

**Committee on the Application of Standards**

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**Commission de l'application des normes**

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**Comisión de Aplicación de Normas**

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**21st sitting, 14 June 2017 (cont.), 5 p.m.**  
**21<sup>e</sup> séance, 14 juin 2017 (suite), 17 h 00**  
**21.<sup>a</sup> sesión, 14 de junio de 2017(cont.), 17 horas**

*Chairperson: Mr Washington González*

*Président: M. Washington González*

*Presidente: Sr. Washington González*

**Discussion of individual cases (cont.)**

**Discussion sur les cas individuels (suite)**

**Discusión sobre los casos individuales (cont.)**

**India (ratification: 1949)**

Labour Inspection Convention, 1947 (No. 81)

Convention (n<sup>o</sup> 81) sur l'inspection du travail, 1947

Convenio sobre la inspección del trabajo, 1947 (núm. 81)

The Government provided the following written information which is reproduced in Document D.9. In addition, before the Committee, a **Government representative** referred to the constitutional structure of India, consisting of a federal setup and a defined distribution of powers between the centre (that is, the federal government) and the states (that is, the provincial governments), in which the centre and the states had concurrent powers to legislate and enforce labour laws. India had a very elaborate system of labour legislation, which was secured through a system of labour inspection, both at the central level and the

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level of the states. Reviewing and updating of labour laws was a continuous process to bring them in tune with the emerging needs of a globalized and knowledge-based economy, and included tripartite consultations.

The issue of the scope and objectives of the legislative amendments and reforms of the Government had been discussed during the 2015 session of the Committee. In this respect, he wished to reiterate the observations already made that no amendments to the scope of application of any labour laws had been enacted by the Government to exclude the workers from the purview of labour laws. In fact, the Committee of Experts had not referred to any specific legislative action that had in any way diluted the provisions relating to labour inspections or the protection of workers, as provided for under the Convention.

India followed the process of tripartite consultations in all its legislative reform initiatives. All proposed amendments to labour laws, or proposals for new laws were being discussed in appropriate tripartite forums, and only thereafter were the proposals carried forward. In this respect, he also referred to the written information that had been provided by the Government to the Committee on the progress in respect of various laws that had been passed or were currently under consideration. Recalling the intervention made during the 2015 session of the Committee, he wished to add that the proposed Small Factory Bill and the proposed amendments to the Factories' Act too were being re-examined and reviewed by the Government afresh.

The Office had provided technical assistance and inputs on the proposed legislative changes, especially on the draft Labour Codes. The Government remained committed and would also welcome future ILO technical assistance. As stated in the written information provided by the Government to the Committee, none of the legislation that had been adopted had any impact on the labour inspection system, or on the principles of the Convention.

Concerning the free initiative of labour inspectors to undertake labour inspections, the Government was committed to the obligations in the Convention that workplaces should be

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inspected as often and as thoroughly as necessary. Labour inspectors had full discretion in law and practice to undertake inspections of workplaces at any point of time as well as to initiate the action prescribed in law, without previous warning.

Concerning statistical information on labour inspection activities, the statistics sought by the Committee of Experts had been provided in the annex to the written submission of the Government to the Committee. He recalled that in view of the federal structure of the country and the sovereignty of the states, which were mostly responsible for the subject of “labour”, there was no statutory mechanism for the states to furnish data to the central government. However, the Labour Bureau collected and compiled data on various labour related matters from the states on a voluntary basis. In this respect, he referred to the written information provided to the Committee on a project for the strengthening and modernization of the system for the collection of statistics by the Labour Bureau.

In relation to the absence of data on inspections in special economic zones (SEZs) by the states and in the IT and ITES sector, he explained that the Labour Bureau was currently not in a position to capture such data, but that there was indeed a need to strengthen the collection and compilation mechanism to enable such analytics, and ILO technical assistance in this respect would be welcome.

Concerning the self-certification scheme, as already stated during the discussion of the case before the Committee in 2015, this scheme did not entail any relaxation of or substitute for statutory inspections, and workplaces remained subject to inspection, despite having subscribed to the self-inspection scheme.

