Convention No. 29: Forced Labour, 1930

India (ratification: 1954). A Government representative noted the comments of the Committee of Experts and recalled that the Government had submitted two reports to the Committee, one of which responded to the matters raised by the International Confederation of Free Trade Unions (ICFTU). He wished to address the three major issues raised by the report: bonded labour, child labour, and prostitution and sexual exploitation.

With regard to bonded labour, he recalled the historical background of India's efforts to combat this problem. He noted that the Karachi Congress in 1931 had addressed the issue of the abolition of serfdom, long before India had ratified Convention No. 29. Furthermore, article 22 of the Indian Constitution of 1949 prohibited bonded labour, and in 1954 India had ratified Convention No. 29. Twenty-two years later, the Bonded Labour System (Abolition) Act, 1976 and the Bonded Labour System (Abolition) Ordinance 1975 were passed, as were a number of local ordinances and regulations prohibiting bonded labour. The fight against bonded labour had been a prime objective of past governments, and figured prominently in the Twenty Point Programme for the Nation under the Prime Minister Indira Gandhi.

It was of paramount importance to arrive at a precise definition of bonded labour. He noted that bonded labour was characterized by an unequal exchange system, where one person rendered his services or the services of any of his family members under compulsion to another in order to pay off a debt, and as a consequence was denied freedom of movement, choice of employment, and minimum wage. He also stressed that it was difficult to identify bonded labourers and to collect reliable statistics on them. Section 13 of the Bonded Labour System (Abolition) Act provided for the establishment of vigilance committees at district and subdivisional levels to maintain close surveillance on the occurrence of bonded labour in the area. However, section 13 did not prescribe the procedure for these vigilance committees to identify bonded labourers. Drawing on his personal experiences as a socio-legal investigator of the Supreme Court on bonded labour matters, the speaker observed that the orthodox approach of asking persons whether they were bonded labourers would normally not elicit a reliable response, since many such persons were too intimidated or ignorant of their rights under the law to have confidence in the investigator. Only through a non-traditional and non-confrontational approach could investigators win the trust of bonded labourers and hear their stories. The establishment of reliable statistics depended on the orientation and training of local magistrates and members of the vigilance committees to adopt such an approach when investigating bonded labour. The establishment of reliable statistics was also complicated by the numerous languages and dialects used in India and the frequent migration which characterized the informal sector.

Once bonded labourers had been identified, the next step was their release, which also presented certain difficulties. He pointed to a recent Supreme Court decision which ruled that it was not sufficient to prove a creditor-debtor relationship in order to prevent a relationship of labour without remuneration being considered as bonded labour. The ruling assumed that where a labourer supplied his labour free, he or she was obliged to do so, due to an advanced loan or some other exploitative economic arrangement. This judgement had been communicated to the districts and subdivisions and was hoped to facilitate the release of bonded labourers.

It was also essential to understand that the problem of bonded labour was inextricably tied to the greater socio-economic problems of unemployment, landlessness, poverty, and migration. He stated that despite the enormous political will of the current government, it had not succeeded in eradicating poverty. Therefore, the full eradication of bonded labour would only be possible through a holistic and parallel approach to dealing with the nation's economy.

Rehabilitation was the next important step after a bonded labourer had been identified and released. The speaker recalled that the Bonded Labour Rehabilitation Scheme of 1978 provided for assistance and funding for rehabilitation measures, which included the allotment of land, the development of land already owned, credit, subsidized housing, health services, skill training and the support of women and children. He recalled that up to March 1999, over 200,000 bonded labourers had been released and rehabilitated, and that 17,000 were in the process of being rehabilitated. Despite such progress, further funding and research was needed.

Concluding his statements on the issue of bonded labour, the speaker indicated that a full-fledged division in the Ministry of Labour was devoted to bonded labour, and that screening committees had been established which would assure that funds released for programmes for the eradication of bonded labour were efficiently used. The Ministry of Labour also ensured that any complaints received regarding bonded labour were communicated to the district magistrate, with strict deadlines for a response, and follow-up procedures to monitor complaints. In this regard, he stressed that the federal Government's role was to coordinate a national policy on bonded labour, but that it was ultimately the State's responsibility to ensure that such policies were implemented. Finally, only close collaboration with NGOs would assure the full outreach of such programmes.

Turning to the problem of child labour, the Government representative emphasized the national Government was totally committed to the elimination of child labour. He recalled that the Children (Pledging of Labour) Act, 1933 prohibited parents from mortgaging the services of their children, and that the Employment of Children Act, 1938 restricted child labour in a number of areas. Furthermore, pursuant to India's ratification of six of the ILO Conventions on child labour, the Child Labour (Prohibition and Regulation) Act, 1986 prohibited the employment of children under the age of 14 in hazardous industries. Parts A and B of this Act prohibited child labour in 64 industries considered as hazardous, and the Child Labour Technical Advisory Committee established under section 5 of the Act had recommended another nine industries as hazardous. As with bonded labour, it was difficult to establish reliable statistics on child labour. In this respect, he pointed out that the Supreme Court judgement of 10 December 1996 in Writ of Petition 465 of 1986 provided for countrywide surveys of child labour on the district level and reiterated the principle of free and compulsory education for children under the age of 14. This judgement had been communicated to officials at the local level and funds had been placed at the disposal of all 535 districts for conducting the survey, which had been completed and the report of which had been submitted to the Supreme Court on 31 May 1997.

He recalled that 93 national child labour projects had been made operational with the purpose of identifying, releasing, and rehabilitating child labourers. In the context of these programmes, 3,000 special schools had been established and 3,000 teachers had been appointed to provide education, skill training, health care, and other rehabilitation services to released child workers. Moreover, India subscribed to the principle that education for children between the ages of 5 and 14 was a fundamental human right. He regretted that the proposed 83rd Constitutional Amendment, which sought to make education a fundamental right and which provided for compulsory and universal primary education, had not been carried to its logical conclusion due to a number of reasons, but hoped that similar efforts would succeed in the future.

As with bonded labour, he observed that child labour was closely linked to lack of education, landlessness, assetlessness and poverty. The process of economic development caused significant social upheaval, and as a result, the very participants in development could become victims of the development process. He lamented the fact that there were not enough schools and teachers to provide free, compulsory and universal primary education to the over 600,000 villages in India. Nonetheless, he stressed that the Government was making a planned, coordinated, and concentrated effort, with the assistance of all branches of the Government, to root out child labour and to provide for educational opportunities for all children. He announced that the first priority of the Government was to release children employed in hazardous work, and the second priority was to assist children employed in non-hazardous work. Another issue of great importance was the release and rehabilitation of children employed in prostitution, pornography, and in illegal drug trafficking. He acknowledged that child labour remained a big problem in India, but was confident that government efforts would make progress in finding a solution to the problem. In closing, he pointed to the signing of a Memorandum of Understanding between India and IPEC in 1992, which was renewed on 17 February this year. With the assistance of IPEC and the participation of workers, employers, and NGOs, a number of programmes had been established to fight child labour, and he hoped continued close cooperation with IPEC would bear further results in the future.

Another Government representative noted the Committee of Experts' concerns relating to children being used for prostitution purposes. The rules and regulations in place in India were very strict in addressing this issue and defined sex with girls as rape, whether or not the girl had consented. He therefore stressed that the national legislation was fully in conformity with both Conventions Nos. 29 and 182. However, India was a developing country of 1 billion people with problems of poverty and unemployment, and,

therefore, circumstances in the country might result in the exploitation of children despite the legal measures in place. Accordingly, it was necessary to strengthen the enforcement mechanisms so that all complaints would be properly investigated and all offences punished.

Noting the lack of accurate statistics on the number of prostitutes in India, he cited a survey conducted by the Central Social Welfare Board in six selected cities, which found that there were 70,000 to 100,000 prostitutes in India and that 30 per cent of this number was under the age of 20 years. He noted that 4.77 per cent of this population were from neighbouring countries. Poverty was the main factor which led to prostitution. The illiteracy rate among this population was 71 per cent. Families of prostitutes were primarily unemployed or were in unskilled employment.

With regard to the legal framework established to eradicate this problem, he noted that article 23 of the Indian Constitution prohibited trafficking in human beings. Moreover, India had ratified the UN Convention on the Rights of the Child as well as the UN Convention on the Elimination of All Forms of Discrimination Against Women. It had also enacted the Immoral Trafficking Prevention Act, which provided that sex with children would be treated as rape and persons accused of this criminal offence would be tried in the criminal courts. The Act contemplated the rescue and rehabilitation of the victims of this crime. The Indian Penal Code also contained provisions regarding the abduction of children, rape and other related offences. He noted that, in response to this problem, the Government had involved all NGOs in the country in efforts to identify and resolve abuses, due to the magnitude of the problem and the Government's limited resources. The Government also focused on a two-pronged strategy whose objectives were to improve the economic resources of the families where prostitutes were found and to conduct an awareness-raising campaign to alert the public to this problem. The Government's main focus in this regard was on prevention. In closing, he noted that the provincial government of Uttar Pradesh had commissioned a study on child prostitution and he assured the Committee that the study would be made available to the ILO once it was completed.

The Worker members thanked the Government representatives for the extensive additional information supplied to the Committee and requested that all of this information be submitted to the Committee of Experts in writing so that it could be examined. At present they concluded that there had been little progress made in the case. While there appeared to be some attempts to develop a policy and coordinated strategy involving central and state governments, more needed to be done. Some legislation required further review and enforcement mechanisms were weak. The problem of engaging NGOs remained, since these organizations reported that authorities were unhappy with their presence and at times antagonistic towards them. The Worker members felt that the Government was still minimizing the problem of forced labour in India by insisting, even in the face of overwhelming evidence, that the numbers of such workers were small. This refusal to accept that there was a problem of grave magnitude would impede efforts to find a speedier solution to the problem.

The Worker members noted that the case before the Committee was a very old one. India had ratified the Convention in 1954 and the Committee of Experts had been commenting on this case since 1966. It had been discussed in the Committee over the past 14 years and had been mentioned in a special paragraph in 1994. India's Bonded Labour System (Abolition) Act had been in existence for 24 years. Despite the requirements under Article 1(1) of the Convention that ratifying countries undertake to eradicate forced or compulsory labour in all its forms "within the shortest possible period", little progress had been achieved in this area. While acknowledging India's difficult circumstances, which included a large population and poverty, the Worker members nevertheless stated that surely some progress should have been made in half a century.

In its observation, the Committee of Experts identified three areas of forced labour: bonded labour, child forced labour and prostitution and sexual exploitation of women and young girls. One persistent problem noted by both the Committee of Experts and this Committee was the lack of reliable statistics on the number of bonded labourers in India. The figures cited by the Government representative were inconsistent with those found in its own survey, conducted by the Gandhi Peace Foundation and the National Labour Institute in 1978-79, which cited a figure of 2.6 million. Another survey commissioned by the Indian Supreme Court in 1994 found that there were 1 million bonded labourers in the state of Tamil Nadu alone. Other sources identified 5 to 10 million such labourers.

The Worker members strongly supported the Committee of Experts' request that the Government undertake a comprehensive survey using valid statistical methodology, since accurate data was essential to develop and assess effective systems to combat the problem. The Worker members urged the Government to carry out this survey immediately and stated that, if technical assistance was necessary to conduct the survey, the ILO could certainly provide it. The Worker members stressed the need to determine the extent of the problem in order to allocate the resources necessary to eradicate it. Further, an effective system of inspection was needed and the Government was encouraged to work with the social partners and other organizations to strengthen its work.

Referring to the Committee of Experts' comments regarding bonded labourers rehabilitated under the centrally sponsored scheme in Tamil Nadu, Uttar Pradesh and Orissa, the Worker members believed that the number rehabilitated (5,960) was too low in light of the total number of bonded labourers in India, and asserted that more should be done. With regard to the comments on subsidies and other benefits proposed for bonded labourers, the Worker members asked the Government to provide details on the number of rehabilitated bonded labourers who had benefited from these benefits and how much had been set aside for this purpose.

The Worker members referred to the Committee of Experts' comments that state governments had been asked to form vigilance committees, as required under section 13 of the Bonded Labour Act, to enable them to maintain close and constant supervision over the problem. They asked the Government to supply detailed information on those states that had set up such committees, including on how the committees are staffed and their manner of operation, on the number of complaints received, the time period for resolution of complaints and public awareness-raising measures taken. Vigilance committees could constitute an important tool to combat forced labour at the grass-roots level. However, despite the Government representative's statements, the committees did not appear to be working well. As an example, Anti-Slavery International, an NGO, had reported an incident in the state of Punjab, where authorities had failed to intervene to enforce the law in relation to complaints filed with the District Magistrate on behalf of 11 women bonded labourers. This case and others had been taken up by the NGO, but to date it appeared the women had not been freed nor had the landlords been punished. It was clear that the enforcement mechanisms in India must be strengthened and there must be guidelines to ensure that the Supreme Court's ruling was applied.

In respect of child bonded labour, the government statistics did not indicate what percentage of bonded labourers were children, although information from NGOs noted that many children were working as bonded labourers, often to pay off their parents' debt, despite national legislation preventing parents from engaging in the practice of pledging their children. Further, referring to the Committee of Experts' comments on the lack of inspections of small production units under the Factories Act, the Worker members considered the exclusion of such units from coverage under the Act to constitute a violation of the Convention. They urged the Government to amend the law to protect bonded labourers employed in such units. Noting that article 24 of the Indian Constitution prohibited the employment of children under 14 in any factory, mine, or other hazardous employment, the Worker members asked the Government to provide information on the number of employers who had been prosecuted for employing children in violation of this article.

Referring to the Committee of Experts' comments on the serious problem of child prostitution and sexual exploitation of women and girls, the Worker members noted the lack of reliable statistics on the number of prostitutes, including child Devadasis and Joginis. Although the Worker members were disappointed that the Central Advisory Committee was only now thinking of framing recommendations and a plan of action for the rescue and rehabilitation of child prostitutes, this was still a positive effort. The Worker members urged the Government to supply full information to the Committee on such measures, particularly on the steps being taken and the resources being allocated to educate child labourers and child prostitutes as part of the rehabilitation process.

Given the Government representative's references to legislation prohibiting child prostitution, the Worker members requested the Government to supply information on the number of persons that had been prosecuted under this legislation. They agreed with the Government that bonded labour was an outrage to humanity, but considered that the Government had not accorded sufficient priority to the matter and had not moved quickly enough to resolve the problem.

The Employer members thanked the Government representative for the extensive information provided to the Committee which had placed the comments of the Committee of Experts into context. They requested the Committee of Experts to provide a more structured picture of the cultural and legal situation in India in future reports to expedite the discussion of the Committee in this regard. The Committee's most recent discussion in this case had involved the same issues that had been discussed previously: bonded labour, child labour, and prostitution and sexual exploitation of women and girls. The problems were deemed to be of such magnitude that this Committee placed its concerns in a special paragraph in 1994.

The Employer members referred to the Committee of Experts' observation that the vigilance committees were not working well. Noting the Government representative's statement that a certain urgency and priority was being given to this problem, the Employer members requested information on the number of federal and state civil servants working on a day-to-day basis, particularly in the field, attempting to identify and eradicate practices of bonded labour. With regard to the lack of reliable statistics, the Government representative had confirmed the difficulties involved in speaking with the parties concerned. However, the Employer members agreed with the Worker members that it was necessary to ascertain the number of people affected in order to have a basis for evaluating the situation and therefore requested the Government to supply the results of the survey conducted in this regard.

Commenting on the increase in bonded labour, the Employer members considered the rehabilitation projects initiated by the Government to have had limited success. They asked the Government to supply information on the amount of money allocated to these projects, an assessment of its sufficiency and on any measures taken to ensure that rehabilitated bonded labourers were not forced back into bondage.

As to the information requested in paragraph 7 of the Committee of Experts' report, it was not enough merely for the Government to supply the data requested. Noting that the Bonded Labour System (Abolition) Act had been in place for over 24 years, it was time for the Government to determine what worked, and what did not work, and to make the necessary changes. This evaluation should include the question of the effectiveness of vigilance committees as well as the new information given by the Government representative on such committees.

The Employer members noted that, despite the measures taken by the Government, child labour remained a substantial problem. They requested the Government to indicate the manner in which it was applying the 1996 Supreme Court decision requiring children to be removed from employment in hazardous industries. The Employer members also asked the Government to supply in full the information requested by the Committee in paragraph 12 of its observation.

With regard to the issue of child prostitution, the Employer members recalled the 1998 discussion before this Committee on the existence of child welfare programmes for the protection and rehabilitation of children. There again, the Government needed to evaluate what was working and what was not and adjust its strategy accordingly. While the Committee recognized the difficult economic and social circumstances in the country, they considered that the Government should nevertheless place a greater priority on resolving the problem of forced labour.

The Worker member of India noted that, despite India's ratification of the Convention 46 years ago and its enactment of relevant legislation almost 25 years ago, the serious problem of forced labour remained. Reliable statistics on the number of bonded labourers were not available, primarily because of the clandestine nature of this type of employment. Employers would not admit to having bonded labourers for fear of penal action, while workers would not complain of the situation for fear of losing their livelihood. With regard to the Government's statement on the number of bonded labourers released and rehabilitated between 1976 and 1999, the Government representative had not clarified the nature of the rehabilitation provided, nor had information been supplied regarding the number of bonded labourers that might have been forced back into bonded labour, including migrating labourers. The Government should undertake to obtain accurate data on this question. A large portion of bonded labourers in India were in rural areas and rural landlords and moneylenders systematically exploited the rural poor, who were forced to borrow money at exorbitant rates of interest. Since these people were landless, they were forced to pledge their children to work. The high interest rates charged made these loans impossible to pay off. The implementation of structural adjustment programmes required by the IMF and the World Bank had increased poverty in the area and, as a result, the bonded labour system continued in rural India, particularly in the absence of genuine land reform and the Government's failure to take steps to stop this exploitation.

He noted that India's vast population was increasing annually. The rehabilitation statistics supplied by the Government representative did not take into account new bonded labourers and new child labourers and he noted that this phenomenon continued to increase with the rise in population. Moreover, the number of persons living below the poverty line (52 per cent according to World Bank estimates) had increased in India over the last decade. Under these circumstances, he considered that official measures taken by the Government did not even begin to address the problem and, in fact, he believed that the Government's policies only added to poverty in rural areas.

The question of bonded labour was closely linked with child labour. India employed the largest number of child labourers in the world. Although the Government had enacted the Child Labour (Prohibition and Regulation) Act, 1986 which prohibited child labour in certain industries, the number of children working in those industries had increased over the past 14 years. Children still worked in agriculture, construction, mines, fisheries, matchbox factories, glass factories, the bidi industry and other sectors. They worked eight to ten hours per day in unhygienic conditions. Despite rehabilitation measures taken by the Government, the number of working children in India was increasing every year. While the ILO might continue to request more information, appreciate information supplied by the Government and request additional details, the problem would not be resolved, as it was closely linked with the need to develop the economy, generate gainful employment, provide proper housing and increase the minimum wage to enable parents to maintain and educate their children. Indeed, with 130 million unemployed out of an economically active population of 340 million, it was likely that the problems in India would continue to worsen.

