

T  
592

INTERNATIONAL LABOR STANDARDS  
AND  
LABOR LEGISLATION IN LEBANON

NABIL M. LADKI

Submitted in Partial Fulfillment of the Requirements  
of the Degree of Master of Arts  
in the Department of Political Studies  
and Public Administration of the  
American University of Beirut  
Beirut, Lebanon

May 1964

INTERNATIONAL LABOR STANDARDS  
AND  
LABOR LEGISLATION IN LEBANON

N. M. LADKI

## ACKNOWLEDGEMENTS

I wish to express my deep gratitude and appreciation for the precious help and encouragement given me by Mr. Marwan Nasr, First Executive Secretary of the Association of Lebanese Industrialists and Member of the Governing Body of the International Labor Office and of the Board of Directors of the International Institute for Labor Studies. Through the efforts of Mr. Nasr I have been able to avail myself of an invaluable opportunity to visit the International Institute for Labor Studies in Geneva, where I was received as an intern for one month during which the research relating to international labor standards was completed. I would also like to express my gratitude to the Institute and its staff in the person of its Director, the Rt. Hon. Hilary Marguand, whose personal attention and guidance contributed to the achievement of the present study. My indebtedness also goes to the officials of the Main Library of the I.L.O. for their patient guidance and cooperation.

I would like also to express my appreciation to Mr. Joseph Donato, the Director General of the Office of Social Development in Lebanon for his valuable time and comments and to the various officials of the Ministry of Labor and Social Affairs who have provided some of the documentation in the Appendix.

Finally, my indebtedness and profound appreciation go to my advisor, Professor Shavarsh Toriguian for his time and perceptive commentary which proved to be invaluable in the preparation of this study.

Nabil M. Ladki

## PREFACE

The problems of industrial relations are among the most fundamental elements which help shape the economic, social and political life in any one country. Concomitant with the increase in industrial societies and therefore, in the labor force, is an even more pronounced increase in technological changes, with their decisive effects on society as a whole. States, whatever their political or economic systems, can no more afford to play a passive role in the rising need for the reconciliation of civil liberties with social discipline. Such reconciliation is believed to be best achieved through labor legislation. For, the scope of labor legislation is no more restricted to the regulation of wages, but has transcended this function to cover all questions relating to conditions of work-safety and health of workers, social security, vocational training, etc. Recent trends in labor legislation have tended to shift the emphasis from the regulatory function of legislation to the laying of promotional policies; on the belief that "universal and lasting peace can only be established on social justice." It is in cognition of this principle, long before it was enunciated in these terms, that the International Labor Organization was established.

The main purpose of this Paper is to study the development of international standards relating to labor and the compatibility of Lebanese legislation with such standards; that is, to show where and how Lebanese legislation conforms to the norms laid down in international labor standards and, should the case arise, why there happens to be a discrepancy between the domestic law of the country relating to labor and these standards.

For the purpose of the comparative study this Paper hopes to undertake, reference will be made only to international labor standards as set by the International Labor Organization. This is not to under-estimate the efforts of other international organizations which have contributed, and in some cases still do, to the development of international labor legislation as, for example, the International Association for Labor Legislation, the International Association on Unemployment, the World Federation of Labor, the International Organization of Employers, and the Economic and Social Council. The reason for such restriction, however, is due in part to the fact that the I.L.O. is on the one hand a response to the needs for organized international action relating to labor questions and, on the other hand, the Organization is looked upon as the coordinator of international aspirations to a sound social order.

Furthermore, the I.L.O. is the sole international body in which the interests of society as a whole namely, workers, employers, and the government, are represented. Decisions of the International Labor Conference take the form of either a convention or a recommendation. In either case a two thirds majority is required. As such the standards of policy embodied in international labor conventions and recommendation, which form together what we refer to as international labor standards, enjoy the unique prestige of having been approved by a two-thirds majority in a world industrial parliament in which workers and employers as well as the governments are represented.

However, the study of the International Labor Organization standard setting activity would be incomplete in isolation of the various factors which led in the first place to the establishment of the Organization. The presentation of this historical background will be undertaken therefore in the first

chapter. The same chapter will also outline the general organization of the I.L.O., the composition of the Organization and the activities of its three main organs - the International Labor Conference, the Governing Body, and the International Labor Office.

Having thus set the foundations of the Organization, Chapter two shall deal with the 'Drafting and Implementation of International Labor Standards'. For, in order to be able to appraise the importance of international labor standards, it is important to see how these standards are created. Furthermore, the study of the influence of such standards in isolation from the study of the obligations of Members under the Constitution of the International Labor Organization with regard to their implementation would also be incomplete.

Chapter three deals with the next logical step in the study, viz., the 'Scope of International Labor Standards'. At least two possible approaches were open for such a study. The first is the instrument approach, whereby each international labor convention and recommendation would be discussed separately. The second approach is the topic, or subject-matter approach, whereby these instruments would be discussed as relating to a certain common subject. The author adopts the latter approach. For the Organization has so far adopted 119 Conventions and 110 Recommendations and it would be chaotic to discuss these instruments one by one. Aside from the fact that this is a lengthy approach which entails details beyond the scope of this Paper, many of these instruments relate to a common topic. Some of them are mere revisions of anterior ones; others are supplementary. Furthermore, some are completely irrelevant to Lebanon, e.g., those relating to non-metropolitan territories or to indigenous people; others relate to questions which do not arise in the case of Lebanon, e.g., radiation.

The second question which had to be answered in this connection relates to the choice of the general topics under which international standards are to be studied. It was decided to group these standards in accordance with the basic human rights they refer to. As such, international labor standards will be discussed under the following headings: freedom from forced labor, freedom of association, safety and health of workers, social security, vocational training, discrimination in respect to employment, the right to equal remuneration. Reference of course will be made to other standards of importance, namely, those relating to hours of work, the protection of wages, and the international seafarers' code.

The first three chapters will have set the basis for the discussion to be undertaken in the following two chapters on 'The Influence of International Labor Standards on Labor Legislation in Lebanon'. The treatment of the subject in two different chapters is arbitrary and made for reasons of expediency.

Chapter Four outlines, inter alia, the development of labor legislation in Lebanon. It shall not be attempted to go into the details of labor laws in Lebanon. A detailed analysis of the scope and content of the Lebanese labor legislation shall be undertaken, however, in the course of the discussion of the influence which international labor conventions, whether ratified or not, have had on such legislation. Before this analysis is attempted, a brief description of the formal relationship between ratified conventions and domestic law in Lebanon is believed necessary for a thorough understanding of the role of international labor conventions in the development of social legislation in any one country. The analysis of the influence of ratified conventions on labor legislation in Lebanon will be found out to be no more

than a comparative study between the terms of those conventions and existing laws; for, the ratified conventions are merely formal statements of rules and regulations existing long before the act of ratification.

The fact that Lebanon has ratified so far only seven international labor Conventions does not mean in any way that Lebanon lags behind in social legislation. On the contrary, while believing that ratification of international labor conventions should be undertaken whenever expedient, the author maintains that the mere number of deposited ratifications is never a gauge to the country's development in social legislation.