Concerning the delegation of inspection powers in SEZs, he emphasized that there had not been full delegation of labour inspection powers to the Development Commissioners in all SEZs as further detailed in the written submission of the Government. Moreover, the delegation of powers in the zones in which they had been undertaken had not diluted enforcement in any manner. It should be reiterated that the Development Commissioners,

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who were very senior government officers, were fully responsible for the enforcement of labour laws in SEZs, and could perform this duty without any conflict of interest.

He also emphasized that a tripartite meeting had been undertaken as requested by the Committee of Experts on whether the delegation of powers in SEZs had affected the quantity and quality of labour inspections. In this respect, he also reiterated the information provided in the written statement of the Government that the social partners had mostly considered that the delegation of powers was working satisfactorily. As indicated in the written submission, a regular review of the implementation of labour laws in SEZs would be developed in due course.

The working conditions in the IT and ITES sector were regulated by the provisions of the Shop and Commercial Establishment Act of respective state governments. These establishments were inspected by regular labour inspections like any other establishments. However, as described above, the current data collection system did not permit the extraction of specific data concerning the IT and ITES sector, which is why the Government had been unable to provide such data.

Concerning the free access of labour inspectors to workplace, he also reiterated the information provided in the written information that labour inspectors were granted this right and there had not been any cases where they had not been able to access workplaces for inspection.

He concluded by stating that the substantive issues raised in the case had been adequately responded to by the Government in a series of communications since 2015. The last comments made by the Committee of Experts had not concerned non-compliance with the Convention, but had been primarily limited to seeking more information and statistics. In the absence of any substantive issue, he felt that this case should not continue to be examined by the Committee and the case should be closed. The Government remained

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committed to labour welfare and the protection of labour rights and was willing to continue to avail itself of ILO technical assistance to achieve the cause.

**The Employer members** recalled that the application of the Convention had previously been examined by the Committee in 2015 and on numerous occasions by the Committee of Experts in the last ten years. The examination of this case in 2017 was in fact a continuation of issues that had been dealt with by the Committee two years ago. While cases on the Convention often concerned the total failure of labour inspection, this case was being examined due to the fact that the Government had failed to provide information in reply to the 2015 conclusions of the Committee or to the comments of the Committee of Experts. The speaker understood India's federal structure, with its central and state governments, but this structure did not justify why that information requested by the Committee was not provided. The Employer members therefore recalled each point that had been raised by the Committee in its 2015 conclusions, highlighting that the Government had failed to provide information on almost all of the following points.

With respect to detailed statistical information covering, at the central and state levels, all the matters set out in Article 21 of the Convention with a view to demonstrating compliance with Articles 10 and 16, and specifying as far as possible the proportion of routine to unannounced visits and information in relation to the proportion of routine and unannounced visits in all SEZs, no information had been provided by the Government. With respect to an explanation as to the arrangements for verification of information supplied by employers making use of self-certification schemes, no information had been provided by the Government. With respect to information explaining the division of the responsibility of labour inspection between the state and central spheres for each law and regulation in question, no information had been provided by the Government. With respect to information explaining, by reference to the relevant statistics, the extent to which the number of labour inspectors at the disposal of central and state government inspectorates were sufficient to ensure compliance with Articles 10 and 16 of the Convention, no information had been

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provided by the Government. With respect to detailed information on compliance with Article 12 of the Convention with regard to access to workplaces, to records, to witnesses and other evidence, as well as the means available to compel access to such, no information had been provided by the Government. With respect to detailed information on health and safety inspections, undertaken by certified private agencies, including the number of inspections, the number of violations reported by such agencies, and compliance and enforcement measures taken, no information had been provided by the Government.

Furthermore, in relation to the review, with the social partners, of the extent to which delegation of inspection authority to the Development Commissioners in SEZs had affected the quantity and quality of labour inspections, the Government had submitted information on a relevant tripartite meeting that had been held in May 2017. The Employer members recalled that information provided had in fact been requested two years ago. With respect to ensuring that amendments to the labour laws, in consultation with the social partners, undertaken at the central or state level, complied with the provisions of the Convention, making full use of ILO technical assistance, the Government had indicated that this matter was in progress.

