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Eighth sitting, 8 June 2023, 11.50 a.m. (cont.)**Huitième séance, 8 juin 2023, 11 h 50 (suite)****Octava sesión, 8 de junio de 2023, 11.50 horas (cont.)**

Chairperson: H.E. Ambassador Hashmi

Président: S. E. l'Ambassadeur Monsieur Hashmi

Presidente: Excmo. Sr. Embajador Hashmi

Discussion of individual cases (cont.)**Discussion des cas individuels (suite)****Discusión de los casos individuales (cont.)****Cambodia (ratification: 1999)**

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

Convention (nº 105) sur l'abolition du travail forcé, 1957

Convenio sobre la abolición del trabajo forzoso, 1957 (núm. 105)

Chairperson – Dear delegates, we will start our discussion on the second case in our agenda, that is Cambodia on the application of the Abolition of Forced Labour Convention, 1957 (No. 105).

Government representative (Mr IN) – This Committee is the cornerstone of the International Labour Organization’s supervisory system and plays an integral role in ensuring the application of the international labour Conventions. Sharing the same dedication, the Royal Kingdom of Cambodia has honoured its commitment to uphold all rights and obligations set forth in this Convention ratified by Cambodia.

As a testament to our dedication, Cambodia proudly holds an outstanding record of having ratified eight fundamental international labour Conventions. We try to maintain cooperative and constructive relations with all social and development partners to ensure the protection of labour rights and foster harmonious industrial relations for bolstering economic development in Cambodia.

Recognizing the Committee’s significant contributions, Cambodia has actively engaged with the ILO supervisory mechanism in line with our commitments and in addition to the relevant written information provided in May 2023. My delegation took note of the report of the Committee of Experts and is pleased to offer further updates on the application the Convention in Cambodia.

In this connection, it is worth to note that the Constitution of the Kingdom of Cambodia upholds and incorporates the fundamental principles of human rights enshrined in the United Nations Charter, the Universal Declaration of Human Rights and international human rights instruments. Both human rights and labour rights are well protected by law and practice in Cambodia.

We are proud to declare that forced labour has no room in Cambodia, so there is no suggestion of forced labour. Those who really need a job work hard to get better paid to support their livelihoods and families. Consistent with international labour standards,

article 15 of the Labour Law prohibits forced or compulsory labour in accordance with the Forced Labour Convention, 1930 (No. 29), which was ratified by the Kingdom of Cambodia in 1969. We are pleased to highlight that under Convention No. 29, the term forced or compulsory labour refers to all kinds of work or service which are exacted from any persons under the menace of any penalty and for which the said person has not offered himself voluntarily.

The Convention also excludes any work or service from an individual as a consequence of legal conviction provided that it is carried out under the public authority's supervision and not hired out to private entities. As stipulated in the UN basic principles for treatment of prisoners, conditions should be made to enable prisoners to undertake meaningful remunerated employment to facilitate their integration in the labour market.

Cambodia reaffirms its commitment to the promotion and protection of human rights by incorporating this approach into national legislation, particularly its Act on Prisons. Furthermore, the Act on Prisons is in line with a wide range of international instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention against Torture, among others. This law aims at educating, reforming and rehabilitating prisoners for their integration into society. We took note of the Committee of Experts' concern regarding the various provisions of the Cambodian Criminal Code, to provide further context it is pertinent to note that Article 5 of the Criminal Code clearly mandates a strict interpretation of criminal law. This is not contrary to the concerns raised by the Committee of Experts to ensure that the provisions of the Criminal Code do not present any coercion.

We took note of the Committee of Experts' concern regarding the alleged imprisonment of two unionists. In this case we wish to clarify that their cases are currently

under appeal process. Contrary to the allegation of imprisonment, they remain actively employed and fully enjoy the right to a fair trial. Furthermore, the arrest of the protesters, in the report of the Committee of Experts, was not merely due to their participation in illegal strikes but legal action was primarily undertaken in response to their substantial disturbance to public order and safety, in violation of COVID-19 preventive measure laws to ensure the rights to life of others during the pandemic.

We express concern about our double footnoted case. There is no evidence that has been uncovered suggesting that prison labour is being utilized as a form of punishment for those opposed to the established system or who engage in a strike. If such information is sufficiently presented, Cambodia would act swiftly. Therefore, we invite the ILO and relevant stakeholders to provide detailed information should any surface. Our intention to commit to the rule of law, strengthening the implementation of laws and regulations, is of paramount importance to ensure our good governance remains intact. As such, law enforcement should not be misconstrued as a political pressure.

In conclusion, Chair, my delegation thanks you for this opportunity and reaffirms Cambodian commitment to promote protecting and respecting the principles enshrined in all relevant instruments to which Cambodia is a state party.

Membres travailleurs – Le climat qui règne actuellement et depuis de nombreuses années au Cambodge est un climat peu propice à l'exercice des libertés publiques, en ce compris la liberté syndicale et la liberté d'action collective.

En effet, le rapport de la commission d'experts fait état d'arrestations et de poursuites de membres du parti de l'opposition, des représentants d'organisations non gouvernementales, des syndicalistes et des défenseurs des droits de l'homme. Plusieurs

membres de l'unique parti d'opposition au Cambodge, le Parti du sauvetage national du Cambodge (CNRP), ont été emprisonnés avec obligation de travail pénitentiaire.

Le rapport évoque également les arrestations de 25 défenseurs des droits de l'homme et les condamnations de 9 personnalités politiques de l'opposition. Pas moins de 50 cas de harcèlement de journalistes ont également été signalés en 2021.

La condamnation de Van Narong et Pel Voeun, membres de la Confédération du travail du Cambodge (CTC), condamnés à des peines de prison pour des charges de délit mineur et de dénonciation calomnieuse, est également évoquée dans le rapport de la commission d'experts.

Plus récemment, nous devons déplorer la condamnation à des peines d'emprisonnement prononcées contre les dirigeants du syndicat *Labor Rights Supported Union* (LRSU) sur base de dispositions du Code pénal que nous évoquerons dans un instant.

Tous ces événements démontrent que les libertés publiques et syndicales sont bafouées au Cambodge. Or le libre exercice de ces libertés publiques et syndicales est une condition préalable à l'exercice des libertés fondamentales consacrées par les instruments internationaux du travail qui s'imposent au Cambodge.

Des institutions et experts internationaux dressent des constats similaires. Le Comité des droits de l'homme des Nations Unies s'est ainsi déclaré préoccupé par la violation persistante de la liberté d'expression, l'arrestation et le placement en détention de manifestants, la dissolution du CNRP en 2017 et de trois autres partis d'opposition en 2021, les menaces, le harcèlement, les arrestations arbitraires et les procès collectifs que subissent des membres de l'opposition et l'absence persistante d'un pouvoir judiciaire indépendant et impartial. À plusieurs reprises, des experts des Nations Unies ainsi que le

Rapporteur spécial sur la situation des droits de l'homme au Cambodge ont également dénoncé de telles pratiques.

Tout cela ne devrait pas laisser le gouvernement cambodgien de marbre. Il est grand temps de remédier à cette situation et de restaurer un environnement propice à l'exercice des libertés publiques, condition préalable au plein respect des normes internationales fondamentales du travail, en ce compris la convention.

Nous sommes en effet aujourd'hui amenés à examiner la conformité de la loi et de la pratique cambodgiennes avec la convention. Il apparaîtra très vite de notre examen que de nombreuses dispositions légales et l'application qui en est faite au Cambodge sont contraires au prescrit de la convention.

En vertu de l'article 1, alinéa *a*), de la convention, tout État Membre «s'engage à supprimer le travail forcé ou obligatoire et à n'y recourir sous aucune forme en tant que mesure de coercition ou d'éducation politique ou en tant que sanction à l'égard de personnes qui ont ou expriment certaines opinions politiques ou manifestent leur opposition idéologique à l'ordre politique, social ou économique établi».