As the Committee of Experts had noted, pursuant to the Child Labour (Prohibition and Regulation) Act, 1986, the Supreme Court of India had directed employers guilty of using child labour to pay an amount of 20,000 rupees per child in compensation, which sum would be deposited in a special rehabilitation fund. However, the Government had not provided information on any amounts recovered from offending employers to date. Moreover, with regard to the Committee of Experts' comments on the lack of labour inspections in small production units under the Factories Act, 1948, he indicated that child labour and bonded labour existed in large numbers in such units.

In respect of the projects initiated by the Government, he noted that the trade unions had asked the Government to permit the social partners to monitor the progress of these programmes, but that the Government had declined. He indicated his belief that the Government's political will to resolve this problem was absent today. He stressed that there were laws and regulations prohibiting forced labour in India, but what was important was actual practice. Referring to the upcoming global report, he hoped that the Government would prepare a plan of action in cooperation with the social partners in the context of the global report for next year.

The Employer member of India considered that the detailed information supplied by the Government representative had responded in large part to the Committee of Experts' observation. Commenting on the issue of the disparities in the statistics on bonded labour he relied on the statistics given by the Government representative which indicated that 280,340 bonded labourers had been identified and that only 17,000 remained to be rehabilitated. He characterized these as positive statistics. Recalling that India had been the first country to join IPEC in 1992, he asserted that child labour and bonded labour no longer existed in the formal sector. If it did persist, this problem would be found only in the informal sector. In respect of the problem of child labour, he referred to the Government representative's statements regarding programmes initiated in this area and maintained that the Government had actively involved the social partners in these activities. The speaker questioned the authority of the Committee to examine complaints in respect of child labour brought by NGOs, commenting that, in India's case, the complaint had been initiated by only one NGO — Anti-Slavery International — and not by the social partners. The Committee of Experts should not take cognizance of a complaint filed by an NGO in the same manner as a complaint from the social partners, because NGOs had no reciprocal obligations and commitments. Since NGOs were outside the framework of tripartism, they should not have any right to put a sovereign country in the dock.

The Worker member of Japan appreciated the measures taken by the Government to eradicate forced labour in the context of bonded labour, child labour in hazardous conditions and child labour in sex industries. However in his view, this was only the first step in the process. He referred to Articles 23, 24 and 25 of the Convention, which required the Government to issue complete and precise regulations governing the use of forced labour; to take adequate measures to ensure that these regulations were strictly applied; and to provide for the illegal exaction of forced labour to be punishable as a penal offence. He trusted that the Government would continue in its efforts to eradicate forced labour in accordance with these provisions, and therefore requested the Committee to ask the Government to provide additional information on measures taken in this regard. While he acknowledged the Government representative's statement that poverty was a major cause of forced labour, he felt that this problem would not be automatically abolished when economic and social development was achieved. Therefore, a firm commitment to the core labour standards remained necessary. He noted that India had ratified the Convention almost 50 years ago, but that many children remained working in ha-

zardous conditions, including many children in small-scale units or sex industries, as described in the Committee of Experts' observation. Pointing out that ratifying governments should suppress the use of forced labour within the shortest possible time, he expressed his trust in India's strong and sincere commitment to the abolition of forced child labour.

The Worker member of Pakistan recalled that his own country was a neighbour of India and faced many of the same problems. He emphasized that children constituted the future of the country and were essential for its prosperity and social and economic development. It was the responsibility of humankind as a whole to ensure that they enjoyed conditions which were conducive to their future development. However, in developing countries children were born unequal and, in the absence of social security safety nets, destitute families might be forced to send their children out to work. Governments therefore needed to comply with their national and international commitments and ensure that a better future was offered to the many millions of suffering children. He noted that under the terms of the Factories Act, 1948, many small enterprises were not subject to inspection. However, these were precisely the enterprises in which child labour was common. Effective action to combat the problem would require the real involvement of the social partners in all the relevant programmes. In this respect, he pointed out that the policies promoted by the International Monetary Fund and the World Bank did not promote increased prosperity and, indeed, gave rise to more widespread poverty, particularly in view of the downsizing of enterprises. He encouraged the Government of India to examine closely the reasons which made the poor send their children out to work. The State also needed to direct more resources towards education and to build up social security systems to help poor families. While welcoming the fact that Convention No. 182 was being considered for ratification and that IPEC projects were being implemented with the involvement of the social partners, he called upon the Government to review the Factories Act, 1948, with a view to ensuring that the labour inspection system was made more effective. He fully supported the concerns raised by the Committee of Experts that the Government was not in compliance with all the provisions of the Convention. It therefore needed to allocate greater resources to overcoming the problems which had been raised as a contribution to the future development of society.

The Government representative stated that he had listened with great attention to all the points raised during the debate. He would endeavour to respond to a number of them immediately, while submitting more detailed information in writing to the Committee of Experts. He recalled that for effective progress to be made in any field of social action it was necessary for there to be clear guidance in the Constitution, clear legal provisions and the political will to pursue the necessary objectives. It was then necessary for the administration to show integrity and transparency in the implementation of programmes to ensure that they benefited the target groups. In his country, articles 23 and 24 of the Constitution gave a clear mandate to eradicate bonded and child labour. This was reflected in the Bonded Labour System (Abolition) Act, 1976, and the Child Labour (Prohibition and Regulation) Act, 1986. The political will to address these problems was manifested in the programmes of political parties and in the economic measures taken once they came to power. It was also reflected in the plethora of social programmes designed to eradicate poverty, unemployment and underemployment. However, progress was made difficult by the resilience of the inequitable social order, which was a relic of his country's colonial past. It was therefore necessary to examine the reasons why, despite favourable legislation and the political will, such aberrations persisted. In this respect, he recalled the information provided in his earlier statement. One of the reasons why greater progress had not been made in combating bonded labour was that the correct methods of gaining an understanding of the problem had not been adopted. He was fortunate in that he had been mandated by the Supreme Court to look into the problem and, based on a very large number of interviews with bonded labourers, his conclusions had been published under the title *Born in Bondage*. What was required was a consistent effort to disseminate information on the provisions of the law and to carry out training programmes at all levels, particularly for local vigilance committees, which should be given sufficient resources.

He denied that his Government tended to minimize the problem of forced labour. However, he recalled that once the leadership had been given at the federal level, it was then necessary to ensure that action was taken in practice at the levels of the states and territories. It was also necessary to ensure that, when programmes were carried out, their impact was reviewed and corrective action was taken with a view to improving them. In view of the magnitude of the problem and its dependency on the issues of poverty and landlessness, it had not been possible to take effective action against bonded labour at an early stage. He emphasized in this respect that even those workers who were engaged in bonded labour had little idea of how to free themselves from their predicament. Indeed, those who had been freed from bonded labour as a result of government programmes might even relapse into bondage once again. While it was difficult to gain an accurate picture of the numbers of lapsed bonded labourers, he said that an effort would be made to find out.

Finally, he informed the Committee that both Conventions Nos. 138 and 182 were under examination with a view to their ratification. The ratification procedure for Convention No. 182 was nearing completion. With regard to Convention No. 138, he noted that there was no legislation on the minimum age for admission to employment throughout the country. Efforts were now being made to develop such legislation establishing a minimum age of 14 years for admission to employment, and 18 years for arduous work, which would be applicable in the entire country. He hoped that Convention No. 138 would be ratified once satisfactory compliance had been achieved through the proposed legislation.

Another Employer member of India stated that the difficulties experienced in eliminating child and bonded labour were not the result of a lack of political will. Nevertheless, it might be beneficial for the Committee to keep up and even increase the pressure on the Government to take effective action. Even so, it should not be thought that the problems could be eliminated overnight by edict or statute, which would merely tend to make them go underground. He encouraged the Committee to show patience and to give the Government and the social partners in India a chance to address the problem effectively.

The Worker members thanked the Government representative for the information provided. They noted that they had raised a number of questions with a view to helping the Government address the issues raised by the Committee of Experts more effectively. They welcomed the news that the ratification of Conventions Nos. 138 and 182 was under consideration. They continued to urge the Government to take the necessary measures to eradicate the problem of child forced labour and called for more international support, including funding from international agencies. With regard to the issue of the disputed figures concerning bonded labour, they noted that different methods had been used by the Government and the other organizations responsible for carrying out surveys. They therefore agreed with the comments made by the Committee of Experts concerning the vital importance of accurate data and urged the Government to undertake the necessary surveys based on agreed statistical methodologies. They emphasized that the statistics produced were not mere numbers, but concerned human beings, and that it was essential to know how many were involved before effective action could be taken. Finally, with respect to the concerns addressed by the Committee of Experts, they recalled that the Government had ratified the Convention and was required to meet the obligations deriving from it.

The Employer members acknowledged that the Government had devoted a lot of time and resources to addressing the problems of bonded and child labour. They urged it not to adopt a defensive attitude with regard to the appeal that had been made to evaluate the effectiveness of the action which had been taken. This should be regarded as an opportunity to improve the efficiency and effectiveness of the means adopted to combat the problems.

The Committee took note of the extensive information supplied by the Government representative and of the discussion which ensued. It noted with regret that 20 years after the adoption of the Bonded Labour System (Abolition) Act, 1976, bonded labour still existed in the country. This case had been discussed in this Committee eight times over the past 15 years, but insufficient progress towards full compliance with the provisions of the Convention had been achieved. While noting the Government's initiatives to eradicate bonded labour throughout the country, and the difficulty of assembling fully reliable data, the Committee expressed concern about the disparity of statistics over the years and urged the Government to undertake a comprehensive and authoritative survey. The Committee noted the Government's commitment to eliminate child labour, in particular forced child labour, but noted that many children continued to live in bondage and other forms of compulsory child labour. It urged the Government to step up its activities. It called upon the Government to provide legal protection, in particular to children working in the unorganized sectors, i.e. in small-scale units not covered by the Factories Act, 1948. As regards prostitution and sexual exploitation of children, the Committee noted the existence of legislation on the subject, but urged the Government to continue to take practical action to eliminate it, including the development of reliable statistics in this regard. The Committee expressed the firm hope that the next government report to the Committee of Experts would describe in detail the action taken in cooperation with non-governmental organizations, and at national, state and local levels, as well as the progress achieved and the number of prosecutions for violations of existing laws, so that full application of the Convention, in law and in practice, could be not-

ed in the near future. The Committee urged the Government in particular to provide an assessment of the effectiveness of the various measures put into place to combat forced and compulsory labour.

Sudan (ratification: 1957). A Government representative of Sudan stated that he had not believed that this case would be selected to be heard before the Committee. He recalled that the report of the Committee of Experts had contained numerous positive comments on progress in the situation in Sudan, and it indicated his Government's willingness to comply with the recommendations of the report and to provide further information. He also noted that slavery and forced labour were against the cultural values and heritage of his country and illegal under Sudanese law and the Constitution. He further recalled the General Assembly resolution of this year which had made no mention of slavery and acknowledged that abductions occurred in the context of the civil war. He therefore emphasized that the matters raised in the report originated in the armed conflict currently raging in Sudan. Turning to government efforts to combat forced labour and slavery, he recalled the Decree of May 1999 which established the Committee for the Eradication of Abduction of Women and Children (CEAWC). This body had the full powers and mandate to seek the safe return of abducted women and children, investigate reports of abduction, prosecute perpetrators, and develop means to eliminate practices related to forced labour. He noted that the work of the CEAWC had resulted in the resolution of 1,230 cases of abduction and had returned 1,258 abducted persons back to their families. Further fact-finding missions, shelters for victims of abductions, and the establishment of outposts in affected areas were planned in the year 2000. In closing, he recalled that the United Nations Commission on Human Rights had expressed satisfaction last April with the situation in Sudan. He stated that the CEAWC would continue to operate and consult with international organizations in order to address the issues raised in the report. He emphasized, nonetheless, that the clear cause of abductions was the civil war and that the Government was using all means at its disposal to bring this conflict to an end.

The Worker members were deeply concerned by the need to comment yet again on the application of this Convention in Sudan. The case had already been the subject of special paragraphs in 1992, 1993, 1997 and 1998. The comments by the Committee of Experts and the statements of the Government representative gave no sign, despite some meek initiatives, of genuine progress towards the abolition of forced labour and slavery in the country. The Committee of Experts examined allegations of abductions and trafficking of women and children, enslavement, and forcible induction of children into rebel armed forces. According to consistent and reliable sources, such practices were still going on in Sudan. The last communication sent to the Committee of Experts by ICFTU contained detailed information on specific cases of abductions, enslavement, sexual abuse, forced conversions to Islam, and forced labour involving women and children in various parts of southern Sudan.

According to a report drawn up by the UN Special Rapporteur on the situation of human rights in Sudan following a visit to the country in February 1999, Mujahideen militia "... systematically raid villages, torch houses, steal cattle, kill men and capture women and children as war booty. Often, abducted women and children are taken up to the north and remain in the possession of the captors or other persons". What made this case even more serious was mounting evidence of direct government involvement in these activities. The Committee of Experts noted in this regard that the UN Special Rapporteur had also raised the problem of involvement by allies, and even troops, of the Government in forced labour and slavery. The communication before the Committee of Experts referred to testimony and other information on how the Government encouraged abductions by arming militias and how the police failed to act on complaints of alleged abduction. As UNICEF recently pointed out, there was irrefutable proof of various forms of slavery being practised in Sudan. Moreover, all of the facts reported over the past several years by various United Nations agencies and by independent non-governmental organizations pointed to continuing abductions of women and children, the systematic practice of slavery and forced labour, and the complicity of troops and allies of the Government.

It should be observed that the attitude of the Government had evolved since the Committee began examining this case. At first, the Government categorically denied the existence of slavery in the country. In 1998, it requested technical assistance, which was to be confined to the supply of vehicles for use by the investigating body. Having lately set up a Committee for the Eradication of Abduction of Women and Children, the Government appeared to have acknowledged the existence of abduction and forced labour in Sudan. However, it was still unwilling to assimilate these practices to slavery. The Government had committed itself to taking action that would allow the abovementioned Committee to carry out its mandate and compile a detailed registry of cases of abduction. Concrete results were expected by mid-September 1999.

The Worker members wanted the Government to submit a copy of the registry together with information on the specific results obtained (names and numbers of families or women and children captured, numbers of arrests made and penalties imposed). The Government's commitment notwithstanding, the Worker members observed that no action had yet been taken to put an end to abductions leading to slavery. For example, the railway between southern Kordofan and Bahr al-Ghazal, which was a key slave route, remained a favoured supply route of government troops and their allies, and the Government had failed to do away with slavery-related activities along it. Slave-taking militias were still being armed by the Government and its troops were still involved in abductions.

To be sure, the work of the Committee for the Eradication of Abduction of Women and Children was a positive step. But there remained a long way to go. Owing to the authorities' involvement in slavery-related practices, vigorous and immediate action was requested of the Government to put a stop to them. In report after report on the application of this Convention the Government had failed to supply the detailed information requested by the Committee of Experts. That information should cover action taken on the ground to end this scourge, the concrete results obtained as a result of such action, statistical data on the number of persons freed, action undertaken with a view to their return home and rehabilitation, and any penalties which may have been imposed for slave-taking, including penalties imposed among troops of the Government and its militia allies. Lastly, the Government should indicate whether it accepted assistance from the Office and notably the visit of a direct contact mission to conduct an unfettered investigation into forced labour and slavery practices throughout the country, as well as any measures taken to halt them.

The Employer members recalled, in similar terms as the Worker members, that this case had been examined by the Committee several times in the past decade. It had been mentioned in special paragraphs on four occasions and had been mentioned twice as a case of continued failure to implement the Convention. They noted that the nature of the comment in the Committee of Experts' report was basically the same as before. The report did, however, contain some information on certain positive developments. The report by the United Nations Special Rapporteur on the situation of human rights in Sudan in February 1999 was less positive however, and contained information regarding some kind of tacit consent by the Government or the army to the continued capture of prisoners who were reduced to slavery unless or until they were redeemed through ransom. Moreover, slavery and slave-like practices continued with abductions and trafficking of women and children. Children were drafted by force into rebel armed forces where they were forced to transport ammunition and supplies. The resolution adopted in April 1999 by the United Nations Human Rights Commission on this subject retained most of the terms used in previous resolutions.

They noted the first report from the Committee on the Eradication of the Abduction of Women and Children, created in May 1999 by the Government, which had reported on various missions and registered cases: in all 1,230 cases had been registered and 358 children had been released. For this year, 22 missions were planned. It was not sufficient, however, only to produce lists of cases; the work should be focused on practical release actions and the implementation of lasting measures to halt the practices at issue and punish those responsible. The Government had to ensure that its troops and allies no longer engaged in these activities. The CEAWC report was silent as to such measures and did not demonstrate an interest in a real change.

Although the present Committee was well aware of the civil strife in Sudan, the Government was responsible for the situation and events which occurred on its territory and it was responsible for the failure to take appropriate action. It was the Government's task to ensure that law and order prevailed and it had to do more to that effect than it had done until now. While the positive developments noted were welcomed, the continued lack of real change was regrettable. With reference to the Committee of Experts' comments, this Committee should note the positive developments, but also emphasize the need for the Government to take concrete action. They agreed with the proposal by the Worker members to recommend a direct contacts mission which should be competent to examine the situation in all regions and provide a report on the overall situation. This case could then be re-evaluated in the light of such a report.

The Worker member of Sudan noted that this case had been discussed several times in the past. Although progress had been recorded by the Committee of Experts, the serious allegations including practices of slavery had been reiterated. He emphasized that claims of slavery were an insult to the Government and it was a stigma for any nation to accept such practices. The developments and improvements noted must be seen in their proper historical and

cultural context. He recalled the particular geographical and demographic configuration of Sudan and the specific situation caused by the coexistence of numerous tribes with different traditions. While this coexistence had traditionally been relatively balanced, external provocations had caused civil strife to erupt resulting in the taking of prisoners and consequential retaliatory measures. The Government had made great efforts to exert its power over the territory and had succeeded in releasing and returning prisoners, including women and children, to their families. He emphasized that war was the cause of the problems, and that it was necessary to address the causes of the problems, which could only be resolved when peace had been restored. He firmly maintained that Islam condemned the use of force and slavery. He strongly urged the Committee to allow the Government to pursue its efforts to remedy the situation.

The Worker member of Turkey expressed his deep regret to have to discuss a case of serious allegations concerning slavery, servitude, the slave trade and forced labour, and government forces and the militia being directly involved in such acts. He would have liked to believe that these practices belonged to the past. He noted that the Government representative of the Sudan had repudiated all the observations by institutions such as the United Nations, Amnesty International and Anti-Slavery International, but these arguments were not convincing. In the reports of these organizations, the observations were substantiated by the names of the victims, by details of the sale of slaves and of redemptions. In one report it was stated that on 10 March 2000 the Popular Defence Forces had raided the villages of Malith and Rup Deir and enslaved 120 people. On 11 March this year, in various other villages 299 persons had been abducted. The number of chattel slaves was estimated to be more than 100,000 in Sudan and, since 1995, 30,021 slaves had been redeemed. The redemption activities were still ongoing. According to reports, the prices of slaves had varied. In 1997 slaves had been redeemed for US$133 or for ten heads of cattle per slave. In March 2000, when 4,968 black African slaves had been freed in the period from 9 to 19 March, the price was 50,000 Sudanese pounds per slave, the equivalent of US$35 or two goats. The slaves redeemed had testified that they had been abducted by the National Islamic Front, mainly by its Popular Defence Force (PDF). There was ample evidence that there were systematic raids of villages, killing of men and abduction of women and children. He noted that if the Government of Sudan had acknowledged any problems such as those alleged and had requested cooperation and support from the international community and the ILO, it would have received it. However, the categorical repudiation of the facts and evidence reported were not conducive to generate such support. He launched an urgent appeal for an immediate halt to these deplorable practices.

