being left out from the conference; (ii) the rank and file union and the supervisors' union operating within the same establishment may join the same federation or national union. This gave rise to concerns from employers on the issue of conflict of interest. Would this not affect the objectivity of the supervisor when he or she is being called to investigate an erring rank and file employee? In the event of a strike of one, would the other maintain its independence and not sympathize with the other?

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Be that as it may, the Employer members accept this law as a stark reality. *Dura lex, sed lex*. The law may be hard, but it is the law. As responsible social partners, subscribing to the Convention and Convention No. 98, the employers will respect and obey the law. Employer members welcomed the visits of the high-level mission of 2007, the Direct Contact of 2017 regarding complaints on alleged violations of the Convention and Convention No. 98. With due deference, however, the Employers are concerned that most of these complaints have proven to be untrue after a true investigation. While we condemned in the strongest terms the shooting of a union organizer on the second day of this month while meeting with a group of UN members, which we hope that the culprits will be put behind bars soon, it is worthwhile noting that of the 71 reported extrajudicial killings and attempted murders, 27, or 38 per cent, from 2001 up until present year, are classified as suspected to be labour related. Of these 27, only two are pending in court, another two happened due to personal grudges such as traffic altercation, etc. The remaining 23 were dismissed, or under investigation still, or shelved due to lack of direct evidence. Against this background, the Employer members humbly and respectfully suggest to the Committee of Experts to exercise some due diligence in assiduously verifying and validating any complaint of alleged violation of the Convention and Convention No. 98 to determine if there is indeed a probable cause to entertain such complaint. In closing, the Employer members assure the Committee of their continued support and cooperation in the performance of its functions.

**Government member, Romania (Mr TACHE)** – I am speaking on behalf of the European Union and its Member States. The Candidate Countries Montenegro and Albania and the EFTA country Norway, Member of the European Economic Area, align themselves with this statement. We are committed to the promotion of universal ratification and implementation of the eight fundamental Conventions as part of our Strategic Framework on Human Rights. We call on all countries to protect, promote and respect all human and labour rights and we attach great importance to freedom of association and the right to

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organize. Compliance with the Convention and Convention No. 98 is essential in this respect.

We wish to recall the commitments made by the Philippines within the framework of the GSP+ Agreement and the Framework Agreement on partnership and cooperation with the EU and its Member States, in particular commitment to ratify and effectively implement international Conventions on human and labour rights. In support of this, the EU is implementing a joint project with the Philippines on strengthening the capacity of public administrations to apply the eight fundamental ILO Conventions with a specific focus on freedom of association and collective bargaining.

Despite some progresses in overall promotion of the social and labour rights agenda and the commitments by the authorities to address the issues of concern, we deeply regret that this case is again on the list of the Committee, after its discussion in 2016. We thank the Government for good engagement and the detailed information additionally provided. However, we note with serious concern that after several years, numerous cases of violations of freedom of association remain unresolved, including trade-union murders, anti-union violence and police violence during peaceful strike action. We are also concerned by the lack of proper investigations and prosecutions of serious cases. We reiterate that impunity cannot and should not be tolerated in any society. We welcome the steps taken in recent years to establish monitoring bodies and institutions, including the IAC entrusted with the duty to investigate extrajudicial killings, enforced disappearances and torture, the NTIPC-MB and the Regional Tripartite Monitoring Bodies. However, we regret that the IAC is yet to reconvene. We note that provisions have been made to set up Tripartite Validating Teams to support the work of the regional monitoring bodies. We call on the Government to take prompt measures to reiterate the proper functioning of the IAC and we expect the established bodies to appropriately investigate all cases, punish the perpetrators and prevent the repetition of similar events. Recognizing the seriousness of the allegations and the complexity of the cases, we are cooperating with the Government in the area of witness

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protection and capacity-building of prosecutors, enforcers and other relevant actors. We also urge the Government to take further steps to strengthen the functioning of the national and regional tripartite bodies.

We join the Committee of Experts in welcoming the ratification of Convention No. 151 in 2017 by the Philippines. However we would like to raise our concerns over the persisting legislative aspects of the case which the ILO supervisory bodies have been raising for years. We note with concern the lack of progress in the adoption of several legislative proposals to bring national legislation into conformity with Convention No. 87, despite repeated commitments and assurances to do so in recent years. We urge the authorities in the Philippines to adopt the legislative amendments, in particular concerning: granting trade union rights to all workers and categories of workers in the country; reducing the excessively high minimum requirements for forming trade unions; lowering the excessively high requirement for registration of trade union federations; limiting government intervention in labour disputes; ensuring that no penal sanctions are imposed against the worker for having carried out a peaceful strike; removing the need for government permission for foreign assistance to trade unions; and reducing the excessively high requirement for local unions in order to register at the federal or national level.

Lastly, tripartite consultations and meaningful and effective social dialogue are essential elements of the application of fundamental principles and rights at work, particularly the fundamental ILO Convention. Therefore, we strongly encourage the Philippines to step up its efforts to strengthen cooperation with the workers and employers to ensure the effective implementation of the Convention and respect for freedom of association. In conclusion, we would like to reiterate our strong commitment to continue our intensive cooperation with the Government of the Philippines, in its effort to address challenges and secure the respect of human and labour rights in the country.

**Government member, Thailand (Mr THANGHONG)** – Thailand delivers this statement on behalf of the Association of Southeast Asian Nations (ASEAN). ASEAN

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recognizes that as a signatory to the Convention way back in 1953, the Philippines, with the collaborative efforts of its social partners, have shown substantial progressive improvements in terms of the application in law and practice, the principles of the Freedom of Association since the High Level Mission in 2009, and the direct contacts mission in 2017 after its examination before the Committee during the 105th International Labour Conference in 2016.

