

Committee of Experts on the Application  
of Conventions and Recommendations  
(CEACR)

*Observations 2017*

*Regional file by country -*

Arab States



## C029 - Forced Labour Convention, 1930 (No. 29)

*Observation 2017*

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2017.

*Articles 1(1), 2(1) and 25 of the Convention. Vulnerable situation of migrant workers to conditions of forced labour. 1. Migrant workers.* In its previous comments, the Committee referred to the concluding observations of the UN Committee on the Elimination of Discrimination against Women (CEDAW) in which it expressed concern about the conditions of work of migrant domestic workers.

The Committee notes that the ITUC asserts in its observations that migrant workers constitute around 77 per cent of Bahrain's workforce working in different sectors of the economy, including domestic work, construction and service industries. According to the ITUC, the Government has repeatedly maintained that migrant workers in Bahrain are not subject to the sponsorship (*kafala* system) and may change their employment without needing the permission of their sponsor. However, the change of employment continues to depend on the approval of the Labour Market Regulatory Authority (LMRA), a government body under the authority of the Ministry of Labour. Ministerial Order No. 79 of 16 April 2009 continues to allow employers to include in the employment contract a requirement limiting the approval of a transfer to another employer for a specified period.

According to the ITUC, in May 2017, the Ministry of Interior introduced a pilot scheme for a flexible working permit (FLEXI) for limited categories of irregular migrant workers. Accordingly, irregular migrant workers who are currently working in Bahrain are permitted to work without a sponsor, provided they cover certain expenditures, such as an annual fee for a work permit (200 Bahraini dinar (BHD), US\$530), an annual health care fee (BHD144, \$381) and a monthly social insurance fee (BHD30, \$80). The ITUC adds that, workers who have a sponsor are not eligible for the FLEXI working permit. Skilled workers and "runaway criminals", a category that includes workers who have escaped abusive employers, are also not eligible for the scheme. Moreover, workers must provide a valid passport in order to apply for a permit. However, many migrants who are trapped in an irregular situation are not in possession of their passport due to the confiscation of their passport by their employer.

The Committee notes the Government's indication in its report that the FLEXI working permit has been initiated to allow any migrant worker working in abusive conditions to request a new working permit in order to work for a new employer. Under the FLEXI working permit, the labour contract will regulate the labour relationship between parties, and therefore migrant workers will benefit from the social protection scheme, including health care and legal protection. This system also aims to address the issue of irregular employment and protect migrant workers from exploitation and trafficking. The Committee observes that the FLEXI working permit, as initiated in 2017 (Regulation No. 108 of 2017), is a renewable two-year permit which allows the eligible person to live and work in the country without an employer (sponsor) where he or she can work in any job with any number of employers on a full or part-time basis. Migrant workers with either a terminated work permit, or an expired one are eligible for the FLEXI working permit provided they are in possession of a valid passport. Moreover, under such a permit migrant workers will be working on a contract basis and will have a renewable two-year residency and re-entry visa. In addition, the LMRA is in charge of monitoring this pilot initiative and provides quick services to both employers and migrant employees to better understand the new procedures of recruitment. The Committee notes that, in order to apply for the FLEXI working permit, a migrant worker needs to pay an amount of BHD449 (\$1,190) to the LMRA. Such an amount includes a one-time fee for the FLEXI permit, the health-care fee, fee for the extension of the contract, as well as a one-time refundable deposit.

The Committee notes that as a pilot scheme, the FLEXI working permit is a first step that could facilitate the transfer of migrant workers' services to a new employer, thereby enabling them to freely terminate their employment. ***In this regard, the Committee urges the Government to pursue its efforts to ensure that, in practice, migrant workers are not exposed to practices that might increase their vulnerability, in particular, in matters related to passport confiscation. The Committee requests the Government to provide further information on the application in practice of the FLEXI working permit, including information on the number of employment transfers that have recently occurred following the implementation of the FLEXI.***

*2. Migrant domestic workers.* The Committee further notes that with regard to the situation of domestic workers, the ITUC states that there are more than 105,200 domestic workers in Bahrain who are subject to exclusion from the coverage of a number of labour law provisions, including from weekly rest days or from a limit on working hours. There is no stipulation of a minimum wage, which allows employers to pay wages as low as BHD35 (\$92) per month, averaging BHD70 (\$186). Many work up to 19-hour days with minimal breaks, and no days off. Many have reported that they were prevented from leaving their employers' homes, and some said they received little food. Government and NGO officials report that physical abuse and sexual assault of female domestic workers are significant problems in Bahrain. There is also an absence of labour inspection into the working conditions of domestic workers. According to the ITUC, domestic workers are also explicitly excluded from the FLEXI scheme.

The ITUC further indicates that, in 2016, five investigations for forced labour and five involving domestic workers were reported. The public prosecutor received referrals from the LMRA of 13 recruitment offices allegedly involved in forced labour. However, there is no information available as to how each case has been dealt with and what sanctions have been imposed as a result.

The Committee notes the absence of information from the Government concerning this issue. The Committee recalls the importance of taking effective action to ensure that the system of the employment of migrant domestic workers does not place the workers concerned in a situation of increased vulnerability, particularly where they are subjected to abusive employer practices, such as retention of passports, non-payment of wages, indecent conditions of work, deprivation of liberty and physical and sexual abuse. Such practices might cause their employment to be transformed into situations that could amount to forced labour. ***The Committee requests the Government to take the necessary measures to ensure that migrant domestic workers are fully protected from abusive practices and conditions that could amount to forced labour. It also requests the Government to indicate the measures taken to guarantee the prohibition of passport confiscation, and to ensure that recruitment fees are not charged to workers, or that they are reimbursed subsequently by the employer if this is the case. Noting that migrant domestic workers are excluded from the national legislative framework, the Committee requests the Government to indicate the legislative and practical measures taken or envisaged to provide effective protection for this category of workers.***

The Committee is raising other points in a request addressed directly to the Government.

## C081 - Labour Inspection Convention, 1947 (No. 81)

*Observation 2017*

*Article 3(1) and (2) of the Convention. Labour inspection activities concerning the enforcement of the legislation in relation to the employment of foreign workers.* In its previous comment, the Committee observed that the functions of the labour inspectorate appear to continue to include the enforcement of the legal provisions relating to the employment of foreign workers (in particular the registration of notices that foreign workers had fled from their employers) in cooperation with the authorities responsible for monitoring the nationality, passports and residence of workers, and that these activities had still resulted in the arrest of workers. The Committee further noted that there was no clear distinction between the functions of the labour inspectorate and the Labour Market Regulatory Authority (LMRA) (the body entrusted with controlling compliance with the working conditions set out in work permits of foreign workers), as both had duties linked to working conditions and the application of immigration law. The Committee requested the Government to take measures to ensure that labour inspectors would no longer be involved in workplace controls aimed at arresting, imprisoning and repatriating workers in an irregular situation from the

standpoint of immigration law.

In this respect, the Committee notes the information provided by the Government in its report that measures have been taken to separate the functions of the labour inspectorate from those of the LMRA. In view of their different mandates and functions (the labour inspectorate is entrusted with controlling compliance with the provisions of the 2012 Labour Code No. 36, and the LMRA with those in the 2006 Labour Market Regulations Act No. 19), the Government emphasizes there are no joint inspection visits between these two authorities. However, the Committee notes from the information in the 2013 and 2014 annual labour inspection reports, that it appears that the labour inspectorate is still responsible for the registration of notices concerning foreign workers that have fled from their employers (the labour inspectorate received 1,783 such notices in 2013 and 1,199 in 2014). In reply to its request concerning the enforcement of the rights of foreign workers found to be in an irregular situation, the Committee notes the Government's indication that the LMRA monitors the payment of wages of foreign workers and that it may refuse to grant additional work permits to employers who have failed to comply with the relevant legal provisions. The Committee understands from the explanations provided by the Government in its report that the LMRA only monitors the payment of wages to foreign workers in a regular situation, and does not concern workers in an irregular situation, including in such cases where they are liable to expulsion. ***The Committee requests the Government to provide further information on the functions of labour inspectors in relation to the notices made by employers concerning workers that are alleged to have left their employment, and urges the Government to take measures to relieve labour inspectors from any responsibilities relating to activities that are incompatible with the primary functions of labour inspectors as provided for in Article 3(1) of the Convention. The Committee once again requests the Government to specify how the labour inspectorate monitors the manner in which employers fulfil their obligations (such as working conditions, the payment of wages and other benefits due for work carried out) towards foreign workers in an irregular situation, in particular where these workers are subject to a deportation or expulsion order.***

***Articles 10 and 11. Number of labour inspectors and material means necessary for the effective performance of their duties.*** In its previous comment, the Committee noted that the number of inspectors and the material means available to them (particularly suitable offices and computers) were inadequate. It also noted that the expenses of labour inspectors when using their own cars were not always reimbursed. In this respect, the Committee notes the Government's general reference to an increase in the number of labour inspectors and the modernization of the labour inspectorate, without providing further details. ***The Committee requests the Government to provide detailed information on the number of labour inspectors at the headquarters of the labour inspection departments and in the different regions, as well as on the material resources available (for example, suitably equipped offices, computers, printers, telephones, etc.), including means of transport. The Committee also once again requests the Government to provide detailed information on the reimbursement of travel expenses incurred by labour inspectors in the course of their duties.***

***Article 17. Effective enforcement of penalties for the violation of labour law provisions.*** In reply to its previous request to specify the enforcement functions of all labour inspectors working at the Labour Inspection Department, the Committee notes the Government's indication that labour inspectors have the power to establish infringement reports concerning violations of the Labour Code and to refer criminal offences to the public prosecution. In this respect, the Committee notes from the information contained in the 2014 labour inspection report attached to the Government's report that labour inspectors carried out 11,441 labour inspections in 2014. It further notes from the information in the same report that reference is made to 48 violations (concerning, for example, the payment of wages, compliance with working conditions in labour contracts, and the obstruction of labour inspectors in the performance of their duties), but that the report does not mention violations related to fundamental principles and rights at work and occupational safety and health. It also notes that reference was made to 17 infringement reports and that no information was provided on the number of follow-up actions taken or the penalties issued following the establishment of these infringement reports. ***The Committee requests the Government to provide an explanation for the low number of infringements detected (48 violations), and the low number of infringement reports issued (17) in relation to 11,441 labour inspections. The Committee also requests the Government to continue to provide detailed information on the number of violations detected, the legal provisions to which they relate (including those relating to fundamental principles and rights at work and occupational safety and health), the number of infringement reports, the number of cases brought to the courts, and the penalties imposed.***

***Article 18. Provision of adequate penalties for violations of the legal provisions enforceable by labour inspectors.*** The Committee notes that the Government has provided the requested information concerning the penalties applicable in relation to a number of labour law provisions, including those related to fundamental principles and rights at work and the obstruction of labour inspectors in their duties. The Committee notes that the maximum fine for violations of equality, non-discrimination and freedom of association provisions is set at a low level. The Committee also notes that while labour inspectors are entrusted with the control of compliance with the provisions concerning working time and wages, no penalties are provided for non-compliance with the relevant provisions in the Labour Code. ***The Committee requests the Government to take measures to ensure that adequate penalties are provided for by national laws or regulations in relation to all violations of the legal provisions that are enforceable by labour inspectors.***

The Committee is raising other matters in a request addressed directly to the Government.

## C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

### Observation 2017

***Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views, or views ideologically opposed to the established political, social or economic system.*** In its previous comments, the Committee noted that penalties of imprisonment (involving compulsory prison labour pursuant to section 55 of the Penal Code) may be imposed under the following provisions of national legislation in circumstances that are contrary to, or incompatible with, the Convention:

- Section 22 of Legislative Decree No. 47 of 2002 governing the press, printing and publishing: publishing or circulating publications which have not been authorized for circulation.
- Section 68 of the abovementioned Legislative Decree: harming or criticizing the official religion of the State, its foundations and principles; criticizing the King or blaming him for any act of the Government.
- Section 25 of Act No. 26 of 23 July 2005 on political associations: violating any provision of the Act for which no specific penalty is provided for.
- Section 13 of Act No. 32 of 2006, which amends Legislative Decree No. 18 of 5 September 1973 governing public assemblies, meetings and processions: organization of, or participation in, public meetings, processions, demonstrations and gatherings without notification, or in violation of an order issued against their convening; violating any other provision of the Act.
- Section 168 of the Penal Code: the dissemination of false reports and statements, as well as the production of publicity seeking to damage public security or cause damage to the public interest.
- Section 169 of the Penal Code: the publication of false reports or forged documents that could undermine the public peace or cause damage to the country's supreme interest.

The Committee expressed the firm hope that the Government would take the necessary measures, in the framework of the ongoing law review process, to ensure that no prison sentences involving compulsory labour are imposed on persons who, without having recourse to violence, express political opinions or

views opposed to the established political, social or economic system.

The Committee notes that the Penal Code was amended in 2015. However, the Committee notes with *regret* that despite the amendments, sections 168 and 169 remain virtually the same. The Committee notes the Government's indication that the abovementioned provisions aim to protect the public order as well as the sovereignty of the State. It adds that no court decisions had been handed down under these provisions. In this regard, the Committee notes that the scope of the provisions referred to above is not limited to violence or incitement to violence, but provides for political coercion and the punishment of the peaceful expression of non-violent views that are critical of government policy and the established political system, and for the punishment of various non-violent actions affecting the constitution or functioning of political associations, or organization of meetings and demonstrations, with penalties involving compulsory labour. The Committee recalls that legal guarantees of the rights to freedom of thought and expression, freedom of peaceful assembly, freedom of association, as well as freedom from arbitrary arrest, constitute an important safeguard against the imposition of compulsory labour as a punishment for holding or expressing political or ideological views, or as a means of political coercion or education (see General Survey on the fundamental Conventions, 2012, paragraph 302). ***The Committee therefore urges the Government to take all necessary measures, in both law and practice, to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views, or views opposed to the established system, for example, by clearly restricting the scope of these provisions to situations connected with the use of violence or incitement to violence, or by repealing sanctions involving compulsory labour. The Committee requests the Government to provide information on any progress made in this respect.***

*Article 1(c) and (d). Punishment for breaches of labour discipline and participation in strikes in the public services.* The Committee previously noted that section 293(1) of the Penal Code provides for penalties of imprisonment (which involve compulsory labour pursuant to section 55 of the Penal Code) in a situation "when three or more civil servants abandon their work, even in the form of resignation, if they do so by common accord with a view to achieving a common objective". This provision is also applicable to persons who are not civil servants, but who perform work related to the public service (section 297). According to section 294(1), a punishment of imprisonment may be also inflicted upon a civil servant who relinquishes his office or refuses to discharge any of his official duties with the intent of obstructing the pursuit of business or causes any disruption to the pursuit thereof. The Committee noted the Government's indication that the Penal Code was under a process of amendment.

The Committee notes the Government's indication that sections 293(1) and 297 aim at achieving the continuity of certain services, such as the medical services, as well as avoiding the interruption of services that can cause inconvenience to the community. The Government also indicates that no court decisions have been handed down under the abovementioned provisions of the Penal Code.

The Committee notes with *regret* that despite the 2015 amendments to the Penal Code, sections 293(1) and 297 remain virtually the same.

The Committee recalls that the imposition of sanctions involving compulsory labour as a punishment for breaches of labour discipline or for having peacefully participated in strikes is incompatible with the Convention. It also points out that, pursuant to *Article 1(c)* of the Convention, sanctions involving compulsory labour for breaches of labour discipline may only be applied if such breaches impair or are likely to endanger the operation of essential services, or in cases of wilful acts which would endanger the safety, health or life of individuals. The Committee observes in this connection that the abovementioned sections of the Penal Code are worded in terms broad enough to lead to the imposition of imprisonment, which involves an obligation to perform labour, in situations covered by *Article 1(c)* and *(d)* of the Convention. ***The Committee therefore requests the Government to take the necessary measures in order to bring sections 293(1), 294(1) and 297 of the Penal Code into conformity with the Convention, and to ensure that no sanctions involving compulsory labour may be imposed as a punishment for breaches of labour discipline or for peaceful participation in strikes. The Committee requests the Government to provide information on the progress made in this regard.***

## C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

### Observation 2017

#### Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)

The Committee notes the discussion at the Conference Committee on the Application of Standards at its 106th Session (June 2017) and the conclusions adopted which called upon the Government of Bahrain to:

- (i) report on the measures taken to implement the commitments contained in the Tripartite Agreements of 2012 and 2014 in connection with the Government's efforts to comply with Convention No. 111 to the Committee of Experts for its November 2017 session;
- (ii) ensure that the legislation covers all recognized prohibited grounds of discrimination set out in *Article 1(1)(a) of the Convention*, and discrimination in both its direct and indirect forms, and undertake measures to ensure that discrimination in employment and occupation is prohibited in law and in practice;
- (iii) ensure that migrant workers as well as domestic workers are included in the protection of anti-discrimination law;
- (iv) ensure equality of opportunity and treatment in employment of women; and
- (v) ensure sexual harassment is prohibited in the Labour Code and provide information regarding how complaints of this nature may be advanced, to the Committee of Experts for its November 2017 session.

The Committee also notes that the Conference Committee invited the Government to accept a direct contacts mission, and that the ILO Office is still awaiting the Government's response.

The Committee also notes the observations from the International Organisation of Employers (IOE) received 6 September 2017, the International Trade Union Confederation (ITUC) received 1 September 2017, and Education International (EI) and the Bahrain Teachers Association (BTA) received 6 September 2017, which were sent to the Government for its comments thereon.

#### I. Measures taken to implement the commitments contained in the Tripartite Agreements of 2012 and 2014

*Article 1 of the Convention. Discrimination on the basis of political opinion.* The Committee recalls that, at the 100th Session (June 2011) of the International Labour Conference, a complaint under article 26 of the ILO Constitution was filed by some Workers' delegates at the Conference concerning the non-observance by Bahrain of Convention No. 111. According to the complaint, in February 2011, suspensions and various forms of sanctions, including dismissals, were imposed on members and leaders, as a result of peaceful demonstrations demanding economic and social changes and expressing support for ongoing democratization and reform. The complaint alleged that these dismissals took place on grounds of the workers' opinions, belief and trade union affiliation. At its 320th Session (March 2014), the Governing Body welcomed a Tripartite Agreement, reached in 2012 by the Government, the General Federation of Bahrain Trade Unions (GFBTU) and the Bahrain Chamber of Commerce and Industry (BCCI), as well as a Supplementary Tripartite Agreement of 2014. The Governing Body invited this Committee to examine the application of the Convention by the Government, and to follow up on the implementation of the agreements reached. According to the Tripartite Agreement of 2012, the national tripartite committee that had been put in place to examine the position of those workers who had been dismissed or that were referred to the criminal courts should continue its work to ensure the full reinstatement of workers. In addition, under the Supplementary Tripartite Agreement of 2014, the Government, the GFBTU and the BCCI had agreed to: (i) refer to a tripartite committee those cases which had not been settled and which relate to financial claims or compensation and, in the absence of consensus, refer such cases on for a judicial determination; (ii) ensure social insurance coverage for the period of interrupted services; and (iii) reinstate the 165 remaining workers dismissed from public sector employment and from the major private companies in which the Government has shares and from other private companies according to the list

annexed to the Supplementary Tripartite Agreement.