The Worker member of the United Kingdom noted that, while the Sudanese authorities had been willing to take action in response to what they acknowledge to be abductions and forced labour, they continued to deny that the cases concerned had involved enslavement or slavery. He recalled that when women and children have been abducted, whether in the course of civil war or as a result of longer term conflict between different communities, and subsequently forced to work, or forced to marry in the community where they were held captive, their treatment constituted an abuse under the terms of the United Nations Conventions on slavery and under ILO Convention No. 29.

He further referred to reports from Sudan that up to 14,000 persons originating from southern Sudan, currently located in Southern Darfur or Southern Kordofan, needed to be reunited with their families. Many of these persons had been abducted from their homes in Bahr al-Ghazal. The Committee for the Eradication of the Abduction of Women and Children (CEAWC), set up by the Government of Sudan in May 1999, was reported to have secured the release of hundreds of women and children held in forced labour. However, no action had yet been taken by the Government of Sudan to end raids in which unarmed civilians were abducted and taken into slavery or forced labour. Nor had the Government provided the resources necessary to ensure that those who were freed were reunited with their families.

Since May 1999, Western charities visiting areas of southern Sudan controlled by the Sudan Peoples Liberation Army (SPLA) had regularly announced the release of groups of women and children described as "redeemed slaves" — that is to say, people who were held in slavery, and for whom an agent had been paid to secure their release. He declared that he shared the view of Anti-Slavery International that the availability of such money could act as an incentive to agents to abduct others or to present individuals as "slaves" who had in fact not been abducted or held in captivity. The Government should ensure that all people held in slavery be liberated; this should not be left to a process of purchase.

It was not known exactly how many people had been released with the CEAWC's assistance. In May this year, a UNICEF information officer in Sudan had reported that 500 children had been traced over the previous year and that 303 children were back with their families. It was estimated that between 5,000 and 10,000 children had been seized since 1983. However, according to unofficial estimates, some 14,000 people in Darfur and Kordofan might have been "abducted" and needed to be reunited with their families. Most were reported to be Dinka women and children. Hundreds had been reported to have been released from the households where they had been kept, but few were reported to have been returned home. The CEAWC had apparently concluded that a significant number preferred to stay where they were, particularly in the case of women who were now married. Furthermore, the processes for securing releases was reported to be particularly complicated in areas inhabited by Baggara Arabs. Some children, whose release had been secured from the Baggara families, for whom they were working, had subsequently been detained by government officials in the absence of adequate plans to arrange their return home. Furthermore, the plans which had been put into effect had been relatively expensive and the CEAWC had launched appeals for very substantial amounts from donors. The Government of Sudan had not yet demonstrated its own willingness to pay these costs. The CEAWC was also reported to have been unwilling to record details of the identities of the households where abducted women and children had been held. This was apparently because of a concern that householders might not cooperate if they feared future attempts to prosecute them.

While the Government might point to real material obstacles for the reuniting of women and children with their families in Bahr al-Ghazal or elsewhere, it was evident that many of these obstacles could be overcome if the Government of Sudan had the will to do so. Similarly, the Government's failure to order an end to all attacks on civilians in towns such as Aweil and Wao meant that it still appeared to be condoning raids and thus facilitating further abductions.

In conclusion, he implored the Committee to keep in mind the appalling facts recorded in this case, in particular the sufferings caused to enslaved children. There was an urgent need for immediate and substantive action on the part of the Government. The Committee should adopt conclusions in the strongest possible terms. Furthermore, given the weakness of tripartism in Sudan, and the total absence of free trade unions able to make their own independent observations free from government intervention, he urged the Committee to recommend a direct contacts mission so that the Conference Committee and the Committee of Experts would have a better chance of verifying the situation.

The Worker member of Sudan declared that the assertions made by the previous speaker regarding trade unionism in Sudan were totally untrue. He emphasized that the Confederation of Sudanese Workers was a freely established and democratically elected trade union. The Arab Labour Organization as well as the Organization of African Trade Unions had been present during the elections and would endorse this fact.

The Government representative thanked the members of the Committee for their comments on the case. He had hoped that the discussion would be fruitful and constructive and would have taken into account the needs and situation of developing countries. In this respect, he emphasized that the statements which had been made concerning slavery in his country were obsolete. The problem under examination concerned the abduction of women and children. The situation was rendered much more complex by the civil strife in the country, as concluded by the United Nations Human Rights Commission. He noted in this respect that the Human Rights Commission had not even considered a special report on the situation in his country this year, but only a note from the secretariat. It was necessary to welcome the new developments in the country, and in particular the establishment of a commission to eradicate the abduction of women and children. His Government therefore welcomed the conclusions of the Human Rights Commission and continued to cooperate with international agencies, including UNICEF and charity organizations, with a view to raising awareness of the real situation and returning persons who had been abducted to their families as soon as possible. The commission which had been established had been given powers to take measures with a view to resolving the problem, and its procedure had been established by law. It was empowered to search for, arrest and bring to trial persons guilty of abduction. At the present time prosecutions were not taking place because confidence needed to be built. This initiative needed to be given the necessary time in order to gain the trust and confidence of the population. If it were placed under too much pressure, it might not achieve the desired results.

He also referred to various initiatives which had been taken, including the holding of a meeting to discuss issues in Sudan and to provide those concerned with all the necessary information. The Government's commitment to transparency was also demonstrated by the publication of press communiqués issuing the figures for the numbers of persons abducted and for those who had been returned

to their families. With regard to the reference made by one speaker to the railroad linking the north and the south of his country, he emphasized that it was the lifeblood of the Sudanese people and linked those in the south of the country with both the north of Sudan and the rest of the world. He refuted any suggestion that it had been constructed for the practice of slavery and reaffirmed that its purpose had been to facilitate progress and development in south Sudan. In conclusion, he undertook to cooperate with the Conference Committee and the Committee of Experts in providing all the information requested. He emphasized the need to develop suitable machinery to address the problems in cooperation with the international community and in compliance with his national Constitution and beliefs.

Another Government representative, the Minister of Manpower and Development, added that the statements made by the members of the Committee had been extremely dramatic, but had not taken into account the progress that was being made. He emphasized that as many as 70 per cent of the southern Sudanese lived in the north of the country or in areas which were under rebel control. Many of the alarmist reports were concocted by the rebels to place his Government in a bad light. It needed to be taken into account that 30 per cent of the Sudanese army was composed of persons from the south of the country, who would certainly not allow their own kinsmen to be enslaved. He did not deny that excesses were committed in certain conflict-affected areas. Before the outbreak of the war, the Government had taken security measures to ensure that such practices did not occur. However, since 1983, the situation had deteriorated. Citing once again the report of the United Nations Human Rights Commission, he emphasized that his Government stood for openness and transparency and for this reason had welcomed many parliamentary delegations to the country to observe the situation for themselves.

In response to a proposal that the Government should invite a direct contacts mission to come to Sudan he stated that his country welcomed any initiative by the ILO to address the issue. He proposed that discussions should be held with the higher authorities of the ILO with a view to arranging a visit in the future.

The Worker members stated that according to converging and reliable sources, the practices of the abduction and trafficking of women and children still persisted in Sudan. They considered that the argument of the Government, attributing this situation to the civil war, could not be accepted and they completely rejected it. Even if civil war could have an influence on these practices, in no case could it justify slavery or similar practices on the national territory and even less in the areas which were controlled by the Government. The case was even more serious as there seemed to be an active involvement of governmental and allied troops in these practices.

The Worker members welcomed the creation of the Sudanese Committee for the Eradication of Abduction of Women and Children (CEAWC). They noted certain positive initiatives which had already been taken by this Committee, especially the establishment of registries to take a census of the cases of identified abductions and the cases of the return of the victims to their families. However, the CEAWC also had the obligation under its mandate to proceed to the prosecution and arrest of those responsible for these acts. Yet, it seemed that up to now no prosecutions had been undertaken, even though many reports prepared by United Nations bodies and by independent NGOs revealed the involvement of governmental and allied troops.

The Worker members considered that, given the extreme gravity of this case and taking into account the timidity of the initiatives taken by the Government, as well as the lack of precision and clarity in its replies to the Committee of Experts and to the Conference Committee, they wished to make the following proposals to the Committee. First, that a very strong conclusion would be adopted. Second, that the Government be requested to provide all the requested details to the Committee of Experts. Third, taking into consideration that, according to the answer of the Government representative to the Committee, the Government would be ready to accept an ILO direct contacts mission, they hoped that such a mission would be sent to Sudan in order to investigate the practices of slavery and forced labour on Sudanese territory and that it would establish contacts with all those concerned by these problems.

To conclude, the Worker members detected in the last phrase of the Minister of Manpower and Development a positive element demonstrating a willingness for openness and wanted to know if the Government would in fact accept an ILO direct contacts mission.

The Employer members noted that discussion in the Committee had not yielded any new information and had been focused on facts which were basically known to the Committee. They also noted the explanations provided by the Government representative concerning Article 25 of the Convention, which had apparently not been invoked for political reasons. They added that the Government representative had not provided a positive response to the question of whether it would be prepared to receive a direct contacts mission. A direct contacts mission could perhaps bring this case forward, but such a mission depended on cooperation by the Government.

The Committee noted the information supplied by the Government representatives, including information on recent measures to release persons who had been abducted, and the detailed discussion which took place thereafter. The Committee noted that this was a particularly serious and longstanding case affecting fundamental human rights, as witnessed by its inclusion in a special paragraph in 1997 and 1998, and the fact that comments had been received from workers' organizations. The Committee noted the positive measures taken by the Government, including the establishment of the Committee for the Eradication of the Abduction of Women and Children. Nevertheless, it expressed its deep concern at continuing reports of abductions and slavery and urged the Government to pursue its efforts with vigour. It understood that the situation was exacerbated by the continuing civil conflict and noted the measures taken to reach a settlement. The Committee expressed the firm hope that the Government's next report to the Committee of Experts would indicate that measures had been taken, including punishment of those responsible, and that concrete results had been obtained, so that the full application of the Convention, in law and in practice, could be noted in the very near future. The Committee strongly recommended that a direct contacts mission be undertaken by the Office to obtain full factual information and to examine effective assistance to the Government in this respect. The Committee regretted that the Government had not accepted the proposal to invite a direct contacts mission. The Committee decided that its conclusions would be placed in a special paragraph of its report.

The Government representative stated his objection to the use of the word "slavery" in the Committee's conclusions. The last report of the United Nations Special Rapporteur had only used the term "abduction". He also stated that he had not rejected the idea of a direct contacts mission, but had only stated conditions for arranging it.

United Kingdom (ratification: 1931). A Government representative indicated that his Government fully supported Convention No. 29, and took the Committee of Experts' observations very seriously. The issue of work in prisons was discussed at length by the Committee last year when it considered individual cases under Convention No. 29. A key point that emerged at those discussions was the complexity surrounding the interpretation of some aspects of the Convention, drafted in the 1930s, in a contemporary setting, particularly in the context of public and private sector partnerships. Another important point was that the concept of work for prisoners had changed. Whereas it might previously have had a punitive element, work for prisoners in the United Kingdom and other countries was now, like education and training, considered to be a crucial factor in their rehabilitation and re-entry into society. Indeed, under the United Nations Minimum Rules, prisoners were required to work as part of their rehabilitation and preparation for release. In recognition of the complex issues surrounding this debate, a number of delegates who spoke at last year's meeting of the Committee on the Application of Standards felt strongly that a new General Survey on forced labour was needed before the issue could be evaluated and given the full consideration it merited.

His Government had noted the observations made by the Committee of Experts in respect of work performed by prisoners in either prisons or workshops, either of which had been contracted out. His Government understood the Committee of Experts' concerns, but believed that it had in place adequate measures to ensure that prisoners who worked in these situations were not exploited and that they did not engage in forced or compulsory labour. The objectives of the United Kingdom Prison Service were to protect the public by holding those committed by the courts in a safe, decent and healthy environment; and to reduce crime by providing constructive regimes which addressed offending behaviour, improved educational and work skills and promoted law-abiding behaviour in custody and after release. Prisoners were encouraged to acquire work habits, attitudes and skills, together with exposure to modern industrial practice, which would better equip them to return to society as law-abiding citizens. Prison regimes, whether run by the public sector or, in a few cases, contracted out to the private sector, provided similar programmes to address offending behaviour, as well as education, training and employment opportunities for prisoners. The provision of a number of different types of work was intended to enable many prisoners to have, often for the first time, modern work experience prior to their return to society. The value of work programmes offering relevant and realistic training was that they prepared prisoners for employment on release; there were well-established links between unemployment and crime. A study had shown that prisoners who had been involved in work programmes had a lower arrest rate than a matched group who had not. Re-

search had also shown that vocational training courses applied to a targeted group of prisoners could lead to a reduction in reconviction rates.

Finding suitable work for prisoners was difficult. It needed to correspond to individuals with a range of abilities. The growing experience of prison services was that the best way to find suitable work for prisoners was to contract with private companies, and the United Kingdom ensured that suitable safeguards were in place to stop the exploitation of prisoners. These arrangements had practical benefits. They increased the amount and range of work for prisoners and provided a more realistic work experience for prisoners which contributed to a sense of achievement and self-esteem and helped break down barriers against the employment of ex-offenders.

A small number of United Kingdom prisons were managed under contract with private sector companies. These prisons — nine out of a total of 137 — were required to conform to the same policies and to meet the same standards as publicly managed prisons. They were subject to the same regimes of independent inspection. They were required to meet the same standards and conditions of work as those for prisoners in public sector prisons. Prisoners working in either contracted-out prisons or workshops did so under the same conditions as those working in public sector prisons. Contractually managed prisons were obliged to comply with all legal health and safety requirements.

No prisoner — whether in a publicly run, or privatized prison or workshop — was placed at the disposal of private company employers. While private sector companies might supervise the work on a day-to-day basis, the prisoner remained under the ultimate care and control of Prison Service officials. Prisoners received pay for the work they did. Wages were paid to prisoners by the prison and not by the private company providing the work.

The Government considered that its present policies for the employment of prisoners conformed with the requirements of the Convention and were in the best interests of prisoners. His Government believed that the work or service was carried out under the supervision and control of a public authority and that the persons concerned were not hired out or placed at the disposal of private individuals, companies or associations. In his Government's view, there was no alternative to its present policies which would not severely reduce the volume and quality of work available to prisoners, to their direct disadvantage and to the wider detriment of its objectives of rehabilitation. The Government continued to believe that the provision of suitable work opportunities for prisoners, including by private companies under the supervision of the Prison Service, was in line with the general aims and objectives of the Convention and other good practices, such as the European Prison Rules and United Nations Minimum Standards.

In his Government's view, it was clear from last year's discussions before the Conference Committee that the principle of prison labour needed to be given further and wider consideration. The speaker was pleased to note that the Committee of Experts had recognized that this was a very important issue which merited fresh attention. His Government intended to address the matter in its next report in the light of responses to last year's general observations. As the United Kingdom had made clear in the general discussion, it intended to participate fully in those discussions. In the meantime, his Government looked forward to continuing to discuss the issue with its social partners. The United Kingdom would also continue to supply information to the Committee of Experts through its next report on the application of Convention No. 29 and would respond in full to the direct request.

The Employer members noted, with regard to the Committee of Experts' comments concerning the United Kingdom, that the provisions in respect of overseas domestic workers had been amended and that there had been improvement in this area. However, the question of its practical application remained and the Employer members asked the Government to supply information in its next report on the impact of the new legislation. With regard to the issue of prisoners working for private companies, they noted that the Committee of Experts did not see a problem with the Government's practice of having prisoners work on pre-release schemes where the voluntary consent of the person concerned was obtained and there were further guarantees and safeguards covering the essential elements of a labour relationship to remove the employment from the scope of Article 2(c).

Turning to paragraph 4 of the Committee of Experts' comments regarding prisoners in outside employment, the Employer members noted that this situation did not exist when the Convention was adopted in 1930. Therefore, the Committee of Experts may not have had this situation in mind. It might be addressed under Article 2(c) of the Convention, which provided that a person convicted by a court could be required to work under two conditions. First, the work or service must be carried out under the supervision and control of the public authority and, secondly, the prisoner could not be hired to or placed at the disposal of private individuals, companies or associations. If this case was to be addressed under the provision mentioned, these two conditions must be met. In the case before the Committee, the conclusion could be drawn that the Convention was not violated as long as the prisoner remained under the supervision and control of a public authority and was not placed under the complete authority of private companies. They noted, however, that the Committee of Experts' interpretation followed the strict wording of the Convention in this regard. The Employer members then raised the question of the conditions under which prisoners could work and disagreed that prisoners working for private companies should be subject to the same employment conditions prevailing on the free labour market, pointing out that the Convention was silent on this point with regard to outside prison labour. However, it was well established that prisoners were not as productive as other workers and the risk of harm or damage was higher. Because of these conditions, prisons did not receive much work from outside employers and therefore went out to seek out employment for prisoners in private enterprises. The Employer members believed that it was important for prisoners to perform meaningful work which would allow them to be reintegrated into society and help prevent recidivism. Such work helped the prisoner to acquire employment-related skills as well as the opportunity to receive an income. In conclusion, they indicated that a broader approach to this issue should be taken by the Committee. Noting that the Convention was drafted before the issue of private prison labour arose, they asserted that it was necessary to look at the benefit to society as well as to the prisoner. The public authorities must retain supervision and control over the prisoners and determine the conditions under which a prisoner would carry out work for a private company. While the Conference Committee had discussed this issue for some time, the dialogue should be continued and more attention should be paid to this growing practice.

The Worker members noted that greater attention had been devoted by the Committee of Experts and the Conference Committee in recent years to the issue of prisoners working for private companies, and a dramatic increase in the practice had been noted. The Committee of Experts had again commented on Convention No. 29 with regard to the United Kingdom. However, it had also commented on the use of private prison labour in Cameroon. Therefore, there was an emerging jurisprudence on private prison labour which would be strengthened next year when the Committee of Experts would again address the issue of prisoners being "hired to or placed at the disposal of private individuals, companies or associations". Moreover, next year's Global Report would focus on Conventions Nos. 29 and 105, which might provide yet another opportunity to focus on the exploitation of private prison labour. The Worker members welcomed the increased attention being devoted to this growing global practice and considered the Committee of Experts' efforts to clarify the provisions of the Convention as an example of the ability of the supervisory machinery to apply a Convention adopted over 70 years ago to new developments and modern circumstances.