ASEAN notes the information and report on the progress so far realized, taking into account the national circumstances, in the observance of the freedom of association in the Philippines through the National Action Plan on the Freedom of Association and Collective Bargaining (2017–22), adopted in 2017 by the Philippine tripartite partners with the support of the ILO Country Office in Manila and the European Union Generalized Scheme of Preference (GSP+). To fully implement the National Action Plan in 2022, ASEAN expects the tripartite partners in the Philippines to continue the laudable works they had started. The Philippines, together with its social partners, shall be given the opportunity to complete and accomplish the activities and programmes embodied in the National Action Plan within the tripartite-agreed timelines. ASEAN, therefore, urges the Philippines to remain committed to its obligations under the Convention, and to continue its healthy and constructive engagement with all social partners.

Finally, ASEAN calls on the ILO and its supervisory bodies to provide the needed technical assistance and guidance to resolve pending issues and ensure a better enabling environment for the effective implementation of the Convention in the Philippines.

**Observer, Federation of Free Workers (FFW) (Mr MONTANO)** – I am speaking on behalf of the Federation of Free Workers and Nagkaisa Labor Coalition of the Philippines. Philippines is signatory to the Convention as early as 1953. As we can recall, in 2016, the Committee of Experts designated the Philippines on the Convention as a double-footnoted case. The choice was in our view an appropriate reaction to the ongoing violence against trade unionists and the lack of prosecutions for extrajudicial killings, despite the

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establishment of various national mechanisms to monitor and investigate these crimes. Of course, anti-union violence was not only our concern in 2016. The avoidance of unions through non-regular employment schemes, the defects in existing laws and the failure of the Government to enforce even these defective laws have led to a climate in which freedom of association is very difficult, if not nearly impossible to exercise.

Since the Duterte Administration came to power, 43 trade unionists have been assassinated. The first murdered trade union leader was Orlando Abangan, a SENTRO organizer based in Cebu. He was gunned down in September 2016. The most recent is Dennis Sequeña, a veteran trade union organizer, who was gunned down in Tanza, Cavite on 2 June 2019, in the middle of conducting a basic orientation on trade unionism with EPZ workers. The local police have not even formally filed a case. During the prior government of Gloria Macapagal Arroyo, 68 trade unionists were murdered. The Government is simply not serious about holding anyone responsible for these murders. However troubling, the violence is not only our concern in the Philippines, while the workers in the Philippines led by the Nagkaisa Labor Coalition succeeded in convincing the Government of the Republic of the Philippines to ratify Convention No. 151, the first ever in the whole of Asia two years ago, until the present, however, there is still no enabling law passed to implement the spirit and intent of the said Convention. This situation keeps the more than 628,000 job orders and contract of service employees who are working and performing core functions and frontline services in local government units, national government agencies, state colleges and universities, including government owned and controlled corporations, remained outside the scope of collective bargaining in the public sector and were consequently deprived of the benefits therefrom. Government should walk the talk.

The Committee of Experts again notes several other legislative matters, including obstacles to registration, among others and that in fact recently there were a lot of labour and employment legislative reforms that have been enacted including the Occupational Safety and Health, Telecommuting Act, Social Security Reform Act, providing for an

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unemployment benefit among others, Expanded Maternity Leave Law. However, these measures are far from realizing the right of the workers to fully enjoy their freedom of association.

**Government member, Brazil (Mr NUNES FILHO)** –Brazil thanks the Government of the Philippines for the detailed information provided to the Committee. Brazil reiterates its unease with a wide range of aspects of the supervisory system. This Committee is far from conforming to best practices in the multilateral system. A strong, effective and legitimate ILO, adapted to the contemporary challenges is of interest to all – governments, workers and employers. Looking forward to a future with prosperity, decent work and more jobs, the ILO should increase cooperation and international partnerships, while reviewing its standards supervisory system towards transparency, objectivity, impartiality and true tripartism.

We take good note of the information provided by the Government as to its commitment to ensuring freedom of association and the rights of workers as a whole. In this regard, we highlight the report on the improvements in the observance of freedom of association in the Philippines through the adoption in 2017 of the National Action Plan on the Freedom of Association and Collective Bargaining 2017–22 by the Philippine tripartite partners with the support of the ILO Country Office-Manila and the European Union. For the consequent implementation of the National Action Plan, we encourage the tripartite partners of the Philippines to continue the efforts they have started. We trust that through social dialogue and tripartism, the Philippines can foster an enabling environment for freedom of association including collective bargaining. Finally, we call on the ILO and its supervisory bodies to provide, if requested by the Government, technical assistance to resolve pending issues and further advance freedom of association in the Philippines.

**Worker member, Philippines (Ms CORONACION)** –On behalf of the Nagkaisa Labour Coalition, let me add to what the worker member from the Philippines has said. Moreover, the situation for workers in EPZs remains just as bad as ever. Union organizers

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are banned from entering EPZs. Management harass workers as soon as there is word of union organizing, and workers suspected of being involved are arbitrarily transferred to isolate them or are fired. When tribunals order reinstatement, employers routinely ignore these orders with impunity. In some cases, management will work with the PNP to arrest union leaders on trumped up criminal charges just days before the certification elections. These fake charges include arson, drug trafficking and murder. Even if the union wins certification election, factory management will sometimes nevertheless recognize a management-dominated union and bargaining with them. Some have even shut down and shifted its production to a sister company operating in the same EPZ. Of course, workers and union have no effective recourse when their rights are violated.