Often minor discrepancies between the provisions of an international labor convention and the social policy of the country and procedural difficulties of ratification, are the main reasons behind the mediocre number of ratifications Lebanon has so far deposited with the International Labor Office. It should be noted that Lebanon has gone far afield in bringing its labor legislation in conformity with the norms laid down in international labor conventions and recommendations. Furthermore, salient traces of influence of such standards on contemplated legislation are to be noticed. The analysis of this influence of unratified conventions on actual and future legislation will be attempted in Chapter Five.

Why is it then that Lebanon has not ratified a higher number of international Labor Conventions? And, what are the future prospects for more ratifications? Has Lebanon exhausted its ability to cope with more international labor standards? The answers to these questions will be attempted in the final chapter. It should be noted here, however, that these answers are based for their greater part on personal interviews with the various government officials and the authors' own deductions.

N.M.L.



## TABLE OF CONTENTS

	Page
Acknowledgements .....	iv
Preface .....	v
 CHAPTER ONE: HISTORICAL RETROSPECT .....	 1
I. Introduction .....	1
II. The Call for Reform .....	3
III. The Peace Conference and the Establishment of the International Labor Organization .....	6
IV. The Development of the International Labor Organization	10
V. The Establishment of the International Institute for Labor Studies .....	17
 CHAPTER TWO: THE DRAFTING AND IMPLEMENTATION OF INTERNATIONAL LABOR STANDARDS .....	 19
I. The Drafting of International Labor Standards .....	19
II. Obligations of Member States .....	22
III. Supervision .....	25
IV. Efforts to Increase the Ability of the International Labor Organization to Ensure the Implementation of International Labor Standards .....	31
 CHAPTER THREE: THE SCOPE OF INTERNATIONAL LABOR STANDARDS.....	 40
I. Forced Labor .....	41
II. Freedom of Association .....	48
III. Safety and Health of Workers .....	53
IV. Social Security .....	60
V. Vocational Training .....	64
VI. Discrimination in Respect to Employment .....	68

	Page
VII. The Right to Equal Remuneration .....	70
VIII. The Right to Work .....	73
IX. Other Standards .....	75
 CHAPTER FOUR: THE INFLUENCE OF INTERNATIONAL LABOR STANDARDS ON LABOR LEGISLATION IN LEBANON: I	77
I. The Development of Labor Legislation in Lebanon	77
II. The Formal Relationship Between Ratified Conventions and Municipal Law in Lebanon .....	
III. The Practical Relationship Between International Labor Conventions and Labor Legislation in Lebanon .....	93
 CHAPTER FIVE: THE INFLUENCE OF INTERNATIONAL LABOR STANDARDS ON LABOR LEGISLATION IN LEBANON: II	104
I. The Influence of Un-Ratified Conventions on Labor Legislation in Lebanon .....	104
 CHAPTER SIX: HAZARDS AND OPPORTUNITIES .....	140
I. The Influence of International Labor Standards on Future Legislation in Lebanon .....	140
II. Possibilities of New Ratifications .....	146
 CONCLUSION .....	150
 APPENDIX .....	154
 BIBLIOGRAPHY .....	181

## CHAPTER ONE

### HISTORICAL RETROSPECT

#### I. Introduction.

The Industrial Revolution victimized masses of people. Conditions in early factories were beyond toleration. It took workers decades to start enjoying the benefits of the machine age.

The pre-industrial agrarian economy did insure some degree of stability to the workers. Outdoor work partly overcame the lack of medical and sanitary facilities. Workers on the land, had a minimum degree of subsistence insured. Children toiled under parental supervision; but they did not, however, escape the torment of existing working conditions. The factory system was especially harsh on them. Children as young as five years of age worked in poorly ventilated and insanitary factories. Upon the initiative of Sir Michael Sadler, the British Parliament set up in the year 1832 special Investigation Committees to study working conditions in British Factories. The following extract from one of the reports of the aforementioned committees illustrates the type and degree of abuse to which children working in factories were subjected.

#### "Evidence Before the Sadler Committee

"Elizabeth Bently called in and examined:

"What age are you? -'Twenty three'.

"What time did you begin to work in the factory?

- 'When I was six years old.'

"What were your hours of labor in that mill?

- 'From five in the morning till nine at night when they were thronged.'

"What were your usual hours of labor when were not so thronged? - 'From 6 in the morning till 7 at night.'

"Suppose you flagged a little or were too late, what would they do? - 'Strap us.'

"Have you ever been strapped? - 'Yes.'

"Severely? - 'Yes.'<sup>1</sup>

---

<sup>1</sup>F. Scot and A. Baltzly, Reading in European History (New York: Appleton-Century-Crofts, 1930), pp. 81-82.

The above serves to point out at least two of the evils of the industrial revolution in England; namely, the abuse of children and the excessive length of the working hours. This is why, the first attempts to lay down labor standards dealt with the limiting of hours of work and the protection of child labor.

Sanitary conditions were even more deplorable. Children, men and women were stacked in poorly ventilated factories. Epidemics spread at a very rapid pace. In London alone 10,000 cases of cholera were registered in 1832. In 1888, out of 77,000 London Paupers, 14,000 were attacked by fever, of whom nearly 1,300 died. Only in 1867 was vaccination against smallpox made compulsory.

France was not saved from the evils of the Industrial Revolution. Families of five or six persons, and, sometimes, two such families, lived in one large room, humid, poorly ventilated, with practically no lighting; or under tin roofs which rendered the living quarters too cold in winter and very hot in summer.

A French doctor wrote describing the situation of workers in the early 19th century in France as follows:

There is no one, unless he has chocked every sense of justice, who is not affected by the enormous disproportion between the joys and the pains of this class...One should like to find some compensation for such miseries; rest after work, a service rendered in exchange of a service offered, a smile, a sigh, material happiness or satisfaction; something at least. In the meantime, the worker of whom we talk, receives nothing of this in return for his work. If you would like to know how he lives, go, for example, to Rue des Fumiers, which is nearly exclusively inhabited by this class; lower your head while you enter into one of those cesspools on the street situated below its level... On either side of the alley, and consequently beneath the ground there is a dim, cold, room, where dirty water drains from the walls, receiving air from a sort of semi-circular window of no more than two feet in height. Enter, if the stinking smell which one inhales does not force you back.<sup>1</sup>

---

<sup>1</sup>A. Geupin, Nante Au XIXeme Siecle (Nante: Sebire, 1825), p.

In Germany conditions were somewhat better because the Industrial Revolution there did not proceed at such a rapid pace as elsewhere.

## II. The Call for Reform.

Out of the misery of the early 1800's grew a diversity of promised Panaceas, utopian, revolutionary, reformist, cooperative and trade union ideas were promoted to relieve the condition of the laboring poor.

Pioneering in the demand for social reform were men like Robert Owen, William Allen, Jeremy Bentham, Louis Blanc, Hahn, and Daniel le Grand.

These social reformists laid down the foundations of what later became known as labor legislation.