The Worker members recalled that private prison labour was clearly prohibited under Article 2(2)(c) of the Convention. However, in an attempt to accommodate what was increasingly seen as a positive prisoner rehabilitation practice, namely the voluntary acceptance of work outside a prison by prisoners scheduled for release to ease their transition back into society, the Committee of Experts had interpreted the Convention to provide for circumstances under which such pre-release schemes would be consistent with Article 2(2)(c). While the Committee of Experts was regularly accused of over-interpretation, the Worker members felt that a number of governments and the Employer members would like the Committee of Experts to provide even more interpretation to accommodate this growing practice. In this regard, the Committee of Experts had consistently stated that work for private companies could be compatible with Article 2(2)(c) only where prisoners worked in conditions approximating a free employment relationship. This necessarily required the voluntary consent of the prisoner as well as further guarantees and safeguards covering the essential elements of an employment relationship. The Worker members expected the Committee of Experts to reaffirm these basic principles in its General Survey next year. They emphasized the importance of having the Conference Committee review the situation in both developed and developing countries to reinforce one of the ILO's fundamental principles, that the Conventions, particularly the core labour standards, applied equally to all countries that had ratified them. They cautioned that there must never be any question of a double standard in the application of standards for the supervisory machinery to work effectively. Noting that the Committee of Experts had addressed the situation of the United Kingdom for the past three years, the Worker members focused on two areas of concern: domestic workers from abroad and prisoners working for private companies. Regarding the former, they noted the Govern-

ment's comments in the Committee of Experts' report and before the Conference Committee concerning the implementation of new rules adopted in 1998 protecting domestic workers. Noting that overseas domestic workers were especially vulnerable to abuse and exploitation, they requested the Government to continue to provide updated information to the Committee of Experts on the effectiveness of these new rules.

Turning to the issue of prisoners working for private companies, they noted that the Committee of Experts' comments addressed outside employment as well as contracted-out prisons and prison industries. The Committee of Experts' comments indicated that prisoners employed outside prisons were subject to income tax and national insurance contributions from the wages they received. The Government had stated that it was prison service policy that such arrangements did not give an unfair competitive advantage to enterprises employing prisoners and must not treat prisoners less favourably than other workers in comparable employment. Therefore, it should be easy for the Government to include prisoners under the national minimum wage laws as requested by the Committee of Experts. With regard to contracted-out prisons and prison industries, the Committee of Experts was absolutely clear in paragraph 8 of its comments that, even if a prisoner remained under the supervision and control of the public authority, this did not dispense with the requirements of Article 2(2)(c). The prisoner must freely consent to the work and the work must be performed under normal conditions regarding wage levels, social security and other safeguards. The Worker members noted the Government's statement in paragraph 12 of the Committee of Experts' comments that most of the work undertaken in prisons involving external contractors "is labour-intensive and if done externally could not be done economically. In the absence of prisons taking on the work, it is likely that the processes would be automated or taken abroad". This situation was not unique to the United Kingdom. They requested more information on the Government's views that private prison labour was the only way for the country's economy to produce needed goods and services that the market failed to provide and that the exploitation of private prison labour was a way for developed countries to compete with the lower labour costs in developing countries.

In conclusion, the Worker members emphasized that they were not opposed to effective rehabilitation of prisoners, and favoured giving them greater work, education and training opportunities. However, they found it objectionable that, in the United Kingdom and a growing number of countries worldwide, private companies could exploit prison labour by legally employing prisoners at wages far below the minimum wage. Apparently, the motive for such exploitation was not rehabilitation but profit. This practice was in clear violation of the Convention and could not be tolerated. The Committee of Experts had made it clear that the growing practice of prisoners working for private companies could in fact be consistent with the provisions of the Convention. Therefore, the Worker members called for the Government to take all the necessary steps to establish the circumstances which would allow prisoners to work in conditions approximating a free employment relationship, as required by the Convention. Ending the exemption relieving private companies of the obligation to pay the minimum wage to prisoners would be a good beginning. However, on a more fundamental level, the Worker members requested the Government to create a legal framework for the establishment of a direct contractual employment relationship between the company and the prisoner.

The Employer member of the United Kingdom supported two points made by the Government representative. First, the current policies relating to private prisons were in conformity with the Convention. Second, there were no realistic alternatives to the current policies which would not severely reduce the volume and quality of the work available to prisoners. She also supported the continued ability of private companies to contract with public authorities for the management of prisons. However, this did not mean that British employers supported the exploitation of prison workers. They fully supported the aim of this fundamental Convention. It was clear from Article 2(2)(c) of the Convention that, where a prisoner was required to work, the Government needed to show that the work was: (1) carried out under the supervision and control of a public authority; and (2) that the person was not hired to or placed at the disposal of private individuals, companies or associations. There was no violation of the Convention because the public authority vetted work given to prisoners and therefore had ultimate control and supervision over the provision of work under the contract, although the private company had a day-to-day supervisory function. Moreover, the contractual arrangements were not comparable to what would normally be regarded as a hiring arrangement because, if they were comparable, then the private company would be paying the public authority as providers of the prisoners' services. This was clearly not the case, since the roles here were reversed. In addition, prisoners were not at the disposal of private companies because the companies did not have absolute discretion over the type of work that they could request the prisoner to do. Companies could only ask prisoners to perform tasks that they could be required to do in a public prison, such as rehabilitative work and duties within the prison. Private companies running private prisons were therefore simply agents of the public authority and were limited by the rules set by that authority.

If the United Kingdom were in violation simply because there was no direct supervision and control, then the Government was left with only one option — to show that the work done in prisons was not in fact forced or compulsory pursuant to Article 2(1). She pointed out that the Committee of Experts had previously held that private companies could require prisoners to carry out work under the Prison Rules under the terms of their contract with the public authority. It had also found that work done by a prisoner for a private individual — whether under a contracting-out scheme or work for a private enterprise brought into a public prison — could only be considered to be done voluntarily if the relationship with the private company were in conditions approximating free employment. The Committee of Experts had therefore requested that the Government implement legislation requiring private companies to pay the national minimum wage, execute an employment contract with the prisoner and provide other employment-related benefits. She submitted that this was not the only conclusion that could be supported under the provisions of the Convention. She considered that there was no need for a prisoner to have a normal employment relationship with the private company to ensure that the prisoner had given true and genuine consent. Article 2(1) only required the person to have offered himself voluntarily and without threat of a penalty. She pointed out that while there might be many reasons to volunteer, this did not detract from the fact of voluntary consent. The objectives of a voluntary relationship could be achieved by introducing a condition preventing a private company from requiring prisoners to do the work and from imposing a penalty if they did not work. This would remove any work done within private prisons from the definition of forced or compulsory labour. While this would not be a realistic option given the United Nations Minimum Rules, the speaker invited the Committee of Experts to explore alternative approaches if it remained convinced that the United Kingdom was not complying with the Convention. If a contract of employment between the prisoner and the private company were deemed necessary, a range of employment protection legislation would apply. She did not consider this to be appropriate since prisoners were disenfranchised and it was unrealistic to compare their circumstances to those of persons in free society. She hoped that she had identified areas for further discussion before definitive conclusions were reached regarding the issue of contracted-out prisons and welcomed the general discussion on this subject to be held next year following publication of the Global Report.

The Worker member of the United Kingdom first turned to the part of the Committee of Experts' comments regarding domestic workers from abroad, noting that some welcome progress had been made, but that room for improvement remained. He described a meeting between Kalayaan, the organization representing overseas domestic workers, and the Immigration Minister of the Home Office to address problems facing domestic workers previously admitted to the country who had left their original employer due to abuse or exploitation. The Government had made certain arrangements to improve the situation of these workers and the Home Office had conformed to the points agreed upon. However, Kalayaan had recently expressed concern to the Immigration Minister regarding three cases refused because of their submission following the deadline for regularization applications, cases that the Home Office had agreed to consider on their merits. He hoped that those cases as well as the issue of post-deadline submissions were being reconsidered. However, the underlying problem, which still appeared to be unresolved, was that the de facto employment relationship under which the domestic worker was admitted to the United Kingdom was not recognized under British law, so that normal legal employment protections did not attach. He considered that the unequivocal recognition of this relationship would represent a significant step forward.

Turning to the issue of prison labour, he noted that the Worker members had already reacquainted the Committee with the basic issues in the case. He stressed that the requirements of the Convention as set forth in Article 2(2)(c) were as clear in 1930 as they were today. In so far as circumstances relevant to the operation of prisons in ratifying States had changed, he considered that the Committee of Experts had responded correctly and had established clear jurisprudence. He noted that the Worker members had referred to the case of the GCHQ and recalled the persistent refusal of the previous Government of the United Kingdom to accept the authority of the Committee of Experts, or indeed of the Conference Committee. He referred to information supplied by his trade union to the Committee of Experts in connection with this case, which consisted of first-hand research undertaken last summer. The results of the

research were then compared with the Convention's requirements and the Committee of Experts' findings. The research was carried out following a meeting in December 1998, when TUC officials and the General Secretary of the Prison Officers' Association met with the then Prisons Minister to discuss the divergence between law and practice in the United Kingdom and the requirements of the Convention. The Minister had invited them to visit both privately run prisons and state-run prisons to talk to prisoners and prison managers about work for private companies. Last August, the speaker had visited three prisons: a state-run remand prison for young women; a state-run open prison for men; and a contracted-out (privately run) local male prison. He spoke to prisoners in all three prisons and in two of them, including the privately run prison, he spoke to prisoners working for private companies which had contracted work to the prisons. The governor of the open prison supplied valuable information on pre-release schemes and work done inside the prison for private companies. The additional evidence submitted to the Committee of Experts was the result of those visits. He noted that, in light of those reports, the Committee of Experts had repeated its concerns and he hoped that the Government was now quite clear about the divergences between its law and practice and its obligations under the Convention. Unfortunately, the research had found little evidence that current practice met those criteria established by the Committee of Experts regarding conditions approximating to a free employment relationship. During the visits mentioned, he spoke with prisoners working in the prison for private companies from outside and to prisoners in "normal prison work", such as laundry, gardening and kitchen work in the privately run prison. With the two exceptions of the pre-release schemes at the state-run Hewell Grange open prison (which met some criteria required by the Committee of Experts such as minimum wage, social security payments and health and safety training) and of the work performed in state-run prisons (which was in most cases supervised by prison staff), none of the other types of work met any of the criteria. In the other cases, particularly in the privately run prison, the contractual relationship was only between the prison and the outside company; there was no contract between the prisoner and the company. Moreover, the prisoners were under the supervision of employees of the outside company or of the United Kingdom Detention Services (UKDS), the private company which ran the prisons, not of state employees.

The speaker stressed that the issue of whether the prisoner had given genuine and free consent to work should be viewed in light of certain factors. First, while the prisoners he spoke with had expressed a preference to work and none objected to working for an outside company, he noted that rules requiring convicted prisoners to work were in force, including in contracted-out prisons, and a prisoner refusing to work would be put on report. Second, neither the minimum wage nor the rate for the job applied, either in work for outside companies or in normal prison work done for UKDS. No prisoner earned enough to meet the lower earnings level for social security contributions. Given these circumstances, he believed that this case was essentially about preventing exploitation of prisoners by private companies. He gave the example of work involving the refurbishment of small concrete mixers for plant-hire companies. The prison concerned had contracted to supply this service to the company concerned. The work was supervised by UKDS custody officers, an instructor and an employee of the plant-hire company. The management told the speaker that the prisoners were being paid a maximum of £25 for a 35-hour week, while prisoners told him that they received a maximum of £15 per week. He pointed out that the minimum wage in the United Kingdom last year was £126 for a 35-hour week. Accordingly, these prisoners were receiving between 20 and 12 per cent of the legal minimum wage in force outside prisons. The management of the privately run prison had indicated that this work could not be done anywhere else on the free labour market in the United Kingdom because to pay even the legal minimum wage would render the operation unprofitable. In this context, the speaker stressed that, certainly, none of the members of the Committee would accept the arguments of those exploiting child labour that it was proper to pay children starvation wages because otherwise they would have no work, nor would they agree that employers should break the law and fail to pay legal minimum wages to adults. He noted that some processes might indeed be unprofitable if normal wages were paid and explained that these processes were generally referred to as "uneconomic". However, in this case, the work — although he acknowledged that the prisoners derived some satisfaction from it — was unequivocally exploitative. If work could not be performed for proper wages, then perhaps it had no place in the economy.

Turning to the publicly run open prison, he noted that a variety of work was performed in pre-release schemes, while a very small number of prisoners were working inside the prison for private outside companies. In some cases, despite the good intentions of the prison governor, prisoners engaged in a concrete and concrete-mixing training course were working for an outside private company that had a contract with the prison and were receiving £8-10 for a 35-hour working week — only 8 per cent of the minimum wage. While none of these prisoners had expressed the view that they were the victims of undue coercion, he believed that there was no genuine free consent in their situation and that they were clearly victims of exploitation. With regard to "normal prison work" being performed inside the privately run prison, he noted that this was work done for and under the supervision of a private company. He recalled that this was why the Committee of Experts had held that the ban on work by prisoners for private companies should apply, a fortiori, to all work performed in private prisons and pointed out that convicted prisoners in the United Kingdom could in fact be required to work whether in a state-run or privately run prison.

In conclusion, he believed that constructive and "decent" work was an essential element in the rehabilitation of prisoners. At Hewell Grange, pre-release schemes were in fact approximating the requirements of the Committee of Experts and he considered such schemes useful to facilitate the reintegration of prisoners into society and the labour market. However, he stressed that, when prisoners were paying their debt to society, society should be represented by the State, not by the shareholders of private companies. However humane the treatment of working prisoners, they would be potential and often actual victims of exploitation as long as the criteria established by the Committee of Experts were not applied. The speaker agreed with the other Worker members that the obligations arising from ratification of the Convention were the same for the United Kingdom as for any other ratifying State. While he acknowledged that the situation in the United Kingdom did not involve physical mistreatment of prisoners by private companies such as beatings or torture and that some of the work in fact contributed to the prisoners' sense of self-esteem, he nevertheless reminded the Conference Committee that convicted prisoners in the United Kingdom did not have a choice as to whether or not they would work and that, in addition, the requirements of the Committee of Experts were not being met. Weakening the jurisprudence to permit the exploitation of prisoners by private companies could have truly devastating effects in countries where the rule of law was not universally and adequately enforced. He stressed that international law was a seamless tissue and that, if one picked at the stitches, it would fall apart. In this regard, he thanked the Committee of Experts for maintaining its stance that the obligations arising out of ratifying Convention No. 29 were the same for all ratifying States. He requested that the Conference Committee make clear to the United Kingdom its obligations under the Convention. Stressing his belief that the problems were not insurmountable but required political will, he welcomed the prospect of future discussions and hoped that the Government would uphold its obligations and demonstrate its commitment to the rule of international law, particularly in regard to fundamental human rights.

The Government member of Australia made it clear that Australia strongly supported Convention No. 29 as one of the ILO's core standards. He recalled that Australia had been called before the Committee last year with regard to a matter similar to the one for which the United Kingdom Government found itself before the Committee this year. At that time, the Australian Government had made substantive submissions on the matter, which could be found in the record of the 87th Session of the Conference. The thrust of those submissions was that it was clear from the preparatory reports from 1929 that the situation of the private administration of prisons had not been considered by the Conference in 1929. Rather, the focus of the Convention was the farming out of prisoners to private employers. The Australian Government had also noted at that time that although Convention No. 29 was a self-contained instrument, it was applied against the background of developing international law. He stated that in the supervision of compliance with the Convention, attention should be paid to other human rights instruments dealing with the same issues in the interest of cohesive international jurisprudence. In this regard, he drew the Committee's attention to recent international instruments, including Article 8 of the International Covenant on Civil and Political Rights and the United Nations Minimum Rules for the Treatment of Prisoners. He further recalled that in its conclusions on the Australian case, the Committee had encouraged all governments to reply to the Committee of Experts' general observations on the question of private prison labour. He stated that it was clear that the application of Convention No. 29 was uncertain in modern times, and that Australia was currently reviewing this issue. In this respect, he supported the view expressed by the Government representative raising questions as to the appropriateness of discussing this issue at the Committee at this point in time. This case also had more important and pressing implications for the Committee and for the ILO in general. First, it illustrated the need to ensure that international labour standards and their supervision remained appropriate for a modern economy. He stated that it should not be surprising that the way prison labour was

addressed in 1929 was no longer appropriate today. Secondly, it highlighted the need for a process to review and upgrade any shortcomings in the standards system which were identified in such a manner. The existing process might not be sufficiently expeditious in the consideration of such issues as they were identified. Thirdly, this case raised questions about the appropriateness of the current supervisory machinery, including the practice of publishing country-specific observations when the Committee of Experts itself had expressed uncertainty and intended to examine the matter in a general discussion. He stated that the Australian Government had maintained the view for some time that there was a pressing need to reform the standards system of the ILO, and that this case reinforced that position.

The Worker member of Singapore recalled that according to the report of the Committee of Experts, persons leased under the Prison Rules, 1999, were exempted from the Minimum Wage Act, 1998. In relation to this, the Government representative had stated that its prison policy was to ensure that such arrangements would not give an unfair competitive advantage to those who employed prisoners and that prisoners would not be treated less favourably than other workers in comparable employment. Nevertheless, there was nothing in the report to indicate how this prison service policy was put into practice, and whether in fact prisoners were paid comparable wages and treated fairly. Furthermore, she noted that such prisoners were not free agents with the ability to look for any employment in the labour market. Given the above, it was difficult to understand how such prisoners could be considered to be employed within a free labour relationship. Turning to the question of consent, she recalled that in its comments on the Cameroon case with regard to Convention No. 29, the Committee of Experts had noted that an important element for compliance with Article 2(2)(c) of the Convention was formal consent by persons concerned. She asked whether consent had been secured in the United Kingdom or whether no such consent was required in this particular case. If so, she asked why there was an apparent discrepancy between the conclusions regarding these two cases. In her view, the employment of prisoners under the Prisoner Rules, 1999, was in contravention of Convention No. 29, and she recalled that the objective of the Convention was to prevent the exaction of labour of any person under compulsion. Finally, she noted that there was an important difference between providing skills and training to prisoners and providing cheap labour to industries.

The Government member of Germany noted that prison labour was a particularly sensitive topic in relation to forced labour. On one hand, prisoners were as a rule obliged to work in almost all countries and thus required special protection against exploitation. In this respect, he recalled Article XX(e) of the General Agreement on Tariffs and Trade which provided for trade measures against prison-made goods. On the other hand, he noted that it was recognized in most countries that work was perhaps the most important factor in ensuring the successful reintegration of prisoners into society. Such work could not simply be repetitive and routine work, as was usually found in prisons, but rather work which corresponded to the capabilities of prisoners and to the conditions of the real world of work. Increasingly, such work was found with private employers. He noted that one could not speak of full equality in the relationship between prisoners and other workers since the employer could not choose the individual workers but rather had to accept the entire contingency of prison workers from a particular institution. The question of whether prison labour, as it had developed over many years, still fitted in the discussion of Convention No. 29 had caused the Committee of Experts to request, in its general comments on the Convention last year, governments to respond to a number of questions on the issue. He recalled that the comments of the Committee of Experts on this matter were expected to be discussed at the International Labour Conference in 2001. In this respect, he indicated his understanding for the concerns of the Government representative about examining the particular case of the United Kingdom before the general discussion on this topic. Perhaps it was more appropriate not to draft conclusions on this case and to await the next report of the Committee of Experts, so as not to pre-empt their findings.

The Worker member of the Republic of Korea expressed his support for the comments made by the Worker member of the United Kingdom regarding the universality of international labour standards. He stressed that Convention No. 29 was a fundamental Convention and that there should be no restrictive or flexible interpretation of the standard to take into account the degree of industrial development of a particular country. He called on the Government of the United Kingdom to respect its obligations under the Convention.