We are very troubled that despite the regular observations and the recommendations and conclusions of the high-level mission, the situation is worsening. We see no other option but to call for a high level tripartite mission, in the hope that this will help to move some of these issues closer to resolution. This would include, but is not limited to, the Government conducting competent investigations into anti-union violence and prosecuting and punishing those responsible. The High-Level Monitoring Body must also be strengthened by providing it with the resources and capacity to validate reports of trade union killings and coordinate with the IAC on extrajudicial killings. Those in the armed forces who stigmatize trade unionists must be punished appropriately. The Government must also finally resolve the legislative issues we have been raising for many years to ensure that all workers are able to exercise freely, their right to associate. Further, the Government should amend the Special Economic Zone Act of 1995 to include labour standards compliance as a requirement for a company's continued access to all the incentives provided by the Philippine Economic Zone Authority (PEZA). Tripartite councils should be convened regularly by PEZA, in all the EPZs, to review grievances and recommend remedies. Government and employers must also publicly express their commitment to respect freedom of association and collective bargaining in EPZs.



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Thus, the workers of the Philippines hope that their demands herein made will be heard, and be implemented soonest. We want to highlight, that the Security of Tenure Bill, recently passed in Congress, will not end contractualization nor fixed-term employment. This is not the promise of President Rodrigo Roa Duterte. In furtherance herewith, the ILO and its supervisory bodies are hereby requested to provide the needed technical assistance to ensure an enabling environment for the workers' enjoyment of their freedom of association. If workers back home are not regular, they cannot fully enjoy their rights to freedom of association.

**Government member, India (Mr ALAM)** –We welcome the delegation of the Government of the Philippines and thank them for providing the latest comprehensive update on this issue. We welcome the commitment of the Government of the Philippines to fulfil its international labour obligations including those related to the Convention both in law and practice. We take positive note of the significant improvements made in the observance of the freedom of association in the Philippines within two years since the adoption of the national action plan on the freedom of association and collective bargaining 2017–22 by the Philippines tripartite partners with the support of the ILO. We encourage the tripartite partners of the Philippines to cooperate and collaborate with each other in the true spirit of social partnership to create the necessary enabling conditions for the full implementation of the national action plan by 2022.

We appreciate the steps being taken by the Government of the Philippines, in cooperation with its social dialogue partners, which are resulting in a considerable decline in the reported cases of harassment and killings, helping bring the pending cases of violence to the courts and for monitoring and fast-tracking the process in line with the constitutionally guaranteed right to speedy trial and due process, providing sufficient witness protection and for the building of capacities of prosecutors, enforcers and other relevant actors. Further, the consistent efforts of the Government of the Philippines to address emerging labour issues and its various initiatives to promote freedom of association and collective bargaining,

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anchored in the understanding that secured employment is the best enabling environment for freedom of association, as part of its progressive legislative agenda are noteworthy. In fulfilling its labour related obligations, we urge ILO and its constituents to fully support the Government of the Philippines and provide any technical assistance that it may seek in this regard. Lastly, we take this opportunity to wish the Government of the Philippines all success in its endeavours.

**Observer, International Trade Union Confederation (ITUC) (Ms BURROW) –**I stand with our courageous workers in the Philippines and indeed I thank the Employers and the Governments who have urged the Philippines to act in line with the recommendations of the direct contacts mission and the Committee on Freedom of Association.

Today I will launch the ITUC's Global Rights Index and sadly, one of the ten worst countries in the world for workers remains the Philippines. It was there 2017, 2018, 2019 for violence and murder, brutal repression of public protests and repressive laws. You have heard that ten trade unionists were assassinated among other extrajudicial killings just last year and two already this year. I can tell you first hand, the culture of fear is palpable in the country as the culture of impunity grows. You have heard that the IAC is not functioning, with an inconceivable record of just one case proceeding to conviction. And indeed, when you have national and regional tripartite industrial peace councils that lack investigative and prosecution authorities this is not working.

With the interference of the army and the police into industrial relations, military presence in workplaces, strikes, door to door searches of union leaders, abduction, harassment of villagers to quit the union, manufacturing charges against union leaders that I have heard myself, this is not a country that respects fundamental rights for workers and even for employers. The wave of new strike action, the sit-down strikes, the deadlocked negotiations, the mass layoffs in 2018 is a response from us to oppression and the failure of the President's claim of regularization of illegal and oppressive contractualization. The current security of tenure bill will not fix the problem of exploitative short-term contracts; it

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is not what the President promised which was the end to insecure and dehumanizing work arrangements that go with this practice.

I have walked the supply chains and I want Governments and Employers to understand the dehumanizing exploitation of the supply chains of workplaces where workers work through small to medium enterprises for some of the richest multinationals in the world. There is no due diligence here, I can tell you, and there is no sanctioning of practice by Government. When you have a woman who is frightened for her 12-year-old son; she does not have family support; she is forced to do overtime with a few minutes' notice and she can be at work until 10, 12 or 2 in the morning without even food with a voucher for a canteen that opens at 6 a.m., that is an impact on her and her family's circumstances, that is frightening. And indeed, when I have been in the homes of workers who have been sacked for trying to stand up and collectively organize for minimum wage increases so they could live with dignity by some of our richest multinationals, then I can tell you when one-day's wages equals one week's baby formula for one child, two-day's wages, two children, this is not a country that is respecting workers' rights.

And I cannot leave this room in conclusion without drawing attention to the actions of a country exploiting migrants and calling for migrant workers' rights in other countries, to actually continue to exclude categories of foreign workers and others from freedom of association it is an act of hypocrisy. We can only say please act with the support of the ILO, please act to the Government of the Philippines to actually regularize laws and end the culture of fear and impunity.