In England several laws were enacted between 1802 and 1870 to alleviate the conditions of work. These laws are known as the Factory Laws. The first law, decreed in 1802, limited the hours of work per day to pauper apprentices to 12 and prohibited night work for children. However, this law was not effectively enforced due to the lack of an adequate system of factory inspection. In 1816 a major law came into force - children under 9 were barred from cotton mills and the working hours of children between 9 and 12 were limited to twelve hours per day. Several other laws were enacted dealing with conditions of work in specific industries; but again the lack of effective control reduced the efficacy of such laws to a bare minimum.

On the Continent, factory laws were more general. In Prussia, more emphasis was put on sanitary conditions of work. There, a rigid system of inspection insured the effective enforcement of factory laws. It is worthwhile to note here, that the driving motive behind such intense interest in the working conditions of laborers in Prussia, as later events came to show, was mainly militarist rather than social or humane.

However, up till 1890 all responses to the demands for social reforms

In Germany conditions were somewhat better because the Industrial Revolution there did not proceed at such a rapid pace as elsewhere.

## II. The Call for Reform.

Out of the misery of the early 1800's grew a diversity of promised Panaceas, utopian, revolutionary, reformist, cooperative and trade union ideas were promoted to relieve the condition of the laboring poor.

Pioneering in the demand for social reform were men like Robert Owen, William Allen, Jeremy Bentham, Louis Blanc, Hahn, and Daniel le Grand.

These social reformists laid down the foundations of what later became known as labor legislation.

In England several laws were enacted between 1802 and 1870 to alleviate the conditions of work. These laws are known as the Factory Laws. The first law, decreed in 1802, limited the hours of work per day to pauper apprentices to 12 and prohibited night work for children. However, this law was not effectively enforced due to the lack of an adequate system of factory inspection. In 1816 a major law came into force - children under 9 were barred from cotton mills and the working hours of children between 9 and 12 were limited to twelve hours per day. Several other laws were enacted dealing with conditions of work in specific industries; but again the lack of effective control reduced the efficacy of such laws to a bare minimum.

On the Continent, factory laws were more general. In Prussia, more emphasis was put on sanitary conditions of work. There, a rigid system of inspection insured the effective enforcement of factory laws. It is worthwhile to note here, that the driving motive behind such intense interest in the working conditions of laborers in Prussia, as later events came to show, was mainly militarist rather than social or humane.

However, up till 1890 all responses to the demands for social reforms

were local.

The first effort at dealing with social problems on an international level took place in 1890. In that year, an International Conference was convoked in Berlin, although at the initiative of the Swiss Government.<sup>1</sup> In 1900, the countries present at the Berlin Conference of the previous year agreed to establish the International Association for Labor Legislation, with Headquarters in Bern, Switzerland.

The International Association for Labor Legislation was a non-governmental organization. However, government representatives from Austria, Belgium, France, Germany, Hungaria, Italy, Luxemburg, the Netherlands, Norway, Holy See, and Switzerland were present at most of the Conferences of the Association.

The International Association for Labor Legislation was looked upon as an excellent means to further the development of international labor protection. Addressing the General Assembly of the Association in its third meeting which was held at Basel on September 26, 27, and 28, 1904, Mr. Wullschleger, said:

The International Association for the Legal Protection of workers provides the opportunity for men of all classes of society to work together on the basis of the strictest political and religious neutrality between the various classes. If, for nothing else, the Association has already achieved a goal which is well marked in the history of civilization. It is happy to have the honor of being one among the first combatants for the cause of labor protection, of doing away with prejudices and ignorance, and to shed light by the collection of facts and a systematic enlightenment.<sup>2</sup>

---

<sup>1</sup>Countries represented at the Berlin Conference were: Austria, Belgium, France, Germany, Hungaria, Italy, Luxembourg, Norway, Netherlands, Holy See, and Switzerland.

<sup>2</sup>The International Association for Labor Legislation, Report of the Fourth General Assembly, (London: The Labour Representation and Publication Co. Ltd., 1905), p. 16.

On the initiative of the Association, two diplomatic conferences were held in 1905 and 1906. Fourteen states were present. At the end of the deliberations two conventions were adopted. One Convention dealt with the regulation of night work for women and was unanimously adopted by all the fourteen states present. In his opening statement to the Fourth General Assembly of the Association, held at Geneva from September 26 to September 29, 1906, Mr. Heinrich Scherrer, Landmann of the Canton of St. Gall and President of the Association, referred to this Convention as "an important step forward in the promotion of labor legislation." "I consider," (Mr. Scherrer added) "that the great importance of this Convention lies not so much in its actual content, as in the effect which it may produce in the future with regard to the conclusion of further international agreements and the labor legislation of individual states."<sup>1</sup>

The Second Convention dealt with the use of phosphorus in the production of matches. This Convention was signed only by seven<sup>2</sup> of the fourteen states, as the other members were not among the match producing countries.

The two Conventions referred to above may not be important in themselves. Furthermore, their relative importance may vary greatly from one country to another. More important, however, is the fact that their adoption showed that it was possible to apply social reforms internationally; thus paving the way for the International Labor Organization.

Although it played the greater role, the International Association for Labor Legislation was not alone, however, in the efforts towards laying down

---

<sup>1</sup>The International Association for Labor Legislation, Report of the Fourth General Assembly (London: The Labor Representation and Publishing Co. Ltd., 1907), p. 14.

<sup>2</sup>France, Germany, Italy, Luxembourg, Denmark, Switzerland and the Netherlands.



international labor standards. The International Association on Unemployment and the International Association for Social Progress carried out research and held several meetings which contributed to concretizing the demands for an official body to deal with labor problems.

III. The Peace Conference and the Establishment of the International Labor Organization.

A. The Commission on International Labor Legislation.

In the face of the demands from all parts of the world for international action towards the protection of labor, the Peace Conference appointed on January 31st, 1919 the Commission on International Labor Legislation.<sup>1</sup>

The terms of reference of the Commission read:

A Commission, composed of two representatives from the five great powers and five representatives to be elected by the other powers represented at the Peace Conference, be appointed to inquire into the conditions of employment from the international aspect and to consider the international means necessary to secure common action on matters affecting conditions of employment, and to recommend the form of a permanent agency to continue such inquiry and consideration in cooperation with, and under the direction of the League of Nations.<sup>2</sup>

It is worthwhile to note that Mr. Samuel Gompers, the President of the American Federation of Labor was chosen as the President of the Commission.

The British Delegation put forward to the Commission a draft convention for the establishment of a permanent organization for international labor legislation. This draft proposition occupied the larger part of the 35 meetings which the Commission held and formed the cornerstone to the draft

---

<sup>1</sup>For a list of members of the Commission see Appendix II

<sup>2</sup>League of Nations, Report of the International Labor Legislation (Geneva: I.L.O. Publications, 1920), p. 4.

Convention for the establishment of an international labor organization which was submitted by the Commission before the Peace Conference on March 24, 1919.