The Government member of New Zealand stated that her Government fully supported Convention No. 29. However, she recalled that there would be a wider consideration of this issue in the context of the Global Report next year. She therefore doubted that a long discussion on prison labour with regard to the particular situation in the United Kingdom would be beneficial. She also noted that the Convention had been drafted in the 1930s, a time when private prisons had not existed. As a result the debate on the interpretation of the Convention in the context of the modern world was complex, as had been demonstrated in discussions on the matter in the Committee in recent years. She stated that in view of the uncertainty on how to interpret Article 2(2)(c) with respect to prison labour, further discussion was needed, and she indicated that the Government of New Zealand looked forward to participating in such a discussion following the presentation of the Global Report at the Conference next year.

The Government representative apologized for not mentioning domestic workers in his initial statement. He recalled that new rules had been introduced which allowed domestic workers to make an application to change employer or to apply to regularize their stay in the United Kingdom in cases of abuse or exploitation. Following a meeting between Kalayaan — the organization representing such workers — and the Government, special casework procedures had been introduced to clear the backlog of outstanding applications relating to the new rules. A significant number of cases had been cleared. He also pointed out that Kalayaan and other relevant organizations had been given direct contact to the Government department responsible for domestic worker issues. With regard to prison labour, he expressed his Government's intention to provide full information for the next report and to discuss the case with the social partners. However, he stressed that the issue of private prison labour went beyond the specific case of the United Kingdom and that it should first be discussed in a general context.

The Worker members expressed strong concerns with regard to suggestions made that the Committee's examination of this case should be suspended until the matter had been discussed in the general report or until the publication of the Global Report. They emphasized that the Declaration on Fundamental Principles and Rights at Work and its Follow-up was not a substitute for the regular supervisory machinery of the ILO. The discussion of the Committee should focus on the United Kingdom and encourage the Government to bring its law and practice into conformity with the Convention.

The Employer members, in reaction to a statement by the Worker members that the Employers' position appeared to be calling for an interpretation of a Convention, recalled that their position had always been strictly against the interpretation of Conventions beyond their wording. In this regard, they recalled that the issue of private prisons had not been known and had therefore not been relevant when the Convention had been adopted in 1930. Consequently, the subordination of this matter under the provisions of the Convention was only possible by interpreting Article 2(2)(c) beyond its strict wording. The Employers' position was simply that labour in private prisons could not be discussed in the context of the Convention without engaging in an interpretation of the instrument. Turning to the issue of payment of wages for work performed by prisoners for private companies, they noted that different terms, such as "payment of normal wages", "payment of the appropriate rate for the job" and "minimum payment" had been used in the comments of the Committee of Experts. They recalled that traditional prison work had always been paid at a low rate. Moreover, the Convention contained no provisions in this regard. According to their understanding, the Committee of Experts was of the opinion that payment should be higher than the minimum wage, but lower than wages in the labour market. They further noted that this view was reflected in "comments" of the Committee of Experts, which were not identical to jurisprudence. The Employer members also reiterated their position that employment contracts should be between prisons and enterprises, and not individual prison workers and enterprises. They noted that only in an employment relationship between a prison and an enterprise would the state supervision of the prisoner be guaranteed; this would not be possible in a private employment contract. The relinquishing of a prisoner from his or her legal status under criminal law into a normal employment situation for a few hours a day would be legally difficult. Furthermore, they expressed their agreement with the statement made by the Government member of Germany to the effect that giving prisoners the opportunity to perform meaningful work was an important element in the successful reintegration of prisoners into society. They agreed that there were important differences between normal and prison labour and that each needed to be treated differently with regard to their respective legal consequences. Finally, they recalled that the Committee had a mandate to draw its own conclusions, which might vary considerably from the views of the Committee of Experts. In this respect, the different views which had been expressed on the issue during the discussion should be reflected in the Committee's conclusions.

The Committee noted the information provided by the Government representative, as well as the discussion that ensued in the

Committee. It also noted that a detailed report had been submitted for examination by the Committee of Experts. The Committee asked the Government to provide further information on the Committee of Experts' observation concerning domestic workers from abroad. As concerned prisoners working for private companies, the Committee took note of the different points of view expressed within the Committee. The Committee hoped that the Government would continue to examine whether prisoners released on a daily basis to work in the free labour market should be covered by normal minimum wage legislation. As regarded prisons and prison industries "contracted out" to a private company, the Committee noted that the Committee of Experts would be examining this issue in detail at its next session. It hoped that the Government would continue to examine measures in law and in practice to ensure that, when prisoners were required to work, this would be carried out in conformity with the Convention.

Convention No. 81: Labour Inspection, 1947 [and Protocol, 1995]

Mauritania (ratification: 1963). A Government representative of Mauritania declared that his country had undertaken a series of legislative reforms, including the adoption of framework legislation regarding civil servants in 1993. This legislation required the adoption of regulations. The regulations respecting civil servants should be adopted this year. As civil servants, labour inspectors would be covered by these regulations. Furthermore, he noted that the draft regulations elaborated in 1985 with ILO assistance on the status of labour inspectors were no longer up to date. In this context, he requested assistance from the ILO with a view to modernizing the 1985 draft. He also referred to a project to redynamize the labour administration, for which he also requested technical assistance from the ILO with a view to bringing it up to date and implementing it.

The Employer members thanked the Government representative for his brief statement on this serious case of failure to observe the Convention. Even though the Conference Committee had not examined the case since 1986, the Committee of Experts had continued to raise the issues. The Employer members regretted to note that the draft regulations respecting the conditions of employment of labour inspectors which had been drawn up with ILO assistance over 30 years ago had still not been implemented and that the last report submitted by the Government in September 1998 had been identical to the one submitted the previous year. This meant in practice that no new report had been supplied which constituted an obvious failure to reply to the comments of the Committee of Experts. The Employer members emphasized that the provisions respecting labour inspection were fundamental to the whole of the ILO's supervisory system. Only through the information provided by labour inspectorates was it possible for governments to know the actual situation with regard to the application of labour legislation in practice. It was evident that the Government had to submit the annual reports of the labour inspectorate as a basis for the assessment by the Committee of Experts of the application of the Convention. The absence of such reports in the case of Mauritania was indicative of the absence of a functioning labour inspection system. The Convention was therefore clearly not being observed. Indeed, it was only possible to apply the specific provisions of the Convention if adequate numbers of properly trained staff were available and employed on a permanent basis, as provided for by the Convention. In practice, there would appear to be hardly any labour inspection system at all in the country. If the Government required technical assistance, this would be unlikely to concern the provisions of the Convention, which were not in themselves difficult to understand. In fact, it was more likely that for financial reasons the Government had found it difficult to set up a labour inspection system. However, it was not the role of the ILO to recruit, train and pay labour inspectors. The Employer members re-emphasized that, through its ratification of the Convention in 1963, the Government of Mauritania had undertaken to establish and maintain a labour inspection system, but that there were serious shortcomings in its implementation of this commitment. Perhaps the Conference Committee should have examined the question at an earlier date. The Employer members called upon the Government representative to provide details of the type of labour inspection system which existed in the country, including its staffing levels, the regularity of inspection visits, the date on which the last annual report on the activities of the inspection services had been issued and the regularity with which such reports were published. In other words, more detail was required on the everyday practice of labour inspection in the country, and indeed on the question of whether it actually existed at all in practice.

The Worker members recalled that, even though this case had not been discussed by the Conference Committee for a number of years, the Committee of Experts had made observations in its reports on five occasions in the course of the 1990s. They emphasized the fact that Convention No. 81 was considered to be a "priority" Convention due to its importance for the standard-setting system of the ILO, as well as for national law and practice. Labour inspection was in fact essential to control the application in practice of labour regulations. In order to ensure that labour inspection was carried out in an appropriate manner, Article 6 of the Convention provided that labour inspectors had to enjoy a status and conditions of service such as to assure them of stability of employment and make them independent of changes of government and of improper external influence. When it had been found that this provision was not applied in Mauritania, draft regulations had been drawn up more than 30 years ago with ILO assistance to bring the law into conformity with the Convention. The Worker members deplored the fact that, since then, the Government had provided no information regarding the concrete measures taken to give effect to these intentions. They requested the Government to clarify which measures it envisaged taking to bring the law and practice into full conformity with the Convention.

As regards the annual reports on the work of the inspection services, the Worker members recalled that the Convention provided that such reports had to be published and submitted to the ILO. However, the Government had submitted no such reports to the ILO since 1987. They therefore urged the Government to indicate the measures it intended to take to implement these provisions of the Convention.

The Worker member of Singapore explained that the Convention imposed the obligation upon ratifying countries to maintain a system of labour inspection for the purpose of ensuring compliance with laws adopted on critical aspects of workers' welfare, such as safety and health, hours of work, wages and the employment of children and young persons. The Convention was therefore an important instrument in ensuring that laws respecting substantive aspects of employment did not remain a dead letter. A critical component of labour inspection systems was the need for impartial, independent and fearless labour inspectors who could make fair and effective evaluations of the workplaces which they inspected. Article 6 of the Convention emphasized the importance of labour inspectors enjoying stability of employment, unaffected by any change of government and free from external influences. It was therefore to be deeply regretted that Mauritania took this obligation lightly. It had failed to take adequate steps to implement an employment system for labour inspectors which would enable them to carry out their tasks effectively. While the Government had received assistance from the ILO to bring the Labour Code up to date and to develop regulations respecting labour inspectors, legislation was not sufficient in itself. What was now required was the political will to put the law into practice. She also expressed great concern at the repeated failure of the Government to provide annual inspection reports to the ILO since 1987. It could not be over-emphasized that such reports were critical to the enforcement and supervision of the Convention. The Government's repeated failure to supply reports gave grounds for inferring that it was not complying with the Convention.

The Government representative stated that, if there had been no labour inspection services in his country, his Government would not have ratified the Convention. Although he had no detailed statistics at hand, he still insisted on the fact that labour inspection existed in his country, as evidenced by the eight inspection services spread over the territory. These different services were coordinated by a central service. All the inspection services were composed of civil servants who were trained in labour law. He further reiterated his previous comments that regulations on civil servants implementing the framework legislation of 1993 would be adopted this year. He also renewed the request for assistance from the ILO to update the draft regulations on the labour inspectors drawn up in 1985. Furthermore, he indicated that the revitalization of the labour administration, launched in 1993, had not been pursued due to lack of financing. Finally, he expressed his surprise to learn that certain reports had not reached the ILO and he undertook to ensure in future that all the reports requested reached the ILO.

The Employer members thanked the Government representative for the brief supplementary information which he had added to his initial statement. The Committee now knew that there were eight inspection sections in Mauritania. However, it had been given no indication of how many inspectors there were, their conditions of employment, and particularly whether they were permanent employees, or the regularity with which enterprises were inspected. The Government representative had stated that the draft regulations respecting the conditions of employment of labour inspectors, which had been drawn up some years ago with ILO assistance, were no longer up to date and had not been adopted for that reason. However, this left open the question of the legal basis on which the inspection services were operating. The Employer members recalled that only two reports had been received from the Government by the Committee of Experts in recent years, and that they

had been identical. Moreover, since 1987 and despite numerous requests, the Government had not supplied any annual inspection reports to the ILO. The Government must therefore be requested to comply with its obligations under the Convention. It was clear that the real problem consisted of the provision of financing for the inspection service. The Committee was therefore bound to request the Government to supply a detailed report addressing all the issues raised by the Committee of Experts and providing precise information on the situation as regards labour inspection in the country.

The Worker members noted that the debate had been short. This had not been because the situation was not serious, but because the violations of the Convention were evident. They took note of the statement by the Government representative according to which changes in the regulations concerning the status of civil servants were due to be adopted this year. They emphasized that this legislation should enter into force as soon as possible in order to bring the law and practice into conformity with the requirements of the Convention. Finally, they once again urged the Government to supply annual reports on the labour inspection services in order to permit verification of the proper functioning of these services.

The Committee noted the information supplied by the Government representative and the discussion which took place. It noted that for more than 30 years, and despite repeated requests from the Committee of Experts, the Government had failed to take the necessary action in keeping with Article 6 of the Convention to adopt regulations that offered labour inspectors stability of employment and independence as regards changes of government and improper external influences. The Committee also observed that, contrary to the requirements of Articles 20 and 21 of the Convention, no annual inspection reports had been communicated to the ILO since 1987. The Committee also noted that, according to information supplied by the Government, a 1993 study of the human and financial resource needs for labour administration had been sent to the Office with a view to receiving technical assistance to be financed by international donors. It noted that the Government's request for ILO assistance had been renewed. It therefore requested the Government to take the necessary measures to ensure the adoption of regulations concerning labour inspectors in line with Article 6 of the Convention. The Committee expressed the hope that the Office would help the Government secure adequate financial backing for the project to revitalize labour administration. The Committee urged the Government to report in detail to the Committee of Experts in 2000 on the progress made in law and practice in applying this priority Convention, which was critical for the protection of workers.

Convention No. 87: Freedom of Association and Protection of the Right to Organise, 1948

Cameroon (ratification: 1960). A Government representative, Minister of Labour, Employment and Social Protection, stated that the process of revising all the texts had been under way since 1990, and significant advances had been made with regard to civil liberties, democracy and human rights. It was in this framework that the 1968 Act and section 6 of the Labour Code were in the process of being modified.

With regard to texts in the social domain, the Labour Code of 1992 provided for tripartite committees (the National Consultative Labour Committee and the National Committee on Occupational Health and Safety) to take note of and validate texts prior to their submission to the Government and their transmission to the National Assembly. As the composition of the committees was tripartite and as acute problems had been encountered concerning the representativeness of the workers' organizations, it had not been possible to set up these committees. These committees had not therefore been convoked, although significant means had been provided in the state budget. What was primordial for Cameroon was not the modification of a law which itself was henceforth null and void, but the reality. This reality had been brought to the attention of the ILO and this Committee. On the other hand, the normal functioning of unions in the public service had been established. The unions operated without interference from the Government regarding their constitution, calling strikes and carrying out these strikes. This was the case of the strikes which had recently taken place in secondary and higher education. The Government had been careful to negotiate with the unions, which on this occasion obtained the release of more than CFA2 billion of arrears for payment of the correction of examinations. At this level, the Government thought its practice was in compliance with the objectives of the ILO. The reality of collective bargaining was demonstrated by a document dated 24 May 2000, which he submitted to the Committee.

The real situation was always more important than fantasies. The Government denounced the incessant harassment to which it was subject coming from those whose aim was to present a distorted picture of the truth. If it was through ignorance of this reality, the Government strongly suggested sending a mission of inquiry on site to verify the normal functioning of unions in the public service and the reality of the process of reformulating legislative and regulatory texts in the field. Failing such an on-site mission, it would be difficult for the Government to provide other information to prove that the objectives of the ILO were respected in practice.

The Worker members recalled that this was an old case which had not shown signs of any meaningful progress. This was mainly due to the Government's repeated refusal to cooperate with the Committee and its failure to react to the comments of the Committee of Experts and the Committee on Freedom of Association. This case was not complicated; the only obstacle was the Government's reluctance to address the relevant issues. They recalled that Act No. 68/LF/19 and Decree No. 69/DF/7 were in contravention of Articles 2 and 3 of the Convention. Moreover, certain sections of the Labour Code made persons forming a trade union that had not yet been registered liable to prosecution. While this provision mainly applied to civil servants and persons working in the public sector, they recalled that the public sector was a significant employer in Cameroon.

Responding to the Government's claim that the discrepancies between legislation and the requirements of the Convention were small, and that the practice was all that mattered, they recalled that the Convention required conformity in both law and practice. Moreover, there was no indication that the Convention was respected in practice at all. Persons leading unregistered trade unions continued to be suspended, intimidated, and harassed. In the private sector, there continued to be frequent interference in the main trade unions, the CCTU and the CSTC, and the Government continued to be active in fomenting dissent and establishing rival trade unions in order to weaken the trade union movement. There were also allegations of deregistration of unions and interference in May Day celebrations, and it was recalled that Cameroon had refused to include the CSTC in the Ninth African Regional Meeting in 1999. Finally, since the last International Labour Conference in June 1999, the Cameroonian Parliament had met three times, yet no amendment to the legislation in question had ever been submitted.

Since this case showed no progress and appeared to be deadlocked, the Worker members noted that it would be logical for the Committee simply to repeat its conclusion from last year. However, in the hope of finding a breakthrough in the case, they proposed to the Government that it firmly commit itself to submitting to Parliament, before the session of the Committee of Experts this year, draft legislation amending Act No. 68/LF/19, Decree No. 69/DF/7, and certain sections of the Labour Code, so that such proposed legislation could also be examined by the Committee of Experts and the Conference Committee next year. Since the Government did not reject the comments of the Committee of Experts, but simply claimed that it would rectify the situation in the near future, it should avail itself of assistance offered by the ILO, the MDT in Yaoundé, and the social partners. If the Government was prepared to do this, then the conclusions from last year could be repeated. If not, the case should be included in a special paragraph to the report to the Conference.

The Employer members pointed out that this was a very old case with which the members of the Committee were all familiar and noted that they did not intend to depart much from the proposal made by the Worker members. The Committee had discussed this case twice in the 1980s and four times in the 1990s, including last year, but no progress had been achieved. The Government representative had supplied the same facts to the Committee as those reflected in the report of the Committee of Experts, namely, that the legislation in question was being revised and new legislation would be enacted. Accordingly, the Government representatives' statements today were merely a repeat of previous years. The national legislation still provided that public sector unions could only be registered with prior approval from the Minister for Territorial Administration and that any infraction was subject to prosecution. They agreed with the Worker members that the law must be amended to bring it into conformity with the Convention. With regard to the requirements of prior approval for affiliation to an international organization, the Employer members noted the Government's statements that the legislation in question was being revised. However, the Government had made the same statements in 1984 and in 1992. This was therefore an extreme case of delay which the Employer members considered unacceptable. They considered it necessary to express the Committee's regret at the lack of progress in this case and agreed with the proposal of the Worker members.

The Worker member of Cameroon said that there was effective freedom of association in his country, since there were two central trade union organizations, occupational federations in the various sectors and national trade unions affiliated to confederations and independent trade unions. Semi-public enterprises were organized

in occupational trade unions affiliated to confederations. Section 6(2) of the Labour Code which had been incorporated into the Labour Code in 1992 was not applied in practice. Workers formed trade unions by filing their applications with the trade union registry of the Ministry of Employment, Labour and Social Protection. In the meantime, their unions engaged in all manner of activities including, on occasion, strike action. Nevertheless, under the proposals to revise the Labour Code, all the workers' organizations concurred that it was necessary to remove a clause which appeared to be hiding something and was not in conformity with Convention No. 87. The discord in one central trade union organization should not affect the whole of the trade union movement in the country. He explained the current situation with regard to workers in the public sector. Public employees and contractual workers covered by the Labour Code were organized in trade unions and registered with the trade union registry. Their unions enjoyed the same freedoms as all other trade unions in the private sector. Public servants were currently organized in the Central Public Sector Trade Union Organization (CSP), although it was not clear how this Organization would operate; it might not, for example, enjoy the same prerogatives as central trade unions in the private sector if Act No. 68/LF/19, of 18 November 1968, and Act No. 68/LF/7, of 19 November 1968, were not repealed. The Committee should request the Ministry of Employment, Labour and Social Protection to do its utmost within the Government to ensure that these two Acts were repealed in order to strengthen freedom of association for public servants in keeping with the provisions of Conventions Nos. 87 and 98.

