

APPENDIX A
INTERVIEW GUIDE

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Interview questions for a Dissertation in partial fulfilment of the requirements of the Masters Degree in International Relations (2013): International Labour Standards and the complexities of the International Labour Organisation's supervisory system: Compliance challenges for Zimbabwe

1. How would you describe the relationship between the government of Zimbabwe, social partners and the ILO supervisory bodies?
2. What do you consider to have been the factors that led to the repeated listing of the government of Zimbabwe before the ILO CAS from 2002?
 - What were/are the compliance issues/gaps?
 - What role could the political, economic and social situation of Zimbabwe played?
3. What, in your view, were the main reasons for the appointment of an ILO Commission of Inquiry by the ILO Governing Body in 2009?
 - What impact could the non submission of the Article 22 report on Convention No. 98 in 2001 and government's refusal to appear before the Conference Committee in 2007 and 2008 have had on the process?
4. What are the prospects for improvement of the government of Zimbabwe's record before the ILO supervisory bodies going into the future?
 - What evidence exists to support the view?
 - What is the compliance status *vis-a-vis* the Commission's recommendations?

APPENDIX B

Complaint by Employers' Delegates

Taking into account the discussion that took place at the Committee on Application of Standards and the conclusions adopted that followed, the undersigned Employers delegates to the 97th Session of the International Labour Conference (Geneva, June 2008), would like to file a complaint under article 26 of the ILO Constitution against the Government of Zimbabwe for non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified by Zimbabwe on 9 April 2003, and which came into force for Zimbabwe on 9 April 2004. This complaint is based in the following:

- The persistent obstructionist attitude demonstrated by the Government through its refusal to come before the Committee on Application of Standards in two consecutive years and thus seriously hamper the work of the ILO supervisory mechanisms to review the application of voluntarily ratified Conventions.
- The contempt shown by the Government to the Committee on Application of Standards and the gravity of the violations observed had led this Committee to decide last year to mention this case in a special paragraph of its report and to call upon the Government to accept a high-level technical assistance mission.
- The Government's refusal of the high-level technical assistance mission that the Committee on Application of Standards had invited it to accept.
- The serious allegations of the violation of basic civil liberties, including the quasi-systematic arrest and detention of trade unionists following their participation in public demonstrations made by the Committee of Experts.
- The continual recourse made by the Government to the Public Order and Security Act (POSA) and lately, to the Criminal Law (Codification and Reform) Act of 2006 to repress basic civil liberties and trade union rights. In the last few months, trade union leaders and members have been systematically arrested, detained, harassed and intimidated for the exercise of legitimate trade union activity.
- The vast information presented to the ILO supervisory bodies concerning the surge in trade union rights and human rights violations in the country and the ongoing threats to trade unionists' physical safety. In particular, the recent arrests of Lovemore Motombo and

Wellington Chibebe and the massive violence against teachers as well as the serious allegations of arrest and violent assault following the September 2006 demonstrations.

For the reasons stated above the undersigned request you to bring this complaint under article 26 of the ILO Constitution to the attention of the ILO Governing Body in its next session to propose measures for the effective observance of this Convention in law and in practice and to consider the appointment of a Commission of Inquiry to Zimbabwe. The complainants reserve the right to submit additional information.

Maria Paz Anzorreguy

on behalf of Mr Edward Potter, Employers delegate,

United States

Daniel Funes De Rioja

Employer, Argentina

Emmanuel Julien

MEDEF, France

Vic van Vuuren

Employer, South Africa

Ansoumane Savané

CNP, Guinea

Ronnie L. Goldberg

Employer, United States

Peter Anderson

Employers delegate, Australia

Andrew Moore

Employer, United Kingdom

Ali M Kaissi

Tunisia

Peter Tomek

Employer, Austria

Jacqueline Coke-Lloyd

Employer, JEF, Jamaica

Jacqueline Mugo

Employer, Kenya

Armando Urtecho

Honduras

Source:

Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of Zimbabwe of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 2009. Geneva: International Labour Office. (Also available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_123293.pdf).

APPENDIX C

Complaint by Workers' Delegates

We, Workers delegates to the 97th Session of the International Labour Conference (Geneva, June 2008), whose names are included hereunder, support the conclusions on Zimbabwe adopted in the Committee on Application of Standards, calling for a complaint under article 26 of the ILO Constitution against the Government of the Republic of Zimbabwe for violations of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ratified by Zimbabwe on 9 April 2003 and 27 August 1998, respectively.