All the members of the Commission were in concert as to the need for the establishment of an international labor legislative body. However, opinions differed regarding the nature and magnitude of powers to be vested in such an organization. The Commission felt that if the proposed international labor organization was to be of any success, employers and workers must be given the opportunity to express their views and share in the laying down of pertinent legislation independently of their governments. The American, French, Italian, and Cuban delegations contended that each of the three parties, government, worker and employer, should have equal voting power. They maintained that the working classes would never be satisfied with a representation which left the government and the employers combined in a majority of three to one. The other delegations contested this view on the grounds that the purpose of the proposed organization was not only to pass resolutions but also to insure their enforcement; and, since it is the governments which shall have the responsibility to enforce legislation so enacted, it is only natural that governments should have at least an equal voice with both workers and employers combined; otherwise, the adoption of resolutions which the majority of governments delegates oppose would lead to no practical results. The Commission finally decided by a narrow majority to maintain the proposal that each government should have two votes.

The crucial point in the deliberations of the Commission, however, was the power which the conventions adopted by the proposed International Labor Organization would have on the member states. Views on this question differed greatly. Britain proposed that each member state be under obligation to ratify any convention adopted by a two thirds majority of the General

Assembly of the Organization. On the other extreme, the U.S. delegation refused any proposal that would imply such an obligation, on the grounds that the Federal Government had no right to make commitments regarding matters on which it had no jurisdiction; nor did it have even the power to ensure the effective enforcement of such conventions by the constituent states. As the president of the U.S. Delegation put it, "The Government could not... engage to do something which was not within their power to perform, and the non-performance of which would render them liable to complaint."<sup>1</sup>

The French and Italian Delegations offered a compromise. They proposed that all member states should be under obligation to ratify any convention adopted by the Organization regardless of the approval of the respective legislative authorities, subject to the right of appeal to the Executive Council of the League of Nations. The U.S., however, was firm in its stand.

A sub-Commission from the Delegations of the U.S., Greece, and Belgium was formed to study a way out of this dilemma. The sub-Commission after long deliberations came out with the following proposition:

That the decisions of the Labor Conference take the form of either a Recommendation or a draft Convention. Either must be deposited with the Secretary General of the League of Nations and each state undertakes to bring it, within one year, before its competent authorities for the enactment of legislation or other action, but not amendment. If no legislation or other action to make a Recommendation effective follows, or, if a draft convention fails to obtain the consent of the competent authorities, no further obligation will rest on the state in question. In the case of a federal state, whose power to enter into conventions on labor matters is subject to limitations, its government may treat a draft convention to which such limitations apply as a recommendation only.<sup>2</sup>

---

<sup>1</sup>Ibid., p. 14.

<sup>2</sup>Ibid., p. 28.

This compromise was adopted by the Commission unanimously. The importance of this proposal lies not only in the fact that it offered a solution out of the dilemma into which the Commission found itself and which threatened to render the work of the Commission nil, but, more important, is that it offered an automatic link between the international legislators and national legislative bodies who were bound at least to review the standards laid down by the international legislative body.

The Peace Conference adopted all the proposals which the Commission put before it for the establishment of an International Labor Organization with all the organs attached to it.

B. The Composition of the International Labor Organization.

As we have seen earlier, the International Labor Organization was established in 1919 as an organ of the League of Nations.

According to the Constitution of the International Labor Organization, each member of the League of Nations, and, after 1944, of the United Nations becomes a member in the Organization by communicating to the Director General its formal acceptance of the obligations of the Constitution of the Organization. Other states may also be admitted to membership by a two thirds majority vote of the International Labor Conference including at least two thirds of the votes of the government delegates present and voting.

Each member state sends four delegates - two representing the government, one the employers and the fourth representing the workers. The total of the delegates form what is referred to as the International Labor Conference.<sup>1</sup>

The Governing Body of the Organization is composed of forty members,

---

<sup>1</sup>Henceforth referred to as "the Conference."

twenty representing governments, ten representing workers, and ten representing employers. Of the twenty government delegates, ten are appointed by the ten leading industrial countries. Members of the Governing Body are chosen on the basis of their qualifications and not as official representatives of either governments, workers' groups or employers' groups.

The Governing Body supervises directly the work of the International Labor Office.<sup>1</sup> The ILO is the Secretariat of the Organization. At present its staff numbers over 800 recruited from all parts of the world on the basis of open competitive selection.

#### IV. The Development of the International Labor Organization.

##### A. The Organization from 1919-1939.

The focus of the activities of the ILO in the early years of its existence has been mainly Europe. "From the International Association for Labor Legislation.... it inherited a technique of law-making and a belief in international law as an instrument for improving social conditions. Both these ideas were solidly based on the philosophy and practice of 19th Century European Liberalism."<sup>2</sup> This is the main reason why the period under review of the life of the Organization has been one of standard setting mainly. This is not to deny the equally important other activities which the Organization undertook, mainly in the field of research and advisory services.

The main point of strength of the Organization which had helped it preserve itself was the fact that the Organization confined itself to practical matters common to all humans. Its activities transcended the political sphere, thus avoiding mingling the Organization with world conflicts.

---

<sup>1</sup>Henceforth referred to as "the ILO."

<sup>2</sup>A. Lutz, If You Wish Peace Cultivate Justice: The International Labor Organization, (Geneva, I.L.O. Publications, 1961), p. 4.

Yet the Organization was not immune of the effects of the rising tensions in Europe by the 1930's. Germany withdrew from the Organization in 1935, Italy in 1938, Japan and Russia in 1940. There was no escaping the conflict between the liberal philosophy on which the International Labor Organization had been built and the hatred of liberalism on which Nazism and Fascism were reared. When the Organization tackled questions of fundamental human rights, it ran head on against the totalitarian regimes.

More important than the act of withdrawal from the Organization of two of Europe's leading industrial countries and Asia's foremost industrial country, Japan, were the attacks made by these countries on the standards laid down by the Organization. Reports came from Germany and Japan on increasing working hours per day and on the disregard of the Convention on the employment of children in industrial concerns. In his Report to the International Labor Conference in 1941, the Director General stated that during the War, "the substantial section of Europe's working population which is under German control had been subjected to a deliberate and systematic reduction in living standards."<sup>1</sup>

However, the accession of the United States to the Organization in 1934 and the support which the Organization had by 1939 from the Latin American countries helped it overcome to a considerable extent the handicaps referred to above.

B. The War Period.

Even during the War the International Labor Organization continued to contribute to the development of social reform, although on a rather narrower scale. In the first place the Headquarters of the Organization

---

<sup>1</sup>The International Labor Organization, Report of the Director General (Geneva: International Labor Office, 1941), p. 78.

were removed to Montreal in Canada. The staff was dispersed. The Budget was severely cut. Communication between member states was greatly hindered.

A general Conference was convoked to meet in Washington in 1941; 221 delegates and advisors from 35 countries responded. However, the meeting was declared unconstitutional since the delegates present did not meet the constitutional minimum required for the adoption of resolutions. In April 1942 an Emergency Committee was appointed to study the possibility of keeping up the work of the Organization. The Committee held several meetings in London. This goes only to show that the ILO did not remain inactive during the strenuous years of the War.