**Observer, Building and Wood Workers' International (BWI) (Mr YUSON)** – The BWI expresses its concern about the rampant violations of workers' rights in the Philippines. This international foundations of labour rights continue to be violated with impunity in both subtle managerial and governmental actions through the violence whose perpetrators have never been brought to justice. Murder has no place in industrial relations, workers' lives should never be sacrificed in the exercise of their rights. This is our primary message to the

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Committee. The latest victim of this murderous attacks against trade unions was Dennis Sequeña who was conducting a basic trade union seminar for workers. Dennis Sequeña is not the only trade union leader – he is also a husband and a father. Dennis Sequeña is not only one name. Nonoy Palma, a farmer in Southern Philippines was killed at his house. Orlando, local organizer in Cebu, was killed while conducting a union seminar. Ryan, Nelly, Villegas, Angelipe, Peter, Dodong, Morena, Dumaguit, Bingbing, Jomarie. There are at least 43 trade unionists and labour rights defenders assassinated under the Duterte Administration. I want you to remember these names as workers and committed trade unionists like many of us here in this room. They are not statistics to be recounted year after year. They are individuals who believed in working and fighting for a better world for themselves and their families. The killings must stop. Enough is enough.

There have been numerous public outcry and condemnations both within the Philippines and globally on the extrajudicial killings of ordinary citizens. At least 33 people are killed every day in the Philippines. The United Nations Commission on Human Rights estimates that at least 20,000 people may have been killed in the context of the government’s campaign on illegal drugs since mid-2016. This is a war on the poor. This is a war on the workers. We have the moral responsibility. How many more committee meetings do we need before we start to address this issue? How many more tripartite meetings do we convene before we take action to stop these killings? How many more speeches do we deliver before we truly listen to the voices of the families asking for justice? We can express our deep concerns on the statements and reports but I believe that the moral force of ILO should now be truly a force of justice. Building a future of decent work will never be achieved if the numerous violations and attacks on the trade unionists remain case files. Enough is enough. It is time to act.

**Observer, International Transport Workers’ Federation (ITF)**  
**(Mr SUBASINGHE)** – The IAC established pursuant to AO35 has verified only 11 cases of extrajudicial killings of trade unionists out of 65 cases it has investigated. We have some

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serious concerns about the criteria provided under AO35 to determine extrajudicial killings. Allow me to share an example of an active case to demonstrate this. The Committee has previously heard about the murders of Antonio Petalcorin and Emiliano Rivera – both leaders of the ITF-affiliated Confederation of Transport Unions. On the 28 November 2012, Petalcorin and Rivera filed a complaint with the National Ombudsman against the Director of the Transportation Board, alleging corruption. Just two months later, on the 23 January 2013, Mr Rivera was killed by unknown assailants near the office of the Transportation Board. On the 2 July 2013, Mr Petalcorin was fatally shot three times in the chest while on route to the Transportation Board. It is clear that they were targeted by forces close to the authorities for their trade union activities, which includes attempts to combat corruption. Yet, the IAC found that these two cases did not meet the criteria for extrajudicial killings. Therefore, it is imperative that the Government ensures that the criteria used by the IAC for screening cases should be broader than the judicial criteria used by the courts so as not to unduly exclude possible freedom of association cases and to ensure that trade union activities give rise to an in-depth review of the possible motivation of the crime or murder. We must also underscore the need to rapidly identify the perpetrators of violence against trade unionists and bring them to justice in order to combat impunity even when cases are handled through the regular criminal law. The families of Mr Rivera and Mr Petalcorin have been waiting six years for justice.

I will very quickly speak to a second issue. While the Committee of Experts have discussed the application of sections 279 and 287 of the Labor Code in relation to the criminalization of industrial action, another piece of legislation has also been used recently to criminalize strike action. In December 2017, George San Mateo, leader of the ITF-affiliated PISTON union, was arrested under a WWII-era law for supporting the right of transport workers to undertake industrial action. Mr San Mateo was charged with breaching section 20(k) of the Commonwealth Act of 1946 for “knowingly and wilfully instructing members of his union to conduct a nationwide strike.” Resorting to arrests in connection

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with the organization of a peaceful strike is a grave threat to freedom of association. The Government should now review all relevant legislation to ensure that no penal sanctions are imposed against a worker for having organized or carried out a peaceful strike.

**Observer, Education International (EI) (Mr RARI)** – I am General Secretary of the Botswana Sectors of Educators Trade Union, and I will be speaking on behalf of EI and the Filipino Alliance of Concerned Teachers (ACT). I wish to denounce the infringements of the labour rights of teachers in public and private schools, and specifically: the illegal collecting of data on union membership of teachers in order to profile members of the teacher union Alliance of Concerned Teachers; and secondly, the red-tagging of ACT as a “terrorist” organization and the harassment and threats against unionists and leaders of ACT. In December 2018, the police started visiting schools to inquire about ACT members, requesting lists of union members and investigating about specific individuals. The leak of “confidential” memoranda from the police provided evidence that the order to collect data on unionists came from the Police Directorate for Intelligence. The collection of data on union membership and profiling of union members have been closely followed by acts of anti-union discrimination. ACT members and leaders at local and national level have been followed, harassed, intimidated and have received threatening text messages and calls. To date, the teacher union documented 45 such cases in ten of the 17 regions in the Philippines, including death threats received by ACT General Secretary, Raymond Basilio, on his mobile phone during an ACT press conference. The General Secretary of ACT cannot spend two consecutive nights in the same location and changes regularly his cell phone. The Government denied ordering the profiling of union members, but at the same time, they admit that intelligence gathering is part of their operations against crime and terrorism. They accuse ACT of being a “front organization” of the Communist Party of the Philippines and of recruiting for the New People’s Army. This red-tagging of ACT, which also targets other organizations and individuals critical of the Government, continues until now. This anti-union climate has caused public and private school teachers to fear for their liberty and

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safety, especially since their unions and organizations are branded, without legal and factual basis, as “rebels”, “communists”, or “terrorists” – and thus “enemies of the State”. These violations cast a chilling effect on teachers’ right to form and join trade unions, and the attached rights of negotiation, assembly, and speech. They amount to governmental interference in trade union activities, and also amount to discrimination and repression. I have faith that this commission will adopt supportive recommendations in this case.