In its report, the Government recalls that, at the date of reporting (30 August 2017), 98 per cent of all cases involving dismissal and mentioned in the Tripartite Agreement of 2012 had been successfully settled (reinstatement with full retention of their employment and pension rights and benefits) and that this file has been closed, with the agreement of the three parties. As for the remaining 2 per cent (or the 165 outstanding problematic cases where there was disagreement with the employers), the Government indicates that, although they concern cases where the persons concerned have been subject to a criminal conviction or where no link has been proven between dismissal and the events of 2011, it had agreed (under the framework of the Supplementary Tripartite Agreement of March 2014) to continue negotiations with employers to settle these cases or find the workers concerned alternative employment. According to the Government, 108 cases have been processed and settled by reinstating the workers or finding them similar alternative work with the same pay and benefits. A number of dismissed workers accepted the financial compensation offered, while others have obtained commercial licences and become independent business persons.

The Government further explains that, on 5 January 2017, the GFBTU wrote to it requesting that greater efforts be made to address the 37 remaining cases of the 165 on the list annexed to the Tripartite Agreement, which the GFBTU viewed as outstanding and not yet finalized. In line with the principle of sustained cooperation and partnership with the GFBTU, the Government exerted all possible efforts to settle the 37 problematic cases, despite differences of opinion on the causes of dismissal in these cases. The results of these efforts are that of these 37 cases: (i) ten workers dismissed were reinstated despite the difficulties encountered; (ii) two were offered a financial settlement upon their request, as they did not wish to return to work; (iii) of the 18 workers who were the subject of criminal conviction, 13 cases have been settled. Despite the fact that the Government had no obligation towards workers found guilty in a criminal court, it has resolved to find them alternative employment, if they so wish, once they are registered as jobseekers and able to present a "certificate of rehabilitation". For the remaining five outstanding cases, this opportunity has not been seized; and (iv) examination and investigation of documents submitted by the GFBTU to meetings of the Joint Tripartite Committee has shown seven cases to be ordinary cases of dismissal to be dealt with as individual labour disputes (for example, disciplinary sanctions initiated before the events of February 2011) and/or with no link to the events of February 2011 in Bahrain. Therefore, it had been agreed to exclude them from the list of dismissed workers recognized under the Tripartite Agreement. Nevertheless, the Government has sought to help these workers and address their situation; accordingly, of these seven workers, one has resigned because of health reasons; one has accepted the offer of an alternative employment in the private sector; one has opted to become an employer and the Government has enabled him to obtain a commercial register; and four did not make use of the possibility to apply for an alternative employment. The Government therefore concludes that, pursuant to the above, all of the cases of workers dismissed in the wake of the events of February and March 2011 have been fully settled on the basis of cooperation at the national level between the social partners but affirms its readiness at all times to continue cooperation and its commitment to finding suitable, alternative employment for all those who so wish.

In this regard, the Committee notes the observations of the ITUC that not all dismissed workers have been fully reinstated in their jobs. According to the ITUC, 64 cases of dismissal related to the events of February 2011 are still pending because the employers refuse to reinstate those workers. The ITUC further affirms that the financial compensation of most reinstated workers has not yet been settled by their respective employers, despite the terms of the Tripartite Agreements in this regard, and that some employers have also declined to provide social insurance for their reinstated workers for the period they were dismissed. In this regard, the Committee notes that, in the list of 165 names attached to the Tripartite Agreement of March 2014, only 12 persons are mentioned as employees of the Ministry of Education. EI and the BTA state that many teachers who had been involved in the peaceful protests lost their jobs and livelihoods at that time and have still not been reinstated or received compensation. However, it is not clear from the statement of EI and the BTA whether some of the 120 teachers who lost their jobs, and are still awaiting reinstatement, were part of the Tripartite Agreements reached in 2012 and 2014. The Committee notes further that the GFBTU, which is a party to the Tripartite Agreements, did not send its observations confirming the full implementation of the abovementioned Agreements, as stated by the Government. It also notes that the Government itself ends its report on that issue, by indicating its readiness and commitment to continue cooperation to finding suitable, alternative employment for all those dismissed workers who so wish – implying that some cases have not yet been settled. **Consequently, the Committee requests the Government to provide evidence that the cases of the 165 dismissed workers mentioned by name in the Annex to the Tripartite Agreement of March 2014 have been resolved to the respective satisfaction of the parties, that is, not only have the workers who so wish been reinstated or offered alternative employment, but also that they have received financial compensation and provision of social insurance coverage for the period of dismissal. Noting that workers who were convicted by judicial decisions could request assistance from the Ministry to find alternative employment on the condition that they register as jobseekers and are able to produce a "certificate of rehabilitation", and that nine out of 18 have not made use of that opportunity, the Committee asks the Government to indicate what are the conditions to be fulfilled to obtain that certificate.**

The Committee notes the information communicated by EI and the BTA that, following the dismissal of a number of teachers involved in the peaceful demonstrations during the 2011 events, some 9,000 expatriates have been hired from other Arab States by the Ministry of Education and a two-tier teacher workforce has been established with expatriate teachers benefiting from better conditions than nationals. **Noting that the Government has not provided its comments on the issues raised in that observation, the Committee invites the Government to provide its comments on these issues.**

## **II. Ensure that legislation covers all recognized prohibited grounds of discrimination set out in Article 1(1)(a) of the Convention, in both direct and indirect forms, and undertake measures to ensure that discrimination in employment and occupation is prohibited in law and practice**

*Article 1(1)(a) and (3). Grounds of discrimination and aspects of employment and occupation.* The Committee recalls that, in its previous comments, it had noted that the Labour Law in the Private Sector of 2012 (Law No. 36/2012) does not apply to "domestic servants and persons regarded as such, including agricultural workers, security house-guards, nannies, drivers and cooks" performing work for the employer or the employer's family members (section 2(b)). It had further stressed that sections 39 (discrimination in wages) and 104 (termination considered to be discriminatory) of the Labour Law in the Private Sector do not include race, colour (only mentioned in section 39), political opinion, national extraction and social origin in the list of prohibited grounds of discrimination. The Committee notes that, although the Government recognizes that there is a lack of a comprehensive definition of all forms of discrimination in accordance with the Convention, it reiterates its previous explanation, that is: (i) in practice no mention of any actual violation of this principle has been reported in 2015 and 2016 (the Ministry receives more than 3,000 inquiries weekly and none alleges discrimination based on political opinion, gender, religion, etc.); (ii) private sector workers have at their disposal a number of mechanisms for lodging complaints and airing grievances (dispute settlement bodies, ministries, courts); and (iii) public sector workers are covered by Civil Service Instruction No. 16/2016 which prohibits discrimination based on gender, ethnicity, age or religion and have also at their disposal complaint procedures (internal committee, Civil Service Bureau, courts). Nevertheless, the Government indicates that it is ready to cooperate with the ILO to examine the possibility of formulating a comprehensive definition of discrimination in these two laws on the basis of international labour standards, in line with specific constitutional and legislative mechanisms and procedures. In this regard, the Committee wishes to reiterate that a clear and comprehensive definition of what constitutes discrimination in employment and occupation is instrumental in identifying and addressing the many manifestations in which it may occur (see General Survey on the fundamental Conventions, 2012, paragraph 743). It also wishes to stress that the lack of complaints is not an indicator of the absence of discrimination in practice. It is more likely to indicate the lack of an appropriate legal framework, lack of awareness of rights, lack of confidence in, or the absence of, practical access to procedures, or fear of reprisals. The fear of reprisals is a particular concern in the case of migrant workers. **Recalling the Government's statement that it is willing to examine with ILO technical support the possibility of formulating a comprehensive definition of discrimination in line with the Convention, the Committee reiterates its request to the Government to take the necessary steps to include in the Labour Law in the Private Sector of 2012 a definition of discrimination as well as a prohibition of direct and indirect discrimination that covers all workers, without distinction whatsoever, with respect to all grounds provided for in the Convention, including colour; with respect to all**

*aspects of employment, including access to vocational training, access to employment and to particular occupations, and terms and conditions of employment, and to provide information on any developments in this regard. In addition, noting that Legislative Decree No. 48 of 2010 regarding the civil service does not include a prohibition of discrimination, the Committee asks the Government to take the necessary measures to ensure that public officials enjoy adequate protection in practice against direct and indirect discrimination in employment and occupation with respect to all grounds provided for in the Convention. In this regard, the Committee encourages the Government to consider including specific provisions in Legislative Decree No. 48 providing for comprehensive protection against discrimination in the civil service.*

### III. Ensure that migrant workers as well as domestic workers are included in the protection of anti-discrimination law

*Article 3(c). Migrant workers.* In response to the Committee's request to provide information on the specific measures adopted to ensure effective protection of all migrant workers, including migrant domestic workers, against discrimination based on the grounds set out in the Convention, including access to appropriate procedures and remedies, the Government reiterates the information provided previously regarding the protection of migrant workers in the country, including domestic workers, and states once again that no evidence of discrimination against migrant workers has emerged. The Committee notes, however, new information provided by the Government, namely that since mid-2017 a flexible work permit system was introduced to regularize the status of a large number of persons working informally in Bahrain, enabling them to benefit from social insurance, unemployment insurance and health-care systems. This new system allows a migrant worker working in unfair conditions to make an independent application for a personal permit enabling him or her to work without being bound to a particular employer, in accordance with the rules, and thus avoid exploitation. Workers are also guaranteed full access to legal protection. This system will allow a migrant worker to sign a temporary employment contract and still enjoy all the benefits and rights provided by the Labour Law in the Private Sector, including freedom to transfer from one employer to another.

With regard to migrant workers, the ITUC recalls that migrant workers constitute around 77 per cent of the workforce in Bahrain and they come primarily from Bangladesh, Egypt, India, Jordan, Kenya, Nepal, Pakistan, Philippines, Sri Lanka, Syrian Arab Republic, Thailand and Yemen. Migrant workers are represented in numerous sections of the economy, including domestic work (12.8 per cent of the Bahraini workforce and 42.2 per cent of the female workforce), construction and service industries. In its report, the ITUC confirms the introduction of a pilot scheme for a flexible work permit (FLEXI) for limited categories of migrant workers in an irregular situation (skilled workers and workers who escaped abusive employers are not eligible, nor are domestic and agricultural workers). Accordingly, migrant workers in an irregular situation who are currently working in Bahrain are permitted to work without a sponsor provided that they cover certain costs, such as annual fees for work permits (US\$530), annual health care (US\$381) and a monthly social insurance fee (US\$80). In addition, these workers must provide a valid passport in order to apply for a permit. However, ITUC adds that migrants trapped in an irregular situation are generally not in possession of their passport due to confiscation by their previous employer. Further, it is not clear which law covers the employment contracts of "flexi" permit workers and how this impacts the labour protections afforded to them. As regards the right to change employer, the Committee notes the total number of approvals granted for transfer from one employer to another in 2015 (35,000) and 2016 (24,000). It also notes that according to the ITUC although the Government has repeatedly argued that migrant workers in Bahrain are not subject to the *kafala* system and may change employment without the permission of their sponsor, the Labour Market Regulation Authority continues to allow employers to include in their employment contracts a requirement limiting the approval of a transfer to another employer for a specified period.

With regard to domestic workers, the ITUC recalls that, except in the case of very few provisions, they are excluded from labour law coverage; thus they do not benefit from the labour law provisions on weekly rest days or from a limit on working hours (they can sometimes work up to 19 hours a day with minimal breaks and no day off); there is no stipulation of a minimum wage with the result that, employers can pay wages as low as US\$92 per month, averaging US\$186. The ITUC concludes by recalling that a number of reports indicate that female domestic workers are victims of physical abuse and sexual assault. *The Committee notes that the Government does not provide any information in this regard. The Committee therefore asks the Government to provide its comments on the ITUC's allegations concerning the newly introduced "flexi-scheme" and the kafala system. In the meantime, the Committee reiterates its previous request to the Government to provide information on the specific measures adopted to ensure effective protection of all migrant workers, including migrant domestic workers, against discrimination based on all the grounds set out in the Convention. The Committee further asks the Government to ensure that any rules adopted to regulate the right of migrant workers to change employers do not impose conditions or limitations that could increase the dependency of migrant workers on their employers, and thus increase their vulnerability to abuse and discriminatory practices. The Committee asks the Government to provide information on the nature and number of cases, disaggregated by sex, occupation and country of origin, where the employer or the Labour Market Regulatory Authority did not approve of a transfer to another employer and on what basis. It also asks the Government to identify the specific steps taken or envisaged to raise awareness among both migrant workers and their employers of existing mechanisms to advance their claims to the relevant authorities. Further, the Committee asks the Government to enhance the capacity of the competent authorities, including judges, labour inspectors and other public officials, and to identify and address cases of discrimination.*

### IV. Ensure equality of opportunity and treatment in employment of women

*Article 2. Equality of opportunity and treatment between women and men.* In its previous comments, the Committee had requested that the Government continue to provide information on the measures taken by the Supreme Council of Women (CSW) and other relevant authorities, including within the framework of the National Plan for the Advancement of Bahraini Women (2013–22) to promote the principle of equal opportunity between men and women, such as specific examples of legislative reforms undertaken or envisaged, as well as information on their impact on the employment opportunities for women including in areas traditionally dominated by men. It had also requested that the Government continue to provide statistical information on the participation of men and women in the labour market, disaggregated by sector, occupational categories and positions in both the public and private sectors, and the numbers of women and men respectively benefiting from vocational training. In its report, the Government recalls that Bahraini women began working in the private sector in the 1950s and, that by the 1960s, they had begun acquiring commercial registration and entering the world of business. According to the statistics provided, in 2016 women represented 32.8 per cent of the total Bahraini workforce and their average wage increased from 465 Bahraini dinar (BHD) (US\$1,232) in 2011 to BHD521 (US\$1,381) in the second quarter of 2016. As of August 2016, Bahraini women held 39 per cent of individual commercial registrations. In the private sector, Bahraini women occupy leadership positions, such as executive president, chair and membership in boards of directors. In 2014, four women were elected to the board of the BCCI, of which they constitute 22 per cent of the membership. Furthermore, Bahraini women have begun to enter new areas of employment with which they were not previously associated: for example, becoming taxi drivers, driving instructors and jewellers. According to the Government, these indications demonstrate that women make up approximately 50 per cent of all those working in public and private sector education. With regard to the CSW, the Committee notes that, in coordination with the CSW, 45 equal opportunity committees have been formed in government bodies with the aim of incorporating women's needs within the equal opportunity framework in all areas of employment and achieving equality of opportunity between all employees and between all beneficiaries of government services. The equal opportunity committees are responsible for formulating guidelines, criteria and plans relating to the application of the principle of equal opportunity, monitoring full incorporation of women's needs within the equal opportunity framework, and for providing advice. The Committee notes that the Ministry of Labour and Social Development has launched a number of initiatives designed to encourage the employment of women and promote ways of incorporating them in the labour market. These initiatives include, among others, promoting the recruitment of women by offering financial support equivalent to 50 per cent of the monthly wage for a period of two years; creating women-only vacancies; providing training programmes for women in specializations required by the labour market; holding job fairs specifically designed to recruit women; granting companies and employers extra benefits for recruiting women and promoting their presence in the labour market; recognizing a woman's right to work part time (four to six hours daily), while enjoying all the

rights and benefits set out in the Labour Law in the Private Sector and other laws, ensuring an annual leave entitlement, social insurance, healthy working conditions, etc. The Government states that, in addition to enjoying the full protection and benefits determined by the Labour Law in the Private Sector, the legislation grants a woman maternity leave (increased to 60 days with pay, instead of 45 days under the previous law), unpaid leave to look after her infant child under the age of 6 years (this is a new leave that did not exist under the previous law) and one month's paid leave in the event of the death of her husband. In this regard, the Committee is of the view that, in order to avoid reinforcing stereotypes regarding the role of women and men in society and in the family, some of the measures mentioned above (a woman's right to work part time, unpaid leave to look after a child under the age of 6 years or one month's paid leave in the event of the death of the husband of a woman worker) should be extended to men also. ***Noting that the Government's report provides ample information on steps taken to promote the principle of equal opportunity between men and women in employment and occupation, the Committee asks the Government to provide information on the impact of each of these measures on increasing the number of women in leadership positions and their situation in the labour market, in particular in areas traditionally dominated by men. The Committee also asks the Government to continue to provide statistical information on the participation of men and women in the labour market, disaggregated by sector, occupational category and position in both the public and private sectors, and the numbers of women and men respectively benefiting from vocational training.***

***Article 5. Special measures of protection.*** In its previous comments, the Committee referred to section 31 of the Labour Law on the Private Sector related to work prohibited for women and requested that the Government take the necessary measures to ensure that protective measures applicable to women are limited to maternity protection in the strict sense. In this regard, the Committee noted the adoption of Ministerial Order No. 32 of 2013 which prohibits women's employment in certain sectors and occupations, including underground work, work involving exposure to high temperatures or dangerous vibrations, work requiring great or continuous physical efforts, and work involving the use or manufacturing of lead (section 1). The Committee also noted that Order No. 16 of 2013 regarding occupations in which, and circumstances under which, employing women at night is prohibited. The Order specifies the industrial establishments where women may not be employed at night, such as: sites where materials are manufactured, destroyed and converted; shipbuilding sites; sites of electric jobs (generating, transferring or coupling) and sites of construction projects and civil engineering. The Committee notes that in its report, the Government reiterates its previous explanation that these specific measures are aimed to protect women from jobs which are against their dignity, capacities and constitution. While noting the Government's willingness to explore the possibility of including any legislative or regulatory amendments to the law, the Committee once again recalls that protective measures applicable to women's employment, which are based on stereotypes regarding women's professional abilities and role in society, violate the principle of equality of opportunity between men and women in employment and occupation enshrined in the Convention. In addition, provisions relating to the protection of persons working under hazardous or difficult conditions should be aimed at protecting the health and safety of both men and women at work (see General Survey, 2012, paragraph 840). ***Consequently, the Committee once again urges the Government to take steps to ensure that protective measures applicable to women are limited to maternity protection in the strict sense, and to repeal or withdraw any provisions that constitute an obstacle to the recruitment and employment of women, such as Ministerial Order No. 16 of 2013 and section 1 of Order No. 32 of 2013. It asks the Government to provide information on the specific steps taken or envisaged in this regard. The Committee further asks the Government to identify the specific measures adopted to ensure that all workers, both men and women, working under hazardous or difficult conditions, are adequately protected.***