The Government had now provided detailed statistics, but the information provided by the Government in its written submission was received late. The Employer members emphasized that a presence on the shortlist of cases to be discussed at the Committee should not have to be necessary to bring a country to provide the information requested by the Committee. When the Committee requested a Government to supply information, it expected to receive this information in a timely manner.

They concluded by stating that the Committee had started its session with the discussion of cases of serious failure by member States to respect their reporting obligations. The case of India appeared to be a similar case, as information had been requested two years ago and not provided in time. While there seemed to have been progress and the case should

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be closed, they called on the Government to continue to avail itself of ILO technical assistance with respect to the legislative reform.

**The Worker members** recalled that the Committee had last discussed the case in 2015, following the Government's proposal to radically reform the labour inspection regime, in their view to end the so-called "Inspector Raj". In its conclusions, the Committee had requested detailed information, including labour inspection statistics, to better assess the efficacy of the labour inspection system. The written information provided by the Government to the Committee did not fully meet the requests made by the Conference Committee and the Committee of Experts. Therefore, they had to ask the Government, once again, to explain its actions, which significantly weakened rather than strengthened the labour inspection regime, in clear violation of the Convention.

They emphasized that only a committed, systematic effort by an expanded labour inspectorate could make a difference with regard to the widespread violations of labour laws in the country, including with regard to the very large number of child labour, forced labour, working time, occupational safety and health and equality issues.

The Worker members reiterated their concerns as to the adoption of the legislation which had been pending for a long time, including the draft Small Factories Bill, 2015, the draft Labour Code on Wages and the draft Labour Code on Industrial Relations. Those reforms would undermine the independence of inspectors in carrying out their duties and remove the potential for free access to workplaces without prior notice, which was essential for proper scrutiny of workplace conditions. They remained concerned that labour inspectors no longer had the power to decide which workplaces to inspect since the computerized system (the Shram Suvidha Portal) randomly determined the workplaces to be inspected based on information gathered from risk assessments. Employers were notified in advance of some categories of inspections (so-called Optional Inspections). Penalties could only be imposed after an inspector had issued a written order and given the employer additional time to comply. The explanation of the Government that "emergency inspections" were

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immediately carried out in the event of fatal or serious accidents and “mandatory inspections” were carried out in the two years following such accidents, merely served to highlight the failure of the inspection regime to prevent those accidents from occurring in the first instance.

Labour inspectors needed to have free access to workplaces without prior notice and be able to administer adequate penalties for violations of the legal provisions or for the obstruction of inspectors in the performance of their duties. There should be detailed records of denial of access or incidents of obstruction.

The Worker members expressed their concern about the rights of workers in SEZs, where working conditions were quite poor, especially as trade unions remained largely absent because of anti-union discrimination practices. The situation had worsened following the delegation of enforcement powers to the Development Commissioners in several states, under the SEZs Rules, 2006. That represented a clear conflict of interest in light of their central function to attract investment. The legal framework in SEZs allowed the zone authorities rather than the Labour Commissioner to enforce the law. There had been an increase in violations of labour legislation, without the more effective safeguards of enforcement powers by state authorities. Accordingly, they urged the Government to effectively reform the labour inspection system in SEZs to ensure that workplaces were inspected in line with the provisions of the Convention.

The Worker members also remained concerned that the labour inspectorate was extremely understaffed. According to the latest available statistics of the Directorate General Factory Advice Service and Labour Institutes, which dated from 2011, for a total of 325,209 registered factories there were only 743 inspectors and the number of injuries stood at 29,837, 1,433 of which were fatal. Child labour and other abuses of workers’ rights remained endemic in the garment sector, especially where factories were outsourced parts of a global supply chain. It was clear that the labour inspection regime was incapable of protecting workers in all states and in all industries. They urged the Government to hire an

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appropriate number of inspectors for the size of the workforce and ensure that they received the adequate training and tools necessary to carry out inspections effectively.