C. The ILO Since 1945.

The International Labor Conference convened in Philadelphia in 1944. The main items on the Agenda of the Conference dealt with the future of the Organization. In his Report to the Conference, the Director General stated the following:

After careful consideration, the Governing Body came to the conclusion that although a hard and costly struggle may still lie ahead before the termination of hostilities, the beginning of concerted international action to deal with post war problems had made it imperative that the International Labor Organization should, without further delay, define its own future policy and programme and its general place in the process of post war reconstruction and the status which it should enjoy in the general organization of the World's international life."<sup>1</sup>

The lengthy discussions on the future of the Organization culminated, on May 10, 1944, with the adoption of what is now known as the Philadelphia Declaration and which has become ever since a basic document for the International Labor Organization and was annexed to the Constitution of the

---

<sup>1</sup>The International Labor Organization, Report of the Director General (Philadelphia: The International Labor Office, 1944), p. 4.

Organization and as such deserves to be quoted at some length.

I

The Conference reaffirms the fundamental principles on which the Organization is based and, in particular that:

- (a) labour is not a commodity;
- (b) freedom of expression and of association are essential to sustained progress;
- (c) poverty anywhere constitutes a danger to prosperity everywhere;
- (d) the war against want requires to be carried with unrelenting vigor within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

II

Believing that the experience has fully demonstrated the truth of the statement in the Constitution of the International Labor Organization that lasting peace can be established only if it is based on social justice, the Conference affirms that:

- (a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;
- (b) The attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;
- (c) All national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;
- (d) It is the responsibility of the International Labor Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.

III

The Conference recognizes the solemn obligation of the International Labor Organization to further among nations of the world programmes which will achieve:

- (a) full employment for the raising of standards of living;
- (b) the employment of workers in occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
- (c) The provision, as a means to the attainment of this end



- under adequate guarantees for all concerned, of facilities for training and the transfer of labor, including migration for employment and settlement;
- (d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need for such protection;
  - (e) the effective recognition of the right of collective bargaining, the cooperation of management and labor in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
  - (f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
  - (g) adequate protection for the life and health of workers in all occupations;
  - (h) provision for child welfare and maternity protection;
  - (i) the provision of adequate nutrition, housing and facilities for recreation and culture;
  - (j) the assurance of equality of educational and vocational opportunity.

#### IV

Confident that the fuller and broader utilization of the world's productive resources necessary for the achievements set fourth in this Declaration can be secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations, to promote the economic and social advancement of the less developed regions of the world, to assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full cooperation of the International Labor Organization with such international bodies as may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

#### V

The Conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilized world.

The end of the war brought with it independence to some twenty nations. Economic activity was being shifted from the emphasis on the production of war equipment to the production of consumers' goods. These factors made imperative

the readjustment of the activities of the ILO in kind and place. Political and economic changes have combined to lead the International Labor Organization more and more toward operational activity: in fact to involve the Organization directly in helping governments to organize their prosperity.

From 1950 onwards, the ILO became more and more involved in the United Nations Expanded Programme of Technical Assistance. The share of the ILO of the Expanded Programme has been increasing year after year as could be seen from the following schedule.

ILO Share in the Expanded Programme Budget<sup>1</sup>

<u>Year</u>	<u>U.S. Dollars</u>
1951	353,300
1952	1,876,454
1953	2,268,106
1954	1,991,585
1955	2,632,222
1956	3,045,438
1957	3,201,227
1958	3,422,833
1959	3,362,166
1960	3,245,088
1961	3,356,426
1962	4,786,460

The funds the ILO had received from the Expanded Programme of Technical Assistance were spent on various fields of activity and on as wide a geographical dispersion as possible. This could be seen clearly from the following schedules.

---

<sup>1</sup>Source: Reports of the Director General, 1955, 1959, 1962.

Analysis of ILO Percentage Expenditure of E.P.T.A.  
Funds in Five Major Sectors of Activity<sup>1</sup>

Year	Manpower Organi- zation (Inclu- ding Vocational Training	Produc- tivity	Cooperation	Social Security	Labour Conditions & Administration
1950/1	40.9	7.9	15.2	30.0	6.0
1952	59.7	2.5	9.1	8.1	20.6
1953	56.4	4.4	14.7	5.7	18.8
1954	52.1	4.7	14.9	6.5	21.8
1955	50.9	7.4	13.7	3.9	24.1
1956	49.1	5.9	12.6	4.7	27.7
1957	55.5	7.3	9.9	14.4	22.9
1958	51.8	9.3	10.0	5.9	23.0
1959	50.1	9.8	12.6	5.0	22.5
1960	45.7	12.7	16.4	5.6	19.6
1961	48.1	10.9	15.4	44.4	21.2
1962	41.9	11.8	19.2	5.5	21.6

Analysis of Percentage Expenditure by Region<sup>2</sup>

Year	Africa	Asia	Europe	Latin America	Near & Middle East	Inter- Regional
1950/1	4.0	35.0	18.9	25.4	16.5	-
1952	2.7	25.7	19.0	45.0	7.6	-
1953	9.4	32.8	18.0	29.9	9.9	-
1954	10.6	24.9	18.4	31.8	11.8	3.5
1955	7.8	27.7	12.8	32.9	16.4	2.4
1956	6.4	27.0	10.3	38.3	14.9	3.3
1957	8.9	28.0	12.3	32.5	15.5	2.8
1958	9.8	32.4	11.0	32.9	13.4	0.5
1959	10.6	31.8	8.7	30.6	15.1	3.2
1960	13.9	27.5	8.4	30.1	19.1	0.9
1961	20.1	24.5	5.4	31.9	14.3	3.8
1962	35.0	15.6	7.9	25.8	14.0	1.7

<sup>1</sup>Ibid.

<sup>2</sup>Ibid.

V. The Establishment of the International Institute for Labor Studies:

The expansion of technical assistance work brought the ILO into daily contact with the difficulties confronting developing nations in their efforts to increase productivity and raise the standard of living of their peoples. Such difficulties can be met only partly by technical assistance. "Even more important, however, is the human factor. People must find a means of working cooperatively together in order to improve their material well-being in conditions of freedom and dignity."<sup>1</sup>

During the post-war period, the ILO has been giving increasing attention to the field of industrial relations in all its aspects. However, it was found out that "certain of the needs for more intensive research into the particular social conditions of different countries and for the development of training in the social responsibilities of leadership might, however, best be met through.... a body which, by creating an atmosphere of free and objective inquiry, will encourage exchange and confrontations of different experiences and viewpoints!"<sup>2</sup> These considerations led the Director General of the ILO to propose the establishment of an International Institute for Labor Studies. The Governing Body, in its 142nd Session held in Geneva in June 1959, decided to ask the

---

<sup>1</sup>International Labor Office, Preliminary Draft on the Proposed International Institute for Labor Studies (Geneva: International Labor Office Publications, 1959), p. 2.

<sup>2</sup>Ibid., pp. 4-5.

Director General to submit at its next Session in November detailed plans concerning the aims, structure, staffing and financing of an international institute for research and educational purposes in the field of labor studies.

The International Labor Organization finally approved the establishment of the International Institute for Labor studies. The Institute began its work in 1962 with the first international Study Course attended by some thirty participants selected from 28 different countries.

## CHAPTER II

### THE DRAFTING AND IMPLEMENTATION OF INTERNATIONAL LABOR STANDARDS

#### I. The Drafting of International Labor Standards.

The Agenda for all the meetings of the International Labor Conference is settled by the Governing Body. The Governing Body considers all proposals for items to be placed on the Agenda coming from any Member or from any international organization, e.g., the ECOSOC. It may also, of its own initiative, place any item on the Agenda for consideration by the Conference. Usually, however, proposals for the Agenda are prepared by the International Labor Office.