Or l'article 68 de la loi cambodgienne sur les prisons prévoit que les peines de prison s'accompagnent d'une obligation de travail. Lue en combinaison avec d'autres dispositions de la législation cambodgienne, cette disposition a pour conséquence que certaines activités qui relèvent de l'article 1 *a*) de la convention peuvent faire l'objet de peines de prison assorties d'une obligation de travail.

Les dispositions suivantes sont particulièrement mises en avant dans le rapport de la commission d'experts:

- l'article 42 de la loi sur les partis politiques, tel que modifié en 2017, qui punit jusqu'à un an de prison plusieurs infractions relatives à l'administration ou à la gestion d'un parti politique qui a été dissous, dont les activités ont été suspendues par une décision de justice ou dont l'enregistrement a été refusé;
- les articles 494 et 495 portant sur l'incitation au trouble de la sécurité publique par des discours, des écrits, des images ou toute autre communication audiovisuelle en public ou pour le public;
- l'article 522 relatif à la publication de commentaires visant à exercer une coercition illégale sur les autorités judiciaires;
- l'article 523 sur le discrédit des décisions de justice, du Code pénal de 2009;
- les articles 305 à 309 concernant les délits de diffamation et d'injure;
- les articles 445 et 427*bis* du Code pénal relatives aux délits d'insulte au Roi et de critique du Roi.

Nous l'avons vu, ces dispositions ont été utilisées pour emprisonner et condamner des dissidents politiques, des journalistes, des blogueurs ainsi que des syndicalistes qui peuvent faire l'objet d'une obligation de travail.

Il est évident que la voie qui devrait être privilégiée est celle de la suppression de toute sanction pénale pour l'expression d'opinions politiques démocratiques. Le prescrit de la convention est toutefois très clair, de telles sanctions pénales ne peuvent être assorties de peines de travail.

Le cas du Cambodge nous permet également d'aborder le prescrit de l'article 1, alinéa *d*), de la convention. Il prescrit que tout État Membre «s'engage à supprimer le travail forcé ou obligatoire et à n'y recourir sous aucune forme en tant que punition pour avoir participé à des grèves».

Il apparaît pourtant du rapport de la commission d'experts que des syndicalistes ont subi des condamnations pénales suite à leur participation à des actions collectives pacifiques.

Nous ne devons pas répéter à quel point l'exercice du droit d'action collective est fondamental pour la défense des droits fondamentaux au travail. C'est pourquoi la convention prévoit que la participation à une grève ne peut faire l'objet d'une sanction assortie d'une peine de travail forcé.

Il apparaît néanmoins que la législation et la pratique du Cambodge ne répondent pas au prescrit de l'article 1, alinéa *d*), de la convention.

L'abolition du travail forcé est un objectif fondamental poursuivi par l'Organisation internationale du Travail. Il ne peut y avoir de justice sociale là où sévit le travail forcé.

La révision profonde des législations et pratiques cambodgiennes susmentionnées en matière de répression pénale est indispensable afin de rétablir un environnement propice à l'exercice des libertés publiques dans le pays, en ce compris la liberté syndicale et la liberté d'action collective.

Employer members – The Employer members stress the importance of States' compliance with the Convention, which is one of the ten ILO fundamental Conventions.

Just as way of background, Cambodia ratified the Convention in 1999. We note that, so far, the Committee of Experts has provided four observations on this case, namely in 2014, 2017, 2018 and 2022. Today is the second time that the Committee looks at the application of the Convention in Cambodia. We take note that the Committee of Experts identified this case this year as a double-footnoted case. However, we also note that the issues raised were not addressed by the direct contacts mission which was in Cambodia last year. The apparent lack of serious concerns prior to this and their being raised this year in close proximity to the national elections in which several of the senior union figures quoted in this case are likely to play a prominent part, does actually raise a question in our minds as to why it was double-footnoted. It just does not have the history that other cases that have been double-footnoted have. In any event the Committee of Experts identified two main issues here:

One, sanctions involving the obligation to work as a punishment for expression of political views contrary to Article 1(a) of the Convention and second, the compulsory labour imposed on workers as punishment for participating in strikes, contrary to Article 1(d) of the Convention.

Allow me to briefly recall that the Workers expressed concern over the imposition of sanctions involving forced labour to censor the expression of opposing views on political, social or economic matters, as well as courts' arbitrariness in imposing such sanctions. These concerns arose after the dissolution of a major opposition party in 2017 and the subsequent imprisonment of its leaders.

The Government, for its part, has pointed out that interpreting section 68 of the Act on Prisons as contrary to the Convention was inappropriate. It stressed that imposition of compulsory labour on low-risk prisoners aimed at providing education and rehabilitation in

accordance with international standards relating to prisoners. We note that requiring prisoners to participate in activities that are rehabilitative in nature and do not involve abuse or harm are, in fact, common around the world.

In their observations as well in the 2012 General Survey, the Committee of Experts noted that while convict labour exacted from common offenders is intended to reform or rehabilitate them, the same need does not arise in the case of persons convicted for having expressed their opinions or for having organized or participated in a strike. This strikes the Employer members as there is an inconsistency in what the Committee of Experts is suggesting that there are different regimes – completely different regimes – depending on whether or not the circumstances relate to freedom of expression or criminal offences. I will come back to that point.

Chair, the Employer members emphasize the importance of freedom of expression, including expressing political views and engaging in politics, as fundamental values of democratic societies.

We take note of the UN Human Rights Committee's and human rights experts' concern regarding allegations of persistent violation of the freedom of expression, dissolution of opposition parties and the imprisonment – involving compulsory labour – of members of the opposition, human rights defenders and journalists.

We also take note of the Committee of Experts' observation on the continued use of national criminal provisions to arrest, prosecute and convict human rights defenders, opposition members and journalists for expressing their political views or views ideologically opposed to the established system, leading to the imposition of penalties of imprisonment including involving labour.

In this regard, the Employer members align with the Committee of Experts in asking the Government to take immediate and effective measures to ensure that persons who express political views or views opposed to the established system in a manner not designed to incite unrest, insurrection or violence are not subjected to punitive sanctions involving compulsory labour. The Employer members similarly align with the Committee of Experts' recommendation urging the Government to review the scope of the relevant criminal provisions so as to ensure that their application in practice does not lead to the violation of Article 1(a) of the Convention.

To that end we echo the Committee of Experts' request to provide a copy of the 2018 Penal Code amendments criminalizing criticism of the King as well as information on the practical application of criminal provisions falling within the scope of Article 1(a) of the Convention.

Concerning punishment for participation in strikes, this is a new issue that the Committee of Experts identified in its observation in relation to Cambodia's application of the Convention. We take note of the International Trade Unions Confederation's (ITUC) observations regarding two members of the Cambodian Labour Confederation (CLC) being sentenced to imprisonment for misdemeanour and malicious defamation. We also take note of the Committee of Experts' observations as to the arrest and prosecution of four trade unionist leaders accused of having organized an illegal strike; of a referral by UN human rights experts concerning the arrest and detention of union leaders and activists during a strike; and of the concern expressed by UN experts as to the use of COVID-19 measures to restrict lawful and peaceful strikes. We agree with the Committee of Experts' request to the Government to take the necessary measures to ensure that the application of legislative provisions do not lead in practice to the imposition of sanctions involving

compulsory labour on workers for the mere fact of organizing or peacefully participating in strikes.

Furthermore, we agree with the Committee of Experts in requesting the Government to provide a copy of the court decision regarding the arrest and prosecution of the four union leaders. However, we also note that the instances cited are not clear evidence of themselves of a systemic departure from the provisions of the Convention. It is, in our view, not sufficient to conflate membership of a union with imprisonment for offences against national law as an argument to support allegations of breaches of the Convention. Rather, it is necessary to understand the prevailing circumstances in each case. For instance, it would be relevant to know the details of the conduct of the cited individuals at the time of their arrest. That is why sighting the relevant court decision is important.