**Worker member, Finland (Ms VETTAINEN)** – I speak on behalf of the Nordic countries. We express our deep concern about the situation in Philippines, where the violation of freedom of association continues to be serious. We are also worried about the violence and harassment against trade union activists, as well as the red-tagging, and assassinations of trade union leaders. It seems that the Government has not done anything to investigate the matters to bring the perpetrators to justice. The Committee has previously requested the Government to continue taking actions to ensure a climate of justice and security for trade unionists in the Philippines. To our regret, the information of new assassinations of trade union leaders – like the recent case of Dennis Sequeña – demonstrates, that the Government’s actions have not been enough. If one would use the data of the Center for Trade Union Rights, Dennis Sequeña is the 43rd worker assassinated since the Mr Duterte came to power in 2016. A key issue that makes trade union representatives susceptible to being targeted, is the fact that the AFP continues to identify one particular ideology as the enemy of the state. It is for this reason that red-tagging, in addition to other deployment of violence and harassment, becomes a deadly practice that needs to be stopped.

Article 2 of the Convention states, that workers have the right, without distinction whatsoever, to establish and join organizations of their own choosing, without previous authorization. As the Committee on Freedom of Association states in many of its decisions, “a climate of violence, coercion and threats of any type aimed at trade union leaders and their families does not encourage the free exercise and full enjoyment of the rights and

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freedoms set out in Conventions Nos 87 and 98. All States have the undeniable duty to promote and defend a social climate where respect of the law reigns as the only way of guaranteeing respect for and protection of life.”

We urge the Government to show the earnest will to take all necessary measures to solve this concerning situation. Work, that all remaining alleged cases of violations of trade union rights and deaths of trade unionists will be subject of appropriate investigations and effective measures to ensure accountability must be taken.

**Observer, IndustriALL Global Union (Ms MILLER)** – I am speaking in the name of IndustriALL Global Union (representing 50 million workers worldwide), to express our extreme concern following reports from our affiliates in the Philippines, regarding red-tagging and very recent cases of violations of worker and union’s rights to exercise simply their freedom of association. Immediately, several cases now:

- Immediately after management and the SPI Workers Union reached a settlement in November 2018, on the issue of illegal closure, the management filed a case against 52 union officers and members of the SMT, accusing these workers of grave coercion, trespassing and malicious mischief. The case was dismissed in April by the Court, but nevertheless, in May 2019, the management appealed. Workers have now submitted their counter affidavit, the case is in process.
- In another company in January 2019, the majority of long-term contractual workers from a manufacturing company, filed for union registration and were accepted. The company then started to harass the workers and illegally dismissed 52 workers for having joined May Day celebrations. On June 3, 2019, 22 more workers, including nine union officers were illegally dismissed.
- In again another company, on April 22, 2019, workers were organizing since 2018, the management forcibly dismissed 27 workers, including all the union leaders. The workers still registered their union on April 29, even though the day before, the



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management recorded a case of insubordination against 200 workers, to prevent them from attending the Union's General Assembly. Six more workers, with three officers, were preventively suspended last May.

- The Union President, Eugenio Garcia, was arrested based on planted evidence, after the police carried out a search warrant in Garcia's home, on the evening of March 18, 2019. The Pasig police alleges that Garcia was in possession of a 9mm pistol, which was actually planted by policemen in the course of their so-called search. The search warrant issued, and illegal arrest, took place precisely the day that the Union was asserting its Collective Bargaining Agreement.
- The search warrant in the residence of Ricky Garcia, on March 20, 2019, was issued and was carried out by 50 members of the PNP, aboard ten vehicles to search for this leader. Only his wife was there, but just before the search, Chavez had joined his union's protest at the GT Tower in Makati, to commemorate the 18th year of their struggle. Chavez is one of the 233 unionists illegally terminated from the automobile giant's factory in 2001.

In Cavite industrial zone, last week, hundreds marched at the funeral of party member and EPZ union organiser, Ka Dennis Sequeña, shot dead on 6 June, while giving a trade union lecture. Following this assassination, we make ours the statement by Senator Risa Hontiveros, "The right of our workers to organise themselves, to rally for their quality of living, should not come at the cost of their freedom and most importantly, of their lives". We are happy to provide the names of dismissed workers and companies to the Committee, if needed.

**Observer, International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) (Ms BOINCEAN)** – What is widely referred to in the Philippines as "contractualization" is a practice built on the denial of freedom of association and the right to collective bargaining set out in the Convention and

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Convention No. 98. It is appropriate and necessary that we discuss the issue in these terms at a review meeting of the Committee. The “contractualized”, precarious worker is denied her right to a collective bargaining relationship with the company, or the state entity, that organizes the system, yet has no responsibility or legal accountability to the worker. It is a massive denial of rights, built on what the ILO terms as “disguised employment relationship” in the Employment Relationship Recommendation, 2006 (No. 198). The Government of the Philippines is clearly failing to ensure respect for the implementation of Conventions Nos 87 and 98, and the scope of that human rights failure grows as the employers increasingly result to indirect, third-party employment relationships. In the IUF sectors, a telling example is the Government’s failure to implement a Department of Labour and Employment order to regularize 6,400 workers at a fast food chain.

The Committee on Freedom of Association, in its 2016 response to our complaint No. 3236 concerning a major dispute in the seafood sector, noted that over four years had elapsed without any meaningful governmental action in response to allegations of mass dismissals in response to workers’ efforts to organize and join unions. We note that the Committee’s 2016 recommendations have not been acted upon.

The problem of corruption should similarly be examined within the specific rights frameworks of Conventions Nos 87 and 98. Workers and their unions have a right to a fair, transparent, impartial and speedy judicial and administrative process. This right is undermined by the delays and bias clearly rooted in corruption, with the consequence that workers are denied their rights.