The Government's reliance on self-inspection as a means of law enforcement was also a matter of concern. The very purpose of the labour inspection regime was subverted as there was no mechanism for the verification of information supplied. Yet self-assessments were among the primary sources of information used by the Central Analysis and Intelligence Unit, which monitored employers' compliance with labour standards. There should be an independent means of verification by public inspectors as opposed to self-certification by employers who clearly had no incentive to report. They supported the call of the Committee of Experts that the Government should provide information as to how self-certificates were verified by the labour inspectorate, as the written information provided to the Committee had not provided a response to that question.

Regarding coverage of workplaces by inspectors, in line with the 2015 conclusions of the Conference Committee, and as requested by the Committee of Experts, the Worker members also called for proper scrutiny of occupational safety and health (OSH) inspections which were undertaken by certified private agencies. The function of OSH inspections should remain with the public authorities to secure effective recourse when violations occurred. Proper scrutiny also meant that the Government should provide statistics on the number of inspections, the number of violations reported by such private agencies, and compliance and enforcement measures taken.

The lack of information prevented the Committee of Experts from assessing the capacity of the inspection regime to ensure the effective application of the legal provisions concerning the protection of workers through an adequate number of labour inspectors and labour inspections. Unfortunately, the evidence showed that the labour inspection system was inadequate to achieve this purpose. Inadequate statistical information meant that it was not possible to determine accurately whether inspections were being carried out, whether workers had access to a remedy and whether employers were sanctioned when appropriate.

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The Worker members expected that the Government would this time fully implement the conclusions and provide the requested information to the Committee Experts in time for its next report.

**The Employer member of India (Mr CHAWLA)** explained that the Indian labour market was characterized by widespread informality, many medium-sized and small enterprises, and a Startup Hub which was the largest in the world. At the same time, governance of work had been traditionally jarred by rigid labour laws and a cumbersome regulatory regime. Recent legislative decisions (including a complete ban on child labour, the increase in the number of weeks of paid maternity leave and initiatives in relation to the payment of wages) were an indication of the country's commitment to protect and promote labour rights and welfare. Care was also taken to provide for formal employment.

The Indian employers wished to indicate that the initiatives taken by the Government in recent years had basically been undertaken to address certain needs.

Firstly, to overcome the problem of the multiplicity of labour laws, the Government had proposed the consolidation of labour laws into four codes to cover: (a) wages; (b) industrial relations; (c) social security; and (d) occupational safety and health. Tripartite discussions had already been held with regard to wages and industrial relations, and the corresponding legislative procedure was under way. Views of the social partners on the draft code on social security had also been obtained.

Secondly, to address the issue of compliance cost and create a conducive environment for business growth. Complex and cumbersome filing procedures and documentation had been simplified through digitization, including the creation of a digital platform called the "Shram Suvidha portal", the reduction in the number of returns and records to be maintained and the promotion of online transactions. The governance reforms, in turn, had incentivized workplaces to adhere to the compliance regime more scrupulously.

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The Government had already provided detailed statistics regarding the labour inspections carried out under the new regime. The submissions of the Government on the issue of labour law compliance in SEZs deserved particular attention. The primary objective of SEZs was to promote industrial activity which could generate huge investments as well as large-scale employment. The tripartite review in May 2017 on the effectiveness of labour governance in SEZs had found the system to work satisfactorily. The limited delegations in SEZs had in no manner created an escape route for employers from fulfilling their obligations towards workers.

The self-certification scheme for voluntary compliance together with strict monitoring was a progressive step towards promoting responsibility and ethics among employers. In the understanding of the Indian employers, the self-certification had not substituted sovereign labour inspections. Moreover, in their understanding, there had not been any legislative decisions to dilute any labour inspection provisions.

The Indian employers had always contributed to the tripartite consultation process and had appreciated the efforts of the Government to find the optimum solution to all issues which were discussed. The Committee was requested to take note of these facts and set aside the case.