This is not to deny that those imprisoned have been wrongly treated. Rather it is making the point that we need to look under every stone when such instances occur to make sure there is a breach of international standards and not a straightforward transgression of valid criminal law.

That said, we remain concerned that such discrimination is even possible under Cambodia's law. In that regard, since the discussion of this case in 2018, there has been no apparent progress with regard to legally protecting freedom of expression and that national provisions continue to be used to prosecute and convict persons for expressing their political views. We therefore call upon the Government to avail itself of ILO technical assistance to assist in addressing the issues raised here.

We also request that the Government address in consultation with its social partners issues arising from the instances of arrest and imprisonment of trade union officials to

ensure that these instances were in compliance with the Convention and to that end to provide a copy of the court judgements relating to those instances. We also request that the Government provide a copy of the 2018 Penal Code amendments criminalizing criticism of the King as well as information on the practical application of criminal provisions falling within the scope of Article 1(a) of the Convention. And lastly, we urge the Government to take steps to ensure that work required of prisoners is compatible with the stated objection of education and rehabilitation, and not as a punitive measure. Thank you for your attention. We look forward to hearing the remaining comments.

Worker member, Cambodia (Mr ATH) – I am Ath Thorn, the President of the CLC. On behalf of Cambodian workers, I would like to stress on the labour situation in Cambodia.

The Government of Cambodia has ratified 13 ILO Conventions including core labour standards in 1999. The Committee of Experts, as well as this Committee in 2018, conclude that Cambodia should bring its laws and practices in compliance with the Convention. No penalties involving forced labour or compulsory labour may be imposed in compliance with Article 1(a) of the Convention. As pointed out by the Committee of Experts again in their report, penal sanction of forced and compulsory work under convicted criminal sentences is still provided under article 68 of the Cambodian Act on Prisons. Expressing political views and opinions – that oppose the political, social and economic systems in Cambodia – is still not free without the risk of penal sanctions – under Article 1(a) of the Convention.

Workers and trade unions are not free from the threat of penal sanctions when conducting and taking part in labour strikes and protests under Article 1(d) of the Convention.

Review and Labour Legislations. The Committee of Experts have asked the Government to ensure that the penalties under a number of provisions in domestic laws do not involve forced and compulsory labour. In the experience of trade unions, the Criminal Code and other penal offences in our laws are often used by Government authorities, employers and strike-breakers to prosecute and convict us when we are conducting trade union activities, giving public opinions and also conducting strikes.

In too many cases, the following provisions are used against workers and union leaders to sentence them to jail or put them under prolonged and non-transparent legal procedures for years without a trial. These include Criminal Code: article 28 (instigation); articles 494 and 495 (incitement to commit felony); articles 217–218 (intentional violence); article 411 (intentional damages); articles 311 and 312 (defamation); article 424 (threats to destroy); article 78 (obstruction under the Law on Traffic); as well as article 11 (Law on prevention of the spread of COVID-19).

We are concerned that incitement charges under articles 494 and 495 are actively used to silence trade unionists and activists from publicly expressing and sharing their views and criticisms on Government policies and practices or to intimidate workers from continuously taking part in strikes and protests led by trade unions. We would not be able to perform our role, we would not be able to speak up and organize collective bargaining – if these articles can be broadly applied to criminalize our opinions and trade union actions.

We urge the Cambodian Government to consult and review the broad scope and arbitrary applications of these legal provisions with trade unions and social partners, and to ensure that these provisions are not used to harass, and penalize free expression of political opinions, free organizing of trade union activities, labour strikes and protests.

Convictions and sentencing for expressing opinions, organizing strikes and trade unions. We are deeply concerned over the arrests, detentions, judicial harassments and convictions against members of the independent trade unions, NGOs and association representatives, independent journalists, human rights defenders, and social activists in Cambodia – when exercising the right to expressing opinions and conducting strikes and labour protests.

In 2016, 46 workers of a bus company were dismissed for organizing a trade union. They, federation union leaders and activists are charged of multiple criminal offences. Van Narong and Pel Voeun were given suspended sentences of imprisonment of six months for misdemeanour and malicious defamation. The case is still pending at the Appeal Court. Mr Ya Kuyny and Mr Ngim Bunthy were sentenced to two years in prison in 2018.

Mr Chan Rith, Mr Seb Thon and Mr Tep Sopha, leader and member of Farmer Association for Peace and Development (FAPD) were sued in two separate cases by landowners and the Ministry of Environment on charges of intentional violence in farmers' protests against land grabbing. Tep Sopha was sentenced to one-year imprisonment and completed his sentence in 2020.

Ms Tang Sakbuoy, was sued by her employer on fabricated criminal offences after she and others formed a trade union. She was sentenced to 18 months in prison in 2020. The Court has upheld an arrest warrant against her.

Rong Chhun, President of the Cambodian Confederation of Unions (CCU) was convicted of incitement to commit felony and social unrest after he made public comments on the loss of land by the farmers in the border areas. He was sentenced to two years in prison in 2021.

Chhim Sithar and eight members of LRSU were convicted of incitement to commit felony for leading strikes to protest mass retrenchment and union-busting by a casino group. They were sentenced between one and a half and two years in prison in May 2023.

We urge the Cambodian Government to drop all charges against trade union leaders, labour association leaders and activists for exercising the right to freedom of expression, freedom of organization and the right to strike and protest.

We also urge the Cambodian Government to expedite the resolution of the long-standing criminal cases concerning freedom of association with trade unionists. Out of the 44 criminal cases submitted to the Government in 2018, 29 cases are still pending.

Employer member, Cambodia (Mr SOK) – My name is Sok Lor and I speak on behalf of the Cambodian Federation of Employers and Business Association. First of all, Chair, we request that any issues that are beyond the scope of the discussions of the Convention, which is the main topic today, be removed from the Record of Proceedings. As there is a lot of information today we are not prepared to respond to all. And let me start by giving you the context.

The Cambodian Employers wish to draw the attention of the Committee to the content of this Cambodian case. Cambodia is holding national elections on 23 July this year, which is only a few weeks from now. Around this time, political election campaigns are being carried out intensely on the ground right now and political parties are campaigning to win voter support and competing to reach the voters through both national and international platforms. We, Cambodian Employers, wish to reaffirm our adherence to the Conventions that Cambodia has ratified, and widespread support for compliance with the Conventions by the tripartite partners and other interested parties, including with the Convention.

The matter brought before the Committee today refers to claims and events relating to activities of political parties and trade unions respectively. We are not aware that, in Cambodia, in law and practice, there is punishment for holding or expressing of political views or views ideologically opposed to the established system or participating in a lawful strike.

While taking the matter very seriously, we would respectfully ask the Committee of Experts to provide more concrete evidence of forced labour or compulsory labour so that these cases can be effectively addressed.

In Cambodia, insofar as the Labour Law provides for certain sanctions and punishments in the context of strikes, those sanctions are specific and limited to protecting non-striking workers from coercion or threat, protecting striking workers from unlawful sanctions by employers, and protecting striking workers from replacement beyond minimum service arrangements. That stated, the Labour Law also provides that a strike must be peaceful. Committing acts of violence during a strike is considered a serious misconduct that could be subject to punishment. In Cambodia's legal system, the commission of violence or other crimes that can implicate the Criminal Code, subjecting the offender to criminal sanctions pursuant to law.

As the Committee has noted from the observations of the ITUC, the two individuals at issue were sentenced to imprisonment for commission of crimes under the Penal Code. As it appears, their sanctions result from the prosecution of crimes they committed, not from participation in a strike.

The Committee notes the ITUC observation according to which the two individuals were sentenced after taking part in a protest. However, participation in a strike does not

render any individual immune from prosecution for commission of criminal acts or other violations of law.

Regarding the actual facts and circumstances of the two individuals, the Government has indicated the individuals in question are not imprisoned, and that they are in fact actively employed. This would exclude that they are now subject to any form of forced or compulsory labour.