Extrajudicial killings, including the killing of trade union members and leaders, and judicial impunity have multiple rights impacts, not least their impact on workers’ ability to access their trade union rights. The Committee on Freedom of Association has stated, with some understatement that “A climate of violence, coercion and threats of any type aimed at trade union leaders and their families does not encourage the free exercise and full enjoyment of the rights and freedoms set out in Conventions Nos 87 and 98.” Murder is the ultimate

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threat. The fight against corruption and against impunity is a fight to ensure respect for the Convention and Convention No. 98.

**Worker member, Republic of Korea (Ms RYU)** – In 2016, I spoke on behalf of the Korean workers about the chronic infringement of the freedom of association in EPZs with specific examples happened in Korean-owned companies in Cavite and Laguna. Nothing has changed and freedom of association is systematically being violated in the zones until today. Unfortunately PEZA is remiss in safeguarding and promoting the right to organize. Let me give some clear examples. In a Korean-owned garment factory named Dong Seung in the Cavite EPZ, management suspended all 16 union officers for 30 days in mid-2018 on the pretext that they smeared the company by seeking actions from the global garment brand which are its costumer, regarding violation of freedom of association and labour standards. The mass suspension follows on the heels of harassment of workers who joined or are supporting the union. Unionists were deprived of availing loans and transferred to different production lines to demote from mechanic to sewer. In another Korean-owned factory in Cavite EPZ, workers started forming unions in 2017. Identified union leaders were all transferred to one production line to separate them from the rest of the workers. The company interrupted union certification election by convening a big meeting of workers in the premises of the Cavite EPZ to campaign against voting for the union and the union lost the election. But, to finally bust the union, the company shut down and the workers suspected that the orders are being shifted to its sister companies and the shutdown was meant to harass union members. In the third Korean-owned factory, once management learned that workers were unionizing, it began threatening and harassing union officers and members. Management told workers that the company would close if they vote yes to the union. As a result, the union lost the certification election. In extreme cases, union organizers are assassinated to stop a union organizing drive. The murder of Dennis Sequeña which the Worker spokesperson mentioned, is believed to be linked to three organizing initiatives in the Korean company in the past few months. The premium that Government gives the

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investors' rights, even at the expense of workers and trade union rights is the root cause of the chronic violation of the freedom of association in EPZs. So the legislation effort should be continued including Amendment of the Special Economic Zones Act of 1995 to include labour standards compliance as a requirement for a company's continued access to the incentives provided by the PEZA.

**Worker member, Japan (Ms GONO)** – As the report of the Committee of Experts clearly indicated, there are lack of progress of many pending legislations and amendment of laws which shows weak or lack of willingness of the Government to implement the Convention ratified in 1953. Example of pending legislations are: section 240 (c) of the Labor Code, to reduce requirement of 20 per cent membership for trade unions registration; section 278 (g) of the Labor Code to restrict Government intervention leading to compulsory arbitration to essential services; sections 279 and 287 of the Labor Code to ensure that no penal sanctions are imposed against worker for having carried out a peaceful strike; and sections 284 and 287 of the Labor Code, to grant the right to organize to all workers residing in the Philippines including foreign workers. It is regrettable that in spite of the promises of the Government, it has been no progress on the large number of pending legislations and the lack of enforcement of the Convention which has caused many serious problems on trade unions activities including the killing of trade unionists. Also, I have to mention the issue of contractualization which is a major obstacle to exercise freedom of association in private and public sector. Despite all the hype given by the Department of Labor and Employment over the reforms, none of it made a dent on the prevalence of contractualization in the country. The Government took several legislative measure to reduce contractualization, Department of Labor Order No. 174-17, issued on 16 March 2017, and Executive Order No. 51 on May 2018. Even the Security of Tenure Bill recently passed by the Congress will not end “Endo”, which is an abusive labour practice where a worker is hired for up to five months to skirt a labour law granting permanent tenure on the sixth month of service. Endo was so bad that various labour groups denounced in the strongest possible term.

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Contractualization will continue to be the major reason why the vast majority of workers in the Philippines will not be able to exercise their right to freedom of association and collective bargaining.

Once again, I would like to reiterate to request the Government of the Philippines to take immediate action to amend the Labor Code in compliance with the Convention, especially on strict requirements on union registration and penalization on peaceful strike, just name a few, as well as pass a law that will strengthen security of tenure by prohibiting fixed-term employment for both the public and private sector workers. Many allegations mentioned here are showing how serious the situation in Philippines is. So real, immediate action is needed.

**Worker member, Canada (Ms DUBOIS)** – I speak on behalf of the Workers from Canada, the United States and Argentina. The Philippines is often described as the “world’s call centre capital”, with hundreds of American corporations and other multinationals depending on Filipinos for customer care service. The broad sector, known as the Business Process Outsourcing Industry, is the second largest source of income for the country, employing over 1.3 million people and generating over US\$22 billion manual revenue, second only to workers remissions from abroad in the contributions to the economy. The Government also offers foreign-based contacts centre operators who begin operations in the Philippines generous multi-year cooperate tax exemptions. It is positive that these workers can find work at home, but that work must be made to comply with the Convention, which the Philippines has ratified. Workers in this sector, so key to the Philippines economy, face challenges in law and practice that effectively deny their freedom of association and right to organize their activities and to formulate their programmes especially in recent years. They have also often faced a hostile climate for exercising of freedom of association through threats against them and the all too common filing of false charges against them for simply announcing the intention to take peaceful and legal strike actions. Threats against workers organizing in this sector, have shown a pattern of harassment both through the legal system

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and threats of violence that have proven all too real in the Philippines. Major multinational employers know that they are operating in this repressive climate that works to the employers' short-term benefit. In 2018 and this year, one group of workers that legally registered their union in 2015, has repeatedly suffered repression of these rights. In September 2018, these workers filed a notice of strike in response to union busting. As workers attempted to negotiate, several protest actions were held and management retaliated by firing workers and filing false charges against the union and its allies. While some of these charges were dropped in March of this year, to date the charges of liable and grave slander filed by the employer against union leadership are still pending. Though less discussed than those in manufacturing, global supply chains and services must also comply with international standards and support decent work as jobs are moved from countries where workers may have been able to organize and bargain to countries where these rights are difficult to exercise, due to hostile environments, threats and violence in limitations in the law. The Philippines is one such country that it is a major destination for call centre and other business process outsourcing work that can and must be made into decent work.