**A Worker member of India (Mr PANDYA)** noted the Government's submission and recalled that the world of work had been changing at an unprecedented speed. Conventional employment was already dated and the speed of technological evolution had limited the life span of an industry and resulted in demographic shifts in production. While the world had seen tremendous economic progress, this had not always resulted in an equitable share of benefits, and had led to widening inequalities, a rise in informality and the loosening of labour market institutions. In addition to this, the extremely elaborate legislative framework, and its implementation, had created a gap in the realization of workers' rights. Noting the information provided by the Government on inspection services and staff, and its willingness to engage with the ILO for technical assistance, limitations in the availability of data

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persisted. While acknowledging the importance of creating an environment conducive to economic development, the spirit of the Constitution revolved around principles of social justice and non-discrimination, and labour rights were non-negotiable.

Information provided on the issue of enforcement and compliance of SEZs with labour laws and the intentions of the Government to organize a tripartite consultation to review the situation in SEZs were noted. The Worker member further welcomed the institutionalization of a monitoring mechanism in SEZs to ensure compliance. The Government should continue tripartite consultations, recognizing the long history of trade unions in India and their noteworthy contributions to shaping its labour policies. Partners in the growth narrative of India demanded a rightful share and the speaker requested the Committee to take note of the information provided by the Government in a positive manner.

**Another Worker member of India (Mr GUHA)** expressed growing concern at workplace safety and health violations that had resulted in numerous worker deaths. The Government had not only refused to follow up on the conclusions of the Committee made in 2015, but on the contrary had continued to elaborate a computerized system to generate inspection schedules. Through its circular of 25 June 2014, the Central Labour Commissioner had set up a Central Analysis and Intelligence Unit responsible for a computerized inspection system which did not include OSH inspections and was based on self-certification, the receipt of complaints and a list of defaulters. Labour inspectors were now redesigned as “facilitators” and contrary to the indications made by the Government, trade unions had not been part of any tripartite consultation mechanism; moreover they no longer had a role in labour inspection.

The written information provided by the Government to the Committee had not been made available to the social partners prior to its submission, and they had therefore not been consulted on the information provided. Inspection in the SEZs had been virtually abolished: in many SEZs, labour authorities had been divested of their powers in favour of Development Commissioners under the Ministry of Commerce rather than the Ministry of

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Labour. On 30 May 2017, a tripartite meeting had been called to ease pressure of the ILO. During the meeting, a report had been presented that revealed that the Development Commissioners in one year had only undertaken 14 inspections in an SEZ employing 251,000 workers. The statement in the written information provided by the Government that only one worker had been critical of the devolution of powers to the Development Commissioners did not reflect the truth. Instead, the Government had refused to consider documents that had been presented by the worker member during the meeting. The Development Commissioners had been actively refusing registration of trade unions on the basis of self-invented laws. They also passed on information about initiatives that had been taken to form trade unions, enabling owners in SEZs to harass workers involved in those initiatives. Contrary to the Government's statement, the Shops and Establishment Act had not been extended to the IT and ITES sectors, nor had any labour inspections yet been established covering these sectors.

As the Committee had unsuccessfully encouraged the Government to comply with the Convention, it was necessary to investigate the real situation on the ground.

**The Government member of the Islamic Republic of Iran (Mr ZOHREHVAND)** thanked the Government for the information provided on the latest situation concerning the application of the Convention. A number of legislative reforms were ongoing to create an enabling environment for economic growth and job creation. In this respect, it was positive that the Government was working closely with the ILO to ensure that the legislative reforms were consistent with ILO Conventions. Moreover, the Government had provided detailed information and statistics on the labour enforcement system, both at the central and state levels. The Government was encouraged to continue availing itself of ILO technical assistance. The speaker called on the Committee to give due consideration to the information and clarifications provided by the Government.

**The Worker member of Malaysia (Ms ANANTHARASA)** indicated that Indian workers continued to be vulnerable to precarious conditions, including occupational health

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and safety issues, and remained victims of labour law violations. Effective application of labour laws depended on effective labour inspection, yet, to this day, there were workers that were excluded from labour inspection, for example those working in agriculture, the informal economy, health care services or workers not categorized as teaching staff in teaching institutions, one of the largest sectors of the Indian economy.