In conclusion, on behalf of Cambodian Employers, let me say that we are deeply concerned about the potential adverse impacts of continuing to consider allegations that do not have concrete evidence of breach of the Convention on real lives and livelihoods in Cambodia.

In our view, paying attention to such allegations without having grounds in facts or sharing concrete evidence places Cambodia at risk of being misperceived and wrongfully maligned as being involved in forced labour and modern slavery. The impact and loss can be devastating, not only for Cambodia's reputation, but its ability to attract tourists, talent and investment, and in turn will harm Cambodia's workers, businesses and sustainable development.

Now, if there are situations with concrete evidence of forced labour, we certainly call upon the Government to look into the issue to resolve these issues regarding forced labour and, if need be, request technical assistance from the ILO.

Government member, Sweden (Ms BUCHT) – Again I have the honour to speak on behalf of the European Union (EU).

In line with the EU Action Plan on Human Rights and Democracy of 2020, we are committed to the promotion, protection, respect and fulfilment of human rights, of which labour rights are an integral part, including the abolition of forced labour.

In this endeavour, we support the ILO in its indispensable role to develop, promote and supervise the application of international labour standards and of fundamental Conventions in particular.

The EU and its Member States have been committed development partners of Cambodia, including through the "Everything But Arms" (EBA) arrangement under the EU's General Scheme of Preferences, granting duty-free and quota-free access to the EU market, resulting in sustained growth and job creation in the past decades.

The trade benefits granted under the EBA arrangement are subject to the condition that Cambodia respects core international principles, enshrined in core UN and ILO Conventions. Due to serious and systematic violations of human rights, especially the right to political participation and fundamental freedom, as of August 2020, this preferential treatment has been partially suspended. We have continuously expressed our deep concerns over political developments in the country.

We deeply regret the existence of provisions in various laws, such as the Act on Prisons of 2011, the Act on Political Parties as amended in 2017 and the Criminal Code of 2009 as amended in 2018, which provide scope for penal sanctions that may involve compulsory labour, and which the Cambodian authorities continue to use against members of opposition parties, activists and human rights defenders, as well as journalists and social media activists, and trade union members. We express our deep concern about the persistent violation of the freedom of expression. We deplore the fact that people

expressing dissent or criticism continue to be convicted and sentenced to penalties of imprisonment that may involve compulsory prison labour. No penalties that may involve compulsory labour should be imposed for the peaceful expression of political views or views opposed to the established system.

We note with concern the observations of the United Nations Human Rights Committee. We join the Committee of Experts and call on the Cambodian authorities to take immediate and effective measures to ensure that persons who express political views or views opposed to the established political, economic or social system are not punished with penal sanctions. We therefore urge the Cambodian authorities to restrict the scope of the provisions of relevant laws to situations connected with the use of violence or incitement to violence or by repealing sanctions involving compulsory labour to ensure that their application in practice does not lead to the violation of the Convention.

The next steps of the Cambodian authorities on stipulations of the draft Cybercrime Law, currently under preparation, and on the sub-decree on the National Internet Gateway, the implementation of which has been suspended, will be a litmus test of the willingness of the Cambodian authorities to engage and change its course of action.

In line with the Committee of Experts, we also urge the Cambodian authorities to take the necessary measures to ensure that the application of legislative provisions will not lead in practice to the imposition of sanctions that may involve forced labour on workers and trade union members for the mere fact of organizing or peacefully participating in strikes. We are worried about reports related to the arrests and prosecution of trade union members and leaders for participation in strikes. We join the call of the Committee of Experts on the Cambodian authorities to provide a copy of the court decision regarding the

four leaders of the Workers Friendship Union Federation who were arrested and prosecuted following the organization of a strike.

In relation to forced labour in general, we are alarmed by the number of cases of human trafficking involving forced labour and their dramatic increase over the last two years. In this regard, we urge the authorities to step up their efforts to combat and prevent trafficking in persons in the country. We continue to request the Cambodian authorities to take the necessary measures to ensure the prosecution of these cases, to provide timely information on arrests and convictions, and to protect and assist victims of trafficking.

We also strongly encourage the Cambodian authorities to implement all the other recommendations arising from the ILO's Direct Contact Mission of spring 2022, to stop labour rights violations and embark on a constructive path of reform. The EU and its Member States will remain closely seized of the situation in Cambodia.

Membre gouvernementale, Suisse (M^{me} BRUGGER) – La Suisse réitère ses inquiétudes présentées l'année dernière, ainsi qu'en 2017, dans l'enceinte de cette commission au sujet de l'application, par le Cambodge, de la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948.

Depuis 1999, le Cambodge figure régulièrement sur la liste des cas devant notre commission. Aujourd'hui, la Suisse exprime sa préoccupation face à l'utilisation de dispositions du Code pénal pour restreindre systématiquement la liberté d'expression et la liberté syndicale. Il est primordial que toute personne, notamment les journalistes, les défenseurs des droits de l'homme, les opposants politiques ou les militants des médias sociaux, puissent exprimer de manière libre leur opinion sans risque de représailles.

La Suisse rappelle que, conformément à l'article 1^{er} de la convention, l'exercice de la liberté d'expression et d'opinion ainsi que l'exercice de la liberté d'association et de réunion ne doivent pas arbitrairement restreindre, ni conduire à une peine d'obligation de travail.

Par conséquent, la Suisse condamne fermement les pratiques décrites par la commission d'experts et le Rapporteur spécial sur le Cambodge du Conseil des droits de l'homme des Nations Unies, visant à pénaliser des personnes qui expriment ou manifestent pacifiquement leur opposition à l'ordre social, politique et économique établi. Elle a pris note des observations déposées et explications exposées par le gouvernement du Cambodge et l'appelle à prendre toutes les mesures nécessaires pour mettre un terme à ces pratiques.

Worker member, Australia (Ms MIDDLEMAS) – On behalf of the Australian union movement, I register our deep concern over the situation of workers' rights in Cambodia, where criminal offences are broadly used by the Government to criminalize the normal activities of trade unionists, free expression of opinions and the right to lead and participate in strikes.

The Committee of Experts observe that opposition political activists, journalists, human rights defenders and social media activists who express dissent or criticism of the authorities under the protected scope of this Convention are convicted and imprisoned obliging them to forced or compulsory work pursuant to article 68 of Act on Prisons.

The conviction and sentencing of Mr Rong Chhun, President of the CCU in 2020, was made on the basis of the claims of lost land by farmers resulting from the work of the Joint Committee of Border Affairs demarcating the border between Cambodia and Vietnam during his visit to the area on 20 July 2020.

On 30 July 2020, Mr Rong Chhun was arrested and detained pending a trial under charges of “incitement to commit a felony or cause social unrest” under articles 494 and 495 of the Criminal Code. Ms Sar Kanika, President of the Cambodian Informal Labour Association, and Mr Ton Nimol, member of the Cambodian Watchdog Council, who had joined protests calling for Rong Chhun’s release, were both arrested on 7 August for posting Rong Chhun’s statement on social media and charged under the same criminal offence and put under pretrial detention.

On 18 August 2021, Rong Chhun was sentenced to 24 months in prison, and Sar Kanika and Ton Nimol were sentenced to 20 months. In November 2021 the Phnom Penh Municipal Court ruled on the appeal and suspended their sentences. They served 15 months in prison including pretrial detention.

The UN Special Rapporteur for the situation of human rights in Cambodia noted in 2021 that “the prison terms and heavy fines handed to these three activists are neither justified nor proportionate”.

The Cambodian Government continues to use imprisonment and the threat of penal sanctions to suppress dissent. Indeed, just this Friday, Prime Minister Hun Sen made an explicit public threat to reimprison Rong Chhun – who is now also Vice-President of the Candlelight Party – and his supporters if they protested against the Candlelight Party’s disqualification.