**V. Ensure sexual harassment is prohibited in the labour legislation and provide information regarding how complaints of this nature may be advanced**

The Committee recalls that it had referred to the need to define and prohibit, expressly, sexual harassment in employment and occupation encompassing both quid pro quo and hostile environment harassment. In its report, the Government stresses that no cases of sexual harassment in the workplace have been reported and no complaints of this type have been registered by the Ministry of Labour and Social Development or other relevant bodies. In addition, it refers to sections 81 and 107(7) of the Labour Law in the Private Sector and item 33 of the Schedule of fines and penalties in Instructions No. 12 of the Bureau of the Civil Service of 2007. The Committee notes once again that these provisions do not provide a clear definition of sexual harassment but prescribe the sanctions in cases of serious misconduct, thus: (i) section 81, allows the employer to temporarily suspend a worker "if an offence or a misdemeanour prejudicing honour, trust or public ethics or an offence within the labour department is attributed to the worker"; (ii) section 107 allows the employer to terminate the labour contract without notice or compensation if a final judgment has been entered against the worker for an offence or a misdemeanour prejudicing honour, trust or public ethics or if the worker "has committed an immoral act at the workplace"; (iii) item 33 of the Schedule of fines and penalties provides for a preliminary written warning of dismissal from the public service, in the case of an assault or verbal or physical sexual harassment. The Committee wishes to emphasize that, without a clear definition and prohibition of sexual harassment in employment, it remains doubtful whether the legislation effectively addresses all forms of sexual harassment, both quid pro quo and hostile working environment (see General Survey, 2012, paragraph 791). The Committee also points out that the absence of reported cases on sexual harassment, as stated by the Government, does not necessarily indicate that this form of sex discrimination does not exist; rather, it is likely to reflect the lack of an appropriate legal framework, the lack of awareness, understanding and recognition of this form of sex discrimination among government officials, workers and employers and their organizations, as well as a lack of access to, or the inadequacy of, complaints mechanisms and means of redress, or a fear of reprisals (see General Survey, 2012, paragraph 790). ***Recalling once again that sexual harassment is a serious manifestation of sex discrimination and a violation of human rights, and that addressing sexual harassment through criminal proceedings only is not sufficient (due to the sensitivity of the issue, the more onerous burden of proof, and the limited range of behaviours addressed), the Committee once again urges the Government to take steps to formally prohibit in the civil or labour law both quid pro quo and hostile environment sexual harassment and to provide remedies and dissuasive sanctions. It also asks the Government to take practical measures to prevent and address sexual harassment in employment and occupation, and to provide detailed information in this regard. Noting that the Government affirms its readiness to take advantage of ILO technical support, the Committee urges the Government to avail itself of the technical assistance of the Office.***

The Committee is raising other matters in a request addressed directly to the Government.



**C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)*****Observation 2017***

*Article 2 of the Convention. Insertion of labour clauses in public contracts.* In response to the Committee's previous observation, the Government indicates only that the Ministry of Planning, as the competent authority, has been approached with regard to the insertion of labour clauses in all public contracts. The Committee recalls that, for some years, it has continued to draw the Government's attention to the core requirement of the Convention, namely that a labour clause within the meaning of *Article 2* of the Convention, be incorporated into every public contract, whether for works, supply of goods or performance of services (*Article 1*). The Committee once again refers the Government to paragraphs 98–121 of the 2008 General Survey on labour clauses in public contracts, which contain detailed explanations on the exact nature and content of this principal obligation. The Committee notes the Government's indication that the Tripartite Consultative Committee established to study amendments to the labour legislation is still in operation and continues to report on ILO Conventions and Recommendations. In this regard, the Government indicates that the Labour Code (Act No. 357 of 2015) was referred to the Tripartite Consultative Committee in order to bring the Code into conformity with international labour Conventions prior to its promulgation. ***The Committee once again requests the Government to provide information on progress made in adopting legislative or administrative measures to give effect to the Convention. In particular, it urges the Government to take the necessary measures without delay to bring the national legislation into conformity with Article 2 of the Convention and to communicate a copy of the revised Labour Code as soon as it is adopted.***

**C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*****Observation 2017***

The Committee notes with *interest* the approval of the ratification of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), on 21 November 2017 by the Parliament of the Republic of Iraq.

The Committee notes the late receipt of the Government's report. It observes that the Government reports the adoption of the new Labour Code in 2015. The Committee will examine the Government's report and the new legislation at its next session in order to evaluate its conformity with the Convention and ensure that the comments made by the Committee regarding the previous legislation have been taken into consideration.

## C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

*Observation 2017*

The Committee notes the observations of the Jordanian Federation of Independent Trade Unions (JFITU) received on 31 August 2017, which refer to general legislative issues and specific cases of anti-union harassment and interference. *The Committee requests the Government to provide its comments in this respect.*

*Articles 1–6 of the Convention. Scope of the Convention. Foreign workers.* In its previous comments, the Committee had requested the Government to take the necessary legislative measures to ensure that foreign workers may become founding members and leaders of trade unions and employers' organizations. The Committee notes the Government's indication that section 98(e) of the Labour Code specifies that there is no impediment which stops the admittance of migrant workers as founder members if the rest of the conditions are met. The Committee notes, however, that the text of section 98(e) as amended in 2010 provides that the first condition for founding a workers' or employers' organization is to be Jordanian. The Committee further notes that the JFITU indicates in its observations that although the law was amended in 2010 to allow foreign workers to join unions, it does not permit them to form unions or to hold union office; thus, in sectors where migrants form the majority of the workforce, the establishment of trade unions and the exercise of the right to collective bargaining is very unlikely. *The Committee requests the Government to provide clarification in this respect by indicating how foreign workers can enjoy the protection of the Convention, including the right to engage in collective bargaining through the organization of their own choosing, and to indicate whether consideration is being given to amending this provision. The Committee further requests the Government to indicate how these rights are exercised in practice, by indicating the names of any organizations that represent foreign workers and the number of collective agreements covering them.*

*Domestic and agricultural workers.* In its previous comments, the Committee had raised the issue of coverage of domestic and agricultural workers under the Labour Code. In this regard, the Committee notes the Government's indication in its reply to the 2014 observations of the International Trade Union Confederation (ITUC) pursuant to which domestic workers, cooks and agricultural workers are covered by the Labour Code as specified in section 3; that no provision in the law prohibits their representation by trade unions and that they are represented by the general trade union for employees in food industries. However, the Committee also notes the Government's diverging indication in its latest report that there is no impediment to the representation of these workers by trade unions provided the law is amended and the tripartite committee agrees thereto. Finally, the Committee notes the JFITU's observations indicating that although the Labour Code was amended in 2008 to extend certain rights to domestic and agricultural workers, it remains unclear whether the law permits domestic and agricultural workers to create or join unions. The Committee notes that the 2008 amendment of section 3 of the Labour Code removed the express exclusion of domestic and agricultural workers from the scope of application of the Code, however, the amended section 3(b) indicates that the rules governing the employment conditions of these workers will be determined by a regulation to be adopted at a later stage. The Committee notes in this regard the JFITU's indication that there appears to be a split in judicial opinion as to whether the Labour Code would apply or only the specific regulation referred to in section 3 would be applicable to the workers concerned. The Committee further notes that pursuant to section 10 of the Labour Code, domestic work, cooking, gardening and similar works are sectors that are open to the recruitment of foreign workers. In view of the above, the Committee notes with *regret* that despite the removal of the express exclusion of domestic and agricultural workers from the coverage of the Labour Code, the law and regulations still do not clearly guarantee these workers the rights set out in the Convention and that this situation might enhance the existing impediments to the exercise of the rights to organize and bargain collectively by the foreign workers working in those sectors, who already face certain restrictions by virtue of their nationality. *Recalling that all workers other than the armed forces, the police and public servants engaged in the administration of the State are covered by the provisions of the Convention, the Committee urges the Government to take the necessary legislative or regulatory measures to ensure that agricultural and domestic workers, cooks, gardeners and similar workers can engage in collective bargaining through the organizations of their own choosing, and to provide information on measures envisaged or adopted in this regard.*

*Workers aged between 16 and 18 years.* In its previous comments, the Committee had noted that section 98(f) of the Labour Code specifies that trade union members must be at least 18 years of age and notes the Government's indication in this regard that the minimum age of admittance to trade unions of 18 years corresponds to the legal age for employment under Jordanian legislation. The Committee notes, however, that section 73 of the Labour Code prohibits the employment of minors under 16 years of age. The Committee considers that the prohibition of minor workers from trade union membership although they may be employed from the age of 16 would effectively exclude them from the protection of the Convention. *The Committee therefore once again requests the Government to take measures to amend section 98(f) so as to ensure that minors who have reached the legal age for employment, whether as workers or trainees, will be fully protected in their exercise of the rights falling within the scope of the Convention. It requests the Government to provide information on measures contemplated or adopted in this respect in its next report.*

*Workers not included in the 17 recognized sectors.* The Committee notes the Government's reply to the ITUC's 2014 observations, indicating that pursuant to a 1999 Order, the number of occupations and industries whose workers have the right to establish trade unions is set at 17. The Committee further notes the JFITU's observations indicating that under section 98 of the Labour Code, trade unions can only be established in government-designated sectors and that the official General Federation of Jordanian Trade Unions (GFJTU) has been unable to register unions outside those sectors. Thus, the workers not included in recognized sectors are not able to engage in collective bargaining through the organizations of their own choosing. The Committee notes with *concern* that such a system might leave out entire groups of workers from the benefit of the rights guaranteed under the Convention. *The Committee requests the Government to indicate in detail which are the 17 recognized sectors in which workers have the right to organize for purposes of collective bargaining and the occupations and industries included in each of them and to provide the relevant legislation, regulations and orders. The Committee further requests the Government to provide statistical information as to the number of workers included in the 17 recognized sectors and the total number of workers in the country.*

*Article 2. Adequate protection against acts of interference.* In its previous comments, the Committee had requested the Government to amend the legislation with a view to strengthening the sanctions against interference as it considered that the fines provided for in section 139 of the Labour Code could not have a sufficiently dissuasive effect. The Committee also notes the 2014 observations of the ITUC and those of the JFITU alleging that the Government subsidizes the GFJTU staff's wages and some of its activities and that it continues to influence their policies and activities, as well as those of their affiliates. *The Committee requests the Government to reply to these allegations. Noting that the Government has not provided any new information with regard to its previous comments in this regard, the Committee once again requests the Government to take measures, in full consultation with the representative organizations of workers and of employers, in order to strengthen the sanctions against interference and to provide information on measures envisaged or adopted in this respect.*

*Articles 4 and 6. Right to collective bargaining. Trade union monopoly.* The Committee notes the JFITU's observations indicating that not only can trade unions be established in government-designated sectors, but also that there may be only one union per sector; that unions are required to be affiliated to the only officially recognized federation, the GFJTU, and the limitation of one union per sector serves to exclude independent unions from organizing workers in the recognized sectors and representing their interests through collective bargaining. The Committee notes that section 98(d)(1) of the Labour Code indeed gives the Tripartite Committee (defined in section 43 of the Code) the authority to specify groups of occupations in which no more than one general trade union may be established, which seems to allow it to establish a trade union monopoly at the sector level. *Recalling that the imposition of trade union monopoly is inconsistent with the principle of free and voluntary collective bargaining established in Article 4 of the Convention, the Committee requests the Government to take the necessary legislative measures, including the review of section 98(d)(1) of the Labour Code, so as to provide for full freedom*

*of association, and to provide information concerning the developments in this regard.*

*Collective bargaining in the public sector.* In its previous comments, the Committee had requested the Government to provide information concerning the right to collective bargaining in the public sector, notably the relevant constitutional amendments and the draft law on trade union work for public sector employees. **Noting that it has not received any information in this regard, the Committee once again requests the Government to provide information as to the latest developments in the process of adoption and the text of the draft law on trade union work for public sector employees and, recalling that only public servants engaged in the administration of the State can be excluded from the scope of the Convention, the Committee expresses the firm hope that the national legislation will recognize explicitly the right to collective bargaining in the public sector.**

## C100 - Equal Remuneration Convention, 1951 (No. 100)

### Observation 2017

*Article 1(a) of the Convention. Additional allowances in the public service.* The Committee recalls its previous comments that the limitations on women's access to family allowances pursuant to section 2 of Civil Service Regulation No. 30 of 2007 and the difference in allowance, based on sex, constitutes direct discrimination with respect to remuneration contrary to the Convention (see the General Survey on the fundamental Conventions, 2012, paragraph 693). The Committee recalls that the legal review, *Towards Pay Equity: A Legal Review of Jordanian National Legislation* (2013) carried out by the National Steering Committee for Pay Equity (NSCPE) recommended amendments to the Civil Service Regulation, including section 25. The Committee notes the adoption of Regulation No. 82 of 2013 concerning Civil Service which repeals the Civil Service Regulation No. 30 of 2007. The Committee notes that section 25(b) of the new Regulation concerning the Civil Service, as amended in 2014 by Regulation No. 96, continues to provide that the family allowance is granted to a married man and in exceptional cases to a woman, if her husband is incapacitated, or if she supports her children or is divorced and does not receive a child allowance for her children below 18 years of age. The Committee notes that the Government indicates that the new Civil Service Regulation applies the principle of equal pay for work of equal value to all civil service employees, irrespective of gender, but recognizes that section 25(b) constitutes a difference in wages between men and women. **In light of the recommendations made by the NSCPE legal review, the Committee urges the Government to take steps without delay to amend Civil Service Regulation No. 82 of 2013 to ensure that women and men are entitled to all allowances, including the family allowance, on an equal basis, and to provide information on the progress made to this end.**

*Article 1(b). Equal remuneration for work of equal value. Legislation.* Since 2001, the Committee has been drawing the Government's attention to the need to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. In its previous observation, the Committee welcomed the recommendations of the legal review undertaken by the NSCPE and the July 2013 workshop to amend the provisions of the Labour Law of 1996, and its related Interim Act of 2010. The recommended amendments provided for equal remuneration for men and women for work of equal value "including work of a different type", and made reference to the use of objective job evaluation methods to determine whether jobs are of equal value. While noting the information provided by the Government regarding the further work undertaken by the NSCPE, and on the system of job description and classification in the public sector, the Committee notes that no steps appear to have been taken to amend the Labour Law of 1996 and the Interim Act of 2010. The Committee is addressing the issues related to the promotion of job evaluation methods in the public and private sector in its direct request. **The Committee urges the Government to take the necessary steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee also reiterates its request to the Government to provide information on any measures taken or envisaged to promote objective job evaluation methods in the public and private sectors.**

The Committee is raising other points in a request addressed directly to the Government.

## C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

*Observation 2017*

The Committee notes the observations made by the International Trade Union Confederation (ITUC) in a communication received on 18 September 2017 referring to issues under examination by the Committee.

*Article 2 of the Convention. Migrant workers.* In its previous comments, the Committee had requested the Government to ensure the recognition of the right of migrant workers to establish and join organizations of their own choosing by repealing any restriction or requirement on account of work permit or time of residence. In this respect, the Committee takes note of the Government's indication in its report that the Labour Law (2010) does not contain any section that prohibits migrant workers from establishing organizations or from joining the existing trade unions. The Committee recalls that in its previous observation, it had noted the Government's indication that the right to establish organizations is not accorded to migrant workers due to the fact that their residence in Kuwait is temporary and ends at their contract's expiration. As to the right to join unions, the Committee recalls that it had noted that the admission of non-Kuwaiti workers as trade union members is provided for by the Ministerial Order No. 1 of 1964, which requires them to hold a work permit and to have resided in the country for five years. In this regard, the Committee notes the Government's indication that those requirements are merely organizational and are useful to determine if the workers concerned lawfully reside in the country and the type of occupation on the basis of which a request to join a trade union organization is made. The Committee observes that, according to the Central Statistical Bureau of Kuwait, approximately two-thirds of the population in Kuwait are non-Kuwaiti citizens. It further notes that according to statistics published on the website of the UN High Commissioner for Refugees (UNHCR), in 2010, there were at least of 93,000 Bidoons who were reportedly stateless people. The Committee recalls that the right of workers, without distinction whatsoever, to establish and join organizations of their own choosing implies that anyone residing in the territory of a State, whether or not they have a residence permit, benefits from the trade union rights provided for by the Convention, without any distinction based on nationality or the absence thereof. ***The Committee once again requests the Government to take all necessary measures to ensure the recognition of the right of all migrant workers to establish and join organizations of their own choosing, repealing any restriction or requirement on account of work permit status or time of residence, and to provide information on any development in this respect.***

*Domestic workers.* In its previous comments, the Committee had requested the Government to take all necessary measures to ensure the full recognition of the right of domestic workers to establish and join organizations. The Committee notes the Government's indication that Law No. 68 of 2015 on domestic workers grants labour rights to domestic workers and aims to improve their social and economic situation. It further observes that, according to the Central Statistical Bureau of Kuwait, in 2016, 666,422 persons were employed as domestic workers (which represents around 16.5 per cent of the population). While noting that Law No. 68 of 2015 constitutes a first step towards improving the protection of domestic workers, the Committee observes that this legislation does not contain any provision explicitly granting them the right to establish and join organizations to further and defend their interest and rights. ***The Committee urges the Government to take all necessary measures to ensure the full recognition and the right of domestic workers to establish and join organizations. It requests the Government to indicate all measures taken or envisaged in this regard.***

*Civil servants.* The Committee had previously requested the Government to provide information on trade union rights in the public sector. The Committee notes the Government's indication that civil servants have the right to establish and join unions of their own choosing and that this right is guaranteed both in law and in practice. The Government reiterates that section 98 of the Labour Law covers civil servants and that there is no legislation that restricts or limits them from exercising full trade union rights. It transmits a list of trade unions set up in various Ministries and public institutions. The Committee takes due note of this information.