The Government had manipulated labour inspection in SEZs, such as Noida in the state of Uttar Pradesh, where the Labour Office had closed and issues have since been managed by Development Commissioners, who had only performed 17 inspections per year in a sector with 352 industries. The Labour Office had reopened for just one year following the comments made by the ILO supervisory bodies, but was again closed in 2016. Given that the IT sector fell within the scope of the Shops and Establishments Act, no labour inspections have been carried out in this sector. Noting that the Government reiterated that no legislative amendments had been carried out to alter legal provisions that might dilute the application of the Convention, the speaker stated that this information was incorrect. Labour inspection was already watered down and completely unavailable in several sectors. The Government's planned codification of 44 labour acts would exclude workers employed in establishments with less than 40 workers from the 16 laws related to trade unions and therefore from labour inspection. Noting that such thresholds were not supported by the Committee of Experts, the speaker called on the Committee of Experts to expediently address this matter by investigating the real situation on the ground and urged the Government to walk the walk by complying with the Convention.

**The Government member of Sri Lanka (Ms RANAWAKA)** indicated that since the examination of the application of the Convention by India in the Committee in 2015, the Government had complied with the comments of the Committee of Experts and had provided detailed information on the steps it had taken to give full effect to the provisions of the Convention in law and practice. In this regard, the Government had taken steps to broadly codify 44 central labour acts into four labour codes. However, those initiatives were still at

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the consultation stage. The Government had followed a proper consultative process in this regard in the form of social dialogue, giving effect to the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). The speaker was of the view that codifying labour Acts into simplified forms and giving full effect to the national labour laws and ILO Conventions that India had ratified would help to promote employment generation and effectively address the compliance issues as well. Moreover, there seemed to be no negative impact on the labour inspection system, as a result of legislation that had been adopted. The speaker considered that the Government of India had adequately responded to the substantive issues that had been raised, thus giving effect to the principles enshrined in the Convention.

**The Worker member of Australia (Mr PERICA)** stated that there were workplaces in India where labour inspection either did not occur or occurred rarely. In order to increase foreign direct investment of multinational corporations, SEZs were consciously structured to promote the non-implementation of labour laws. Domestic labour standards, including the labour inspection requirements of the Factories Act 1948 did apply inside SEZs, however, labour inspection was almost entirely absent in practice.

Entrusting the implementation of labour laws to the Development Commissioner within each SEZ rather than the Labour Commissioner of the Factories Act, 1948 had permitted a regime free of labour inspection. Moreover, state governments had empowered the Development Commissioner to entrust the function of labour law compliance to a delegated person. For example, the Uttar Pradesh Government had empowered the Development Commissioner to call for the inspection by any external agency for the safety and health of workers in any SEZ premises. As the primary role of a Development Commissioner was to drive production within the SEZ under its responsibility, the health and safety of workers within them might be considered a conflicting and lower priority. Examples also showed that the labour department was actively dissuaded from conducting inspections in SEZs, such as in the state of Andhra Pradesh. The fact that entry into the zones

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was restricted in practice made the prospects of an unannounced inspection very unlikely. Consequently, the separate administration of labour law within SEZs effectively meant that they were unregulated by labour inspection, which had dire consequences for workers who worked within them. In this respect, he referred to a number of examples concerning unsafe and unhealthy working conditions in SEZs, and the consequences to workers that had resulted.

Taking into account the continued failure of the Government to provide adequate information on labour inspection in SEZs, and the fact that this matter had been before the Committee on a number of occasions, an escalation of the supervisory regime to a direct contacts mission was necessary.

**The Government member of Turkey (Mr EKINCI)** welcomed the efforts made and the measures taken by the Government with a view to simplifying practices and reducing regulatory burden through tripartite consultations in the labour inspection sphere. The speaker appreciated that the Government had provided detailed information and statistics on labour inspections under various laws and regulations regarding working life. The Government was encouraged to continue working closely with ILO to establish an institutionalized inspection system which would facilitate the regular supply of information. Taking into account the information that had been provided and noting that the Government was ready to accept ILO technical assistance, the speaker was of the view that the Committee should not continue examining this case.