When a proposal to place an item on the Agenda of the Conference is discussed for the first time by the Governing Body, the latter cannot, without the unanimous agreement of the members present, take a decision until the following session.<sup>1</sup> Furthermore, should the Governing Body, when discussing the inclusion of a certain proposal on the Agenda of the Conference, deem it desirable, it may refer the question to a preparatory technical conference. However, in such a case, the Governing Body is under obligation to "determine the date, composition, and terms of reference of the said preparatory conference."<sup>2</sup>

---

<sup>1</sup>I.L.O. Constitution, (Geneva: I.L.O., 1956), art. 34.

<sup>2</sup>Ibid.

When the Governing Body finally decides on the agenda it refers it to the Conference. Items on the agenda are referred to the Conference with a view of either a single or a double discussion.

When an item is considered of great importance and urgency, the Governing Body may refer it with a view of a single discussion, which means that the Governing Body is recommending that the Conference take action regarding that specific item at its earliest session. Any item not referred to in that specific nature will be regarded as having been referred to with a view of a double discussion. That is to say that the Conference will discuss the item in question at its next session, but no final action will be taken at that session.

In a case where a specific item is referred to the Conference with a view of a single discussion, the Governing Body is under obligation to communicate to all members "... a summary report upon the question containing a statement of the law and practice in the different countries and accompanied by a questionnaire drawn up with a view to the preparation of conventions or recommendations.<sup>1</sup> This information should reach the governments of members at least 12 months before the date of the opening of the session of the Conference at which the question is to be discussed. Member governments are required to send in their replies along with an explanatory note appertaining thereto not later than eight months before the opening date of the session. In the case of Federal governments, this period is reduced to seven months, so as to give the central government

---

<sup>1</sup>Ibid.

ample time to communicate with the federal constituencies in accordance with the prevailing laws of the country. The replies received from member governments accordingly form the basis for the Summary Report which the International Labor Office prepares for communication to all members. Such summary reports may contain one or more draft conventions or draft recommendations and should be communicated to the members not less than four months before the date of the opening of the session at which the question is to be discussed. The time intervals referred to above are applicable only in cases where the question has been included on the agenda of the Conference not less than 18 months before the opening of the session of the conference at which it is to be discussed.<sup>1</sup> Should that not be the case, the Governing Body can alter the time limits proportionally. The Conference is expected to take a final decision regarding items included on its agenda for a single discussion in the first session it holds to discuss the agenda.

In cases where items are referred to the Conference for a double discussion, the procedure does not differ from that described above up to the time the Conference convenes. Instead of taking a final decision on the question, as it is expected to do in the case of a single discussion, the Conference, after discussing the question, may either decide to include it on the agenda of the next session, or it may refer it back to the Governing Body with a recommendation that it be included on the agenda of

---

<sup>1</sup>Ibid., art. 39.



a later session. In the first case, however, a vote of two thirds majority is required.

Any member government may object to the inclusion of any one or more items on the agenda. However, no item will be excluded in the case of any such objection unless the Conference so approves by a vote of two thirds of the members present.

The resolution of the International Labor Conference may take either the form of a convention or a recommendation. Conventions are treaties which when ratified, create binding international obligations. Recommendations are mere norms for guidance and create no such binding obligations.

## II. Obligations of Member States.

A. Obligations Arising in the Case of a Convention. The Constitution of the International Labor Organization requires every member to bring before the competent legislative authorities, within a period of not more than 12 months from the date of the closing of the session of the Conference, any Convention which the Conference may have adopted at that session. This period is extended in exceptional cases to 18 months.<sup>1</sup> Member governments also, undertake to communicate to the Director General of the International Labor Office any action taken by the legislative authorities in their respective countries with regards to the convention in question. And, where a convention is approved by the legislative authorities of any member, the government of that member is

---

<sup>1</sup>Ibid., art. 19.

required to communicate the formal ratification of the convention to the Director General and to take the necessary measures to put the terms of the convention thus ratified into effect.

In case a certain convention fails to receive the approval of the legislative authorities of any member, no further obligations will rest on that member as regards the rejected convention except to report from time to time, and as the Governing Body may require, on the rules and practices in force relating to the subjects dealt with by the convention.

B. Obligations Arising in the Case of a Recommendation: As in the case of a convention, members are required to bring any recommendation adopted by the Conference before the legislative authorities of their respective countries within a period of 12 months from the date of the closing of the session at which the recommendation was adopted. Members are also required to report to the Director General on the measures taken to bring the recommendation before the competent legislative authorities and to report also from time to time, as the Governing Body may require, on "the position of law and practice in the country of the Member with regards to the matters dealt with in the Recommendation."<sup>1</sup> Aside from these requirements, no further obligations rest on members in the case of adopted recommendations.

C. Procedure in the Case of Federal States: Where a member is

---

<sup>1</sup>Ibid.

a federal state, the obligations arising in the case of conventions adopted by the Conference, do not differ from those of non-federal states where matters dealt with by a particular convention fall under the jurisdiction of the federal authorities. In case the matters dealt with by a convention are deemed by the Member inappropriate for federal action, the Member undertakes to communicate the convention to the federal constituencies within a period of not more than 18 months after the closing date of the session at which the convention was adopted, with a view for its enactment by the pertinent authorities. The Federal Member is required also to "arrange, subject to the concurrence of the state, provincial or cantonal governments concerned, for periodical consultations between the federal, state, provincial, or cantonal authorities with a view of promoting within the federal state co-ordinated action to give effect to the provisions of such Convention and Recommendation."<sup>1</sup> The federal member also undertakes to inform the Director General of the measures taken to bring the conventions and recommendations before the appropriate constituent authorities.

"In respect to each such convention which it has not ratified," the federal Member undertakes to "report to the Director General of the International Labor Office, at appropriate intervals as requested by the Governing Body, the position of law and practice of the federation and its constituent states, provinces, or cantons in regard to the convention, showing the extent to which effort has been given, or is proposed

---

<sup>1</sup>Ibid., art. 16.

to be given to any of the provisions of the convention by legislation, administrative action, collective agreement, or otherwise."<sup>1</sup>

### III. Supervision.

International labor standards are set to be observed. If labor standards do not find their way into the practice of Members states, the whole work of the International Labor Office standard setting machinery and its efforts at developing the socio-economic status of the world at large are reduced to nil.

A. Summaries of Reports: The framers of the constitution of the International Labor Organization saw the danger of the possibility of undermining the efforts of the Organization, and thus required the Director General of the International Labor Office to submit to the Conference a summary of the reports of the governments which the Office receives in accordance with article 19 of the Constitution of the Organization referred to earlier.