*Maritime and oil sector workers.* The Committee had previously requested the Government to provide information on the exercise of trade union rights in the maritime and oil sector. The Government refers to a list of trade unions in the maritime and oil sector supplied with its report. The Committee takes due note of this information.

*Article 3. Financial administration of organizations.* In its previous comments, the Committee had requested the Government to take the necessary measures to amend sections 104(2) and (3) of the Labour Law so as to bring it into conformity with *Article 3* of the Convention. The Committee notes the Government's indication that no restriction is imposed on the financial administration of trade unions. As concerns the prohibition on trade unions to use their funds in financial, real estate and other forms of speculations imposed by section 104(2) of the Labour Law, the Government indicates that the aim of this provision is to ensure the protection of union members from the negative consequences of such investments. The Committee recalls that legislative provisions that restrict the freedom of trade unions to administer, utilize and invest their funds as they wish for normal and lawful trade union purposes, including through financial and real estate investments, are incompatible with *Article 3* of the Convention, and that the control exercised by public authorities over trade union finances should not go beyond the requirements for the organization to submit periodic reports. ***The Committee therefore once again requests the Government to take the necessary measures to amend section 104(2) of the Labour Law and to indicate all measures taken or envisaged in this respect.*** In respect of section 104(3) of the Labour Law, the Committee takes due note of the Government's indication that this provision does not restrict trade unions from receiving money (donations and successions), but simply directs trade unions to inform the Ministry of the donations and successions received in order to verify the legitimacy of the source. The Committee understands that section 104(3) of the Labour Law does not indeed require the Ministry's consent.

*Overall prohibition on trade union political activities.* In its previous comments, the Committee had requested the Government to take the necessary measures to revise section 104(1) of the Labour Law which prohibits trade unions from involvement in any political matters. The Government indicates that the involvement of trade unions in political issues is not one of the objectives for which trade unions are established. The Government reiterates that the trade unions' aim is to defend the interest of workers and to improve their economic and social situation, while the objective of any political party is to fight for a policy. The Government also indicates that unions can always express their views on political issues of interest to their members without any interference. The Committee recalls that the development of the trade union movement and the increasing recognition of its role as a social partner in its own right means that workers' organizations must be able to voice their opinions on political issues in the broad sense of the term and, in particular, to express their views publicly on a government's economic and social policy. ***The Committee once again requests the Government to take the necessary measures to amend section 104(1) of the Labour Law so as to eliminate the total ban on political activities in keeping with the abovementioned principle and so as to explicitly ensure that union members are able to express their views on policy matters that may affect their interest. It further requests the Government to indicate all progress made in this regard.***

*Compulsory arbitration.* The Committee had previously noted that the intervention by the Ministry in labour disputes pursuant to sections 131 and 132 of the Labour Law could lead to compulsory arbitration and the prohibition of strikes. Noting the willingness of the Government to examine these provisions in consultation with the social partners, the Committee had requested the Government to provide information on the results of such tripartite consultations. The Committee notes the Government's indication that the aim of section 131 of the Labour Law is to grant intervention powers to the Minister in a case of a collective dispute. The Government points out that the exercise of this power is optional and not mandatory. It reaffirms that the Ministry has never intervened in any collective dispute and that it is committed to not intervening, unless the parties to the dispute request its intervention. The Committee once again recalls that in as much as compulsory arbitration prevents strike action (section 132 of the Labour Law), it is contrary to the right of trade unions to freely organize their activities. Compulsory arbitration to end a collective labour dispute and a strike is acceptable if it is at the request of both parties involved in a dispute, or if the strike in question may be restricted, even banned, i.e. in the case of disputes in the public service involving public servants exercising authority in the name of the State or in essential services in the strict sense of the term, namely those services whose interruption would endanger the life, personal safety or health of

the whole or part of the population. *The Committee therefore once again requests the Government to take the necessary measures to amend sections 131 and 132 of the Labour Law so as to ensure their full conformity with the abovementioned principles, and to provide information on any developments in this respect.*

*Dismissal of executive boards.* In its previous comments, the Committee had noted that section 108 of the Labour Law provides for the possibility to dismiss an organization's board of directors by court order in case the board engages in an activity that either violates the provisions of the Labour Law or of the "laws relevant to the preservation of public order and morals". The Committee also had pointed out that the reference, as grounds for board dismissal, to any activity that violates the laws relevant to the preservation of the public order and morals is too broad and vague, and could lead to an application that hinders the exercise of the trade union rights enshrined in the Convention. Furthermore, the Committee had considered that the dismissal of the executive boards of employers' or workers' organizations by court order should be restricted to serious and repeated violations of the organizations' constitutions or of relevant legislation, and recalls that legislation cannot impair nor be applied to impair the guarantees provided for in the Convention. The Committee notes that no information has been provided by the Government in this respect. *It therefore once again requests the Government to take the necessary measures to amend section 108 of the Labour Law and to indicate all progress made in this respect.*

*Article 5. Limitation to a single confederation.* In its previous comments, the Committee had requested the Government to take the appropriate measures to amend section 106 of the Labour Law, which provides that "there should not be more than one general union for each of the workers and employers", so as to ensure the right of workers and employers to establish organizations of their own choosing at all levels. The Committee notes that the Government did not provide any information on the measures to amend section 106 of the Labour Law. Once again, the Committee recalls that the right of workers to be able to establish organizations of their own choosing, as set out in *Article 2* of the Convention, implies that trade union diversity must remain possible in all cases. The Committee considers that it is important for workers to be able to change trade unions or to establish a new union for reasons of independence, effectiveness or ideological choice. Consequently, legislation which requires trade unions to be grouped together in a single federation or confederation raises problems of compatibility with the Convention. The Committee notes with *regret* the lack of progress in this regard and recalls that a legislatively imposed trade union monopoly at any level is incompatible with the requirements of the Convention. *The Committee once again requests the Government to take the appropriate measures to amend section 106 of the Labour Law so as to ensure the right of workers to establish organizations of their own choosing at all levels, including the possibility of forming more than one confederation (general union), and to provide information on any developments in this respect.*

The Committee is raising other matters in a request addressed directly to the Government.

## C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

### Observation 2017

The Committee notes the observations of the International Trade Union Confederation (ITUC) in a communication received on 18 September 2017, which refer to issues pending before this Committee.

*Scope of application of the Convention.* In its previous comments, the Committee had requested the Government to provide information on the way in which domestic workers and migrant workers exercise in practice their rights enshrined in the Convention. The Committee notes the Government's indication that, under Kuwaiti legislation, workers have the prerogative to organize, form and become members of unions. The Government refers to Ministerial Order No. 1 of 1964, which is based upon article 43 of the Constitution, and provides that no person may be compelled to join any association or union. In this respect, the Committee notes that Ministerial Order No. 1 of 1964 subordinates the exercise of this right to the possession of a valid work permit and a minimum of five years' residence in the country. With respect to domestic workers, the Committee notes the Government's indication that Law No. 68 of 2015 on domestic workers grants labour rights to domestic workers and aims to improve their social and economic situation. While acknowledging that Law No. 68 of 2015 constitutes a first step towards improving the protection of domestic workers, the Committee observes that this legislation does not contain any provision explicitly granting them the right to organize and negotiate collective agreements. In this respect, the Committee refers to its observations made under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). *The Committee requests the Government to take all necessary measures to ensure the full recognition, in law and in practice, for all migrant workers and domestic workers of the rights enshrined in the Convention. It also requests the Government to continue providing information on the way in which domestic workers and migrant workers exercise in practice the rights set out in the Convention, including information on trade union organizations established and collective agreements in force.*

*Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* In its previous comments, the Committee had requested the Government to take any necessary measures to ensure that legislation provides for the prohibition of all acts of anti-union discrimination and interference forbidden by the Convention as well as redress mechanisms which ensure an adequate protection. In this respect, the Committee takes note of the Government's indication that it is forbidden for employers to terminate a contract for any reason connected to fundamental rights provided in the Constitution and international Conventions, which have determined the right of workers to join labour unions and exercise trade union rights. The Government reiterates that Kuwait's Constitution provides in article 43 that no person may be compelled to join any association or union and that the Labour Law provides that a worker's service may not be terminated without justification or on the grounds of union activity. The Committee recalls that, beyond these general provisions, national legislation does not provide for concrete protection against acts of discrimination. It also recalls that this protection should prohibit not only dismissals but also other measures of anti-union discrimination, such as transfers, demotions and any other prejudicial acts, as well as acts of anti-union discrimination in taking up employment. Furthermore, it recalls that legislation should provide protection against all acts of interference, such as acts aiming to place workers' organizations under the control of employers or employers' organizations by financial or other means. The Committee emphasizes that legislation should make express provision for effective procedures and dissuasive sanctions to prevent and redress all acts of anti-union discrimination and to protect employers' and workers' organizations against interference by each other. *The Committee urges the Government once again to take all necessary measures to ensure that the legislation provides for the prohibition of all acts of anti-union discrimination and interference forbidden by the Convention, as well as to ensure that there are redress mechanisms which provide adequate protection, including effective procedures and dissuasive sanctions, in accordance with the abovementioned principles.*

*Article 4. Promotion of collective bargaining. Compulsory arbitration.* The Committee had previously noted that pursuant to sections 131 and 132 of the Labour Law, the Ministry may intervene in a dispute without being asked to do so by any of the disputing parties, to bring about an amicable settlement of the dispute, and may also refer the dispute to the Conciliation Committee or the Arbitration Panel, as it deems appropriate. The Committee notes the Government's indication that the aim of section 131 of the Labour Law is to grant intervention powers to the Minister in a case of a collective dispute. The Government reiterates that the exercise of this power is optional and not mandatory. It reaffirms that the Ministry has never intervened in any collective dispute and that it will be committed thereto in the future, unless the parties to the dispute request its intervention. The Committee recalls that compulsory arbitration in the framework of collective bargaining is only acceptable in relation to public servants engaged in the administration of the State (*Article 6* of the Convention), essential services in the strict sense of the term (services whose interruption would endanger the life, personal safety or health of the whole or part of the population), and acute national crises. The Committee refers to its observation made under Convention No. 87, and emphasizes that even if section 131 is optional, the provision unduly affords the Ministry discretion to provide for compulsory arbitration beyond the acceptable cases previously mentioned. *The Committee urges the*

*Government once again to take all necessary measures to amend sections 131 and 132 of the Labour Law, as well as other provisions on compulsory arbitration concerned, to ensure the full conformity with the abovementioned principles, and to provide information on any developments in this respect.*

*Promotion of collective bargaining. Application of the Convention in practice.* In its previous comments, the Committee had requested the Government to provide information concerning the number of collective agreements concluded, specifying the sectors and the number of workers covered. The Committee notes the Government's indication that it has not been informed of any collective agreements during the period covered by its report, and that the last collective agreement was concluded in 2011. The Committee recalls that according to *Article 4* of the Convention, governments shall promote collective bargaining between employers and trade union organizations, and notes with *concern* that no collective agreement has been concluded since 2011. ***The Committee therefore requests the Government to provide information on concrete measures taken or contemplated in order to encourage and promote collective bargaining. The Committee also requests the Government to continue providing information concerning the number of collective agreements concluded, specifying the sectors and the number of workers covered.***

The Committee is raising other matters in a request addressed directly to the Government.

**C029 - Forced Labour Convention, 1930 (No. 29)****Observation 2017**

*Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant domestic workers to conditions of forced labour.* In its earlier comments, the Committee noted the observation of 2013 from the International Trade Union Confederation (ITUC), indicating that there are an estimated 200,000 migrant domestic workers employed in Lebanon. These workers are excluded from the protection of the Labour Law, have a legal status tied to a particular employer under the *kafala* (sponsorship) system, and legal redress is inaccessible to them. Moreover, they are subjected to various situations of exploitation, including delayed payment of wages, verbal, and sexual abuse. The Committee also requested the Government to take the necessary measures to ensure that the Bill regulating the working conditions of domestic workers, as well as the Standard Unified Contract (SUC) regulating their work are adopted in the very near future.

The Committee notes the Government's indication in its report that, the Bill regulating the working conditions of domestic workers was drafted in conformity with Domestic Workers Convention, 2011 (No. 189), and the Bill has been submitted to the Council of Ministers for discussion. The Bill will provide a certain number of safeguards, including social security coverage; decent accommodation; the timely payment of wages through bank transfer; hours of work (eight hours per day); sick leave; and a day of rest. The Government also indicates that a Steering Committee has been established under the Ministry of Labour in order to deal with issues related to migrant domestic workers and is composed of relevant Ministerial Departments, representatives of the private recruitment agencies, NGOs, certain international organizations, as well as representatives of certain embassies. A representative from the ILO Decent Work Technical Support Team in Beirut is also participating in the Steering Committee.

Moreover, the Government indicates that the Ministry of Interior and the Ministry of Labour have taken a series of preventive measures, including awareness raising campaigns through the media; the establishment of a shelter "Beit al Aman" for migrant domestic workers who are facing difficulties in collaboration with Caritas; the appointment of social assistants who look into the working conditions of migrant domestic workers in their workplaces; the training of labour inspectors on decent working conditions; and the conclusion of a series of Memoranda of Understanding (MOUs) with sending countries, such as the Philippines, Ethiopia and Sri Lanka. The Government further states that the Ministry of Labour has set up a specialized office for complaints and a hotline to provide legal assistance to migrant domestic workers. Moreover, under the Recruitment Agencies of Migrant Domestic Workers Decree No. 1/168 of 2015, it is prohibited to impose recruitment fees on all workers.

The Committee further notes that in its 2015 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the various measures adopted by the State party to protect the rights of women migrant domestic workers, including issuing unified contracts, requiring employers to sign up to an insurance policy, regulating employment agencies, adopting a law criminalizing trafficking in persons and integrating such workers into the social charter and the national strategy for social development. The CEDAW, however, expressed concern that the measures have proved insufficient to ensure respect for the human rights of those workers. The CEDAW is equally concerned about the rejection by the Ministry of Labour of the application by the National Federation of Labour Unions to establish a domestic workers' union, the absence of an enforcement mechanism for the work contracts of women migrant domestic workers, limited access for those workers to health care and social protection and the non-ratification of the Domestic Workers Convention, 2011 (No. 189). The CEDAW was further concerned about the high incidence of abuse against women migrant domestic workers and the persistence of practices, such as the confiscation of passports by employers and the maintenance of the *kafala* system, which place workers at risk of exploitation and make it difficult for them to leave abusive employers. The CEDAW was deeply concerned about the disturbing documented reports of migrant domestic workers dying from unnatural causes, including suicides and falls from tall buildings, and about the failure of the State party to conduct investigations into those deaths (CEDAW/C/LBN/CO/4-5, paragraph 37).

While taking note of the measures taken by the Government, the Committee notes with **concern** that migrant domestic workers are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty and physical abuse. Such practices might cause their employment to be transformed into situations that amount to forced labour. **The Committee therefore urges the Government to strengthen its efforts to provide migrant domestic workers with an adequate legal protection, by ensuring that the Bill regulating the working conditions of domestic workers will be adopted in the very near future and to provide a copy of the legislation, once adopted. The Committee also urges the Government to take the necessary measures to ensure that migrant domestic workers are fully protected from abusive practices and working conditions that amount to forced labour.**

*Article 25. Penal sanctions for the exaction of forced labour.* In its earlier comments, the Committee noted that according to the ITUC's information, it was found that a lack of accessible complaint mechanisms, lengthy judicial procedures, and restrictive visa policies dissuade many workers from filing or pursuing complaints against their employers. Even when workers file complaints, the police and judicial authorities regularly fail to treat certain abuses against domestic workers as crimes. The Committee also noted the Government's indication that section 569 of the Penal Code, which establishes penal sanctions against any individual who deprives another of their personal freedom, applies to the exaction of forced labour. It requested the Government to provide information on any legal proceedings which had been instituted on the basis of section 569 as applied to forced labour and on the penalties imposed.

The Committee further notes that in its 2015 concluding observations, the CEDAW observed that migrant domestic workers face obstacles with regard to their access to justice, including fear of expulsion and insecurity of residence.

The Committee notes the Government's indication that the work of migrant domestic workers is regulated by the SUC and that the application of section 569 of the Penal Code is of the competency of the judiciary when a violation is detected. The Committee also notes copies of court decisions provided by the Government. It observes that the cases are related to non-payment of wages, harassment and working conditions of migrant domestic workers. In all cases employers have been sentenced to pay a monetary penalty to compensate the workers.

While noting this information, the Committee recalls that *Article 25* of the Convention provides that the exaction of forced labour shall be punishable as a penal offence. **The Committee therefore urges the Government to take the necessary measures to ensure that employers who engage migrant domestic workers in situations amounting to forced labour are subject to really adequate and strictly enforced penalties. It requests the Government to provide information on measures taken in this regard.**

The Committee is raising other matters in a request directly addressed to the Government.

**C077 - Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)****Observation 2017**

The Committee notes the observations of the General Confederation of Lebanese Workers (CGTL) communicated with the Government's report.

*Article 2(1) and (2) of the Convention. Preliminary medical examination by a qualified physician.* In its previous comments, the Committee noted the Government's information that section 22 of the Labour Code, as amended by Act No. 536 of 24 July 1996, makes a medical examination obligatory prior to employment of young persons aged 14–18 years. The Committee noted that, in addition to the provisions discussed in its previous comments, section 21 of the draft amendment to the Labour Code, which was prepared by the tripartite committee set up by the Ministry of Labour's Order No. 210/1 of 2000, prohibits the employment or engagement of young persons before undergoing a thorough medical test, which could include clinical, laboratory and X-ray tests if necessary, and which proves their fitness to fulfil the required work. The Committee noted the indication of the Government that it had submitted the draft amendment to the

Labour Code to the Council of Ministers for its examination and approval, but that this was delayed due to a change in governments. The Government declared that, as soon as a new government was formed, the draft amendments would be submitted once again to the Council of Ministers for their re-examination.