**La miembro trabajadora del Brasil (Sra. FARIA)** expresó su preocupación por la gravedad del presente caso, que muestra la importancia de tener un movimiento sindical unido y solidario internacionalmente. Asimismo, deploró la falta de información por parte del Gobierno, necesaria para que la Comisión y el mecanismo de control funcionen correctamente. Con respecto a la información proporcionada por el Gobierno en el documento D.9, ésta debe ser analizada con cautela. Dicho documento no fue compartido con los sindicatos, fue redactado sin una consulta tripartita previa y por lo tanto, su veracidad

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es cuestionable. Además, la ausencia de información estadística en el documento D.9 no permite contrastar la información en él proporcionada. En este sentido, alentó al Gobierno a realizar consultas tripartitas y a proporcionar la información requerida por la Comisión de Expertos.

Sin embargo, indicó que el problema real yace en la inexistencia de un sistema de inspección del trabajo ineficaz. La función primordial de la inspección del trabajo es evitar los accidentes de trabajo mediante la prevención y la cohibición de prácticas perjudiciales para la salud y la vida de los trabajadores. Por esta razón, consideró muy problemática la implantación de un sistema informatizado para determinar aleatoriamente los establecimientos que deben inspeccionarse. Este sistema perjudica la libre actividad de los inspectores. Además, posee una base de datos viciada y restringida que no incluye todos los lugares de trabajo, es decir, si una fábrica no está incluida en la base de datos del sistema, nunca será seleccionada para una inspección.

La oradora consideró, en conclusión, que el Gobierno ha violado el Convenio y así debe quedar reflejado en las conclusiones de la Comisión.

**The Government member of Bangladesh (Mr ISLAM)** welcomed the progress made by the Government to comply with the Convention. He appreciated the process of labour law reforms initiated in order to ensure protection of workers as well as to promote investment and generate quality employment opportunities. Tripartite consultation had been an integral part of the process of legislative reform, in compliance with ILO Conventions. The initiatives of the Government did not aim to curtail the authority of the labour inspectorate, but to make the inspection mechanism more transparent and accountable. Inspection mechanism based on a computerized system would made the inspections more objective and targeted. He welcomed the decision taken by the Government to have an institutionalized system to review the enforcement of labour laws in the SEZs. The ILO should continue providing development cooperation and assistance to the Government to complete the ongoing reform process and to further promote labour standards in line with

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the Conventions, particularly Convention No. 81. Finally, the speaker called on the Committee to take into account the significant efforts made by the Government to address the issues raised by the Committee of Experts.

**The Government member of the Russian Federation (Mr KALININ)** had studied the Committee of Experts' observation on the application of the Convention in detail and thanked the Government for its submission. Recalling that the Government of India was a founding member of the ILO, he noted the continued commitment of the Government to labour standards and efforts to support tripartite dialogue. The Government's coordination and cooperation with the ILO with regard to legislative reform was welcomed, and he noted their openness to address the comments of the supervisory bodies. Explanations and clarifications had been provided by the Government and it was therefore to be expected that regular information would be received in the future and that the Government was committed to work in this way.

**The Government representative** provided observations in relation to the different comments raised during the discussion. Concerning the observations made on the non-availability of statistics, he wished to refer to the reports sent in 2015 and 2016 containing the statistics as required by the Convention. Moreover, the reports of the Government provided to the Committee of Experts had been circulated to all social partners. That report contained many statistical data, including on the number of labour inspectors in many states, the number of labour inspections undertaken, including the number of labour inspections in SEZs.

Concerning the labour law reforms, he explained that Indian labour laws dated back to the 1920s and therefore had to be updated to meet the current requirements and developments in the world of work. The social partners were part of the consultations in this legislative review and it was expected that, based on the recommendations made during the review, the labour laws would be fortified. While many comments had been made in relation

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to these drafts, a violation of the Convention was simply not possible at the current stage, as the labour laws were still under review.