The Worker member of Senegal recalled that the application of Convention No. 87 by Cameroon was a case which was frequently examined by the Conference Committee. The deliberate attempts by the Government to find refuge in the flexibility of a process of the constant modification of legislative texts was not acceptable, since the Committee had been calling for the repeal of the implementing Decree of Act No. 68/LF/7 of 1968. It was evident, despite the Government's posturing, that the issue of freedom of association was not measurable by the yardstick of the mere existence of several trade unions. Otherwise, how was it possible to understand the existence of this evil provision which established that the promoters of a trade union which had not yet been registered, but who acted as if the trade union had been registered were liable to legal action? He considered that this was a very peculiar way of respecting freedom of association. If prior authorization for affiliation to an international organization did not constitute a restriction on freedom of association, what would qualify as a restriction? The information at his disposal demonstrated that the Cameroonian authorities did not, in practice, comply with the obligations deriving from the ratification of Convention No. 87. What was important was not the commitments of governments, which did not last longer than the Conference session, but the adoption of measures, in practice, such as the inclusion of this country in a special paragraph. In most African countries, there was a very real desire to subjugate trade unions, and the so-called prior authorization for the registration of a trade union was a provision which violated their freedom. The existence of a minister responsible for supervising public liberties also demonstrated the will of the public authorities to restrain them. The effective and integral application of Convention No. 87 still represented a conquest to be achieved for Cameroon, as well as his own country. The ratification by Cameroon of Convention No. 87 dated from 1960, which was already 40 years ago. In conclusion, he subscribed to the comments of the Committee of Experts and statement by the Worker members, and especially his proposal to include Cameroon in a special paragraph.

The Worker member of France noted that in view of the importance of this case, the Committee had decided to place it in a special paragraph last year and to urge the Government to take effective measures to eliminate the restrictions on freedom of association and to submit a detailed report on the application of the Convention. The Government had also been requested to set a provisional timetable for the revision of the legislation at issue. No progress had been noted, however. In the context of the discussion of the automatic cases, the Government representative of Cameroon had referred to "reasonable delays". The question remained of what "reasonable delays" constituted in his view. The repeal of the 1968 Act and of section 6(2) of the Labour Code, which was required to ensure the proper application of the Convention, did not require any significant administrative, legislative or regulatory work. However, no bill had been submitted to the Parliament of Cameroon. The repeal of the Decree of 6 January 1969, which was required for the application of Article 5 of the Convention, would be even easier and more rapid.

The obstacles and difficulties of achieving progress in the democratization process were focused on the right to organize of teachers or, in other words, of those who were entrusted with the task of making children into free citizens with a critical sense. Since 1991, the Government had refused to recognize the National Trade Union for Higher Education (SYNES). The absence of any union activity in the export processing zones should also be noted. Furthermore, several acts of interference by the Government in the internal affairs of the Cameroon Workers' Trade Union Confederation (CSTC) were the object of a complaint filed with the Committee on Freedom of Association in March 2000. Note should also be taken of the recent intervention by the Minister of Labour to dismiss the President of the CSTC from his post in a private enterprise for having called a legal strike. Finally, the May Day demonstration of 2000 had been prohibited by the militarization of the area designated for the holding of the meeting, thereby preventing trade union leaders from having access to it and leading to the wounding by gunshot of three workers.

In conclusion, the lack even of apparent goodwill by the Government was unacceptable and to its discredit. The lack of progress is all the more worrying as it was contributing to a deterioration in the situation. In its conclusions, the Committee should set clear time limits for the Government to ensure that national law and practice was brought into conformity with the Convention.

The Government representative strongly objected to the statements of some speakers, among them the Worker member of France. He dismissed as allegations the information according to which trade union activists had been wounded by gunshot following the militarization of an area where the May Day holiday had been celebrated this year, and he demanded the names and other details of the alleged victims. He stated that the area had never been militarized. As to the allegation that he had demanded the dismissal of a trade union official, he also demanded copies of the documentary evidence of the allegation. Such was the accumulation of untruths for which there was not a shred of evidence that he considered it urgent for the Committee of Experts to visit the country so that it could make up its own mind, not on the basis of information spread outside the country, but on the actual situation there. Such a mission would make it possible at long last to put an end to the serious and intolerable stains upon his country's honour. Returning to the problem of prior authorization, he observed that the Cameroon Workers' Trade Union Confederation (CSTC) had developed two heads. However, two executives could not run one and the same confederation, even in Cameroon. This "two-headedness" was not a government jibe, it was merely related to the depths to which the trade union had sunk. The Government was waiting for an office to be set up to be able to register the organization. This did not prevent it in the meantime from working with organizations affiliated to the Confederation and, in proof of its good faith, it informed the Committee that two Cameroonian Worker members were attending its sitting. One was a member of the Union of Cameroon Trade Unions (USC) and the other belonged to the Cameroon Workers' Trade Union Confederation (CSTC). Contrary to the statements made with distressing flippancy by certain speakers, the Worker member of the CSTC had not been appointed by the Government. Instead of congratulating the Government on its objectivity and neutrality, it had been the object of recriminations, unfounded allegations and, in short, harassment. He repeated that, although the challenged Decree had not yet been amended, there had been progress in practice and the fact that the Government had entered into negotiations with the CSTC, which it was said not to have recognized, bore this out. As to the pace of government action, he emphasized that it was not within the competence of the unions and that neither they nor the ILO could run the country in the Government's stead. Nor could the Government set the pace for Parliament. Some speakers had referred to "a reasonable delay". He rejoined that in his country a reasonable delay would be whatever the Government set itself. The Government had no wish to chop up the 1968 Act or the 1992 Labour Code to make some people happy at a time when it was engaged in the global reform of the country's labour legislation. The Government had political will and the changes suggested by the Committee of Experts would be taken into account when the time was ripe. Lastly, he raised the question of the real representativeness of the individual who was passing himself off as the President of the CSTC.

The Worker members explained that the aim of their proposal was to get some movement from the Government, given the lack of progress in the case. In response to the Government representative's statements, the Worker members indicated that the national legislation was simply not in compliance and needed to be amended immediately. The Worker members considered that the Government had not demonstrated any political will to resolve the problems before the Committee. If their proposal of a timetable were rejected, the Worker members cautioned that they would have no choice but to request that the Committee repeat its conclusions of last year in a special paragraph, with the additional conclusion that the Committee regretted the Government's delay in this case.

The Employer members, in response to the Government representative's statements, considered that the Committee was faced with the same situation as in previous years and indicated that the

same conclusions from last year would need to be repeated again this year in a special paragraph.

The Government representative declared that it was useless to focus on the need to change a word or a section in a decree. It was more appropriate to concentrate on reality. Hence the need to send an investigatory mission to Cameroon which would make it possible to establish the facts and to verify the truth of the allegations. While dialogue with the supervisory bodies was necessary, their interference was unacceptable. The proposal to set up an investigatory mission, which would allow the Committee of Experts to go to Cameroon, should be taken into consideration in the conclusions of the Committee.

The Worker members, responding to the comments of the Government representative inviting the ILO to come to Cameroon, thought that this invitation was interesting. They hoped the mission would take place quickly and permit an objective investigation into the facts so that the Committee could examine the relevant law and practice in this case.

The Committee took note of the oral statement made by the Government representative and the discussion that followed. The Committee recalled that this case had been discussed on numerous occasions over the last two decades. The Committee recalled with great concern that for many years the Committee of Experts had been formulating comments on the discrepancies between national legislation and the requirements of the Convention. In particular, it stressed the need to delete the imposition of previous authorizations for the constitution of trade unions of public servants and for joining foreign occupational organizations. It also urged the Government to repeal provisions allowing for the prosecution of persons forming trade unions not yet registered who would behave as if they were registered. The present Committee also noted that several complaints had been examined by the Committee on Freedom of Association concerning interference by the public authority in union matters and anti-union reprisals. The Committee deeply regretted once again that no progress had been achieved in the application of the Convention. It strongly urged the Government once again to remove without delay the obstacles to full freedom of association contained in its law. In this respect, it firmly asked the Government to submit draft bills to Parliament and to the ILO before the next session of the Committee of Experts. The Committee recalled that technical assistance from the ILO with the help of the multidisciplinary team present in Yaoundé was at the Government's disposal. It welcomed the invitation of the Minister to send a mission on the spot in Cameroon. The Committee expressed the firm hope that the next report due this year would describe measures actually taken to ensure full compliance in law with this Convention. The Committee decided that these conclusions would appear in a special paragraph of its report.

The Government representative had noted the conclusions adopted by the Committee and had wondered about the respective weight of certain expressions such as " to take note" or "appear in its report". He demanded that excuses be presented to the Government if the defamatory allegations made by certain speakers, in particular those concerning the injured trade unionists and a request for the dismissal of a trade unionist, could not be proven. Finally, he reiterated the wish of his Government for a delegation of experts to come to Cameroon to observe the real situation prior to requiring a time limit for bringing the legislation into conformity with the provisions of the Convention.

The Worker member of Cameroon stated that he had been shocked by certain points in the discussion, especially by the intervention of the Worker member of France, who had demonstrated his total ignorance of the trade union situation in Cameroon. The allegations concerning the prohibition of the demonstration on 1 May 2000 and the events that had taken place were completely false. While this Committee was empowered to interrogate the Government on the non-application of a ratified Convention, any extrapolation which might lead people to create a false impression of the real situation was unacceptable.

Colombia (ratification: 1976). A Government representative stated that the Government was attending the Committee with a view to providing all the information that was considered necessary in relation to Convention No. 87. The Government had shown the will to maintain a permanent dialogue which was broad, transparent and sincere with employers, workers and the ILO, as well as to provide the necessary information to the Committee concerning the progress which had been made.

The Congress of the Republic had approved Bill No. 184, submitted by the Government, which amended, repealed and introduced significant changes in the legislation to bring it into conformity with Conventions Nos. 87 and 98. He emphasized that the scope of the right of association had been extended and that greater autonomy had been accorded to trade union organizations, with the elimination of the statutory restrictions on the membership and registration of trade unions and the empowerment of the civil authorities ("alcaldes") to register them. Furthermore, the simple notification of changes in their by-laws would be sufficient for their recognition. These measures would ensure compliance with Articles 2, 3, 4 and 5 of the Convention. Collective action was allowed in the event of the retention of wages, and sanctions had been eliminated, such as the prohibition on the right of freedom of association of leaders who caused the dissolution of a trade union. The conditions of nationality and the exercise of a specific occupation in order to be a trade union, federation or confederation officer had also been abolished. Federations and confederations would be strengthened by facilitating the payment of contributions by trade unions. The protected status of trade union leaders was extended to public servants and the issue of leave for trade union activities was regulated. Moreover, the procedure for demonstrating the status of trade union leaders had been simplified.

The above legislation constituted significant progress and included modern institutions for its application, as recognized by the ILO. The legislation made it possible for parties to collective bargaining to be workers in the branch, industry or economic activity. It also gave trade unions the option to request or refuse the presence of the Ministry of Labour and Social Security at meetings where, following direct bargaining, the decision was taken to refer the dispute to an arbitration tribunal or to call a strike, and its participation was restricted to monitoring votes. Now only workers who were on strike could decide to end the strike and submit outstanding disputes, if they considered it appropriate, to an arbitration tribunal without the intervention of the labour authorities. The legislation also took into account the observations of the Committee of Experts concerning the powers of inspection of the labour administration authorities, by eliminating the powers of officials to initiate inspections and controls, leaving it to the request of the trade union and/or second- and third-level organizations.

With regard to some of the comments made by the Committee of Experts concerning the exercise of the right to strike, he noted in the first place that the Government had prepared draft legislation defining the essential public services. The subject had been included on the agenda of the Permanent Committee for Concertation on Wage and Labour Policies, which was a tripartite body. Once the study had been completed and a definitive text agreed with the social partners (employers, workers and the Government), it would be submitted for approval to the Congress of the Republic. He informed the Committee that the preliminary draft had been examined by the ILO experts during the direct contacts mission and had taken in their principal recommendations. This preliminary draft also established an alternative procedure for the determination of legal and illegal strikes, assigning the competence in this respect to the labour courts.

The Government of Colombia had fully demonstrated its commitment to promoting the independent exercise of the right of association by workers' organizations through the submission to the Congress of the Republic of draft legislation lifting the current restrictions. It should be emphasized that the above legislation was the outcome of agreement between the social partners, thereby demonstrating their common commitment to the development of a new culture of labour relations based on social dialogue and concerted action. The complete text of the legislation respecting freedom of association had been provided to the ILO by the Government with the request that it should be made available to the members of the Committee. The Government representative expressed her gratitude to the ILO for the unrestricted support which it had provided in the process of reforming the legislation.

The Worker members recalled that this case had been discussed repeatedly over the past decade and that the conclusions of the Committee had been taken up in a special paragraph on two occasions. Direct contacts missions had taken place in Colombia in 1996 and in February of this year. Numerous complaints of violations of freedom of association had been filed and new complaints regarding anti-union discrimination and violations of the right to collective bargaining had been filed recently by several trade unions. During the 86th Session of the Conference, a complaint under article 26 of the ILO Constitution had been filed.

In addition, the Worker members recalled that the Committee of Experts had raised in the past three major questions. The first concerned the requirements for the creation of a trade union and in particular the clauses establishing requirements of Colombian nationality, professional experience, and a clean police record. The second question related to the provisions respecting compulsory arbitration and the restrictions on the right to strike. Finally, the third question concerned the climate of violence and impunity that reigned in the country. They had taken note of a draft Bill introduced by the Government with the intention of abrogating a series of legislative provisions which were not in conformity with the Convention. However, they observed that the Committee of Experts had concluded that many provisions still created problems, espe-

cially those relating to the supervision of the internal management of trade unions and trade union meetings. Another provision which continued to pose problems with regard to the Convention concerned the powers accorded to the officials of the Ministry of Labour to call before them trade union leaders or members to require them to provide information on their work, and to present their books, registers, plans and other documents. The Worker members observed that since the Government's promise to submit the Bill, there had been no follow-up. In fact, instead of progress, it seemed that the situation had deteriorated after the adoption on 30 December 1999 of Act No. 550, which represented a direct infringement on freedom of association and the right to collective bargaining.

In addition, the Worker members noted the observations of the Committee of Experts according to which some provisions relating to the exercise of the right to strike, which had been the subject of comments for many years, had not been taken into account in the amendments proposed in the Bill. The provisions concerned, among other matters, the prohibition of strikes in several public services and the possibility of dismissing trade union officers who had participated in a strike. Regarding the exercise of the right to strike in practice, they referred to the conclusions of the Committee on Freedom of Association in Case No. 1916 according to which the concept of essential services had to be interpreted in the strict sense of the term. In this respect, the Worker members supported the views of the Committee of Experts and once again called upon the Government to take the necessary measures for the amendment of this provision.

The Worker members expressed their deep concern regarding the situation of violence which prevailed in the country against workers and trade union members. Devastating accounts had been provided by national, regional and international workers' organizations in relation to the anti-union violence. They raised questions about the actual respect of freedom of association in the country. Since June 1998, at least 125 trade unionists had been assassinated, and since November 1999 the number already amounted to 39 trade unionists assassinated. According to information from various international trade union confederations, of the 123 trade union members who had been murdered in the world in 1998, a total of 98 were Colombian. Moreover, of the 1,336 trade union members who had been assassinated in Colombia between 1991 and 1999, no fewer than 226 were trade union leaders. This continuous violence which mainly affected trade union members in the country was quite simply intolerable, since they were targeted in their capacity as trade union members and workers. In fact, their commitment and public activities made them systematic targets, as proven by many testimonies. The impunity of the assassins was total and the impotence of the Government was intolerable, particularly since, when ratifying Convention No. 87, it had undertaken to ensure the minimum conditions for its effective application. The Worker members once again emphasized the necessary interaction between ILO instruments and the principles set out in its Constitution in order to create a climate of social peace. Finally, they urged the Government to bring its law and practice into conformity with the principles of freedom of association in the broad sense. This necessarily involved the creation of a political and legal climate and the adoption of concrete provisions which put an end to impunity and anti-union terror. They therefore proposed that the Committee's conclusions should be included in a special paragraph.

The Employer members recalled that the Committee had examined the case of the application of the Convention by Colombia frequently. The observation by the Committee of Experts contained a list of discrepancies with the provisions of the Convention which were of differing significance. In the view of the Employer members, those points relating to the right to strike did not give rise to any violation of the Convention, since the issue of the right to strike was not in their opinion governed by Convention No. 87. However, many of the other points raised concerned clear violations of freedom of association. They noted that, with ILO assistance, some amendments had been drafted and that the resulting Bill had been approved in its first reading in the Congress in July 1999. The question clearly arose as to the number of readings required before the Bill would finally be passed into law. The draft amendments resolved 11 problems enumerated by the Committee of Experts with regard to the application of the Convention. In this respect, the progress achieved should be recognized, since the legislation in question had given the authorities broad powers to interfere in the internal affairs of trade unions.

The Employer members recalled that the Committee of Experts nevertheless continued to criticize the proposed amendment to section 486 of the Labour Code on the grounds that it empowered the State to exercise control over the internal management of trade unions. They noted the statement by the Government representative that courts of arbitration had been established in the country. However, information was required on whether the courts could carry out arbitration procedures independently without the interference of the State. The Employer members agreed with the assessment by the Worker members that the whole process had taken place in an extremely violent climate. They emphasized that while this background information was important for the overall understanding of the case, the Government was still obliged to give effect to the provisions of the Convention in national legislation. Even a situation which was similar to civil war should not be used as an excuse for failing to meet these requirements. In conclusion, they called on the Government to provide information on the number of readings required for the adoption of the draft amendments and on the time which would be required to complete the legislative process. However, many restrictions on freedom of association still remained in the country. In this respect, the draft amendments to many of the existing provisions which were in violation of the Convention constituted a first step in the right direction.

The Worker member of Colombia indicated that once again, the workers in general and Colombians in particular were witnessing the lamentable spectacle of a Government attempting to deflect the attention of the international community with reports and excuses which did not reflect the true situation in Colombia in respect of Convention No. 87, freedom of association and respect for human rights. The Government made great use of a huge capacity to confuse the members of the Committee with matters such as Bill No. 184, which had been approved last week but had not yet received assent. While the legal aspects concerning Convention No. 87 were a cause for concern, as had been very precisely expressed by the Workers' spokesperson, the truth was that the workers were concerned by many issues which today affected all Colombian workers and people. The Government was aware of the existence of a Bill on labour flexibility which, if approved, would give rise to discussions in this Committee for many years to come. The same was true of the Social Security Bill, as well as the negative impact of Act No. 550 of 30 December 1999, which in itself constituted a serious threat to workers, collective bargaining and freedom of association. To this should be added deep concern for the resurgence of the status of non-unionization or "profit plans" which were practices intended to hinder the trade union movement, violating the provisions of Convention No. 87.