The actions described above have all been taken against workers trying to exercise their freedom of association at US-based Alorica, the world's third largest call centre company that provides services from the Philippines to major United States, European and Asian multinationals. A country cannot build a sustainable development on the basis of an industry that receives large tax benefits but consistently denies workers' rights.

**Government representative** – We also appreciate the space given to us to report to the Committee on the works of the Philippine tripartite partners in pursuance of the Recommendation of the 2017 direct contacts mission as provided for under the National Plan on the Freedom of Association and Collective Bargaining (2017–22).

The Philippines welcomes the comments and views of the Workers and Employers as well as the Governments with the intention to further our implementation in law and practice of the provision of the Convention. We would like, however, to clarify some points. First,

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the Philippines is a beautiful place for freedom of association. We do not belong in that list of worst countries for working people. Our office, particularly mine, is even a regular venue for picketing and strikes as well as full, frank and meaningful consultation with workers and employers alike. The assertion on alleged impunity are sweeping near general statement that do not reflect through the overall situation in the Philippines. While there may be incidents of violation of standards in workers' rights, they may be considered as isolated cases as they do not mirror the real condition in the country. And to claim that nothing had changed since 2016 is to keep a blind eye on the substantial enjoyment of freedoms by Philippines trade unions and workers the last two years, for the last three years.

Contrary to claims, there is no new 43 reported cases of death of trade unionists in the Philippines under this administration. This representation therefore, respectfully requests the list of the reported 43 cases. We will appreciate if we could have at list so that we will accordingly respond to the same. The Philippine Government condemns the death of Dennis Sequeña. By reason of my position I know him in person. Their Chairperson is a friend of mine. For the record, this particular case is not part of the report. Hence, we were not in advance required to provide detailed information. But since his case was already mentioned, may we inform the Committee that the existing monitoring and investigation mechanisms have already been mobilized. On the same say of the incident, 2 June 2019, a Sunday, the Secretariat of the NTIPC-MB in coordination with the regional Tripartite Monitoring Body of region 4A, was immediately dispatched to gather information about the incident. The report is now being prepared for consideration of regional Tripartite Monitoring Body before the same is endorsed to the National Tripartite Monitoring Body. In the meantime, criminal investigation has already started. At this juncture, let me reiterate that the most enabling environment for the free and full exercise of freedom in our country is a secured employment, in safe and healthy working condition in all places of work, free from violence and harassment.

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On the issue of violence and harassment against trade unionists, let me again state that there is no increasing number of deaths of trade unionists in country. What we have is a declining number. Conviction however, has been the recurring and imposing challenge in all cases in view of the lack and insufficiency of evidence, especially against the backdrop that in our jurisdiction, just like perhaps many of yours, the quantum of evidence required to convict the perpetrators of crime is beyond reasonable doubt subject to standard procedure in view of the right of all accused persons to be presumed innocent as guaranteed under the Universal Declaration of Human Rights. This challenge however is not insurmountable. We just need major support on this aspect. It may also be recalled that last year, a Philippine court convicted a retired army general and sentenced him and two others to 40 years of imprisonment. There are other similar convictions showing that when there is sufficient evidence, impunity will never lie. It is very timely to mention that the Philippines takes notice of the *Report on Addressing Impunity: A Review of the Three Monitoring Mechanisms* published last April on 2019 by the ILO Country Office Manila. We take its conclusion and recommendation closely and seriously. We recognized that the three existing monitoring mechanisms have their own strength and weaknesses. Their mandates, structures and internal rules need to be revisited. Interestingly, and in view of the recommendation of the particular report published in April 2018, module development and implementation of advocacy on freedom of association is under way. Prescription of freedom of association modules in the grants under the Workers' Organization Development Programme may be considered. Intensification of the inspection system on compliance with international labour standards, including freedom of association, shall continue. AO 35 needs strengthening by ensuring openness and transparency on the prosecution and movement of extrajudicial killing cases, adopting an inclusive criterion in the screening of these cases, relatedness to the exercise of freedom of association, capacity building on freedom of association and capacity building on the collection of physical and vital forensic evidence to reduce heavy reliance on testimonial evidence.



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On the legislative issues, the full use of government resources to expedite the enactment of major labour and employment legislative reform is not a mute indication of our oblivion to pursue the passage of other needed amendments to the Labor Code consistent with the comments and recommendations of the ILO and its supervisory bodies. There were bills filed in the last Congress. These will surely be more to be filed in the next one. Resources will be redirected to this end.

Relatedly, it may be noted that the Philippines has ratified one more instrument, bringing the number of Philippine ratified Conventions to 39 including the eight fundamental Conventions. Prior to this, our last ratification was on Convention No. 151. We observed that there is renewed vibrancy in organizing in the public sector. Public sector unions especially in the local government units have been increasing. We have, I would like to stress, that we have an enabling rule, Executive Order No. 180 on the right to self-organize and collective bargaining in the public sector. To the Committee, our disposition to ratify Convention signifies our firm unequivocal commitment and obligation to promote decent work, not for the few but for all.