We call on the Cambodian Government to respect their obligations under the Convention by ceasing criminalization of dissent and to immediately and unconditionally release individuals who have been imprisoned for exercising their right to freedom of expression and assembly – including union leader Chhim Sithar and her fellow unionists

who have just been sentenced two weeks ago, targeted for exercising their rights to freedom of association.

Government member, United Kingdom of Great Britain and Northern Ireland (Ms BUXTON) – The United Kingdom commends the Royal Government of Cambodia for supporting the ILO's Better Factories Cambodia Programme, which monitors and reports on working conditions in Cambodian garment factories, thereby helping factories improve working conditions according to national and international standards.

The United Kingdom also notes Cambodia's long-standing cooperation with the Office of the High Commissioner on Human Rights and progress on economic, social, and cultural rights. We applaud Cambodia for its response to the COVID-19 pandemic, particularly in terms of social protection and healthcare.

Acknowledging the economic progress that Cambodia has made over the past 20 years, the United Kingdom remains committed to working with Cambodia in its efforts to also advance civil and political rights through constructive dialogue.

Strengthening human rights protections – such as the freedom of speech, association, and thought – would also support Cambodia's economic sector by encouraging innovation through the open sharing of ideas and information.

Therefore, the United Kingdom regrets the sentencing of Chhim Sithar, leader of the LRSU, and eight other existing and former union members on 25 May 2023.

The United Kingdom appeals to the Cambodian authorities to recall the fundamental importance of respect for freedom of association as one of the primary safeguards of peace

and social justice, as was fully recognized by Cambodia when it voluntarily ratified ILO Convention No. 87 and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), over 20 years ago.

At the same time, the United Kingdom continues to monitor restrictions on civil and political space and is concerned about the ongoing restrictions on civil and political space.

We are disappointed that Voice of Democracy, one of Cambodia's few independent media outlets, has been closed.

The United Kingdom has publicly stated that a free press is essential to open and democratic societies. Freedom of expression is not measured by the number of media outlets a nation has; media outlets must be independent and balanced.

The United Kingdom also regrets the handling and outcome of the Kem Sokha case and his sentence to 27 years of house arrest, as well as the decision of the Cambodian Electoral Commission to reject the Candlelight Party's election registration.

The United Kingdom calls on Cambodia to continue to engage in constructive dialogue and implement the recommendations of the report.

Employer member, Thailand (Ms ROMCHATTHONG) – I am making the statement here on behalf of the ASEAN Confederation of Employers (ACE).

Freedom from forced or compulsory labour is a cornerstone of the decent work concept and we join Cambodia in reaffirming adherence and support for the abolition of forced labour.

Concerning the Cambodia case, we consider Cambodia has set out a strong and compelling case for its compliance, while also providing valuable contextual information and facts of the case and underscoring the important analysis of how the Convention is applied, must take into account different national realities and legal systems that exist in Cambodia.

To this we wish to emphasize and highlight the value and effectiveness of Cambodia's national systems to address important issues of interest. The systems we have established in Cambodia, including systems of social dialogue, whether formal or informal, tripartite or bipartite, are inherently context-sensitive, helping to promote consensus, build better employment relationships and advance industrial peace which ultimately benefits workers, employers, economic and social development in Cambodia. To such an extent we urge this Committee to take into account the above factors and respect the existing internal system and practices implemented in Cambodia.

Worker member, Switzerland (Ms IBKENDANZ) – The Committee of Experts has rightly again expressed its deep concerns over the continued use of the provisions of the national legislations, including the Criminal Code, to prosecute and convict persons who express views opposed to the authorities in Cambodia, or take part in strikes. There is evidence, since this case was examined in 2018, of an increasing number of convictions and penal sanctions involving the obligations of compulsory work against trade unionists and activists in breach of Article 1 of this Convention. For example, Ms Taing Sorkbouy and six other union founders were dismissed on 31 October 2018, after having created a union at her company and demanding improvement of the working conditions. Although their complaint at the Arbitration Council resulted successfully in an award to reinstate the

workers in February 2020, the company filed an appeal against this decision and refused the reinstatement.

In June 2020, the company filed a lawsuit against Ms Tang Sorkbouy on charges of forgery and breach of trust after nine years of employment. She was trialled in absentia and sentenced by the Phnom Penh court of first instance to two years and six months imprisonment and a high fine. She had never received the summons to court, allegedly due to the discrepancies with the postal registration address. An appeal by her lawyer to the court of next instance in October 2020 was unsuccessful. The sentence was reduced to 18 months. We are very concerned noticing an increase of cases where union activists could not be dissuaded from their commitment by persecution for their union activities but face serious criminal charges which force them to withdraw from their engagement.

We urgently call upon the Cambodian Government to take all the necessary measures to ensure that criminal charges are not used to intimidate, convict and imprison labour and union activists expressing views and exercising their rights, making the national law allowing forced labour in prison applicable to them, that violates the Convention.

Government member, Canada (Ms HANSBURY) – Canada takes note of the Government of Cambodia's report and additional information provided earlier this week, which affirm that freedom of citizens to express themselves peacefully and to engage in politics is guaranteed by Cambodia's national legislation.

The findings presented by the Committee of Experts, however, describe a continued use of the provisions of the national legislation to arrest, prosecute and convict persons who express political or dissenting views, including that of opposition political party members, human rights defenders and journalists, leading to penalties such as

imprisonment, which involves compulsory prison labour in violation of the Convention. The increasing prevalence of these actions is of particular concern to Canada in the lead up to Cambodia's July 2023 national elections.

Canada strongly condemns the use of national legislation to prosecute and convict political activists, journalists, human rights defenders and social media activists who express dissent or criticism of the authorities.

In line with the recommendations of the Committee of Experts, Canada urges the Government of Cambodia to:

- review and revise the Act on Political Parties as well as the Criminal Code, by clearly restricting the scope of these provisions in connection with the use of violence or incitement to violence, and by repealing sanctions involving compulsory labour, so as to ensure that their application in practice does not lead to the violation of the Convention.
- take necessary measures to ensure that the application of legislative provisions will not lead in practice to the imposition of sanctions involving compulsory labour, such as compulsory prison labour, on workers for the mere fact of organizing or peacefully participating in strikes.

We sincerely hope that the Government's next report to the Committee of Experts will demonstrate positive developments.

Government member, Brunei Darussalam (Ms HAJI SULAIMAN) – I have the honour to deliver this statement on behalf of the Association of Southeast Asian Nations (ASEAN) Member States.

We took note of the report of the Committee of Experts and the detail presented by the Royal Government of Cambodia.

We acknowledge and appreciate Cambodia's progress made in advancing labour rights and are reassured by the fact that forced or compulsory labour finds no room in Cambodia as enshrined in the two core Conventions. Cambodia's strict prohibition of forced or compulsory labour which is upheld both in law and in practice is commendable.

We encourage the Royal Government of Cambodia to continue its endeavours towards the promotion of decent work, labour rights and improving working conditions. We also request the Committee to ensure a clear and impartial interpretation and application of the Conventions in question, thus eliminating any ambiguity that may lead to confusion between different labour Conventions.

Recognizing the critical role that social dialogue and tripartism play in fostering harmonious industrial relations, we encourage the Royal Government of Cambodia and its social partners to continue utilizing the social dialogue process at every level, in order to promote the application of fundamental labour standards.

The sitting closed at 1 p.m.

La séance est levée à 13 h 00.

Se levantó la sesión a las 13 horas.

Ninth sitting, 8 June 2023, 3.05 p.m.
Neuvième séance, 8 juin 2023, 15 h 05
Novena sesión, 8 de junio de 2023, 15.05 horas

Chairperson: H.E. Ambassador Hashmi
Président: S. E. l'Ambassadeur Monsieur Hashmi
Presidente: Excmo. Sr. Embajador Hashmi

Work of the Committee

(The General Discussion and Cases of Serious Failure are adopted, as amended.)

Travaux de la Commission

(La commission a adopté, tels qu'amendés, les PV relatifs à la discussion générale et à la discussion des cas de manquements graves.)