The Committee notes the Government's indication in its report that there has not been any new development with respect to this draft amendment to the Labour Code since it is still under examination. It notes, from the observations of the CGTL, that the process of amendment to the Labour Code, including section 22, has begun. ***The Committee once again urges the Government to take the necessary measures to ensure that the draft amendment to the Labour Code, which dates back to 2000, is adopted as soon as possible, and to provide information on the progress made in this regard.***

*Articles 3(2) and 4(1). Medical re-examination for fitness for employment of persons under 18 and for employment in occupations involving high health risks, and repetition until the age of 21 years.* In its previous comments, the Committee noted that section 22 of Act No. 536 of 24 July 1996 refers to the medical examination conducted after beginning the employment for young persons under 18 years, and that section 1 of Order No. 157/1 of 2 August 2000 provides for the continuation of medical examination of young persons until the age of 21, for those who are engaged in work hazardous to health. The Committee noted that the draft amendment to the Labour Code provides for the repetition of the medical examination of young persons under 18 years at closer intervals than annually to ensure an efficient supervision of their medical condition with regard to the risks of their work. It noted the Government's indication that, during its inspection visits, the technical labour inspectorate did not detect any child workers under the age of 18 and that, therefore, there was no need for periodic medical examinations. However, the Committee recalled that *Article 4(1)* of the Convention requires medical examination and re-examinations for fitness for employment in occupations which involve high health risks until *at least the age of 21 years*.

The Committee notes the Government's indication that a draft new decision is being prepared which will determine the intervals for the repetition of medical re-examinations. ***Expressing the hope that the new decision determining the intervals for the repetition of medical examinations will include the determination of the intervals at which the medical re-examination is conducted for persons between 18 and 21 years of age engaged in work which involves high health risks, the Committee requests the Government to take measures to ensure that this new decision is adopted as soon as possible and to provide information on the progress made in this regard.***

*Article 6. Vocational guidance and rehabilitation of children and young persons found unsuited for work.* In its previous comments, the Committee noted that the Ministry of Social Affairs resorted to the non-governmental sector to provide a cluster of services to young persons. It observed, however, that no measures had been taken with regard to the vocational guidance or physical and vocational rehabilitation of children and young persons found by medical examination to be unsuited or to have physical handicaps or limitations. The Committee noted the Government's information that the comments of the Committee on *Article 6* of the Convention would be submitted to the Supreme Council for Childhood, which is comprised of representatives of the ministries of Labour, Social Affairs, Justice, Public Health, Education and Higher Education, Foreign Affairs, Culture, Interior and Municipalities, Finance, Youth and Sports, and Information, for consideration. The Committee expressed the hope that the Government, along with the collaboration of the Supreme Council for Childhood, would undertake the necessary action as soon as possible in order to ensure effective application of *Article 6* of the Convention.

The Committee notes the Government's indication that it sent a letter to the Ministry of Social Affairs and Supreme Council for Childhood in that regard. ***Observing that it has been raising this point since 2000, the Committee urges the Government to take the necessary measures to ensure the effective application of Article 6 of the Convention. It asks the Government to supply information on any progress made in this regard in its next report.***

*Article 7(2). Enforcement of the Convention.* Following its previous comments, the Committee notes with *regret* that the Government did not provide information on the measures taken to enforce the Convention. It notes the Government's indication that it will send the relevant information when it becomes available. ***The Committee once again requests the Government to provide information on any other measures taken or envisaged to ensure the strict enforcement of the Convention.***

## C078 - Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)

### Observation 2017

*Articles 1 and 2 of the Convention. Scope of application.* In its previous comments, the Committee noted that certain categories of children or young persons employed for wages, or working directly or indirectly for gain, in non-industrial occupations other than the following categories, recognized by the competent authority as industrial, agricultural and maritime occupations, which are excluded from the application of the provisions of the Convention by virtue of section 7 of the Labour Code:

- (1) domestic work in private homes;
- (2) agricultural corporations which have no connection with trade or industry (they will be the subject of special legislation);
- (3) establishments in which only family members work under the direction of the father, the mother, or a guardian;
- (4) governmental and municipal services with regard to workers and wage earners employed on a temporary or daily basis who do not enjoy the status of civil servants and who will be covered by special legislation.

With respect to domestic work, the Committee noted the Government's information that current laws prohibit the employment of young persons under 18 years of age as domestic workers, making it unnecessary to provide for their medical examination under this Convention. With regard to workers employed by the public administration, the Government indicated that Decree No. 5883 of 3 November 1994 concerns the regulations applicable to employees and that municipal workers are subject to regulations adopted by each municipality.

The Committee noted the Government's information that the draft amendment to the Labour Code, prepared by the tripartite committee set up by virtue of Order No. 210 of 20 December 2000, deals with the first three abovementioned exceptions to the Labour Code. The Ministry of Labour was revising it so as to bring its provisions into better conformity with the provisions of the relevant ratified Conventions.

The Committee notes with *concern* the Government's indication in its report that the comments of the Committee will be taken into consideration when the draft amendment to the Labour Code is re-examined. ***Noting that it has been raising this point since 2000, the Committee urges the Government to take the necessary measures to ensure that the national legislation is brought into conformity with the provisions of the Convention with regard to their application to all occupations other than those recognized as industrial, agricultural and maritime occupations in Lebanon. It also once again requests the Government to take the necessary measures to ensure that the draft amendment to the Labour Code, which dates back to 2000, is adopted as soon as possible.***

*Article 7(2). Application of the Convention to children engaged in itinerant trading or on the streets or places to which the public has access.* The Committee previously noted the Government's intention to have the matter of the supervision of the application of the system of medical examination of fitness for employment to children and young persons engaged either on their own account or on account of their parents in itinerant trading or in any other occupation carried out in the streets or in places to which the public has access, examined by the competent authorities, namely the relevant ministries. The Committee reminded the Government that even where there does not seem to be children or young persons working on their own account or account of their parents in itinerant trading or in another occupation carried out in the streets or in places to which the public has access, the Government must take the necessary measures to ensure that the system of medical examination for fitness for employment is applied in the event that children are employed in these circumstances



in the future.

The Committee notes the Government's information that, in view of the increasing number of street children in Lebanon due to the displacement of Syrians, it needs to undertake in-depth studies, in coordination with international organizations and national departments, to meet the Committee's request. *The Committee once again urges the Government to adopt the necessary measures to provide for supervision of the application of the system of medical examination for fitness of young persons engaged either on their own account or on account of their parents in itinerant trading or in any other occupation carried out in the streets or in places to which the public has access, and to provide information on any progress made in this respect.*

## C100 - Equal Remuneration Convention, 1951 (No. 100)

### Observation 2017

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments initially made in 2014. The Committee also notes that the Government has been requested to provide information to the Committee on the Application of Standards at the 106th Session of the International Labour Conference for failure to supply reports and information on the application of ratified Conventions.

*Articles 1 and 2 of the Convention. Gender pay gap.* The Committee notes that, according to the statistics published in October 2011 by the Central Statistics Office, the proportion of women in the active population was about 23 per cent (in 2009) and that in 2007 the gender pay gap was an estimated 6.2 per cent in services; 10.8 per cent in commerce; 21 per cent in agriculture; 23.8 per cent in manufacturing; and 38 per cent in transport and communications. The Committee recalls that it is particularly important to have complete, reliable and recent statistics on remuneration for men and women to formulate, implement and then evaluate the measures taken to eliminate pay gaps. With regard to wages in the private sector, the Government indicates that it contacted the General Confederation of Lebanese Workers (CGTL), the Association of Lebanese Industrialists (ALI) and the Association of Lebanese Business Leaders (RDCL) to obtain information on wages and any pay gap between men and women. *The Committee asks the Government to take the necessary steps to gather, analyse and communicate such data in the various sectors of economic activity, including the public sector, and for the various occupational categories. The Committee also asks the Government to take specific measures to rectify gender pay gaps, including raising awareness among employers, workers and their organizations of the principle of equal remuneration for men and women for work of equal value, and to provide information on any action taken to this end and on any obstacles encountered.*

*Article 2. Legislation.* For several years, the Committee has been asking the Government to give full legal expression to the principle of equal remuneration for men and women for work of equal value. The Government indicates in its report that the Committee's comments will be forwarded to the commission responsible for reviewing the legislation and working methods and that the new draft Labour Code (section 14) already reflects the Committee's concerns. *While noting this information, the Committee asks the Government to ensure that the draft Labour Code explicitly reflects the principle of equal remuneration for men and women for work of equal value, with a view to permitting a broad scope of comparison encompassing not only equal or similar work, but also work of an entirely different nature performed by men and women. Hoping that the Government will be in a position to report progress on this matter in the near future, the Committee asks the Government to provide a copy of the relevant provisions, once they have been adopted.*

The Committee is raising other matters in a request addressed directly to the Government.

*The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

## C138 - Minimum Age Convention, 1973 (No. 138)

### Observation 2017

*Article 2(1) of the Convention. Scope of application.* In its earlier comments, the Committee noted that the Labour Code only applies to work performed under an employment relationship (by virtue of sections 1, 3 and 8 of the Code). The Committee recalled that the Convention applies to all branches of economic activity and covers all types of employment or work, whether they are carried out on the basis of an employment relationship or not, and whether they are remunerated or not. The Committee also noted that under Chapter 2, section 15, of the draft amendments to the Labour Code, it seemed that the employment or work of young persons would also include non-traditional forms of employment relationship. The Committee therefore requested that the Government provide information on the progress made in relation to the adoption of the provisions of the draft amendments to the Labour Code.

The Committee notes an absence of information in the Government's report on this point. *Considering that the Government has been referring to the draft amendments to the Labour Code for a number of years, the Committee once again expresses the firm hope that the Government will take the necessary steps to ensure that the amendments to the Labour Code relating to self-employed children and children in the informal economy are adopted in the very near future. The Committee requests that the Government provide a copy of the new provisions, once adopted.*

*Article 2(2). Raising the minimum age for admission to employment or work.* In its earlier comments, the Committee noted that, at the time of ratifying the Convention, Lebanon declared 14 years as the minimum age for admission to employment or work and that Act No. 536 of 24 July 1996, amending sections 21, 22 and 23 of the Labour Code, prohibits the employment of young persons before the age of 14. The Committee also noted the Government's intention to raise the minimum age for admission to employment or work to 15 years of age and that the draft amendments to the Labour Code would include a provision in this regard (section 19). The Committee requested that the Government provide information on the progress made in the adoption of the provisions of the draft amendments to the Labour Code on the minimum age for employment or work.

The Committee notes the Government's indication in its report that the Committee's comments have been taken into account in the draft amendments to the Labour Code. The draft has also been submitted to the Council of Ministers for its examination. *The Committee once again requests that the Government provide information on any progress made in the adoption of the provisions of the draft amendments to the Labour Code regarding the minimum age for employment or work.*

*Article 2(3). Compulsory education.* In its earlier comments, the Committee noted that the age limit for compulsory education is 12 years of age (Act No. 686/1998 relating to free and compulsory education at the primary school level). The Committee also noted the Government's indication that a draft law aimed at raising the minimum age of compulsory education to 15 years had been sent to the Council of Ministers for examination. The Committee requested that the Government indicate the progress made in this regard.

The Committee notes the Government's indication that the Ministry of Labour took into account the Committee's comments which were inserted in the draft amendments to the Labour Code. Moreover, the Committee notes that in its 2016 concluding observations, the UN Committee on Economic, Social and Cultural Rights is concerned at the number of children, especially refugee children, who are not in school or have quit school owing to the insufficient capacity of the educational infrastructure, the lack of documentation, and the pressure to work to support their families, among other reasons (E/C.12/LBN/CO/2, paragraph 62).

In this regard, the Committee recalls the necessity of linking the age of admission to employment to the age limit for compulsory education. If the two ages do not coincide, various problems may arise. If the minimum age for admission to work or employment is lower than the school leaving age, children may be encouraged to leave school as children required to attend school may also be legally authorized to work (see General Survey on the fundamental Conventions,

2012, paragraph 370). Noting the Government's intention to raise the age of completion of compulsory schooling to 15 years, the Committee once again reminds the Government that pursuant to *Article 2(3)* of the Convention, the minimum age for admission to employment (currently 14 years) should not be lower than the age of completion of compulsory schooling. **Therefore, the Committee urges once again the Government to intensify its efforts to raise the minimum age for admission to employment or work to 15 years, and to provide for compulsory education up until that age, within the framework of the adoption of the draft amendments to the Labour Code. The Committee requests that the Government provide a copy of the new provisions, once adopted.**

*Article 6. Vocational training and apprenticeship.* In its earlier comments, the Committee noted that the Government had stated that the draft amendments to the Labour Code (section 16) had set the minimum age for vocational training under a contract at 14 years. The Committee expressed the firm hope that such a provision under the draft amendments would be adopted in the near future.

The Committee notes the Government's indication that section 16 will be adopted along with the draft amendments to the Labour Code. The Government also indicates that the National Centre for Vocational Training is in charge of carrying out vocational training and apprenticeships. **The Committee once again expresses the firm hope that section 16 of the draft amendments to the Labour Code, setting a minimum age of 14 years for entry into an apprenticeship, in conformity with Article 6 of the Convention, will be adopted in the very near future.**

*Article 7. Light work.* In its earlier comments, the Committee noted that under section 19 of the draft amendments to the Labour Code, employment or work of young persons in light work may be authorized when they complete 13 years of age under certain conditions (except in different types of industrial work in which the employment or work of young persons under the age of 15 years is not authorized). The Committee also noted that light work activities would be determined by virtue of an Order from the Ministry of Labour. The Committee requested that the Government provide information on any progress made in this regard.

The Committee notes the Government's indication that it has asked for light work to be included in the ongoing ILO-IPEC Project "Country level engagement and assistance to reduce child labour in Lebanon" (CLEAR Project) and that a few meetings have been held in this regard. The Government indicates that, once the CLEAR Project is launched, it will be able to prepare a statute on light work in accordance with the relevant international standards. **The Committee once again requests that the Government take the necessary measures to ensure the formulation and adoption of a statute determining light work activities, including the number of hours during which, and the conditions in which, light work may be undertaken. It requests that the Government provide information on the progress achieved.**

The Committee is raising other points in a request addressed directly to the Government.

## C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

### Observation 2017

*Articles 3, 7(1) and (2)(b) of the Convention. Worst forms of child labour, penalties and direct assistance for rehabilitation and social integration. Clause (a). All forms of slavery or practices similar to slavery. Trafficking.* In its previous comments, the Committee noted the adoption of the Anti-Trafficking Act No. 164 (2011). The Committee requested the Government to provide information on the application of this Act, in practice.

The Committee notes the statistical information related to trafficking of children provided by the Government in its report. It notes that in 2014, five child victims of trafficking for labour exploitation (street begging), and one child victim of trafficking for sexual exploitation, were identified. According to the Government's indication, all the child victims identified were referred to social and rehabilitation centres, such as the "Beit al Aman" shelter in collaboration with Caritas. The Government also indicates that in 2014 the Higher Council for Childhood drafted a sectorial Action Plan on Trafficking of Children that is still under consultations with the relevant stakeholders.

The Committee also notes that in its 2015 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended the Government to provide mandatory gender-sensitive capacity-building for judges, prosecutors, the border police, the immigration authorities and other law enforcement officials to ensure the strict enforcement of Act No. 164 to combat trafficking by promptly prosecuting all cases of trafficking in women and girls (CEDAW/C/LBN/CO/4-5, paragraph 30(a)). **The Committee requests the Government to take the necessary measures to ensure that the draft sectorial Action Plan on Trafficking of Children is adopted in the near future, and to provide information on any progress made in this regard. The Committee also requests the Government to continue to provide information on the application in practice of Act No. 164 of 2011, including statistical information on the number of investigations, prosecutions, convictions and penal sanctions applied for the offence of trafficking of children. Lastly, the Committee requests the Government to provide information on any measures adopted in order to prevent trafficking of children as well as measures taken to ensure that child victims of trafficking are provided with appropriate rehabilitation and reintegration services.**

*Clauses (b) and (c). Use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities, in particular for the production and trafficking of drugs.* In its previous comments, the Committee noted that under section 33(b) and (c) of the draft amendments to the Labour Code, the use, procuring or offering of a child for the production of pornography or for pornographic performances and for illicit activities is punishable under the Penal Code, in addition to the penalties imposed by the Labour Code. It also noted that section 3 of Annex No. 1 of Decree No. 8987 of 2012 on hazardous work prohibits such illicit activities for minors under the age of 18. The Committee noted the statistical information (disaggregated by gender and age) provided by the Government on the number of children found engaged in prostitution from 2010 to 2012.

The Committee notes the Government's indication that the labour inspectorate is the body responsible for the supervision of the implementation of Decree No. 8987. The Committee notes with **concern** that according to the Government's indication no cases related to the application of the Decree have been detected so far. **The Committee urges the Government to take immediate and effective measures to ensure the application in practice of the provisions of Decree No. 8987 of 2012 prohibiting the engagement of children for prostitution or pornographic purposes or for illicit activities. The Committee requests the Government to provide statistical information on any prosecutions and convictions made with regard to the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.**

**As for the draft amendments to the Labour Code, the Committee once again requests the Government to take the necessary measures without delay to ensure the adoption of the provisions prohibiting the use, procuring or offering of persons under the age of 18 for the production of pornography or for pornographic performances, and the use, procuring or offering of persons under the age of 18 for illicit activities, as well as of the provisions providing for the penalties imposed.**

*Article 7(2). Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. 1. Refugee children.* In its previous comments, the Committee requested the Government to provide information on the measures taken within the work programme of the National plan of action on the elimination of child labour (NAP-WFCL) for working Palestinian children to protect them from the worst forms of child labour.

The Committee notes the Government's indication that no new measures have been taken due to the political and security situation in the country. The Committee also notes that according to the 2016 United Nations High Commissioner for Refugees (UNHCR) report entitled "Missing out: Refugee Education in Crisis", there are more than 380,000 refugee children between the ages of 5 and 17 registered in Lebanon. It is estimated that less than 50 per cent of primary school-age children have access to public primary schools and less than 4 per cent of young persons have access to public secondary schools. The report highlights that since 2013 the Government has introduced a two-shift system in public schools to encourage the enrolment of refugee children. About 150,000 children have entered this system. It also notes from the ILO report entitled "ILO response to the Syrian Refugee crisis in Jordan and Lebanon", of March 2014, that many refugee children are working in hazardous conditions in the agricultural and urban informal sector, street peddling or begging. **While**

*acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take effective and time-bound measures to protect refugee children (in particular Syrian and Palestinian) from the worst forms of child labour and to provide the necessary and appropriate direct assistance for their removal and for their rehabilitation and social integration. It requests the Government to provide information on the number of refugee children who have benefited from any initiatives taken in this regard, to the extent possible disaggregated by age, gender and country of origin.*

2. *Children in street situations.* The Committee notes the Government's indication that the Ministry of Social Affairs has taken a series of measures to address the situation of street children, including: (i) undertaking activities to raise awareness through education, media and advertisement campaigns; (ii) training of a certain number of social protection actors/players working in child protection institutions; (iii) providing rehabilitation activities for a certain number of street children and their reintegration in their families; (iv) within the framework of the Poverty Reduction Strategy (2011–13) 36,575 families have been chosen to benefit from free basic social services, such as access to free compulsory public education as well as medical facilities. The Government also indicates that the 2010 draft "Strategy for Protection, Rehabilitation and Integration of Street Children" has not been implemented yet, but is in the process of being revised.