Since 2002, the Conference Committee has consistently attempted to create a constructive dialogue with the Government to find durable solutions to ever-increasingly serious violations of these Conventions. To this end, it has requested the Government on numerous occasions to accept a direct contacts mission, as well as a high-level ILO technical assistance mission. The Government has systematically refused the missions requested by the Conference Committee and last year, while providing written information, declined to participate in the Committee's proceedings in respect of its application of the freedom of association Convention.

Again, the Government declined to come before the Committee this year, despite repeated requests for it to do so and the preparation of an advance list giving it sufficient time to prepare. The Conference Committee fully discussed the case and placed its conclusions in a special paragraph for continued failure to implement the freedom of association Convention.

Grave violations of freedom of association persist and have even increased. In the last few months, trade union leaders and members have been systematically arrested, detained, harassed and intimidated for the exercise of legitimate trade union activity. Teachers have been targeted, physically assaulted and threatened. The Public Order and Security Act (POSA) and the Criminal Law (Codification and Reform) Act of 2006 have been systematically used to repress basic civil liberties and trade union rights.

Taking into account all of the above factors, we, the undersigned, feel obliged to lodge a complaint under article 26 of the ILO Constitution and call upon the Governing Body to propose measures for the effective observance of these fundamental Conventions in law and in practice. The complainants reserve the right to submit additional information hereto at the appropriate time.

Alina Rantsolase

South Africa (substitute delegate to Ebrahim Patel)

Julio Robert Gomez Esguerra

Colombia

Jan Sithole

Swaziland

Maria Fernanda Francisco

Angola

Leroy Trotman

Barbados

Joao Felicio

Brazil

Japhta Radibe

Botswana

Sharan Burrow

Australia

Mody Guiro

Senegal

Khurshid Ahmed

Pakistan

Rabiatou Sera Diallo

Guinea

Basile Mahagan Gae

Côte d'Ivoire

Luc Cortebeeck

Belgium

Source:

Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of Zimbabwe of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 2009. Geneva: International Labour Office. (Also available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_123293.pdf).

APPENDIX D

The Recommendations of the Commission of Inquiry on Zimbabwe:

1. The Commission recommends that the relevant legislative texts, and most particularly the Labour Act, the Public Service Act and the Public Order and Security Act, be brought into line with Conventions Nos 87 and 98, as requested by the ILO supervisory bodies and noted throughout this report.
2. The Commission recommends that all anti-union practices as set out in our findings – arrests, detentions, violence, torture, intimidation and harassment, interference and anti-union discrimination – cease with immediate effect and that steps are taken by the authorities to ensure that there is no repetition of such acts in the future. The Commission further recommends in this regard that steps be taken to bring all outstanding and pending court cases against trade unionists to an end.
3. The Commission recommends that, mindful of the role that its process played in allowing people to be heard, other national institutions continue this process so that trade unionists and perpetrators participate in a national process of truth and reconciliation. In particular, noting that the Zimbabwe Human Rights Commission and the Organ for National Healing and Reconciliation could play an important role in this regard, the Commission recommends that the Human Rights Commission be rendered operational as soon as possible and that the Government ensure that these institutions are adequately resourced so that they may contribute to the defence of trade union and human rights in the future.
4. The Commission recommends that the Government ensure that training, education and support be given to key institutions and personnel in the country, most notably the police, security forces and the social partners, in relation to freedom of association and collective bargaining, civil liberties and human rights.
5. The Commission wishes to stress the essential place of the rule of law and the role of the courts in ensuring that an environment exists in the country in which freedom of association

and collective bargaining may be enjoyed in practice. The Commission particularly recognizes the special role that could be played by the Labour Court. In this regard, the Commission recommends that the Government take steps to reinforce the rule of law and the role of the courts in Zimbabwe by ensuring that the courts are respected and properly resourced in material and human terms, and that training, education and support in relation to freedom of association and collective bargaining, civil liberties and human rights are provided to members of the judiciary and court staff at all levels of the court hierarchy.

6. The Commission recommends that the Government continue to strengthen and support social dialogue in the country in recognition of the role that social dialogue plays in the maintenance of democracy.

7. The Commission recommends that the Government take advantage of technical assistance by the International Labour Office in relation to the implementation of these recommendations. We urge the ILO to pursue its assistance to the Government and social partners in this regard.

Source:

Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by the Government of Zimbabwe of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), 2009. Geneva: International Labour Office. (Also available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_123293.pdf).