Various circumstances made it necessary to discuss this case. Thirty-nine trade unionists had been assassinated since the beginning of this year, almost 2 million people had been displaced by violence, there was an unemployment rate of 22 per cent, the informal economy had reached 56 per cent, there were rural workers without land and indigenous people affected because of badly named "development", and, in general, a situation of democratic instability reigned. These facts encouraged the Workers to look to the international level in the hope of finding initiatives which would soon contribute to a change in the situation. It was necessary to stress that while the Government spoke of a draft bill to determine essential public services, the workers' organizations had not been consulted in this respect. The Ministry of Labour had shown complacency with regard to the dismissal of thousands of workers, particularly in the public sector; at district level, for example, over 40,000 workers had been dismissed in the last 14 months. The Ministry of Labour had also authorized dismissals of workers in the private sector, for example in the Tennis Club of Cúcuta. It was not possible to speak of freedom of association when in the current year workers were denied freedom of association through the prohibition of the right to collective bargaining in the entire public sector and the freezing of salaries by decree. Finally, he pointed out that the Colombian people were dependent upon the decisions of the ILO and that it was appropriate to include this case in a special paragraph so that the Government would not yet again forget the promises it had made to this Organization.

Another Worker member of Colombia, refuting the Government's statement that questions concerning violent acts against trade union leaders and trade unionists should not be discussed in this body, referred to the resolution concerning trade union rights and their relation to civil liberties adopted by the Conference in June 1970 and emphasized that the concept of trade union rights lost all meaning when civil liberties were not respected and the right to life was not guaranteed. The theme of violence against the trade union movement had to be mentioned, as well as the difficulties in forming trade unions in Colombia. On many occasions, trade unions had to be formed clandestinely so that workers would not be dismissed by their employer or by public entities. In this respect, he referred to a quote from a Colombian guerrilla who had stated that it was easier to organize an insurgent group than to form a trade union in Colombia. He wondered in these circumstances how the Colombian authorities could refuse to discuss the question of assassinations and violent acts against trade union leaders and members. He indicated that, while the law to bring some legislative provisions into conformity with the freedom of association Conventions had just been approved in Colombia, the problem was one of the non-application of numerous existing laws. For example, he pointed out

that Conventions Nos. 87 and 98 had been ratified by Colombia in 1976, yet year after year their application continued to be discussed. He stressed that the ILO should continue to follow what was happening in Colombia in respect of the violation of these Conventions. There was great respect in Colombia for the ILO and great expectations on the part of workers for what the ILO could accomplish in defending their interests. In this respect, he called for a special paragraph so that the Government would react and in this way could indicate next year that it had complied with the recommendations of the Committee on Freedom of Association and the comments of the Committee of Experts.

The Worker member from the United States considered that the physical integrity of Columbian unionists could be seriously affected by a proposed 1.6 billion dollars aid package destined to the security forces for the prosecution of the internal conflict against drug traffickers and the guerrillas. Tragically, Colombian unionists were being purposely targeted by all armed parties in the conflict. In February of this year, the AFL-CIO had adopted a resolution and joined the Colombian labour movement in calling for the respect of core labour rights as necessary preconditions to the passage of the United States aid package to Colombia. He recalled that the Committee of Experts had pointed out that the new amendments to the Labour Code allowed the Ministry of Labour to conduct inquests and investigations of trade union activities, even when there was no reasonable suspicion of criminal offence on the part of the trade unions. He mentioned that one question of non-compliance had not been mentioned by the Committee of Experts. This question was the fact that neither the Collective Bargaining Law No. 50 nor the current Labour Code effectively permitted the establishment of collective bargaining representatives and mechanisms per national sector and industry, thus limiting trade union and collective bargaining representation to the local and enterprise level. He emphasized that physical violence against Colombian unionists and the issue of impunity remained totally unresolved and appeared to be worsening. In this regard, he criticized the Government for arguing that this issue was irrelevant to Convention No. 87 and recalled that the Government had specifically objected to an ILO commission of inquiry by asserting that the assassination of unionists was not systematic, but the result of the endemic violence in the society. To that argument, he replied that Article 8 of Convention No. 87 stated that the laws of a country should not impair the exercise of the rights contained in the Convention. He questioned whether that could be a greater hinderance to the exercise of the rights contained in Convention No. 87 than a justice system which failed to effectively stop, deter and remedy violence purposely directed against workers or employers. Furthermore, he recalled that the human and labour rights resolution adopted during the ILO Conference in 1970, drew the nexus between core labour rights and the right to physical security and protection from arbitrary detention. Over 2,000 Colombian unionists had been murdered in the last ten years. The Human and Labour Rights Programme of the Escuela Nacional Sindical of Colombia had found that the vast majority of trade union assassinations in 1999 had taken place during periods of collective bargaining and collective worker action. Finally, he insisted that since this case had been before this Committee on so many occasions and without substantial improvement, this Committee should do nothing less than cite it in a special paragraph.

The Worker member of Costa Rica recalled that the Colombian case had been discussed in the Committee for many years. The very clear link between the legal situation and the barbarous acts committed daily against trade unionists could not be denied. There was a situation of generalized aggression towards workers, which was demonstrated by labour legislation which hindered collective bargaining in the public sector, which permitted interference by the administrative authorities in trade union affairs, as well as in the dismissals of workers for strikes declared illegal because this right was denied to workers, and in the impunity in cases of assassinations, kidnapping and imprisonment of trade union leaders and members. This situation obliged the Committee to place this case in a special paragraph, since it concerned the violation of human rights in the broadest sense of the term. He maintained that, if the Committee wanted to cooperate for an improvement in the situation in Colombia, its conclusion could not simply consist of offering ILO technical assistance, but rather of condemnation by the international community.

The Worker member of Guatemala asserted that the Colombian case and the systematic violation of Convention No. 87 had been dealt with by this Committee over the last 15 years at least. He supported the statement by the Worker members and insisted that the situation which Colombia was experiencing was dramatic. The Commissioner of Human Rights of his central trade union systematically requested the Colombian Government to respect and ensure respect for freedom of association and the right to organize. He indicated that, despite the observations of the Committee of Experts, the situation of trade unionists continued to get worse, particularly as a result of the assassinations committed by the dark forces and interests in the country. Trade unionists and civil societies of the world could not be indifferent to the situation of the Colombian trade union movement. He added that it was urgent to know the measures which the Government had taken and intended to take to put an end to the trade union slaughter. Finally, he supported the inclusion of this case in a special paragraph.

The Worker member of Uruguay recalled that Colombia had ratified Convention No. 87 in 1976 and that 20 years later the Committee was receiving the Minister of Labour, who was convincing it that Colombia was going to amend its legislation, which unfortunately had not happened. Today, neither the Minister nor the Deputy Minister were present to try to discuss and seek solutions to the situation of violence and pain which is being experienced by Colombian workers, provoked by the numerous murders and the lack of protection under which they had to carry out their activities. He maintained that it was the Government's responsibility to protect trade union action. The present Government and earlier governments had not complied with and were not complying with Convention No. 87 and there was also evidence of a will to continue violating the Convention in such areas as the right to strike. The Committee of Experts had referred to comments by a trade union organization concerning the non-deduction of trade union subscriptions. This proved that, in addition to seriously violating the Convention through death threats and assassinations of trade unionists, the Convention was also violated in matters of less importance. Finally, he asked for this case to be mentioned in a special paragraph and expressed his confidence that next year the Government would present genuine and concrete solutions.

The Government member of Norway, speaking on behalf of the Governments of Denmark, Finland, Iceland, Norway, Sweden and the Netherlands, welcomed the efforts undertaken to support the peace process. However, he noted with great concern that several provisions still did not comply with the requirements of Convention No. 87, even though this case had been raised repeatedly over the years in the observations of the Committee of Experts and in the Conference Committee. With reference to the right to strike, he noted the conclusions of the Committee on Freedom of Association in Case No. 1916, which had been approved by the Governing Body at its March 1999 session, and strongly emphasized that a declaration of illegality regarding a strike should be made by a judicial or an independent authority, not by the Government. He also noted that the Governing Body would decide whether or not to establish a commission of inquiry at its session in June 2000. Finally, he urged the Government to take measures to bring the provisions in question into full conformity with the principles of freedom of association and expressed hope that the Government of Colombia would be able to report positive developments next year so that everybody could be ensured of the effective application of the Convention.

The Worker member of Cuba emphasized the repeated violations which had occurred in Colombia for many years now and which had been addressed in this and other meetings. He expressed his great concern at the grave situation endured by Colombian trade unionists and his profound solidarity with them. Persecuted Colombian trade unionists were to be found in all the countries of Latin America. He firmly insisted on the fact that the subject of the deaths of trade unionists could not be ignored, whether or not it was technically linked to the discussion of the observation of the Committee of Experts. He expressed the hope that the situation of violence and the legislative problems could be resolved rapidly and stressed that the peace process was a matter of urgency.

The Employer member of Colombia, commenting on the previous statements by the Worker members, stated that it also bothered the employers to have to come before bodies like the present Committee. He expressed the employers' permanent condolences for the death of Colombian compatriots, including trade unionists. The employers were respectful of the law and carried out their business activities within it. He emphasized the enormous efforts made by the Government in the peace process and the national accord. He stated that the Bill referred to by the Committee of Experts overcame the large majority of questions raised and added that it had already been discussed and approved by Congress (Senate and House), and was presently being considered by the President of the Republic for his assent, in accordance with the procedures in force. He stressed that, during the negotiation of the Bill in the Senate and the House, many points had been agreed upon with the workers' and the employers' representatives. No agreement had been reached only in respect of section 486 of the Labour Code and, with the agreement of the employers and workers, the ILO had been requested to provide a final opinion, which had been reflected in the text of the Bill. He indicated that the Committee on Negotiation of Labour Policies and Wages was discussing two subjects: occupational training and the definition of essential public services in which strikes could be prohibited. This demonstrated the employ-

ers' will to support initiatives for improved coexistence and harmony in the country.

The Government representative referred to the difficult situation which Colombia had experienced for over 40 years due to the internal armed conflict and stressed that in the last two years it had been possible to bring the parties in the conflict to the negotiation table. One of the parties would be coming to discuss a ceasefire on 3 July 2000, which would help to change the problem of violence. He emphasized the great progress which had been made in bringing the national legislation into conformity with ILO Conventions, in particular Convention No. 87. In this respect, he mentioned Act No. 50 of 1990, which had introduced very important amendments and innovations; the 1991 Constitution which consecrated the rights of association, strike and collective bargaining and which established that ratified Conventions were part of national legislation; Act No. 278 of 1996 which created the tripartite Negotiation Committee; and Bill No. 184, approved by Congress at the end of May, which was before the President of the Republic for signature and which included the points raised by the Committee of Experts. He said that a document indicating clearly the changes made in the sense requested by the Committee of Experts had been submitted to the Conference Committee. In February 2000, the direct contacts mission had taken note of the draft bills prepared by the Minister of Labour on essential public services where strikes could be prohibited and disputes submitted to compulsory arbitration by one party, and on the right to collective bargaining of public employees which permitted them respectfully to present their demands to the authorities. The mission had made proposals for the modification of these draft bills which included summary recourse to the judicial authorities against decisions taken by the administrative authority declaring a strike illegal, the inclusion of the expression "collective bargaining of public employees" in one of the draft bills, the right to strike of federations and confederations and the replacement of compulsory arbitration after 60 days of strike action with compulsory arbitration agreed to by both parties. The draft bills and the modifications proposed by the mission were being examined, taking into account in particular that some matters had economic repercussions. Subsequently, the bills would be submitted to the social partners in accordance with existing legal mechanisms. Article 29 of the Constitution guaranteed due process including in the administrative procedures. Finally, he informed the Committee that the Minister of Labour could not come this week, but that the President of the Republic had already established, within the framework of the peace process, negotiations on pensions, employment and taxes, where certain issues raised by earlier speakers would also be discussed. These negotiations would include employers, workers, the Church and civil society.

The Worker member of Colombia, commenting on the motives behind the absence of the Colombian Minister of Labour in this Committee and the reasons expressed by the Government representatives for this, indicated that it should be explained that negotiations were under way which, in principle, the workers had decided to attend in order to discuss specific subjects, but that the absence of the Minister was due in reality to the fact that the Government was experiencing a serious political crisis.

Another Government representative stated that a special paragraph was not justified, especially since the current Government had achieved important progress which had not been possible at earlier times. In particular, the Act approved by Congress and the other bills covered all of the points raised by the Committee of Experts. The progress achieved had been the result of work carried out jointly by the Government with the ILO through machinery and negotiation. Furthermore, the current Government was committed to the peace process. As concerned the questions posed by some speakers on the climate of violence, he stated that the Government was not avoiding the debate but rather that this debate would take place shortly, in the corresponding body, with the Minister of Labour present.

The Worker members, after having heard the various speakers, observed that no progress had been made in relation to the observations of the experts. The accounts which had been heard confirmed that in Colombia the worker members of trade unions were exposed to violence due to the exercise itself of the commitment which they had undertaken in favour of workers in their quality as trade union members. They repeated their deep concern confronted with a situation which lasted since almost 20 years and which, due to its gravity, figured on a quasi-permanent basis in the agenda of the Conference Committee or the Committee on Freedom of Association. They asked one more time that the conclusions would be included in a special paragraph. The Worker members regretted not having been able to share their evaluation of the situation with the Employer members during the discussion. They firmly insisted one more time on the gravity of the situation in that country and deplored the fact that the Colombian workers had paid with their lives in too many cases.

The Employer members agreed that it was necessary to take into account the overall situation in the country. They recalled that for many years the Committee of Experts had been drawing attention to many provisions in the national legislation which violated the Convention. Now many of these points were being resolved by means of the draft legislation which had already gone through Parliament, but which still needed to receive presidential assent. Nevertheless, the Committee of Experts still considered that one of the proposed amendments contravened the provisions of the Convention. With regard to the comments by the Committee of Experts relating to the exercise of the right to strike, the Employer members reiterated their view that this matter could not be addressed within the context of Convention No. 87. The Employer members noted that all speakers had emphasized the importance of the civil disturbances and conflicts in the country. Nevertheless, these should not be used as an excuse for the maintenance of provisions which were in violation of the Convention. The situation in the country was indeed very serious and affected all the parties concerned. But the problem was of a political nature and could not be addressed solely through the Convention. The draft amendments contained very significant changes which the Committee of Experts had been requesting for many years. It was nevertheless the duty of the Government to examine any points which were still pending and to provide a detailed report to the Committee of Experts on the concrete measures taken and the adoption of the draft legislation.

The Committee took note of the oral information supplied by the Government representatives and of the discussion which ensued. The Committee noted with great concern that the long-standing and major discrepancies between law and practice and the provisions of the Convention had resulted in several complaints before the Committee on Freedom of Association and a formal complaint presented by a number of Workers' delegates at the International Labour Conference in June 1998 under article 26 of the ILO Constitution concerning the non-application of Convention No. 87. The Conference Committee had discussed the application of Convention No. 87 on many occasions without being able to note progress in the implementation of the Convention. The Committee recalled, once again, that the Committee of Experts insisted that the Government should remove all the obstacles that hinder the right of workers to form and join trade unions of their own choosing, to elect their representatives in full freedom and the right of workers' organizations to organize their activities without interference from the public authorities which restrict or impede their lawful exercise. The Committee noted the information supplied by the Government representative that draft legislation was adopted by Congress on 29 May 2000. It stressed that it was for the Committee of Experts to examine the compatibility of this legislation with the legal requirements of the Convention. However, it noted that new complaints concerning in particular anti-union violence were still being lodged with the ILO. The Committee recalled that the full respect of civil liberties was essential to the implementation of the Convention. It urged the Government to take further measures in order to bring its legislation and practice into full conformity with the Convention at an early date. It expressed the firm hope that the Government would supply a detailed report to the coming session of the Committee of Experts on genuine progress made in law and practice to ensure the application of this Convention. The Committee firmly hoped to be in a position to note at its next session concrete and definitive progress in the trade union situation in the country.

Djibouti (ratification: 1978). A Government representative noted that according to some, notably trade union members, the Government was intolerant and opposed to freedom of association. It was more than willing to provide the Committee and anyone else who was interested with material information on this in a spirit of total transparency. It was true that some years ago Djibouti had experienced a trade union problem. But that was not the fault of the Government alone. As ILO experts who had met with the trade unions discovered, the situation of trade unions had been unstable for the following historical reasons. The trade union question, which came to a head in 1996, sprang from a political problem within the governing party, which included some influential trade union members. Certain leading political figures, as well as the union leaders who supported them, were repudiated and excluded from the party when the President signed a peace agreement with the armed movement known as FRUD in 1996. That was how the trade unions became pawns in a struggle which was not theirs to wage and which they had nothing to gain from. Therein lay the cause of the dismissals and the situation referred to by the Committee of Experts in its report. The Minister of Employment and Vocational Training recently stated the Government's position on this matter: the authorities would follow a hands-off policy on internal trade union matters. ILO experts who visited Djibouti in March of this year took note of that policy. Those experts were able to meet freely with the trade unions and reports on their meetings were drawn

up. It was also decided, as the experts requested, to delay trade union elections, which would bring an opportunity for clarification, for the Government considered this was a trade union matter for the trade unions to settle free of any meddling from outsiders. International trade unionists were welcome to observe the elections and ensure that they were free and fair: the Government did not wish to take charge of the elections.

As to the reinstatement of trade union members, the Government considered that the issue had been resolved. There were those who sought to complicate it by coming up with new claims such as reinstatement in union leadership posts. It was, however, unfair to blame the Government for interfering in trade union affairs while asking it at the same time to assign trade union responsibilities to particular individuals. Some trade union members had been reinstated since 1997. The Government had documentary evidence of this and could share it with the Committee. Neither the Ministry of Employment nor the Government would yield to pressure from international trade unions which misled former national union members on the basis of information from certain union representatives in need of a cause. The Government representative told the Committee that the Government was reintegrating FRUD combatants in accordance with last February's peace agreement. The Government, which was organizing a peace conference with individuals who only a short time ago had been laying mines, had no reason whatsoever to oppose political pluralism or freedom of association.

To close the matter of reinstatement of certain trade union leaders, the speaker told the Committee that immediate action would be taken as soon as the ILO experts returned to Djibouti. It would plainly be easier to reinstate former public servants than workers in the private sector. However, the Ministry would see that this question was settled too. The country urged the ILO to organize in Djibouti a tripartite seminar on international labour standards and the Declaration on Fundamental Principles and Rights at Work and its Follow-up as well as a seminar on freedom of association so as to make up for the social partners' patent lack of training, which posed a major problem for the Government.

As for section 5 of the Act of Associations, as amended in 1977, the Government fully agreed that changes in the provision should be studied with a view to submitting the necessary amendments to the National Assembly as soon as possible.

Regarding section 6 of the Labour Code, which limits the holding of trade union office to Djibouti nationals, the representative observed that the provision belonged to the old Code of 1952. A new Code had been drafted and comments had been received from the employers. However, progress had been stalled by the trade unions' endless requests for more time. In any event the new draft did away with the provisions referred to by the Committee of Experts.

Lastly, concerning section 23 of Decree No. 83-099/PR/FP of 10 September 1983, which established the conditions governing the right to organize and the right to strike of public servants, the speaker emphasized that the power to requisition was confined to indispensable services (health, security and air traffic control). Nevertheless, the Government was willing to place new limits on this power if the Committee considered that necessary.

The Worker members appreciated finally to be able to discuss this case with the Government of Djibouti. It was in fact not the first time that this case was on the list of cases regarding which Government delegates might be invited to supply information to the Committee. In 1999 they would have liked to engage in a dialogue with the Government but the latter was not accredited to the Conference at the time.