It could be readily understood, however, that it is practically impossible for the Conference, in its yearly three-crowded-weeks-meeting to review all the reports received from member governments on the application of conventions and recommendations. In 1962 alone, for example, over 3000 such reports were received by the International Labor Office for submission to the Conference. This difficulty had already been long recognized; and the Governing Body, on the suggestion of the British delegation, agreed in 1957 to appoint a neutral committee of experts

---

<sup>1</sup>Ibid., art. 19.

whose task would be to examine those reports and report on them to the Governing Body.<sup>1</sup>

The Committee of Experts is currently composed of 17 members chosen from all parts of the world on the basis of their high qualifications and deep knowledge in the sphere of labor legislation. It is interesting to note that a Lebanese jurist has been on that committee for a number of years.<sup>2</sup> Copies of the reports received from member governments are sent to each expert. In April of every year, the experts meet in Geneva for three weeks to exchange their view and put down their observations and conclusions. In order to facilitate its work, the Committee of Experts is authorized to communicate directly with the member governments for certain minor remarks and governments may be asked by the Committee to answer to some queries directly before the June Conference.

B. The Conference Committee: The report of the Committee of Experts along with whatever reports the Office may have are referred to a tripartite committee of government, worker and employer delegates appointed by the Conference. This committee is known as the Conference Committee. The Conference Committee examines in detail, country by country, convention by convention, and recommendation by recommendation the observations of the Experts and the replies of governments. The

---

<sup>1</sup>I.L.O., Governing Body Proceedings, 1927 (Geneva: International Labor Office Publications, 1927), p.1

<sup>2</sup>For a complete list of the names of the members of the Committee of Experts see Appendix III

essence of the findings of the Conference Committee are referred to the International Labor Conference for discussion. In this manner, more time is allowed to the Conference to work on the items on its Agenda, without minimizing the role of supervizing the application of conventions and recommendations by members.

C. Complaints of Non-Observance: In accordance with the provisions of article 26 of the Constitution of the International Labor Organization, any member is entitled to "file a complaint with the I.L.O. if it is not satisfied that any other Member is not securing the effective observance of any convention which both have ratified."<sup>1</sup> In the case of any such complaint, the Governing Body may either communicate directly with the government concerned, or it may appoint a commission of inquiry to examine the complaint on file.<sup>2</sup> Members directly concerned are required, in the event the complaint is referred to a commission of inquiry, to "place at the disposal of the Commission all the information in their possession which bears upon the subject matter of the complaint."<sup>3</sup> The findings and recommendations of the Commission of Inquiry are communicated by the Director General to each of the governments concerned and these are in turn required, with a period of three months, to inform the Director General whether they agree to the recommendations of the

---

<sup>1</sup>I.L.O., Constitution, Ibid., art. 26.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid., art. 27.

Commission of Inquiry or whether any one of them proposes to take the complaint to the International Court of Justice.<sup>1</sup> In the latter case, the decisions of the International Court of Justice are final and binding on both parties.<sup>2</sup>

Furthermore, in the event of any member failing to take action with regard to a convention or a recommendation, any other member is entitled to bring the matter before the Governing Body.

An example of the action taken by the International Labor Organization in the case of a recent complaint of non-observance of the Convention on Forced Labor filed by the Government of Ghana against the Government of Portugal serves well to illustrate the procedure followed in such cases.

D. Ghana vs. Portugal: On February 25, 1961, the accredited representative of the Republic of Ghana to the International Labor Office, upon instructions from his government, filed a complaint under article 26 of the Constitution of the International Labor Organization against the Government of Portugal in the following terms:

Portugal and the Convention Concerning the Abolition  
of Forced Labor

The Republic of Ghana is not satisfied that Portugal is securing the effective observance in her African territories of Mozambique, Angola, and Guinea of Convention No. 105 which both Portugal and the Republic of Ghana have ratified.

---

<sup>1</sup>Ibid., art. 29.

<sup>2</sup>Ibid., art. 31.

Accordingly, the Republic of Ghana requests that the Governing Body of the International Labor Organization takes appropriate steps, for example, by setting up a Commission of Inquiry to consider this complaint and to report thereon.<sup>1</sup>

The Director General of the International Labor Office, immediately upon receipt of the Complaint, consulted with the Officers of the Governing Body who ascertained the right of Ghana to file such a complaint and recommended that the Governing Body, through the Director General, request the Government of Ghana to substantiate with particulars, the grounds on which it based its dissatisfaction. The Officers also recommended that the Director General be instructed to request the Government of Portugal, as the government against which the Complaint was filed, to communicate its observations regarding the said complaint. Both governments supplied the Office with their replies.<sup>2</sup> The Governing Body, upon the recommendation of its Officers, decided in its 149th Session which was held in Geneva in June 1961 to appoint a Commission of Inquiry.<sup>3</sup> On July 11, 1961, the Members of the Commission were sworn in the presence of the Director General and the representatives of the two governments concerned. By that time, the United Arab Republic had associated itself with the complaint submitted by Ghana.

---

<sup>1</sup>I.L.O., Ghana vs. Portugal (Geneva: I.L.O. Publications, 1962), p. 1.

<sup>2</sup>For the text of the replies of both governments, see Appendix IV

<sup>3</sup>Members of the Commission were: (1) Mr. Paul Ruegger (Switzerland), Ambassador, Member of the Permanent Court of Arbitration, Chairman of the ILO Committee on Forced Labor (1956-1959); (2) Enrique Armand-Ugon (Uruguay), Former Judge of the International Court of Justice, Former President of the High Court of Justice of Uruguay; (3) Isaac Forester (Senegal), First President of the Supreme Court of Senegal, Member of the Committee of Experts on the Application of Conventions and Recommendations.



The Commission decided to invite the government of Ghana to communicate to it, not later than August 1st, 1961, all further information and observations relevant to the complaint which the government might be able to supply. The Government of Portugal, to which any information received from the Government of Ghana was to be communicated, was in turn requested to submit whatever additional information and observations it might have, by September 4, 1961. Copies of any such communication were to be similarly communicated to the Government of Ghana. And with a view of obtaining other relevant information, the Commission further decided to inform a number of international workers' and employers' organizations and certain other international organizations active in legal or humanitarian fields of the Complaint and invite them to contribute whatever information or observations they might have at their disposal. Furthermore witnesses from various countries, especially those countries neighboring the areas of investigation were heard by the Commission.

It is not within the scope of this paper to delve into the details of the case of Ghana vs. Portugal regarding the Convention on the abolition of Forced Labor. The example was cited merely to illustrate the procedure followed in such cases.

#### IV. Ratification of Conventions.

A Conventions usually requires a minimum of two ratifications to become operative. Sometimes the figure to higher, depending on the nature of the subject-matter of the Convention.

By January 1st, 1964, the International Labor Conference had

adopted 119 Conventions, out of which 99 Conventions have received the necessary number of ratifications to bring them into force. Among the 24 instruments which have received the largest number of ratifications are such fundamental instruments as Convention No. 29 on Forced Labor (87 ratifications), Convention No. 11 on the Right of Association - Agriculture (74 ratifications), Convention No. 19 on the Equality of Treatment (71 ratifications), Convention 26 on the Minimum Wage Fixing Machinery (68 ratifications), Convention No. 14 on Weekly Rest in Industry (66 ratifications), Convention No. 98 on the Right to Organize and Collective Bargaining (66 ratifications), Convention No. 45 on the Underground work for Women (66 ratifications), and Convention No. 87 on Freedom of Association (65 ratifications).