Trabajos de la Comisión

Las actas relativas a la discusión general y a la discusión sobre los casos de incumplimiento grave se adoptaron en su tenor modificado.

Discussion of individual cases (cont.) **Discussion des cas individuels (suite)** **Discusión de los casos individuales (cont.)**

Cambodia (ratification: 1999)

Abolition of Forced Labour Convention, 1957 (No. 105) (cont.)
Convention (nº 105) sur l'abolition du travail forcé, 1957 (suite)
Convenio sobre la abolición del trabajo forzoso, 1957 (núm. 105)

Chairperson – Before we start our work this afternoon, I would like to inform the Committee that a new D Document with written information submitted by the Government of Gabon on the application of MLC 2006 is now available on our Committee's web page. I would like to also inform you that the period of the reception of amendments for the

verbatim PV, that is General Discussion and verbatim PV on Serious Failure is now over. These PVs are adopted as amended.

We will now resume statements.

Interpretation from Chinese: **Government member, China (Ms Feng)** – Thank you Chair. We thank the representative of the Government of Cambodia for the detailed information. We have carefully read the Report of the Committee of Experts. We note that the Cambodian Government has earnestly fulfilled its obligations under the ratified Conventions and has made unrelenting efforts to this end. The Cambodian Constitution clearly recognizes and protects human rights and Cambodia's labour laws comply with international labour standards. They expressly prohibit forced or compulsory labour. The Cambodian Government ensures that no penalties involving compulsory labour may be imposed on persons who express political views, opposed the Cambodian political system. The Government actively cooperates with the ILO and submits relevant materials in a timely manner, which demonstrates the Government's positive attitude of cooperation and dialogue. We appreciate this.

We believe that the consideration of the case should focus on Cambodia's compliance with the Convention, rather than interfering in a country's internal affairs, let alone politicizing technical issues. We call on this Committee to form a conclusion based on comprehensive and accurate facts and objectively and fairly reflect the progress made by the Cambodian Government in implementing the Convention. Finally, make a constructive decision to avoid interfering in a country's sovereignty, legal system and internal affairs in a conclusion.

Government member, United States of America (Mr GERTSEN) –

We thank the Government of Cambodia for providing additional information to this Committee in response to the recent observations of the Committee of Experts. We note the information provided relates to the use of several provisions of national legislation that allow for penalties of imprisonment and sanctions involving the obligation to work as a punishment for activities protected under the Convention.

Despite this information, we remain deeply concerned that workers, trade union leaders, and other human rights defenders continue to be imprisoned and subjected to compulsory labour for exercising their fundamental principles and rights, including the right to strike. We note that the Committee of Experts deeply deplores the continued use of national legislation to arrest, prosecute and convict these individuals, leading to the imposition of penalties of imprisonment which involve compulsory prison labour.

We are also deeply concerned that nine members of the LRSU were convicted for incitement to commit a felony under articles 494 and 495 of the Cambodian Criminal Code on 25 May after engaging in a peaceful strike at a casino that began in December 2021, and pursuant to section 68 of the Act on Prisons of 2011, are subject – while imprisoned – to an obligation to work.

We urge the Government of Cambodia to take immediate action to implement the recent recommendations of the ILO supervisory bodies, prioritizing work in the following areas: first, ensure that no terms of imprisonment with punishments of forced labour are imposed for the peaceful exercise of trade union activities such as participation in public and industrial strikes and protests, including in the case of the casino strike; and to that end, review and amend section 42 of the Act on Political Parties as well as sections 445, 437 *bis*, 494, 495, 522 and 523 of the Criminal Code, to clearly restrict the scope of these provisions to apply only to situations connected with the use of violence or incitement to

violence or by repealing sanctions involving compulsory labour, so as to ensure that their application in practice does not lead to the violation of the Convention.

We urge the Government of Cambodia to take all necessary measures to address these long-standing issues, in compliance with the Convention. The United States remains committed to engaging with the Government to advance workers' rights in Cambodia.

Worker member, United Kingdom (Mr RUSSELL) – I speak on behalf of the Workers of the United Kingdom with the support of Industrial Global Union. The Convention is essential to prevent forced labour or compulsory labour as a means of repressing government critics and punishing trade unionists for having participated in strikes. We note that prison sentences in Cambodia, in most cases, involve forced labour. The threat of a prison sentence, therefore, is a threat of forced labour, and the use of that threat to curtail trade union activities remains a breach of the Convention.

This case was double-footnoted by the Committee in 2018, and the Government was urged to take measures in law and practice to ensure that no penalties involving forced labour or compulsory labour may be imposed. Despite that, on 11 December that year, six national trade union leaders were each sentenced to two-and-a-half-years suspended jail sentences for taking part in strikes demanding higher statutory minimum wages during 2013. They were prosecuted in 2014 with multiple charges of committing acts of violence, damage to property and traffic obstructions, later changed to instigations which encompass a broader scope under article 28 of the Criminal Code.

These suspended sentences also included a collective fine of approximately \$6,800 which effectively stopped them from engaging in labour strikes and protests. The appeal court eventually acquitted them on 28 May 2019.

Employers have pursued a similar pattern of judicial harassment, filing criminal lawsuits with criminal charges under articles 217, 218 and 411 under the Criminal Code for their involvement in wage strikes in the garment sector between 2013 and 2014. This has been a significant problem in the country's garment sector.

For example, two unionists convicted of intentional violence with aggravating circumstances (articles 217 and 218 Criminal Code), after a 2013 strike in a garment company. They too were sentenced to a suspended prison sentence, in December 2018. The same month, nine trade unionists had their charges of intentional violence with aggravating circumstances dropped by the court following a 2014 strike. Two, however, received a suspended sentence, which they appealed in 2019.

Finally, again in December's flurry of punitive activity, seven trade unionists, including two from the Coalition of Cambodian Apparel Workers Democratic Workers (CCAWDU) garment union, were charged with aggravating circumstances (article 411 Criminal Code) after supporting striking workers demanding better working conditions. They received another suspended sentence and a massive fine (\$8.5k). Again, given the flimsy nature of the accusations, the workers sought appeal in 2019. These criminal sanctions provide for a penalty of imprisonment between one and five years and were clearly used to convict trade unionists for their participation in strikes, something covered by Article 1(d) of the Convention. Even suspended sentences, therefore, serve to intimidate Cambodian workers, and control their freedom to carry out their legitimate activities, including to participate in strikes, with the threat of compulsory work under article 68 of the Cambodian Law. This is a clear breach of the Convention.

Worker member, Italy (Ms GROSSI) – I am speaking on behalf of Italian Unions: the Italian General Confederation of Labour (CGIL), the Italian Confederation of Trade Unions (CISL) and the Italian Labour Union (UIL).

Italy workers are concerned with the imprisonment of trade unionists and escalating judicial harassments against civil society activists who are defending the rights and interests of the communities they represent.

The Government of Cambodia is increasingly resorting to use penalties of imprisonment under the Criminal Code and other laws against trade unionists and activists in situations covered by Article 1 of the Convention.

For example, Tep Sopha, a member of the Farmers Association for Peace and Development was convicted of criminal offenses and obstruction of public officers in a lawsuit brought by the Ministry of Environment because he was organizing farmers in a protest in Sihanoukville to dispute the designated conservation lands which are traditionally the homeland of these farmers. He was sent to prison for one year on 23 January 2019.

Seb Thon and ten other members of the organization were sued by a landowner for intentional damage and assaults during a protest by farmers against land grabbing in December 2019. He was given a suspended sentence of one year in prison and a fine. There has been no progress on his appeal to the court since 2020.

Following the prosecution of Rong Chhun, President of the CCU in July 2020 with incitement charges for making a public statement on the loss of land by farmers, the Ministry of Interior and police authorities took actions to arrest and charge ten civil society and youth activists under articles 494 and 495 of the Criminal Code. They were released from detention in November 2021 on probationary conditions. In 2021, four activists from

an environmental organization, Mother Nature, were arrested and charged for insulting the King and plotting. In November 2022, a forestry activist was sentenced to five years of imprisonment under article 97 of the Law on Forestry. In May 2023, land rights activists from the Coalition of Cambodian Farmers Community were arrested after their internal project planning workshop.