In its observations the Committee of Experts expressed particular concern for the case of Djibouti. Serious violations of the freedom of association had been established there for several years and there were no indications that the situation had improved. The Committee on Freedom of Association had examined problems concerning freedom of association in Djibouti and continued to do so. In January 1998 a direct contacts mission was conducted, at which time promises were made. The Government undertook to restore the dialogue with the syndicates and the proper worker representatives. However, to this day the Committee on Freedom of Association has not been able to note any tangible progress. Meanwhile, the situation in Djibouti did not seem to have changed and one of the fundamental rights of workers was thus being violated. The violations established in law and in practice should, furthermore, not be underestimated. According to information supplied by trade unions in Djibouti, it would seem that freedom of association was, in fact, constantly being violated: trade union meetings had been prohibited by the authorities, measures had been taken to intercept trade unionists' mail, etc. These were clearly cases of interference by the Government in trade union activities. Another example of such government interventions in trade unions' activities was illustrated by the unilateral convocation of the trade union congress UGTD/UDT by the Minister of Labour in July 1999. Several workers' organizations had declared that they had been considered to be illegal organizations by the authorities and that they did not have the right to call meetings or to meet workers.

From a purely legal point of view the Committee of Experts had pointed out the contradiction that existed between several legislative provisions and the terms of Convention No. 87. This concerned, first of all, the clear contradiction between the Act on Associations, which required prior authorization for the establishment of associations, and Article 2 of Convention No. 87. The second point raised by the Committee of Experts concerned article 6 of the Labour Code which limited the holding of trade union office to Djibouti nationals. This discrimination clearly violated Article 3 of Convention No. 87 which provided for the right to freely elect representatives of the organization. Finally, the third point cited by the Committee of Experts concerned the right to organize and the right to strike of public servants. It was in fact possible to limit the right to organize and the right to strike for "public servants who exercised authority in the name of the State or in essential services in the strict sense of the term, that is, those the interruption of which would endanger the life, personal safety or health of the whole or part of the population, or in the event of an acute national crisis". The Djibouti legislation provided exceptions which went much further and which were not in conformity with the Convention and the meaning given to this provision by the Committee of Experts.

The Worker members considered that this case raised extremely important questions as it concerned one of the fundamental human rights at work. It was high time that the Djibouti Government conform to international labour Conventions which it had ratified and that it fulfil the promises made in the past. They insisted that law as well as practice should fundamentally be changed in order to allow for true independent trade union movements in all sectors. The lack of haste the Government was displaying in improving this situation was disquieting. It should act without any further delay.

The Employer members noted that they had hardly had an opportunity to examine the case of Djibouti to date. Although the case had been on the list for discussion last year, it had not been examined since the Government had not registered itself. They further noted that this year the Committee of Experts had indicated that the Government had not sent a report. This demonstrated the Government's lack of willingness to cooperate with the supervisory bodies. The Employer members also noted the comments made by the Committee on Freedom of Association as well as the results of the direct contacts mission undertaken in 1998 which gave rise to deep concern, since there was no tangible progress to date. In addition to the oral information provided by the Government representative to the Committee, a detailed report in writing was indispensable.

Turning to the issues raised by the Committee of Experts, the Employer members noted that these could be examined in three parts. Firstly, according to section 5 of the Act on Associations, as amended in 1997, prior authorization for the establishment of associations was required for trade unions. Secondly, section 6 of the Labour Code limited the holding of trade union office to Djibouti nationals. These provisions were a clear infringement of Convention No. 87 as they placed restrictions on the right to organize. Thirdly, with regard to the provision concerning the right to strike in the public sector, the Committee of Experts had reiterated its previous definition of the limited instances in which strikes could be prohibited and had therefore deemed this provision to be in contravention of the Convention. However, the Employer members considered that this definition of the right to strike had no foundation in Convention No. 87.

In any event, it was a matter of urgency for the Government to take some action. The Employer members had understood from the information provided by the Government representative that a second direct contacts mission should be envisaged. The mandate of such a mission, however, remained unclear. With regard to the Government representative's statement that there was no obstacle to the reinstatement of union leaders in their posts, the Employer members understood this to be a concrete promise. However, in view of the long period of time involved, the Employer members considered that the Government should engage itself in effective collaboration with the ILO. To this effect, it was indispensable for the Government to supply a detailed and comprehensive report reflecting all the issues which had been raised in the comments of the Committee of Experts. This case would then be re-examined in this Committee if necessary on the basis of the new information and the subsequent comments by the Committee of Experts.

The Worker member of Senegal stated that the case of Djibouti gave rise for concern. It was rare to observe cases of such flagrant violations perpetrated by a Government against trade unions. In July 1999 the Government organized a sham "joint" congress of the UDT and UGTD which prevented holding ordinary congresses of these trade union centrals. The Government wanted to impose leadership that it had chosen on these trade union organizations. It

was important to underscore some of its acts, such as confiscation of post office boxes of the aforementioned trade union organizations, resulting in misrouting of their mail; the substitution of the legitimately elected union representatives by those working for the Government; systematic and generalized harassment of union leaders and affiliates of these organizations; the prohibition of free union meetings in enterprises; the forcible closure of the headquarters of the UDT and UGTD; and the arbitrary dismissal of leaders of these two trade union centrals. Despite promises made in 1998 by the Government to the direct contacts mission, no tangible progress could be observed. This problem had gone on for too long, and the Government must take all necessary measures to reinstate union leaders terminated since 1995; allow free organization of ordinary congresses of the UDT and UGTD; and ensure the respect of trade union freedom as well as the right to organize and bargain collectively. Firm conclusions must be adopted on this case by the Committee given the grave violations of trade union freedom which persist in Djibouti.

The Worker member of France indicated that if the Committee of Experts, citing the Committee on Freedom of Association, had not found any tangible progress in the restoration of freedom of association in full, then in reality one should speak of a deterioration in the situation, with government interference in the functioning of trade unions. The leaders of the trade unions UDT and UGTD who were dismissed in September 1995 had not yet been reinstated. Furthermore, in 1996 and 1997, teachers had been dismissed as a result of their participation in a strike. In this respect, it would be useful to be informed of measures taken by the Government in response to requests for reinstatement made this year by trade union leaders who had been dismissed. With regard to the organization of free and democratic elections, the speaker noted the participation of police officers in the vote to renew the Executive Committee of affiliates of the UDT and UGTD, in the place of employees of the Ministry of Transportation who were on strike the day of the election. The Government had furthermore blocked within the Ministry for Employment and Solidarity the list of delegates convened to participate in the election of the President and Secretary-General of the UDT and the UGTD. He raised the question of the sincerity of the Government's engagement to no longer interfere in the activities of trade unions. The Government had a restrictive attitude toward the exercise of the right to strike, and it was especially with regard to the public service that it used its power of requisition. Moreover, the Government continued to interfere frequently in the activities of trade unions. It should therefore be called upon to take concrete measures to restore freedom of association in Djibouti, both in law and in practice.

The Worker member of Rwanda stated that he was scarcely convinced by the statement of the Government member of Djibouti. The latter had invoked the economic and conflictual situation existing in his country in justification of violations of freedom of association, and further qualified the trade union situation in his country as a question of slight importance, despite the concerns expressed in this connection by the Committee on Freedom of Association. Regarding the question of the reinstatement of the dismissed trade unionists, the criteria employed should be examined in view of the fact that only some of them had been able to benefit from reinstatement. He considered that the statements of the Government member constituted a further diversionary tactic and that violations of trade union rights continued. The Government of Djibouti must stop these tactics and comply with the provisions of Convention No. 87.

The Government representative of Djibouti said that the statements of certain Worker members were exaggerated. References to cases of imprisonment, to manoeuvres intended to install persons in the pay of the Government as trade union leaders, and the seizure of post office boxes were laughable. However, the Government had no time for such amusement. It had proved its good faith, in particular by allowing the mission of ILO experts to act freely. Moreover, the reinstatements of dismissed trade union leaders were continuing, and were being examined case by case in full respect of the law. The Government reiterated its interest in, and its requests for, technical assistance for the organization of tripartite training seminars on international labour standards for trade unionists.

The Worker members noted that serious contradictions remained between national legislation and practice, on the one hand, and the Convention, on the other, without the Government having provided sufficient guarantees to allow an improvement in the situation. The Government must give effect to the promises made during the 1998 direct contacts mission as well as those renewed within this Committee. If the Government was motivated by the political will necessary to comply with the provisions of the Convention, effective application thereof would follow, if necessary with the technical assistance of the Office. The Worker members went on to stress the need to send in the reports due on the ratified Conventions, on the grounds that the latter provide the only means of noting an improvement in the situation.

The Employer members noted that, up to now, discussions with Djibouti had taken place only occasionally. Moreover, the information now provided by the Government representative was fairly general in nature. Pointing out that the Committee of Experts had noted several shortcomings in the legislation with regard to the Convention, the Employer members urged the Government to take measures to repeal or amend the provisions mentioned, which clearly violated the provisions of the Convention. The Employer members also urged the Government to promptly supply a report to the Committee of Experts responding in detail to all the issues raised in the observation at the earliest possible date.

The Committee took note of the oral information supplied by the Government representative and of the discussion which followed. The Committee shared the regret expressed by the Committee of Experts that the Government failed to send a report. The Committee stressed with great concern the lack of cooperation by the Government. It regretted in particular the absence of the Government of Djibouti at the International Labour Conference for the last two years. The Committee was deeply concerned by the situation of non-compliance over a number of years with the requirements of the Convention. It recalled that a direct contacts mission of representatives of the Director-General of the ILO went to Djibouti in January 1998 and that specialists on the multidisciplinary team (MDT) had two missions in the country in December 1999 and March 2000 with no significant results. It insisted on the importance for workers in Djibouti of being able to elect their representatives in full freedom. It urged the Government to reinstate the union leaders of UGTD/UDT who had been dismissed from their jobs for legitimate union activities five years ago and to allow the workers to elect democratically their union leaders at the unions' federation and confederation levels. It also urged the Government to remove all the discrepancies existing in the law in relation to: the forming of trade unions without previous authorization; the free elections of unions' representatives; and, the right of civil servants' unions to organize their activities without interference from the public authority that would impede their lawful exercise. The Committee expressed the firm hope that the Government would resume active cooperation with the supervisory bodies and would promptly supply a detailed report with answers to the points raised to the Committee of Experts on the concrete progress made both in practice and in law to ensure the application of this fundamental Convention.

The Government member of Djibouti wished that the conclusions of the Committee reflect his statements concerning the absence of interference by the Government in the exercise of trade union freedom and the renewed commitment of his Government in this respect.

Ethiopia (ratification: 1963). A Government representative stated that, with regard to the issue of trade union diversity within an enterprise, Ethiopian labour law provided for the possibility of forming multiple industrial federations and confederations, although it permitted the formation of only one trade union per enterprise. This limitation had its origins in the history of the trade union movement in Ethiopia and his Government's lack of experience with regard to the possibility of having multiple unions at the enterprise level. Consultations conducted on this issue revealed that the trade unions believed that the current legislation made them stronger and that introducing multiple unions in an enterprise would weaken their collective bargaining position. The employers' organizations in Ethiopia also supported this longstanding practice and considered that it helped maintain industrial peace in the country. Therefore, the law reflected both the positions and practices of the social partners. The Government did not intend to modify the national legislation in this regard since there had never been a problem in applying the law or enforcing workers' rights to establish and join trade unions of their choice. Noting the longstanding nature of this practice, the Government representative stated that this was the first year that the Committee of Experts had requested the Government to guarantee the possibility of trade union diversity at the enterprise level. He assured the Committee that, in principle, Ethiopia was not opposed to this possibility. Therefore, his Government would hold tripartite discussions to determine the appropriateness of amending the labour law to bring it into conformity with the Committee of Experts' comments.

Referring to the exclusion of teachers from the labour legislation, the Government representative noted that the Ethiopian Teachers' Association was established in 1964, in accordance with the provisions of the Ethiopian Civil Code. Since that time, it had remained active in Ethiopia and had also affiliated with international unions. Following the adoption of the 1994 federal Constitution, teachers and other government employees had been guaranteed the right to form trade unions and other associations in order to bargain collectively with employers or other organizations affecting their interests. In accordance with the relevant constitution-

al provisions, the Ministry of Labour and Social Affairs and the Civil Service Commission had been preparing draft procedures and regulations on the formation of trade unions and collective bargaining to be included in the draft civil service law. During the preparation of the draft law, the concerned government employees would continue to enjoy their rights of freedom of association and collective bargaining provided for under the Civil Code.

With regard to the power of the Ministry of Labour and Social Affairs to cancel the registration of trade unions under certain circumstances, the Government representative noted that the Ministry of Labour and Social Affairs had submitted draft legislation to the Council of Ministers which would vest the power of cancellation solely in the Ethiopian courts. Therefore, the administrative authorities would not have the power to dissolve or suspend organizations. The Ministry was currently awaiting approval of the amendment and its adoption would be communicated to the Office. In this regard, the speaker thanked the ILO Area Office in Addis Ababa for facilitating the organization of the tripartite discussion on this matter.

Finally, the Government representative referred to the procedures in Ethiopian legislation on the exercise of the right to strike. First, he noted the nature of the dispute resolution mechanisms which must be utilized before a strike may be called. This binding procedure was handled by a para-judicial body, the Labour Relations Board, which sought to resolve labour disputes and served as a body of last resort before a strike was called. He believed that there was a misunderstanding on this point since the Committee of Experts apparently considered that the Labour Relations Board formed part of the Ministry of Labour and Social Affairs, while in fact the Board functioned as an independent tripartite body. Therefore, the issue of binding arbitration would not arise. Secondly, he referred to the definition of essential services in the context of the right to strike, noting that the issue of limiting the definition of essential services was being discussed in the Ministry. In its review of the matter, the Government was also seeking information from other countries regarding their experiences. At the appropriate stage, it would also seek assistance from the Office to provide technical support in organizing tripartite discussions on the matter.

In conclusion, the Government representative expressed regret for any delays in reporting as well as in performing certain undertakings, such as enactment of the suggested legislative amendments. Despite the adverse circumstances in his country, which included severe drought and a war, the Government representative reiterated Ethiopia's commitment to comply fully with ratified ILO Conventions.

The Worker members noted that this was a serious case which had been before the Committee on numerous occasions and that, throughout the past seven or eight years, Ethiopia had repeatedly promised to bring its legislation into conformity with the provisions of the Convention. The Worker members attributed the Government's non-compliance in this regard to the position taken by the Government representative in his statements denying any violations of the Convention.

Ethiopian legislation effectively established a trade union monopoly at the enterprise level. Referring to the comments made by the Committee of Experts, the Worker members indicated that, since 1993, the Committee had been urging the Government to amend its legislation. While acknowledging the adverse circumstances Ethiopia was facing, the Worker members nevertheless pointed out that the issues before the Committee had been raised prior to the outbreak of the war and that the Government's response at that time had been no quicker. Referring to the second sentence in the comments of the Committee of Experts regarding Ethiopia's interference in trade union activities, the Worker members stated that the Committee of Experts' sentence referred to incidents of abuse of power. Last year, a long list of examples had been cited of the Government's interference, including the murder, arrest and imprisonment without trial of trade union leaders and their mistreatment while in prison, which had led to the deaths of two trade union leaders. The Government's argument that these trade union leaders had been jailed for engaging in terrorist activities was not credible.

Referring to the case of the President of the Ethiopian Teachers' Association, Dr. Taye Woldesmiate, the Worker members referred to the findings of the Committee on Freedom of Association which had strongly urged the Government to take steps to secure Dr. Woldesmiate's immediate release. The Committee of Experts had not referred to the conclusions and recommendations of the Committee on Freedom of Association, nor had the Committee of Experts reacted to the issues raised in the Conference Committee's discussions on Ethiopia. The Worker members deplored this.

The Worker members noted that the conclusions and recommendations of the Committee on Freedom of Association stemmed from its examination of Ethiopian law and practice. It was therefore appropriate to cite those findings, particularly those interim recommendations urging the Government to ensure that all union members and leaders detained or charged were released and that those dismissed were reinstated in their jobs and given compensation for lost wages and benefits.

The Worker members noted that, since last year's Conference, Dr. Woldesmiate had been convicted on charges of conspiracy against the State and sentenced to a prison term of 15 years. The ICFTU had alleged that the trial was improperly conducted and that Dr. Woldesmiate's due process rights had not been observed. An Ethiopian judge who had raised the question of the independence of the judicial system had been dismissed. Noting that this case was still before the Committee on Freedom of Association, the Worker members hoped that the Committee of Experts would take those proceedings into account.

This was clearly a case for a special paragraph since it involved serious and protracted violations of a fundamental Convention. While the Government had made repeated statements promising to comply with the Committee of Experts' requests, the Worker members wished to see the Government take measures immediately and report on the steps taken to satisfy fully the recommendations made by the Committee of Experts before its November meeting, including the answers to the points raised by the Committee on Freedom of Association in paragraph 236(a), (c) and (d) of its most recent report on Case No. 1888. Noting the Government representative's statements that work on the legislative amendments could be completed quickly, the Worker members saw no reason why the Government could not report on these amendments before the Committee of Experts' next session. If the Government of Ethiopia committed itself to this undertaking, the Worker members would refrain from requesting a special paragraph and would be willing to wait and assess the matter again next year. Otherwise, the Worker members would be forced to request the Committee to express its grave concern and to place these concerns in a special paragraph.

The Employer members noted that this case had been discussed at the past two sessions of the Conference Committee and was once again before the Committee. The observation of the Committee of Experts repeated its previous comments, adding only that the limitation of one trade union per undertaking applied only to those undertakings with 20 or more workers. The Employer members pointed out that the legislation in question also excluded teachers, state administration officials, judges and prosecutors from the scope of application of its provisions on the right to organize. While judges and prosecutors might not be the most typical representatives of workers in the civil service, the Employer members nevertheless considered that these exclusions constituted a clear violation of the principle of freedom of association established in the Convention. With regard to the powers vested in the Ministry of Labour to cancel the registration of unions, the Employer members considered this to be in clear violation of the Convention. In respect of the broad restrictions on the right to strike and the Committee of Experts' definition of essential services the Employer members recalled their longstanding reservations in this regard. In conclusion, little had been done by the Government in recent years to bring its law and practice into conformity with the requirements of the Convention.

The Employer members recalled the Government's statement to the Conference Committee in 1994 that new legislation was being drafted to bring Ethiopian law into compliance with the Convention. This statement had also been made to the Conference Committee in 1999. Referring to the Government representative's statement that restrictions limiting the establishment of trade unions to one union per enterprise was in the interests of both employers and workers, but that the possibility of establishing more unions could be discussed in a tripartite committee at the national level, the Employer members pointed out that the Convention established workers' and employers' rights to establish and join organizations of their own choosing to promote their occupational interests. The Government needed to provide for the possibility of trade union diversity in order to conform with the requirements of the Convention and this subject was not appropriate for tripartite consultation, since trade union pluralism was one of the essential principles of the Convention.

The Employer members noted the Government representative's statements that legislative amendments would be possible in respect of teachers' right to organize and that new legislation was under examination with regard to the cancelled registration of former unions. However, the Employer members pointed out that the information provided by the Government was too vague and that it should supply detailed answers to the Committee of Experts' comments. Therefore, the Employer members recommended that the Committee's conclusion should urge the Government to supply a detailed report indicating steps taken to amend Ethiopian legislation and practice in order to comply with the Convention. Alternatively, the statements made by the Worker members recommending that a special paragraph be issued by the Committee should be considered.