The Committee notes the 2015 study "Children Living and Working on the Streets in Lebanon: Profile and Magnitude" (ILO–UNICEF–Save the Children International) which provides detailed statistical information on the phenomenon of street-based children across 18 districts of Lebanon. The Committee also notes that the report comprises a certain number of recommendations, including: (i) enforcing relevant legislation; (ii) reintegrating street-based children into education and providing basic services; and (iii) intervening at the household-level to conduct prevention activities. The Committee further observes that despite street work being one of the most hazardous forms of child labour under Decree No. 8987 on hazardous forms of child labour (2012), it is still prevalent with a total of 1,510 children found to be living or working on the streets. Moreover, the Committee notes that in its 2016 concluding observations, the UN Committee on Economic, Social and Cultural Rights recommended that the Government raise resources so as to provide the necessary preventive and rehabilitative services to street children and enforce existing legislation aimed at combating child labour (E/C.12/LBN/CO/2, paragraph 45). ***Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee urges the Government to strengthen its efforts to protect these children, and to provide for their rehabilitation and social reintegration. The Committee also urges the Government to take the necessary measures to actively implement the 2010 draft strategy entitled "Strategy for Protection, Rehabilitation and Integration of Street Children", once revised and report on the results achieved. Finally, the Committee requests the Government to provide information on the number of street children who have been provided with educational opportunities and social integration services.***

The Committee is raising other matters in a request directly addressed to the Government.

## C081 - Labour Inspection Convention, 1947 (No. 81)

*Observation 2017*

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2017.

*Closure of the complaint under article 26 of the ILO Constitution.* The Committee recalls that the Governing Body, at its 331st Session (November 2017), commended: (i) the measures taken by the Government to effectively implement Law No. 21 of 2015 relating to the entry, exit and residence of migrant workers and to follow up on the high-level visit assessment; (ii) the official transmission of Law No. 15 on Domestic Workers and of the Law establishing Workers' Dispute Resolution Committees of 2017; and (iii) the information provided on the technical cooperation programme between the Government and the ILO (2018–20). In that respect, the Governing Body: (a) supported the agreed technical cooperation programme and its implementation modalities between the Government and the ILO; and (b) decided to close the complaint procedure under article 26 concerning non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), and the Labour Inspection Convention, 1947 (No. 81), made by delegates to the 103rd Session (2014) of the International Labour Conference.

*Articles 8, 10 and 16 of the Convention. Sufficient number of labour inspectors and coverage of workplaces.* The Committee previously noted that while the number of labour inspectors had increased (from 200 inspectors in 2014 to 397 in 2016), along with the number of inspections undertaken, only four interpreters proficient in the most prevalent languages spoken by workers had been appointed in the Labour Inspection Department. It recalled that the strengthening of the labour inspection services should be supported by the development of an inspection strategy targeting as a priority the protection of vulnerable migrant workers against abusive practices in small companies which are subcontracted by larger companies or recruited from manpower companies.

The Committee notes the observations of the ITUC indicating that while the Government has hired additional labour inspectors in recent years, including female inspectors, the low number of interpreters remains a serious issue as it is extremely difficult to conduct a thorough inspection without an interpreter to interact with the migrant workforce. The ITUC states that inspectors who are not accompanied by an interpreter would not be able to collect evidence from workers who are unable to speak either Arabic or English.

The Committee notes the information provided by the Government in its report in response to its previous request, that, in 2016, a total of 44,540 inspection visits were conducted, in comparison with 25,575 inspection visits in 2010. The first half of 2017 saw 19,463 inspection visits (both labour inspection and occupational safety and health (OSH) inspection visits), as well as 6,080 field survey operations. The Committee takes due note that these inspections focused on small companies (with less than 20 workers), which comprised 83 per cent of labour inspection visits and 47 per cent of OSH inspections. It further notes the detailed information provided on the measures taken to monitor the disbursement of workers' wages by the Wage Protection Division. With respect to inspection staff, the Government indicates that the number of labour inspectors has remained stable since May 2016 (at 397 inspectors), although the number of female inspectors has fallen slightly (61 in 2017, compared with 69 in 2016). The Government indicates that 96 labour inspectors are able to speak English and Arabic; in addition four interpreters on staff who do not perform inspections duties are able to speak other languages spoken by migrant workers.

The Committee welcomes that the technical cooperation project signed between the Government and the ILO for 2018–20 includes the implementation of a labour inspection policy and strategy. The Government indicates that, in this framework, it aims to increase the number of interpreters accompanying inspectors in order to permit interaction with workers during inspection visits. It further indicates that the main themes of the project include, in the immediate term, measures to ensure that inspections cover all undertakings and workplaces prescribed by the Labour Law and the carrying out of random and proactive inspection visits (not based solely on complaints). *The Committee urges the Government, in the context of its cooperation with the ILO, to make every effort to develop and implement a clear and coherent inspection strategy aimed at ensuring the protection of workers and the increased coverage of workplaces, including smaller workplaces employing vulnerable migrant workers. It further urges the Government to pursue its efforts to ensure the recruitment of labour inspectors and interpreters able to speak the languages of migrant workers, and to continue to provide information on the number of inspectors and other staff hired in this regard. It requests the Government to take the necessary measures to continue increasing the coverage of inspection visits, including through proactive visits, and to provide information on the total number of inspections undertaken, disaggregated between announced, unannounced, routine, complaint-based, accident-based and follow-up inspections.*

*Articles 5(a), 17, 18 and 21(e). Effective cooperation between the labour inspectorate and the justice system, legal proceedings and effective enforcement of adequate penalties.* The Committee previously noted that the article 26 complaint alleged that the country's labour inspection and justice system had proven inadequate in enforcing national legislation, that inspectors have little power to enforce findings and that fines are far from dissuasive and in some cases non-existent. It further noted that a report commissioned by the Government recommended bolstering the powers of labour inspectors who, upon detecting non-compliance, only have the power to draw up infringement reports. These infringement reports are then referred to the courts for further action for any sanction to be applied. While noting that non-complying undertakings can be placed on a prohibition list, meaning that they will not be granted new work permits and are prohibited from engaging in transactions with the Ministry of Labour and the Ministry of the Interior, the Committee further noted that the outcome of most inspections was no further action. The Committee also noted once again that no information had been provided on the specific penalties applied in cases where decisions had been handed down by courts.

In this respect, the Committee notes that the ITUC highlights that, according to the information provided by the Government to the Governing Body in February 2017, infringement reports were only drafted for 1.2 per cent of cases. The ITUC states that the information on labour inspection provided by the Government consistently failed to indicate whether violations have actually been addressed, workers have received remedies, or penalties have been imposed.

The Committee notes the information provided by the Government in response to its previous request, that the number of infringement reports referred to court was 859 in 2014, 676 in 2015, 1,142 in 2016, and 687 in the first half of 2017. It notes with *regret* that the Government does not provide information on the outcome of these cases, despite repeated requests from the Committee, including for information on the number of judgments rendered as a result of their referral by the labour inspectorate and any penalties (fines or imprisonment) imposed by the judiciary. While noting the information provided by the Government on the number of judgments rendered by the workers' circuit (1,436 in the first half of 2017), the Committee observes that the Government does not provide further information on the nature of the judgments or indicate if these cases include those referred to the judiciary by labour inspectors. The Committee notes, however, the detailed information provided by the Government on the number of warnings to remedy violations issued by inspectors (8,681 in 2014, 18,979 in 2015 and 14,950 in 2016) and the number of prohibitions issued (stopping the granting of work permits and transactions with the ministries), which declined from 1,487 in 2014 to 929 in 2015 and 898 in 2016. It further takes due note of the detailed information provided on the monitoring of wage payments via the Wage Protection System including the suspension of 22,460 transactions where violations were detected in the first half of 2017 (involving 18,997 companies) and the subsequent lifting of the suspension following a remedy in 21,681 cases.

The Committee takes due note that one objective of the technical cooperation project between the Government and the ILO for 2018–20 is ensuring that the enforcement powers of labour inspectors are effective. It welcomes, in that respect, the Government's indication in its report that it is prepared to consider other powers that may be granted to labour inspectors in order to enforce the law. *The Committee urges the Government to take immediate steps, in the context of the ongoing technical cooperation, to strengthen the effectiveness of enforcement mechanisms, including measures to provide enhanced enforcement powers to labour inspectors and further measures to promote effective collaboration with the judicial system (including with regard to the exchange of information on the outcome of cases referred to courts). In this respect, it once again urges the Government to provide the information requested on the outcome of cases referred to the judiciary by labour inspectors through infringement reports, including the penalties imposed by virtue of the Labour Law (acquittal, fines, including amounts, or prison sentences, etc.) and the legal provisions to which they relate,*

*distinguishing these cases from those brought to court by workers themselves. It also requests the Government to continue to provide comprehensive statistics on the other enforcement activities of the labour inspectorate.*

*Articles 5(a), 9 and 13. Labour inspection in the area of OSH. OSH inspections and preventive activities of the labour inspectorate.* The Committee notes the information provided by the Government in response to its previous request that, in the first half of 2017, 8,151 OSH inspections were undertaken in 3,324 companies (compared with 14,526 inspections undertaken in 2016 in 5,144 companies, and 20,777 OSH inspections in 2015 in 4,473 undertakings). The inspections undertaken in 2017 resulted in 2,606 warnings to remedy infringements, 1,263 issuances of advice on OSH issues and 44 infringement reports. The Committee notes with *regret* that no information is provided on the follow-up given to these infringement reports. The Committee notes that the number of workers injured in occupational accidents in the first half of 2017 was 245, compared with 582 such injuries in 2016. There were 12 deaths due to occupational accidents in the first half of 2017, compared with 35 deaths in 2016, 24 such deaths in 2015 and 19 such deaths in 2014.

The Committee notes that the technical cooperation project with the ILO for 2018–20 includes enhancing the OSH system and the implementation of an OSH policy. *Noting with concern the increasing number of fatal occupational accidents reported between 2014 and 2016, the Committee urges the Government to pursue its efforts to strengthen the capacity of labour inspection with respect to monitoring OSH. It requests the Government to continue to provide information on the preventive activities of the inspectorate and the number and type of OSH inspection visits undertaken (indicating whether they are announced, unannounced, routine, in response to a complaint or to an accident, or follow-up), the number of violations detected, the number of suspensions of workplaces or machines in the event of a serious danger to the health and safety of workers, the number of infringement reports issued and, in particular, the information previously requested concerning the follow-up given by the judicial authorities to such infringement reports.*

*OSH in the construction sector.* The Committee previously noted that the Supreme Committee for Delivery and Legacy and the Ministry of Administrative Development and Labour and Social Affairs concluded a Memorandum of Understanding (MOU) with the Building and Wood Workers' International (BWI) with the goal of protecting the occupational safety and health of workers in 2022 World Cup projects, including through the organization of joint inspection visits and the setting up of a training team specialized in OSH inspection.

The Committee notes with *interest* the information in the Government's report that the first joint field visit with the BWI was held in February 2017. The Government indicates that the MOU has had a major impact on the protection of the rights of construction workers in infrastructure projects for the World Cup. It also notes that, in 2017, the Government organized a conference on OSH in the construction sector, focusing on best practices in hazard prevention. The Committee further notes the Government's indication that 45 per cent of the occupational accidents in the first half of 2017 (110 accidents) were caused by falls and another 12 per cent by the fall of heavy objects. *The Committee requests the Government to continue to strengthen the capacity of the labour inspectorate with respect to OSH in the construction sector and to provide information on the measures taken. It requests the Government to provide detailed statistics on the number of joint inspections undertaken under the MOU with the BWI and on their outcome. [The Government is asked to reply in full to the present comments in 2018.]*

## C029 - Forced Labour Convention, 1930 (No. 29)

### Observation 2017

*Articles 1(1), 2(1) and 25 of the Convention. Situations of forced labour arising from the armed conflict. Trafficking and sexual slavery.* Following its previous comments, the Committee notes that according to the 2016 Report of the UN Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic to the Human Rights Council, credible information indicates that women and girls trapped in conflict areas under the control of the Islamic State in Iraq and the Levant (ISIL) face trafficking and sexual slavery. Some specific ethnic groups are particularly vulnerable, such as Yazidis and those from ethnic and religious communities targeted by the ISIL (A/HRC/32/35/Add.2, paragraph 65). The Committee also notes that, according to the 2017 Report of the UN Secretary-General on conflict-related sexual violence, thousands of Yazidi women and girls who were captured in Iraq in August 2014 and trafficked to the Syrian Arab Republic continue to be held in sexual slavery, while new reports have surfaced of additional women and children being forcibly transferred from Iraq to the Syrian Arab Republic since the start of military operations in Mosul (S/2017/249, paragraph 69).

The Committee notes the Government's indication in its report that, pursuant to the Prevention of Human Trafficking Act of 2010, a Department to Combat Trafficking in Persons was established. However, since the conflict has erupted, trafficking of persons and sexual slavery have increased because of the presence of terrorist groups in the country. The Committee must express its *deep concern* that, after almost six years of conflict, trafficking in persons and sexual slavery are practices that are still occurring on a large scale on the ground. *While acknowledging the complexity of the situation on the ground and the presence of armed groups and armed conflict in the country, the Committee once again urges the Government to take the necessary measures to put an immediate stop to these practices which constitute a serious violation of the Convention and to guarantee that the victims are fully protected from such abusive practices. The Committee recalls that it is crucial that appropriate criminal penalties are imposed on perpetrators so that recourse to trafficking or sexual slavery does not go unpunished. The Committee urges the Government to take immediate and effective measures in this respect, and to provide information on the results achieved.*

The Committee is raising other matters in a request addressed directly to the Government.

## C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

### Observation 2017

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments made in 2016.

The Committee had previously noted the 2012 observations from the International Trade Union Confederation (ITUC) on the application of the Convention and, in particular, alleging that protests were violently put down throughout the year, that there were deaths and arrests as a result and that the authorities have attempted to stem protests through the increasing use of police and paramilitary force, arrests, trials and the imprisonment of political and human rights activists. The ITUC further alleged that a growing number of strikes are met with violence, injury and often killings. *Noting that the Government's report has not been received, the Committee once again requests the Government to provide its comments on these serious observations.*

*Article 2 of the Convention. Scope of application.* The Committee previously noted that sections 1 and 5(1), (2) and (4)–(7) of Labour Act No. 17 of 2010 excluded certain workers from the scope of the law (independent workers, civil servants, agricultural workers, domestic servants and similar categories, workers in charity associations and organizations, casual workers and part-time workers whose hours of work do not exceed two hours per day). *Reiterating that these workers are covered by the Convention, the Committee once again requests the Government to indicate whether the rights afforded by the Convention are provided to these workers by other legislation, and, if this is not the case, to take measures to recognize to these workers, in the legislation, the rights enshrined in the Convention.*

*Trade union monopoly.* In its previous comments, the Committee had requested the Government to indicate the measures taken or contemplated so as to repeal or amend the legislative provisions establishing a regime of trade union monopoly (sections 3, 4, 5 and 7 of Legislative Decree No. 84; sections 4, 6, 8, 13, 14 and 15 of Legislative Decree No. 3, amending Legislative Decree No. 84; section 2 of Legislative Decree No. 250 of 1969; and sections 26–31 of Act No. 21 of 1974). The Committee had noted the Government's indication in this regard that the trade union movement was united, from an organizational perspective, in virtue of the decisions taken by trade unions' confederations, and that the Constitution (article 8) recognized political pluralism. *In the absence of the Government's report, the Committee once again requests the Government to indicate the measures taken or contemplated to repeal or amend the legislative provisions which establish a regime of trade union monopoly so as to allow possible trade union diversity.*

*Article 3. Financial administration of organizations.* In its previous comments, the Committee had requested the Government to take the necessary measures to amend section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, so as to lift the power of the Minister to set the conditions and procedures for the investment of trade union funds in financial services and industrial sectors. The Committee noted the Government's indication in this regard that, according to the Constitution, trade unions had the right to supervise and inspect their financial resources, without any interference, through a supervision and inspection body elected directly by trade unions. *In the absence of the Government's report, the Committee once again requests the Government to take the necessary measures to amend section 18(a) of Legislative Decree No. 84, as amended by section 4(5) of Legislative Decree No. 30 of 1982, and to provide information on any measures taken or contemplated in this respect.*

*Right of organizations to elect their representatives in full freedom.* In its previous comments, the Committee had requested the Government to take the necessary measures to repeal or amend the legislative provisions which determine the composition of the General Federation of Trade Unions (GFTU) Congress and its presiding officers (section 1(4) of Act No. 29 of 1986, amending Legislative Decree No. 84). The Committee reiterates that it should be up to trade union constitutions and rules to establish the composition and presiding officers of trade union congresses; national legislation should only lay down formal requirements in this respect; and any legislative provisions going beyond such formal requirements constitute interference contrary to *Article 3* of the Convention. *The Committee, therefore, once again requests the Government to provide specific information on the measures taken or contemplated to repeal or amend section 1(4) of Act No. 29 of 1986, amending Legislative Decree No. 84, and to provide information on any developments in this respect.*

*Right of organizations to formulate their programmes and organize their activities.* In its previous comments, the Committee had requested the Government to indicate the progress made with regard to the adoption of draft amendments to provisions which restrict the right to strike by imposing heavy sanctions including imprisonment (sections 330, 332, 333 and 334 of Legislative Decree No. 148 of 1949, issuing the Penal Code). The Committee had further observed that no reference was made to the possibility for workers to exercise their right to strike in the chapter on collective labour dispute of the Labour Act, and had noted the Government's indication that the GFTU was working to modify the Labour Act to ensure coherence with articles of the Constitution granting workers the right to strike. *In the absence of the Government's report, the Committee once again expresses the hope that the law will be amended so as to bring it into line with the Convention and requests the Government to provide information on any developments in this regard.*

*While acknowledging the complexity of the situation prevailing on the ground due to the presence of armed groups and armed conflict in the country, the Committee trusts that the Government will make all efforts to bring its law and practice into conformity with the Convention.*

*The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

## C105 - Abolition of Forced Labour Convention, 1957 (No. 105)

### Observation 2017

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system.* For a number of years, the Committee has been drawing the Government's attention to certain provisions under which penal sanctions involving compulsory prison labour, pursuant to sections 46 and 51 of the Penal Code (Act No. 148 of 1949), may be imposed in situations covered by the Convention, namely:

--Penal Code: section 282 (insult of a foreign State); 287 (exaggerated news tending to harm the prestige of the State); 288 (participation in a political or social association of an international character without permission); and sections 335 and 336 (seditious assembly, and meetings liable to disturb public tranquility); and

--the Press Act No. 156 of 1960: sections 15, 16 and 55 (publishing a newspaper for which an authorization has not been granted by the Council of Ministers).