He emphasized that labour inspection was a public function in India and that no private inspections had been introduced at the central level or the level of the states. Concerning the verification of the information supplied through the self-certification scheme, it should be clarified that self-certification was different from inspection, and that self-inspection was by no means a form of private inspection or to replace labour inspections in any way. The self-inspection scheme only provided statements by employers on the compliance with provisions of labour laws and in some cases were accompanied by a security deposit. Workplaces would continue to be subject to the normal labour inspection system and self-certification was only an additional mechanism for compliance.

Concerning SEZs, he wished to indicate that in the reports of the Government provided to the Committee of Experts, statistical information in relation to particular SEZs had been provided. The Government representative reiterated that there were seven economic zones, out of which four zones had not delegated inspection powers. In these four economic zones, normal inspections would continue. Moreover, in the zones in which inspection powers had been delegated to the Development Commissioner, OSH inspections continued to be undertaken by the inspection services of the states. At the moment, only minimal delegation had taken place and it would be seen in the future how these delegations had worked. The Government had undertaken the tripartite reviews as suggested by the Committee of Experts and it would continue to ensure that in the future, the right of workers were ensured.

Finally, in relation to the issues relating to OSH, it followed from the statistics provided in 2015 and 2016 that industrial accidents were decreasing.

He concluded by stating that the Government remained committed to the principles in the Convention so as to ensure the protection of workers and compliance with labour standards. Moreover, the Government endeavoured to promote labour welfare through

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enhanced social security, provide for labour reforms through appropriate tripartite consultation, and would continue to work closely with the ILO to ensure alignment with international labour standards.

**The Worker members** recalled that on 2 September 2016, over 100 million workers across India participated in a national strike to protest against the Government's anti-worker policies. Their demands included strict enforcement of all basic labour laws. The system as presented by the Government representative seemed perfect. However, for rights to be exercised they had to be protected through an efficient public labour inspection system, and information on inspections had to be published regularly and made readily available as provided for by the Convention. However, the Government was not complying with these obligations, and the labour inspection system was in a state of transition in the wrong direction. It was therefore important that the Committee issued firm conclusions so that the Government had political guidance, with a preventive approach. The Government could start by implementing the technical assistance provided regarding the draft Small Factories Bill, 2015, the draft Labour Code on Wages and the draft Labour Code on Industrial Relations.

Furthermore, the Government should adopt the following measures: ensure effective labour inspections in all SEZs, and provide detailed information on the number of routine and unannounced visits, as well as on the dissuasive fines imposed against infractions; promote the collaboration between officials of the labour inspectorate and employers and workers or their organizations, in particular with respect to inspection reports; ensure draft legislation in conformity with the Convention; provide information on the measures taken to ensure the discretion of labour inspectors to initiate prompt legal proceedings without previous warning; provide information on verification by the labour inspectorate of the submission of information by employers through self-certification, in particular in relation to health and safety inspections; provide information explaining the division of the responsibility for labour inspection between the state and central governments for each law and regulation in question; provide information explaining, by reference to the relevant

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statistics, on the extent to which the number of labour inspectors at the disposal of central and state government inspectorates is sufficient to ensure compliance with Articles 10 and 16 of the Convention and submit the information to the Committee of Experts; and continue to avail itself of ILO technical assistance in relation to those recommendations.

**The Employer members** recalled that there were various reasons for which a Government could be called before the Committee, even in cases where it had not provided information on the application of the Convention in time, which was the main reason why this case had been selected. The discussion covered a wide range of issues many of which had gone beyond the scope of the Convention. It was expected that the discussion of the case would, in the future, make the Government provide timely information in response to any requests made by the Committee. They suspected that the same conclusions would be made by the Committee, but that these conclusions would be stronger than the ones made by the Committee in 2015. The Government was urged to provide detailed and reliable information as requested, including on various aspects of labour inspection and the ongoing labour law reform.

*The sitting closed at 7.15 p.m.  
La séance est levée à 19 h 15.  
Se levantó la sesión a las 19.15 horas.*

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