The Philippines thus trusts that through frank, full and meaningful social dialogue, the tripartite partners shall all rise together rather than pull down one another. We, the Filipinos, shall continue to pursue the National Action Plan on the Freedom of Association and Collective Bargaining (2017–22), with the continuing technical assistance and guidance from the International Labour Organization, its supervisory bodies, including other developmental partners. To end, let us remember that “successful reform is not an event. It is a sustainable process that will build on its own success – a virtuous cycle of change”.

**Employer members** – We thank the Government for its remarks. I think the one thing that sort of stands out through this whole discussion is that this is not a new situation, we are not dealing with recent events, we are dealing with events that have taken place over a long period of time and another characteristic of that is that the progress has been rather slow. With that in mind, we are welcome and we do welcome the Government’s statements that it

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is actively working now in the space of investigating cases and I just go back to my earlier remarks and making sure that we are clear when we are looking at cases that we are dealing with, as in this case, issues of freedom of association because, as I noted, there are situations, for instance, where trade unionists and officials are caught up in the circle of violence but not necessarily because they are trade unionists, or any other form of official, it is simply that perhaps, on some occasions, it may be a coincidence so we need to be careful to distinguish between those issues that are genuinely related to an inhabiting or constraining of freedom of association and those that are simply collateral to wider issues and social issues.

When it comes to dealing with these things, we note and support the Government's use of the tripartite monitoring mechanisms and the IAC. We do regret that these do not seem to have been as active lately as they were in the beginning so we, therefore, urge the Government to reactivate these, not on an "as needed" basis, but on a "continuous" basis. There is evidently plenty of work to be done and so it does not seem that there is a need to wait.

With relation to some of the more detailed aspects, we note again the Government's commitment to ensuring that unions and employers' associations are completely free to establish themselves and to operate themselves without public interference or governmental interference, but again, the Labor Codes that activate those provisions seem to be still in the process of development and once again, we urge the Government to progress those to fruition, to finality and to give them open and transparent effect. Similarly, in relation to the ability of unions to establish themselves with reasonable thresholds, we again welcome the Government's commitment to lower the thresholds, to allow unions and employers' associations to establish, and also opening up the doors to assistance from outside the country to enable organizations to develop and sustain themselves.

With those few things in mind, I think basically it comes down to a relatively small number of recommendations but they are, once again, a repeat of the recommendations that

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we have made in previous years. We simply hope that this year, having made the recommendations, we do not have to make them again in the future and those are:

- first of all to avail themselves of the readily available technical assistance from the ILO through the country office in Manila in particular;
- to get the monitoring mechanisms of the IAC back on track and active on a “continuous” basis;
- to complete the amendment of the Labor Codes to be in full conformity with the Convention; and
- ensure that workers are not penalized for exercising the rights that are provided to them; and lastly
- to ensure that the social dialogue mechanisms that have been talked about themselves are a “continuous” process and not an “as needed” process.

**Worker members** – We have carefully listened to all interventions and specifically to the information provided by the Government to the Committee. However, there can be no justification or valid explanation for the systematic violence and indeed murders perpetrated against trade union activists. The Government simply has the obligation to stop this violence. Yet instead the absence of effective investigations and punishments of such cases of gross violations creates an atmosphere of impunity and casts doubt on the Government’s commitment to secure the rule of law. The Employers’ spokesperson highlighted that this case is also about human rights and the rule of law. We agree. However, we cannot agree that these questions fall outside of the scope of our discussion. In this regard, we remind the Employers’ group of the 1970 resolution of the International Labour Conference in relation to trade union rights and their relation to civil liberties. The resolution recognizes that the rights conferred upon workers’ and employers’ organizations must be based on respect for those civil liberties. We have recalled this resolution on many occasions and have adopted

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relevant conclusions in the Committee, including with regard to complaints brought forward by employers' organizations in this regard. We must urgently see action on the investigation and appropriate punishment of violations of trade union rights, and in particular acts of violence. This must now become a priority for the Government and involves the allocation of sufficient funds and staff in order to effectively carry out this work expeditiously and to avoid a situation of impunity. The establishment of monitoring bodies alone is inadequate. To earn the trust of the social partners and victims, they must be operationalized in an efficient and effective manner and be transparent about the progress achieved. More broadly speaking, the Government must introduce preventative measures to prevent the repetition of crimes against trade unionists, including the institution of protection schemes for trade unionists.

When it comes to the conformity of national legislation with the Convention, it would be an understatement to emphasize that it remains wholly inadequate in guaranteeing the rights afforded under the Convention. The steps undertaken so far in order to bring the labour laws in line with the Convention seem to be stalled endlessly. To demonstrate good faith, the Government must ensure the timely adoption of appropriate legislative acts. I must urgently convene the social partners in order to develop a holistic plan of action to redress the numerous shortcomings of its legislation. This plan of action must include the removal of the requirement of government permission for foreign assistance to trade unions and the reduction of the registration requirement from ten to five duly recognized bargaining agents or local chapters. The excessively high threshold in place for unions seeking to form federations or national unions must be lowered. Moreover, the legislation must ensure that all workers without distinction enjoy the right to freedom of association. Specific attention on measures that would ensure the effective enjoyment of the right of freedom of association by precarious workers have become an urgent need. The Government must also take decisive measures in order to prevent the misuse of short-term contracts and misclassification in order to hinder the free unionization of workers. The definition of essential services must be

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defined strictly and must be limited to services whose interruption could endanger the life, personal safety or health of the whole or part of the population.

We also call on the Government to take concrete and time-bound steps to ensure that the provisions, which impose penal sanctions against workers for participating in or carrying out a strike action is amended. The right to strike falls under the scope of the Convention and our position on this issue has not changed. The Government must ensure that legislative amendments are compliant with the international legal obligations of the Philippines and is swiftly adopted after full and frank consultation with the social partners. It is our expectation that the Government immediately and fully reports progress made to the Committee of Experts. We conclude, given the gravity of the issues in this case the Workers call for a high level tripartite mission.