The Committee also previously noted that the abovementioned provisions are enforceable with sanctions of imprisonment for a term of up to one year which involves an obligation to perform labour in prison.

The Committee notes the Government's indication in its report that the Press Act of 1960 had been repealed and replaced by the Media Act No. 108 of 2011, under which the penalty of imprisonment has been replaced by a fine. The Government also indicates that a draft Penal Code has been prepared and is in the process of being adopted. *The Committee expresses the firm hope that, during the process of the adoption of the new Penal Code, the Government will take all the necessary measures to ensure that persons who express political views or views opposed to the established political, social or economic system benefit from the protection afforded by the Convention and that, in any event, penal sanctions involving compulsory prison labour cannot be imposed on them.*

The Committee is raising other matters in a request addressed directly to the Government.

## C138 - Minimum Age Convention, 1973 (No. 138)

### Observation 2017

*Application of the Convention in practice.* The Committee previously noted that the ongoing conflict in the Syrian Arab Republic has had an alarming impact on children. It noted that the number of children affected by armed conflict in the Syrian Arab Republic has more than doubled, going from 2.3 million to 5.5 million, and the number of children displaced inside the Syrian Arab Republic has exceeded 3 million.

The Committee takes note of the Government's information in its report on the provisions of national legislation that give effect to the provisions of the Convention. However, the Committee notes that, according to the 2015 UNICEF report entitled "Small Hands, Heavy Burden: How the Syria Conflict is Driving More Children into the Workforce", four and a half years into the crisis, as a result of the war, many children are involved in economic activities that are mentally, physically or socially dangerous and which limit or deny their basic right to education. The report indicates that there is no shortage of evidence that the crisis is pushing an ever-increasing number of children towards exploitation in the labour market. Some 2.7 million Syrian children are currently out of school, a figure swollen by children who are forced to work instead. Children in the Syrian Arab Republic were contributing to the family income in more than three quarters of households surveyed. According to the report, the Syria crisis has created obstacles to the enforcement of national laws and policies to protect children from child labour, one of the reasons being that there are too few labour inspectors. In addition, there is often a lack of coherence between national authorities, international agencies and civil society organizations over the role of each, leading to a failure in national mechanisms to address child labour.

The Committee notes the Government's information in its 5th periodic report submitted to the Committee on the Rights of the Child published on 10 August 2017 (CRC/C/SYR/5, para. 203), that the Ministry of Social Affairs and Labour (MoSAL), in collaboration with the Syrian Authority for Family and Population Affairs (SAFPA) and in cooperation with other stakeholders, developed a National Plan of Action for the Elimination of the Worst Forms of Child Labour (NPA-WFCL). The Government also indicates that, in collaboration with UNICEF, the SAFPA conducted a survey on the worst forms of child labour in two industrial towns, Hassia in Homs and Haouch el Blas in Damascus.

While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee must once again express its *deep concern* at the situation of children in the Syrian Arab Republic who are affected by the armed conflict and driven into child labour, including its worst forms. *The Committee urges the Government to take immediate and effective measures in the framework of the implementation of the NPA-WFCL to improve the situation of children in the Syrian Arab Republic and to protect and prevent them from child labour. It requests the Government to provide information on the results achieved, as well as the results of the surveys conducted in Hassia and Haouch el Blas.*

## C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

### Observation 2017

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Forced recruitment of children for use in armed conflict.* The Committee previously noted that the Syrian Arab Republic had adopted a series of legislative reforms such as Law No. 11/2013 which criminalizes all forms of recruitment and the use of children under the age of 18 years by armed forces and armed groups. It noted, however, that numerous armed groups in the Syrian Arab Republic, including the Free Syrian Army affiliated groups (FSA), the Kurdish People Protection Units (YPG), Ahrar al-Sham, Islamic State in Iraq and Sham/the Levant (ISIS/ISIL) and other armed groups were reportedly recruiting and using children for logistics, handling ammunition, manning checkpoints and as combatants.

The Committee notes the Government's indication in its report that armed terrorist groups recruit children and involve them in violence and exploit them sexually. The Committee notes that, according to the report of the Secretary-General on the situation of human rights in the Syrian Arab Republic of 9 June 2016 (A/70/919, paragraphs 50–52), from early 2015, UNICEF verified 46 cases of recruitment (43 boys, one girl, two unknown): 21 were attributed to ISIL, 16 to non-state armed opposition groups, five to armed groups affiliated with the Government, two (including a girl) to YPG, and two to government forces. UNICEF reported that children were increasingly recruited at younger ages (some as young as 7 years old) by non-state armed groups. Children's participation in combat was widespread and some armed opposition groups forced children to carry out grave human rights abuses, including executions and torture, while government forces allegedly submitted children to forced labour or used them as human shields. The Secretary-General also refers to reports from the OHCHR, according to which ISIL publicly announced, on 11 December 2015, the already known existence of a children's section among its ranks, the "Cubs of the Caliphate". The

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OHCHR also received allegations that ISIL was encouraging children between 10 and 14 years of age to join, and that they were training children in military combat.

The Committee further notes that, according to the report of the Secretary-General on children and armed conflict of 20 April 2016 (2016 report of the Secretary-General on children and armed conflict, A/70/836-S/2016/360, paragraphs 148–163), a total of 362 cases of recruitment and use of children were verified (the Secretary-General indicates that the figures do not reflect the full scale of grave violations committed by all parties to the conflict), and attributed to ISIL (274), the Free Syrian Army and affiliated groups (62), Liwa' al Tawhid (11), popular committees (five), YPG (four), Ahrar al-Sham (three), the Nusrah Front (two) and the Army of Islam (one). Of the verified cases, 56 per cent involved children under 15 years of age, which represents a significant increase compared with 2014. The Secretary-General further indicates that the massive recruitment of children by ISIL continued, and that centres in rural Aleppo, Dayr al-Zawr and rural Raqqah existed that provided military training to at least 124 boys between 10 and 15 years of age. Verification of the use of child foreign fighters increased as well, with 18 cases of children as young as 7 years of age. In addition, the recruitment and use of children as young as 9 years of age by the Free Syrian Army was also verified, as well as the recruitment of 11 Syrian refugee children from neighbouring countries by Liwa' al-Tawhid, and the YPG continued to recruit boys and girls as young as 14 years of age for combat roles. Recruitment and use by pro-government groups was also verified, with five cases of boys being recruited by the Popular Committee of Talkkalah (Homs) to work as guards and conduct patrols. In addition, there were allegations of the use of children by government forces to man checkpoints.

The Committee must once again **deeply deplore** the use of children in armed conflict in the Syrian Arab Republic, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence. It once again recalls that, under *Article 3(a)* of the Convention, the forced or compulsory recruitment of children under 18 years of age for use in armed conflict is considered to be one of the worst forms of child labour and that, under *Article 1* of the Convention, member States must take immediate and effective measures to secure the elimination of the worst forms of child labour as a matter of urgency. **While acknowledging the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country, the Committee once again strongly urges the Government to take measures, using all available means, to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment of children under 18 years of age into armed forces and groups. The Committee once again urges the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of all persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out, and that sufficiently effective and dissuasive penalties are imposed in practice, pursuant to Law No. 11 of 2013. It requests the Government to provide information on the number of investigations conducted, prosecutions brought and convictions handed down against such persons.**

*Article 7(2). Effective and time-bound measures. Clause (a). Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* The Committee previously noted that, with approximately 5,000 schools destroyed in the Syrian Arab Republic, the resulting sharp decline in children's education continued to be a matter of great concern among the population. This report also indicated that more than half of Syrian school-age children, up to 2.4 million, were out of school as a consequence of the occupation, destruction and insecurity of schools.

The Committee notes that, according to the 2016 report of the Secretary-General on children and armed conflict (paragraph 157), the number of schools destroyed, partially damaged, used as shelters for internally displaced persons or rendered otherwise inaccessible has reached 6,500. The report refers to information from the Ministry of Education, according to which 571 students and 419 teachers had been killed in 2015, and from the United Nations that 69 attacks on educational facilities and personnel were verified and attributed to all fronts, which killed and maimed 174 children. The Committee further notes that, according to the report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic of 5 April 2016 (A/HRC/32/35/Add.2, paragraphs 50–53), a further 400,000 children were at risk of dropping out of school as a direct result of conflict, violence and displacement. While basic education facilities were in place in the displacement centres visited by the Special Rapporteur, such centres, often using school buildings, offer only limited educational facilities.

According to the same report, UNICEF is working with local partners to reach some 3 million children and has implemented an informal education programme to reduce the number of children out of school. The inter-agency initiative "No Lost Generation" is a self-learning programme aimed at reaching 500,000 children who missed out on years of schooling. In areas hosting high numbers of displaced children, UNICEF is also rehabilitating 600 damaged schools and creating 300 prefabricated classrooms to accommodate 300,000 additional children. The Committee further notes that, according to UNICEF's 2016 Annual Report on the Syrian Arab Republic, UNICEF's interventions in education, focusing on quality, access and institutional strengthening, contributed to an increase in school enrolment from 3.24 million children (60 per cent of school-age population) to 3.66 million (68 per cent) between 2014–15 and 2015–16. These efforts also resulted in a decrease in the number of out-of-school children from 2.12 million (40 per cent) in 2014–15 to 1.75 million (32 per cent) in 2015–16.

Nevertheless, the Committee notes that, in his report, the Special Rapporteur on the human rights of internally displaced persons declares that the challenge of providing even basic education access to many internally displaced children is immense and many thousands of children are likely to remain out of education in the foreseeable future (A/HRC/32/35/Add.2, paragraph 53). The Committee is, therefore, once again bound to express its **deep concern** at the large number of children who are deprived of education because of the climate of insecurity prevailing in the country. **While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to strengthen its efforts and take effective and time-bound measures to improve the functioning of the educational system in the country and to facilitate access to free basic education for all Syrian children, especially in areas affected by armed conflict, and giving particular attention to the situation of girls. It requests the Government to provide information on concrete measures taken in this regard.**

*Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. 1. Children affected by armed conflict.* The Committee previously noted that the recruitment and use of children in armed conflict in the Syrian Arab Republic had become common and that a great majority of the children recruited are trained, armed and used in combat.

The Committee notes the Government's indication that the competent authorities in the Syrian Arab Republic seek to care for children recruited in armed conflict and to help them return to ordinary life. However, the Committee notes with **deep concern** that the situation in the Syrian Arab Republic has not changed and that not only are there no reports of children having been withdrawn from armed forces and groups in the 2016 report of the Secretary-General on children and armed conflict but that, according to this report, children continue to be recruited and used in armed conflict. **The Committee, therefore, strongly urges the Government to take effective and time-bound measures to prevent the engagement of children in armed conflict and to rehabilitate and integrate former child combatants. It once again requests the Government to provide information on the measures taken in this regard and on the number of children rehabilitated and socially integrated.**

*2. Sexual slavery.* The Committee previously noted that ISIL abducted hundreds of Yazidi women and girls, most of whom were sold as "war booty" or given as "concubines" to ISIL fighters, and that dozens of girls and women were transported to various locations in the Syrian Arab Republic, including Al Raqqah, Al Hasakah and Dayr az Zawr, where they were kept in sexual slavery.

The Committee notes with **regret** the absence of information in the Government's report on this issue. It notes that, according to the report of the Independent International Commission of Inquiry on the Syrian Arab Republic of 15 June 2016 entitled "They came to destroy: ISIS Crimes Against the Yazidis" (A/HRC/32/CRP.2), ISIL has sought to destroy the Yazidis through such egregious human rights violations as killings, sexual slavery, enslavement, torture and mental harm. The report indicates that over 3,200 women and children are still held by ISIL. Most are in the Syrian Arab Republic where Yazidi girls continue to be sexually enslaved and Yazidi boys indoctrinated, trained and used in hostilities. The report reveals that captured Yazidi women and girls over the age of 9 years are deemed the property of ISIL and are sold in slave markets or, more recently through online auctions, to ISIL fighters. While held by ISIL fighters,



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these Yazidi women and girls are subjected to brutal sexual violence and regularly forced to work in their houses, in many instances forced to work as domestic servants of the fighter and his family. The Committee *deeply deplores* the fact that Yazidi children continue to be victims of sexual slavery and forced labour. *While acknowledging the difficult situation prevailing in the country, the Committee strongly urges the Government to take effective and time-bound measures to remove Yazidi children under 18 years of age who are victims of forced labour and sexual exploitation and to ensure their rehabilitation and social integration. It once again requests the Government to provide information on specific measures taken in this regard, and the number of children removed from sexual exploitation and rehabilitated.*

*Clause (d). Identifying and reaching out to children at special risk. Internally displaced children.* The Committee previously noted that, by early 2013, there were 3 million children displaced and in need of assistance inside the Syrian Arab Republic.

The Committee notes that, according to the report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic of 5 April 2016 (A/HRC/32/35/Add.2, paragraph 67), the extent of the conflict and displacement has had a massive impact on children, many of whom have experienced violence first-hand and/or witnessed extreme violence, including the killing of family members and/or separation from family members. The Special Rapporteur indicates that child protection concerns and issues, including child labour resulting from parents' loss of livelihood, trafficking, sexual and gender-based violence and early and forced marriage, continue to be reported. Children have also been recruited and used by different parties to the conflict, both in combat and support roles. *Observing with concern that internally displaced children are at an increased risk of being engaged in the worst forms of child labour, the Committee once again strongly urges the Government to take effective and time-bound measures to protect these children from the worst forms of child labour. It requests the Government to provide information on the measures taken in this regard and on the results achieved.*

The Committee is raising other matters in a request addressed directly to the Government.

**C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)****Observation 2017**

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments made in 2012. The Committee also notes that the Government had been requested to provide information to the Committee on the Application of Standards at the 106th Session of the International Labour Conference for failure to supply reports and information on the application of ratified Conventions.

*Comments from employers' and workers' organizations.* The Committee notes the comments made by the International Organisation of Employers (IOE) on the right to strike, in a communication dated 29 August 2012, which are dealt with in the General Report of the Committee. The Committee also notes the comments made by the International Trade Union Confederation (ITUC) in a communication dated 31 July 2012, alleging that, amidst the uprising and political conflict, there is only one official trade union organization and that the law is not conducive to trade union activities. The ITUC adds that striking teachers were dismissed, striking sanitation workers were injured, and that the offices of the Yemeni Journalists' Syndicates were attacked. ***The Committee requests the Government to provide its comments thereon.***

*The Law on Trade Unions (2002).*

*Article 2 of the Convention.* In its previous comments, the Committee had indicated that the reference to the General Federation of Trade Unions of Yemen (GFTUY) made in sections 2 (definition of "General Federation"), 20 and 21, indicating that "All the general trade unions establish a General Federation entitled the General Federation of Trade Unions of Yemen" could result in making it impossible to establish a second federation to represent workers' interests. The Committee had noted in its previous comments that the Government indicated that: (1) it has never imposed any prohibition on trade union activities; (2) the law does not stipulate that affiliation to GFTUY is obligatory and there are many other general trade unions which are not in this federation, such as the Trade Union of Doctors, Trade Union of Pharmacists, Education Professions' Trade Unions, Journalists' Trade Union and Lawyers' Trade Union; (3) there is no monopoly in representation since, in the framework of social dialogue, the interlocutor is the most representative trade union; and (4) at the moment, the GFTUY is the most representative association of workers. While noting that the Government did not refer to the possibility of the general trade unions to form a federation different than the GFTUY, the Committee recalls that unification of the trade union movement imposed through state intervention by legislative means runs counter to the principle embodied in *Articles 2 and 11* of the Convention. ***In these circumstances, the Committee once again requests the Government to take the necessary measures to amend the Law on Trade Unions so as to repeal specific reference to the GFTUY, allowing workers and their organizations to establish and join the federation of their own choosing and to indicate the measures taken or envisaged in this regard in its next report.***

The Committee had noted the exclusion from the scope of the Law of employees of high-level public authorities and Cabinets of Ministers (section 4). The Committee had recalled that senior public officials should be entitled to establish their own organizations and that the legislation should limit this category to persons exercising senior managerial or policy-making responsibilities (see General Survey on freedom of association and collective bargaining, 1994, paragraph 57), and had requested the Government to indicate whether the categories of workers referred to in section 4 of the Law enjoy the right to establish and join trade unions. ***The Committee must once again reiterate the abovementioned request.***

*Article 3.* In its previous comments, the Committee had noted that section 40(b) provides that a trade union organization can organize a strike in coordination with a trade union organization of the highest level. The Committee had recalled that a legislative provision which requires that a decision by the first-level trade union to call a strike at the local level should be approved by a higher level trade union body, is not in conformity with the right of trade unions to organize their activities and to formulate their programmes. The Committee had requested the Government to clarify whether section 40(b) requires an authorization from the higher level trade union for a strike to be organized and, if that is the case, to take the necessary measures in order to amend the legislation so as to bring it into conformity with the Convention. ***The Committee must once again reiterate the abovementioned request.***

*The draft Labour Code.* The Committee recalls that in its previous comments it had noted that: (1) a draft Labour Code was under discussion and that several of its provisions were not in conformity with the Convention; (2) with the active participation of the ILO, it is working on the enactment of the new Labour Code; and (3) that the draft Code was referred to the Ministry of Legal Affairs, and will consequently be referred by the Ministry of Social Affairs and Labour to the Council of Ministers and afterwards to Parliament. The Committee notes that the Government indicates in its report that, due to the circumstances in Yemen since 2011, the House of Representatives has not held meetings for discussing and adopting new laws. ***The Committee hopes that the draft Labour Code will be adopted in the near future and that it will take into account its comments concerning the need to take the necessary measures to further amend or revise the following provisions:***

-- *Article 2.* The need to: (1) ensure that domestic workers, the magistracy and the diplomatic corps, excluded from the draft Labour Code (section 3B(2) and (4)), may fully benefit from the rights set out in the Convention; and (2) consider revising section 173(2) of the draft Code so as to ensure that minors between the ages of 16 and 18 may join trade unions without parental authorization, and noted with interest the Government's intention to do so.