Chair, we urge the Government to drop all the pending charges and cease to use custodian penalties involving compulsory work and forced labour to trade unionists and activists who are simply exercising their fundamental rights and freedoms.

Observer, IUF (Mr BUKETOV) – On behalf of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), I am speaking here today to raise the matter of the arbitrary arrest and detention of several members of our affiliate in Cambodia, the LRSU. This arrest included its President Chhim Sithar. This arrest was conducted following a peaceful strike in opposition to repeated acts of union-busting at their employer in Phnom Penh. They are being punished for participation in a strike, contrary to Article 1(d) of the Convention.

In January 2022 several Special Rapporteurs of the United Nations denounced their arrests, finding that “many of the arrests of the mostly women strikers were conducted in a violent way and appear to contravene the freedoms of association, assembly and expression”. The union activists were charged with so called “incitement to commit a felony” under articles 494 and 495 of the Cambodian Criminal Code. The previous ILO Director-General, Guy Ryder, had appealed to the Prime Minister of the country “to use his powers to ensure the immediate release from custody of all detained workers and the dropping of all criminal charges related to their trade union activity”.

But, last month, a court found nine leaders of the LRSU guilty, including its President. Sithar was sentenced to two years in prison, eight months of which she has already served. Five others were given sentences of one and a half years, and three were given one-year suspended sentences. As the Committee of Experts has previously noted, penalties of imprisonment include the imposition of compulsory labour.

We condemn the imprisonment of our members for their trade union activity, and the complete lack of due process and the right to a fair trial to defend themselves against the baseless charges. We echo the words of the Committee of Experts, which has found “that there has been no progress with regard to protecting freedom of expression in Cambodia” and “deeply deplores the continued use of the provisions of the national legislation, including the Criminal Code, to prosecute and convict persons who express their political views or views ideologically opposed to the established political, social or economic system, leading to penalties of imprisonment involving compulsory prison labour”.

We reiterate the conclusions of the Committee on Freedom of Association, which in March 2023 recalled “that no one should be deprived of their freedom or be subject to penal sanctions for the mere fact of organizing or participating in a peaceful strike”, and request the Government to ensure that all charges brought against LRSU leaders and members for participating in a peaceful strike are dropped. We urge the Government of Cambodia to immediately release LRSU President Chhim Sithar and all members of LRSU in prison, and indeed to release all persons who are arbitrarily imprisoned.

Observer, International Transport Workers Federation (Mr SUBASINGHE) –

Article 1(d) of the Convention explicitly prohibits recourse to sanctions involving any form of forced or compulsory labour as a punishment for having participated in strikes, that is no sanctions involving compulsory labour for the mere fact of organizing or participating in

strikes. Yet, provisions of the Cambodian Criminal Code carrying such penalties are regularly used to target trade unionists taking lawful strike action.

Chair, convictions under relevant provisions of the Criminal Code can lead to compulsory labour by virtue of article 68 of the Act on Prisons. This is not just about rehabilitation of prisoners. Article 71 of the Act on Prisons allows the Director of Prisons to enter into contracts with private parties, to generate employment for the prison industry, handicraft and farming programmes, and to enter into contracts to sell the products from these programmes. Private entities can profit from compulsory prison labour. This in itself is a violation of Convention No. 29. The criminalization of strikes with the possibility of compulsory labour is exacerbated by the constant judicial harassment of trade unionists by employers and strike-breakers, and the ambiguous criminal justice process. Convictions carrying penalties of compulsory labour for participating in strikes also create an atmosphere of intimidation and fear prejudicial to freedom of association.

The Committee of Experts has highlighted the cases of transport workers Van Narong and Pel Voeun, who were convicted of criminal defamation pursuant to articles 311 and 312 of the Criminal Code and sentenced to six months in prison. It is important to understand the facts of this case to fully comprehend the matter. Following a 2015 strike by workers of a major bus company, two union leaders were detained after they were themselves attacked by members of a tuk-tuk and moto-taxi association. They were arrested on trumped-up charges of aggravated intentional violence and obstructing public officials under the Criminal Code but were later released. The matter did not end there. The bus company filed a lawsuit alleging the same offences against both of them and four leaders of the CLC who were not even present during the protest. Other criminal lawsuits by the bus company, strike-breakers and counter-protestors ensued, involving a total of 46 trade

unionists. Two of the trade unionists in question were Van Narong and Pel Voeun. Although the Government claimed that the two are currently on bail pending appeal, this only offers them limited comfort knowing that they may be convicted for crimes they did not commit which could result in compulsory prison labour.

Chair, we call on Cambodia to comply with Article 1(d) of the Convention and end the imposition of sanctions involving compulsory prison labour on workers participating in strikes.

Government representative (Mr IN) – My delegation wishes to extend our appreciation to all speakers and delegates for their constructive interventions and insightful comments. We again wish to reaffirm Cambodia's unwavering commitment to honour the Convention in respect of the abolition of forced labour in our nation. Contrary to the allegations of other delegations, Cambodia always commits to the promotion and protection of human rights. Freedom of assembly, association and expression for individuals and civil societies are guaranteed in the Kingdom as enshrined in the constitution and other international instruments. As a country steadfastly upholding the rule of law, strengthening the implementation of laws and regulations is fundamental to our good governance. Any attempts to mischaracterize the law enforcement activities as a political pressure would undermine the rule of law. As such, we are compelled to clarify that certain individuals, who were associated with strike activities, were apprehended not merely due to their involvement in the illegal strikes, but rather their acts posed substantial disturbance to public order and security, as well as infringement upon the right to life of others, particularly amidst the COVID-19 pandemic. Currently, these cases are pending for further legal proceedings before the courts.

We affirm that forced labour is entirely incompatible with our values and has no foothold in the Kingdom. To this day, there remains no substantiated evidence of compulsory prison labour being used as a punitive measure for individuals who merely expressed their political views or views opposed to the established system or involved in strikes in Cambodia. Accordingly, an absence of evidence in respect of forced labour would put into question the validity of our footnoted status. In fact, prison labour is primarily a rehabilitative process aimed at facilitating the reintegration of prisoners into society and the labour market. Under the Act on Prisons, “low-risk” convicted individuals possessing the requisite physical capabilities may be called upon to engage in work as part of the prison daily routine, or to perform tasks benefiting the community or participate in prison industry, prison handicraft, and the prison farming industry. Such employment is not assigned based on political opposition, human rights advocacy, or journalistic activity, and safety measures are diligently implemented. However, we observe with regret that a handful of delegates attempted to exploit and politicize this discussion in favour of a group of individuals who were prosecuted for a conspiracy to overthrow a legitimately elected government. In this case, we are therefore compelled to stress that such an offence goes beyond criminality; it is a direct affront against the people and the very essence of democracy. Indeed, a crime is a crime, and it cannot be justified for other aspirations. All charges are imposed in response to constitutional and criminal breach, neither a political nor a fabricated motive.

As for freedoms of expression and the press, it remains alive and dynamic in the Kingdom. The licence-revoked media outlet grossly breached the profession of journalism by engaging in spreading fake news. As such, the move against an unprofessional media outlet did not undermine the vibrant press freedom or freedom of expression in the Kingdom but contributes to the strengthening of the journalism profession. Indeed, it is no surprise why this time some delegates are exploring and exploiting all ways and means to

put Cambodia on the international radar. A simple answer is because we will have general elections in July this year. Then, they have no shame even breaking rule and practices to demonize our Government. Certain issues, such as the dissolution of a political party, disqualification of a political party to participate in the July elections and licence-revoked media outlet are not covered by the agenda items today or the Convention. Therefore we remind delegates that politicization not only hinders productive dialogue but also threatens the integrity and mandate of this Committee.

In closing, my delegation wishes to extend our heartfelt gratitude to the Committee for its observation, and to all ASEAN Member States, distinguished delegates, workers' and employers' representatives, and others for their invaluable interventions and support extended to Cambodia throughout this process.

Employer members – The Employer members thank the various speakers that took the floor and notably the Government of Cambodia for their interventions and the information they provided. We remind the Committee that the Convention is a fundamental Convention, which therefore requires special consideration by the ILO Governments, Workers and Employers. Our position on this case aligns with the recommendations of the Committee of Experts. The Employer members stand against any forms of unlawful restriction to freedom of expression and connected fundamental rights. But we do reiterate our earlier point which is that before making findings we need to investigate all of the circumstances and hence the call for more information on aspects of things like the imprisonment of various people. With all of those things in mind the Employer members recommend that the Government of Cambodia take immediate and effective measures to ensure that persons who express political views, or views opposed to the established

system are not punished with sanctions including compulsory labour, contrary to Article 1(a) of the Convention, and that the application of legislative provisions do not lead in practice to the imposition of sanctions on workers for the mere fact of organizing, or peacefully participating in strikes contrary to Article 1(d) of the Convention. To review the wording of the relevant Article of the Criminal Code and Act on Political Parties, by restricting the scope to situations involving the use of violence, or incitement to violence, or by repealing sanctions involving compulsory labour. To provide copies of the amendments to the 2018 Penal Code, which criminalized criticism of the King as well as information on the practical application of the relevant national provisions of the Penal Code and Act on Political Parties. To provide a copy of the court decision regarding the arrest and prosecution of the four trade unionist leaders accused of having organized an illegal strike. And finally, noting the lack of progress regarding the protection of freedom of expression and that no ILO technical assistance has yet been requested, we call upon the Government once again to avail itself of technical assistance from the ILO to assist in implementing these recommendations. We count on the Government to provide the requested information by 1 September this year, and adopt the measures indicated by this Committee in a timely manner.

Membres travailleurs – Nous regrettons les critiques formulées à l'égard du choix indépendant et impartial posé par la commission d'experts, conformément à leur mandat, de sélectionner le cas du Cambodge comme un cas de double note de bas de page sur base des critères objectifs rappelés au paragraphe 144 de leur rapport. La commission d'experts expose également les raisons de la sélection du cas comme un cas de double note de bas de page.

Nous avons également entendu des tentatives de justifier les poursuites et les emprisonnements de syndicalistes en renvoyant aux dispositions du Code pénal national. À ce sujet, le groupe des travailleurs souhaiterait insister sur la prudence dont tout un chacun devrait faire preuve lorsqu'il est renvoyé à la législation pénale nationale pour justifier les poursuites et les emprisonnements de membres des organisations de travailleurs et d'employeurs pour le simple fait d'avoir exercé leurs droits et libertés civils consacrés par la convention.

Les violations de la convention par le gouvernement du Cambodge ont déjà fait l'objet d'une discussion devant notre commission en 2018. Le contexte plus général de violations flagrantes des libertés publiques, en ce compris des libertés syndicales, suscitent depuis longtemps de profondes inquiétudes pour le groupe des travailleurs.

Nous avons pu le constater au cours de nos discussions, la situation dans le pays ne s'est pas améliorée, que du contraire. Nous devons malheureusement répéter la plupart de nos recommandations au gouvernement du Cambodge. En 2018 déjà, le Cambodge avait fait l'objet d'une double note de bas de page, ce qui renforce encore nos préoccupations quant à la gravité de la situation.

Plus récemment, en 2021, notre commission s'est également penchée sur l'examen du respect par le Cambodge de la convention n° 87. À l'issue de cet examen, une mission de contacts directs a été organisée en 2022. Les problématiques traitées à cette occasion entretiennent des liens étroits avec l'examen du respect de la convention par le Cambodge et nous invitons le gouvernement du Cambodge à donner suite aux recommandations émises à l'issue de cette mission.

Le gouvernement a aujourd'hui l'obligation de s'engager à prendre toutes les mesures législatives pour veiller à ce que des peines comportant un travail obligatoire ne soient pas imposées pour faire taire et censurer l'expression pacifique des opinions politiques.

Le droit d'assemblée et de réunion est le moyen par lequel les citoyens peuvent s'efforcer d'assurer la diffusion et l'acceptation de leurs opinions et doivent donc être protégés eux aussi.

De plus, l'article 1, alinéa *d*), de la convention interdit l'imposition de travail obligatoire comme punition pour avoir organisé des grèves ou y avoir participé pacifiquement.

Le gouvernement doit veiller à ce que la liberté syndicale puisse s'exercer dans un climat exempt d'intimidation et de violence. Toutes les personnes emprisonnées pour avoir exercé leur droit à la liberté d'expression et de réunion doivent être libérées immédiatement et sans condition. Les poursuites et condamnations prononcées doivent être abandonnées. Ces éléments ont également fait l'objet d'une plainte auprès du Comité de la liberté syndicale, qui a rendu un rapport en mars 2023. Nous invitons le gouvernement à donner suite aux recommandations formulées par le Comité de la liberté syndicale.

Des réformes institutionnelles sont également nécessaires pour garantir l'indépendance et l'impartialité du pouvoir judiciaire.

La liberté d'expression et de réunion pacifique, la liberté syndicale et la protection contre les arrestations arbitraires doivent être garanties comme garde-fou contre l'imposition d'un travail obligatoire pour l'exercice de ces droits. Cela nécessite le ferme engagement à entreprendre de vastes réformes législatives au regard de certaines lois qui ne sont manifestement pas conformes à la convention.

Il s'agira plus particulièrement de revoir les dispositions législatives suivantes en vue de les rendre pleinement conformes au prescrit de la convention:

- l'article 42 de la loi sur les partis politiques, tel que modifié en 2017, qui punit jusqu'à un an de prison plusieurs infractions relatives à l'administration ou à la gestion d'un parti politique qui a été dissous, dont les activités ont été suspendues par une décision de justice ou dont l'enregistrement a été refusé;
- les articles 494 et 495 portant sur l'incitation au trouble de la sécurité publique par des discours, des écrits, des images ou toute autre communication audiovisuelle en public ou pour le public;
- l'article 522 relatif à la publication de commentaires visant à exercer une coercition illégale sur les autorités judiciaires;
- l'article 523 sur le discrédit des décisions de justice du Code pénal de 2009;
- les articles 305 à 309 concernant les délits de diffamation et d'injure;
- les articles 445 et 427*bis* du Code pénal relatifs aux délits d'insulte au Roi et de critique du Roi.

La liberté d'expression et de réunion, le droit d'action collective et le droit de ne pas être astreint au travail forcé et obligatoire sont des questions extrêmement importantes pour les travailleurs, mais aussi pour les valeurs de l'OIT dans son ensemble.

Par conséquent, le gouvernement doit travailler avec l'OIT pour donner pleinement effet à la convention. Une double note de bas de page signifie que la commission d'experts est gravement préoccupée. Les membres travailleurs ont évoqué à cet égard l'article 68 de

la loi sur les prisons, suivant lequel les détenus jugés physiquement aptes doivent être affectés au travail quotidien de la prison, et se sont dit opposés à la demande visant à supprimer du compte rendu les commentaires relatifs à la loi sur les syndicats et au projet de loi sur le salaire minimum.

Nous invitons le gouvernement du Cambodge à se prévaloir de l'assistance technique de l'OIT afin de mettre en œuvre toutes ces recommandations. Au vu de la gravité de la situation, nous invitons également le gouvernement à accepter la venue d'une mission tripartite de haut niveau.

Chairperson –This was the last statement. We have now concluded our discussion on this individual case. The conclusions will be adopted on Wednesday 14 June in the afternoon.

The sitting was suspended at 3.40 a.m.

La séance est suspendue à 15 h 40.

Se interrumpe la sesión a las 15.40 horas.