-- The need to indicate whether foreign persons holding diplomatic passports and those working in Yemen on the basis of political visas, who are excluded from the scope of the draft Code under section 3B(6) and covered by the specific legislation, regulations and agreements on reciprocal treatment, can in practice establish and join organizations of their own choosing.

-- *Article 3.* The need to provide a list of essential services referred to in section 219(3) of the draft Code, which empowers the Minister to submit disputes to compulsory arbitration, which will be issued by the Council of Ministers once the Labour Code is promulgated.

-- The need to further amend section 211 of the draft Labour Code, which provides that strike notice must include an indication as to the duration of a strike to ensure that a trade union can call a strike for an indeterminate period of time.

-- *Articles 5 and 6.* The need to withdraw section 172 from the draft Labour Code since it appears to prohibit the right of workers' organizations to affiliate with international workers' organizations and contradicts section 66 of the Law on Trade Unions which ensures the right to affiliate with international organizations and the current practice.

***The Committee trusts that the present legislative reform will bring the national legislation into full conformity with the Convention, in accordance with the abovementioned comments, and requests the Government to indicate any development in this regard in its next report.***

***The Committee expects that the Government will make every effort to take the necessary action in the near future.***

**C094 - Labour Clauses (Public Contracts) Convention, 1949 (No. 94)****Observation 2017**

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015. The Committee also notes that the Government has been requested to provide information to the Committee on the Application of Standards at the 106th Session of the International Labour Conference for failure to supply reports and information on the application of ratified Conventions.

*Article 2 of the Convention. Insertion of labour clauses in public contracts.* The Committee notes the Government's indication that Act No. 23 of 14 August 2007 on bidding, outbidding and government warehouses does not provide for the insertion of labour clauses as prescribed by *Article 2* of the Convention. It

further notes the Government's indication that the Supreme Commission on Auctions and Bids, by virtue of its memorandum 1/a/m 881 dated 17 August 2014, stated that Act No. 23 does not include any provisions on the terms of employment and workers' wages and that the current law on bidding needs to be amended. It takes good note that the Ministry of Social Affairs and Labour will contact the Supreme Monitoring Authority on bids to carry out the necessary amendments as soon as possible.

With respect to the reference made by the Government to the Labour Code No. 5 of 1995 and amendments made thereto, the Committee notes that the provisions laid down in this Code are not strictly relevant to the subject matter of the Convention and do not give effect to *Article 2* of the Convention which requires the insertion of labour clauses ensuring wages, hours of work and other working conditions to the workers concerned which are not less favourable than those established for work of the same character in the same area by collective agreement, arbitration award or national laws or regulations. The application of the general labour legislation is not enough in itself to ensure the application of the Convention, inasmuch as the minimum standards fixed by law are often improved upon by means of collective agreement or otherwise.

*The Committee therefore urges the Government to indicate the measures adopted or envisaged, if necessary with technical assistance of the Office, to ensure that all public contracts contain labour clauses which comply with the requirements of the Convention and to provide information on any further developments with respect to the abovementioned planned amendments to Act No. 23 of 14 August 2007.*

*The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

## C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

### Observation 2017

The Committee notes with *concern* that the Government's report has not been received. It is therefore bound to repeat its previous comments made in 2012. The Committee also notes that the Government had been requested to provide information to the Committee on the Application of Standards at the 106th Session of the International Labour Conference for failure to supply reports and information on the application of ratified Conventions.

*Articles 2 and 3 of the Convention. Protection against anti-union practices.* While noting that the legislation provides for adequate protection against interference, the Committee recalls that for a number of years it has been requesting the Government to ensure that effective and sufficiently dissuasive sanctions that guarantee the protection of workers' organizations against acts of interference by employers or their organizations in trade union activities are expressly provided for in the national legislation. The Committee had noted that draft legislative amendments to the Labour Code were under way and that the Government would endeavour to add provisions on penal responsibility of employers committing acts of interference in trade union affairs in order to bring the legislation into conformity with the Convention. The Committee notes the Government's indication that the comments of the Committee would be taken into account when making amendments to the Act on Trade Unions and supplementing the Penal Code. *The Committee once again requests the Government to indicate the progress made in this respect, and to provide copies of the amended legislative texts aimed at ensuring full respect for the rights enshrined in the Convention, as soon as they have been adopted.*

*Article 4. Refusal to register a collective agreement on the basis of consideration of "economic interests of the country".* The Committee had previously requested the Government to take the necessary measures to amend sections 32(6) and 34(2) of the Labour Code so as to ensure that refusal to register a collective agreement is only possible due to a procedural flaw or because it does not conform to the minimum standards laid down by the labour legislation, and not on the basis of consideration of "the economic interests of the country". The Committee had previously noted that the Government reiterated that it had adopted the Committee's proposal with regard to the amendment of the abovementioned section of the Labour Code. *The Committee trusts that the legislative amendments requested in its previous observations will be fully reflected in the new legislation and once again requests the Government to provide a copy of the draft Labour Code as soon as the final version of it is available.*

*Collective bargaining in practice.* The Committee notes the comments submitted by the International Trade Union Confederation (ITUC) in its communication dated 31 July 2012, alleging notably that, in both the private and public sectors, many trade unions are not allowed to negotiate collective agreements. *The Committee requests the Government to communicate its observations thereon.*

In its previous comments, the Committee had requested the Government to provide statistics on the number of workers covered by collective agreements in comparison with the total number of workers in the country and it had noted the Government's indication that the requested statistics on collective bargaining were available and would be sent in its subsequent reports. *While noting that according to the Government trade unions exist in the public sector and that in the private sector trade unions have been established in certain institutions, the Committee expresses once again the firm hope that the Government will provide the statistics requested in its next report or at least the information available.*

*Finally, the Committee requests the Government to indicate the legal provisions which guarantee the right to collective bargaining of public servants not engaged in the administration of the State.*

*The Committee expects that the Government will make every effort to take the necessary action in the near future.*

## C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

### Observation 2017

The Committee notes that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015. The Committee also notes that the Government had been requested to provide information to the Committee on the Application of Standards at the 106th Session of the International Labour Conference for failure to supply reports and information on the application of ratified Conventions.

*Article 3(a) of the Convention. Legislation.* The Committee recalls that article 5 of the Labour Code provides for the right and the duty to work without discrimination on the grounds of sex, age, race, colour, creed or language. It further recalls that it has been stressing for many years the importance of declaring and pursuing a national equality policy covering all the grounds enumerated in the Convention. The Committee notes that the Government is currently revising the Labour Code. *The Committee accordingly requests the Government to take the opportunity of the current revision of the Labour Code to explicitly prohibit direct and indirect discrimination based on at least all of the grounds of the Convention, including political opinion, social origin and national extraction, with respect to all aspects of employment and occupation and all workers.*

*Article 2. National equality policy.* The Committee recalls that, with a view to achieving the elimination of discrimination in employment and occupation, States are required to develop and implement a multifaceted national equality policy. The implementation of the policy presupposes the adoption of a range of specific and concrete measures, including in most cases the need for a clear and comprehensive legislative framework, and ensuring that the right to equality and non-discrimination is effective in practice. Proactive measures are required to address the underlying causes of discrimination and de facto inequalities resulting from deeply entrenched discrimination (see General Survey on the fundamental Conventions, 2012, paragraph 732). *The Committee asks the Government to take steps to develop and implement a national equality policy to address discrimination and promote equality in the public and private sectors, at least with respect to race, colour, sex, religion, political opinion, national extraction and social origin. The Government is asked to provide information on any measures taken in this respect.*

The Committee is raising other matters in a request addressed directly to the Government.

*The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

## C138 - Minimum Age Convention, 1973 (No. 138)

### Observation 2017

While acknowledging the difficult situation prevailing in the country, the Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2013. The Committee also notes that the Government had been requested to provide information to the Committee on the Application of Standards at the 106th Session of the International Labour Conference for failure to supply reports and information on the application of ratified Conventions.

*Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and practical application of the Convention.* In its previous comments, the Committee noted that according to the findings of the National Child Labour Survey carried out in 2010 by the Central Statistical Organization (CSO) in collaboration with ILO-IPEC, 21 per cent of children between the ages of 5 and 17 were employed (11 per cent of 5–11 year-olds; 28.5 per cent of 12–14 year-olds and 39.1 per cent of 15–17 year-olds). The majority of working children were unpaid family workers (58.2 per cent) followed by 56.1 per cent working in the agricultural sector and 29 per cent working in the private household.

The Committee notes the information provided by the Government in its fourth periodic report to the Committee on the Rights of the Child (CRC) of 23 October 2012 (2012 report to the CRC) that the Government has been focusing on projects related to education, health, social affairs and youth with an emphasis on vital projects for children, including the National Poverty Reduction Strategy (2003–15) and the National Strategy for Children and Youth (2006–15) (CRC/C/YEM/4, paragraph 23). It also notes from the Government's report to the CRC that it is in the process of drafting a national action plan to combat child labour in cooperation with the ILO and the Centre for Lebanese Studies. While noting the measures taken by the Government, the Committee expresses its *concern* at the large number of children working below the minimum age for admission to employment or work. *The Committee therefore strongly encourages the Government to intensify its efforts to ensure the progressive elimination of child labour. In this regard, the Committee expresses the firm hope that the national action plan to combat child labour will be developed and implemented in the very near future. The Committee further requests the Government to provide information on the manner in which the Convention is applied in practice, including extracts from the reports of inspection services and information on the number of inspections aimed, in whole or in part, at addressing child labour, as well as on the number and nature of violations detected involving children.*

*Article 2(3). Compulsory education.* The Committee previously noted the findings of the 2010 Child Labour Survey which indicated that the school attendance rate for 6–14-year-old children (ages for compulsory schooling) stood at 73.6 per cent. It also noted the information from the UNESCO *Education for All Monitoring Report 2011* that, in 2008, Yemen had the most children out of school in the region, more than 1 million.

The Committee notes the Government's information in its 2012 report to the CRC that it has adopted a number of policies and measures designed to expand basic education and enhance its effectiveness through the National Strategy for Basic Education (2003–15), the National Strategy for the Development of Secondary Education, the Strategy for Girls' Education and the Yemen Strategic Vision 2015. The Committee notes however that according to the UNESCO Institute for Statistics, in 2011, the net enrolment rates (NER) in primary education was 76 per cent (82 per cent for boys and 69 per cent for girls) while the NER at the secondary school level was 40 per cent (48 per cent for boys and 31 per cent for girls). While taking due note of the efforts made by the Government, the Committee expresses its *deep concern* at the low enrolment rates at the primary and secondary levels as well as at the high drop-out rates. *Considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to intensify its efforts to increase the school enrolment and attendance rates at the primary and secondary levels and to reduce school drop out rates. It requests the Government to provide information on the progress made in this regard and on the results achieved.*

*Article 6. Minimum age for admission to apprenticeship.* The Committee previously noted that the Labour Code does not contain a minimum age for apprenticeships, and recalled that by virtue of Article 6 of the Convention, a young person must be at least 14 years of age to undertake an apprenticeship. *Noting that Ministerial Order No. 11 also does not contain any provisions related to apprenticeship, the Committee once again requests the Government to take the necessary measures to adopt provisions establishing the minimum age for apprenticeship in conformity with Article 6 of the Convention. It requests the Government to provide information on any developments in this regard in its next report.*

The Committee is raising other matters in a request addressed directly to the Government.

*The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

## C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

### Observation 2017

While acknowledging the difficult situation prevailing in the country, the Committee notes with *regret* that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2014. The Committee also notes that the Government had been requested to provide information to the Committee on the Application of Standards at the 106th Session of the International Labour Conference for failure to supply reports and information on the application of ratified Conventions.

*Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 103rd Session, May–June 2014)*

The Committee takes note of the Government's report as well as of the detailed discussion which took place at the 103rd Session of the Conference Committee on the Application of Standards in June 2014 concerning the application by Yemen of Convention No. 182.

*Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Compulsory recruitment of children for armed conflict.* The Committee previously noted that the recruitment of children under 18 years for armed conflict by the armed forces and armed groups had become an issue of serious and ongoing concern.

The Committee notes that the Government representative of Yemen, during the discussion at the Conference Committee on the Application of Standards in June 2014, acknowledged the serious situation of children in his country due to their involvement in armed conflict. The Committee notes the Government's statement that it signed with the Special Representative of the United Nations Secretary General for Children and Armed Conflict, an action plan to end and prevent the recruitment of children by armed forces. This action plan sets out concrete steps to release all children associated with the government security forces, reintegrate them into their communities and prevent further recruitment. The Committee notes that the measures to be undertaken within this action plan include: aligning domestic legislation with international norms and standards prohibiting the recruitment and use of children in armed conflict; issuing and disseminating military orders prohibiting the recruitment and use of children below age 18; investigating allegations of recruitment and use of children by the Yemeni government forces and ensuring that responsible individuals are held accountable; and facilitating access to the United Nations to monitor progress and compliance with the action plan. The Government representative further stated that a National Dialogue Congress was held from 18 March 2013 to January 2014 which discussed several issues related to the rebuilding of the State, one among which was the reformulation of laws and regulations in order to safeguard

the rights of children, including protection from involvement in armed conflict.

The Committee notes that the Conference Committee, while noting the adoption of this action plan, expressed its serious concern at the situation of children under 18 being recruited and forced to join armed groups or the government forces. It urged the Government to take immediate and effective measures, as a matter of urgency, to put a stop in practice to the forced recruitment of children under 18 years by the government forces and associated forces, in particular by ensuring the effective implementation of the newly adopted action plan.

In this regard, the Committee notes from the Government's report that the Chief of General Staff of Armed Forces and the Prime Minister have reiterated their commitment to implementing the measures agreed upon in the action plan so as to end the illegal recruitment of children by armed forces. The Committee notes, however, that according to the report of the United Nations Secretary-General to the Security Council of May 2014, the United Nations documented 106 cases of recruitment of children, all boys between 6 and 17 years of age. The report of the Secretary-General also indicated that 36 children were killed and 154 children were maimed. While noting the measures taken by the Government to prevent the recruitment of children by the armed forces in the context of the action plan, the Committee is bound to express its *deep concern* at the situation and the number of children involved in armed conflict. ***The Committee, therefore, urges the Government to take immediate and effective measures to ensure that the action plan to put an end to the recruitment and use of children in the armed forces will be effectively implemented as a matter of urgency. It also requests the Government to take immediate and effective measures to ensure that thorough investigations and robust prosecutions of persons who forcibly recruit children under 18 years of age for use in armed conflict are carried out and to ensure that adequate penalties constituting an effective deterrent are imposed in practice. The Committee requests the Government to provide information on the measures taken and results achieved in this respect.***

*Article 5. Monitoring mechanisms.* The Committee previously noted with concern the findings of the first National Child Labour Survey, that 50.7 per cent of child labourers were engaged in hazardous work of which the overwhelming majority (95.6 per cent) were employed in hazardous occupations and the rest in hazardous economic activities (that is, mining and construction).

The Committee notes the statement made by the Government representative of Yemen to the Conference Committee that the Yemeni Government was in a difficult situation due to the economic problems, armed conflict and violence that had resulted in the destabilization of the country and which led people to resort to the illegal recruitment and exploitation of children. The Government representative further stated that while up to 2010, the number of children in child labour was around 600,000, this number has currently reached 1.5 million. He further stressed the need of his country for material and moral assistance through launching economic projects and providing jobs for the unemployed, as well as supporting families to encourage them to ensure the return of their children to school.

The Committee notes that the Conference Committee noted with serious concern the high number of children currently engaged in child labour in the country, the majority of whom were employed in hazardous occupations, including agriculture, the fishing industry, mining and construction. The Conference Committee requested the Government to strengthen the capacity and expand the reach of the labour inspectorate in enforcing Ministerial Order No. 11 of 2013 on hazardous work prohibited to children under the age of 18 years, including in rural areas.

In this regard, the Committee notes the Government's indication that no convictions or penalties were issued against persons found in violation due to the current political situation in the country. It also notes the Government's indication that the provisions of Ministerial Order No. 11 of 2013 has not yet been put into effect since the child labour monitoring unit is encountering difficulties in carrying out its tasks due to security reasons as well as a lack of financial resources and qualified personnel. ***While acknowledging the difficult situation prevailing in the country, the Committee urges the Government to take the necessary measures to strengthen the functioning of the labour inspectorate by providing it with adequate human and financial resources in order to enable it to monitor the effective implementation of the national provisions giving effect to the Convention, in all sectors where the worst forms of child labour exist. It also urges the Government to take the necessary measures to put into effect Ministerial Order No. 11 of 2013, without delay and to ensure that persons who infringe the provisions of this Ministerial Order are prosecuted and that sufficiently effective and dissuasive sanctions are applied. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in the worst forms of child labour, removing them from such work and ensuring their rehabilitation and social integration. Children in armed conflict and hazardous work.* The Committee notes that the Conference Committee, in its conclusions, strongly encouraged the Government to provide access to free basic education for all children, particularly children removed from armed conflict and children engaged in hazardous work, with special attention to the situation of girls. In this regard, the Conference Committee called on the ILO member States to provide assistance to the Government of Yemen and encouraged the Government to avail itself of ILO technical assistance in order to achieve tangible progress in the application of the Convention.

The Committee notes the absence of information in the Government's report on this matter. ***The Committee therefore requests the Government to take effective and time-bound measures to ensure that child soldiers removed from armed groups and forces as well as children removed from hazardous work receive adequate assistance for their rehabilitation and social integration including reintegration into the school system or vocational training, wherever possible and appropriate. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

***Noting the Government representative's intention to seek ILO technical assistance in its efforts to combat child labour, the Committee encourages the Government to consider seeking technical assistance from the ILO.***

The Committee is raising other matters in a request addressed directly to the Government.

***The Committee hopes that the Government will make every effort to take the necessary action in the near future.***