A complete list of International Labor Conventions and the number of ratifications each Convention has received by January 1st, 1964, is appended to this paper. However, the following chart shows the progress of ratification of International Labor Conventions since 1920.

V. Efforts to Increase the Power of the International Labor Organization to Ensure the Implementation of International Labor Standards.

A. The Question of the Republic of South Africa: The Republic of South Africa has been a Member of the International Labor Organization since 1919. It is party to 11 Conventions which are relatively of minor importance to the questions dealing with basic human rights.

The International Labor Organization had long been disturbed at

the reports reaching the Office confirming the fact that the Republic of South Africa is practicing a policy of racial discrimination. The Organization found itself handicapped as it could take no action against the Republic of South Africa under articles 19 and 35 of the Constitution since the activities of South Africa constituted no breach of obligations to ratified conventions, but rather a violation of the general principles of the Organization. And nothing in the Constitution of the Organization is mentioned to deal with such a situation.

However, by 1961, the Conference could no more find the situation in South Africa tolerable. In that year the Conference adopted a resolution whereby it condemned the policy of social segregation practiced by the Republic of South Africa; declaring also continued membership of South Africa in the Organization as being "not in the best interests of the Organization.... (and, therefore resolved that the Governing Body of the ILO) "sould call upon the Union of South Africa to withdraw from Membership in the Organization."<sup>1</sup>

However, the Republic of South Africa did not withdraw from the Organization. The matter became so acute in the 47th Session of the Conference (1963) as to precipitate a crisis in the course of which all the African and Arab Delegates withdrew from the Conference. As a result, the Governing Body on June 29, 1963, by 42 votes to 0 with 3 abstentions adopted a resolution to send a tripartite delegation of its members to meet the Secretary General of the United Nations in order "to acquaint him

---

<sup>1</sup>International Labor Conference, Record of Proceedings, 46th Session, (Geneva: I.L.O. Publications, 1962), p. 683.

of the grave concern expressed in the Conference and the Governing Body on the subject of apartheid, (and);...to emphasize and jointly seek a solution appropriate to each Organization, of the problems posed by the membership of the Republic of South Africa so long as it continues to maintain its present policy."<sup>1</sup>

The Delegation met with the Secretary General of the United Nations on August. The Chairman of the Delegation brought to the attention of the U.N. Secretary, inter alia, the following:

On 29 June, 1961, the International Labor Conference condemned the racial policies of the Government of the Republic of South Africa and expressed the utmost sympathy with those people of South Africa whose fundamental rights are suppressed by the apartheid policy of the Government of the Republic of South Africa, as well as those courageous people who irrespective of race and color are opposing apartheid. The Conference took that decision by 230 votes to 0, with 6 abstentions.

In conveying to you, in accordance with our mandate from the Governing Body, the grave concern expressed in the Conference and the Governing Body on the subject of apartheid, we ask you to convey that concern to the appropriate United Nations bodies. We ask you also to convey to them our fervent hope that the United Nations will take effective action to protect the inborn equality and dignity of man.

We have also a further mandate. Under our Constitution there is a close relationship between membership of the United Nations and membership of the International Labor Organization. Any Member of the United Nations may become a member of the International Labor Organization by acceptance of the provisions of the Constitution of the Organization.

---

<sup>1</sup>Members of the Delegation were: Mr. Calderon-Puig (Mexico), Chairman of the G.B., Sir George Pollock (British), Mr. H. Rahman (Pakistan), Mr. D. Akrouf (Algeria), Mr. N.H. Tata (India) Mr. M.A. Rifaat (U.A.R.), Mr. Kaplanski (Canada) and Mr. Ben Ezzidine (Tunisia).

South Africa is a member of the International Labor Organization today by reason of its original membership of the League of Nations. For this reason the Governing Body has commissioned us to emphasize, and jointly seek a solution appropriate to each organization of the problems posed by the membership of the Republic of South Africa so long as it continues to maintain its present policy."<sup>1</sup>

The Secretary General of the United Nations acknowledged the importance of the problem as "it is not only an issue of humanity but deeply concerns the principles of the Charter of the U.N."<sup>2</sup> He also emphasized the necessity of concerted action on the part of the U.N. family in matters "gravely affecting their constitutional processes."<sup>3</sup>

The results of the meeting with the Secretary General of the U.N. were reported to the Governing Body in its 157th Session (November, 1963). On the basis of this report, the Governing Body decided to form a small committee of its members to "consider the question as a whole and present proposals for the forthcoming February, 1964, Session for possible submission to the International Labor Conference."<sup>4</sup> The Governing Body also requested the Director General to "submit suggestions to the Committee which might be contemplated to this end."<sup>5</sup>

---

<sup>1</sup>Governing Body Document No. 157/11/1, p. 6.

<sup>2</sup>Ibid., p. 7.

<sup>3</sup>Ibid.

<sup>4</sup>Governing Body Document No. 157/21/12, p. 1.

<sup>5</sup>Ibid.

The Committee, on the basis of the suggestions made to it in accordance with the resolution of the Governing Body, decided, inter alia, to "recommend to the Governing Body that it should include on the Agenda of the 48th Session of the Conference (1964) the question of a "Proposed Declaration Concerning the Policy of Apartheid of the Republic of South Africa," and "the inclusion in the Constitution of the International Labor Organization of a provision empowering the Conference to expel or suspend from membership in the International Labor Conference any member which has been found by the United Nations to be flagrantly and persistently pursuing by its legislation a declared policy of racial discrimination such as apartheid."<sup>1</sup>

The Governing Body, in its 158th Session held at Geneva between 13 and 17 February, 1964, adopted the recommendations of the Committee referred to above.

B. The Deletion of Article 35 of the Constitution: Article 35 of the Constitution of the Organization requires any member party to a certain Convention to apply the provisions of that particular Convention to the non-metropolitan territories for whose international relations that member is responsible, "except where the subject matter of the Convention is within the self-governing powers of the territory or the Convention is inapplicable owing to the local conditions or subject to such modifications as may be necessary to adapt the Convention to local conditions."<sup>2</sup>

---

<sup>1</sup>Governing Body Document 158/2/5, 1964.

<sup>2</sup>I.L.O., Constitution, op.cit., art. 35(1).

The exceptions provided for in article 35 have been a center for criticism of a large number of the Organization's members, particularly the African group, since these exceptions bear most directly on a large number of African territories which are still under colonial rule.

The International Labor Conference, at its 46th Session (1962), "recognizing that the I.L.O. should devote more attention to the problem of assistance aimed at eradicating the consequences of colonialism in the fields of conditions of work standards of living, status and rights of the workers...(and) noting that the many International Labor Conventions ratified by the metropolitan countries are not applied or applied only with reservations in the non-self-governing territories of which those countries are responsible,"<sup>1</sup> decided to include on the Agenda of the 48th Session of the Conference the question of the deletion of Article 35 of the Constitution of the I.L.O., and instructed the Director General of the I.L.O. and the Governing Body to prepare the necessary documentation for this purpose.

The Governing Body set up a small committee of its members to ascertain what measures of general agreement could be obtained for a revision of Article 35.

The Committee considered that it would be desirable to include the proposed new provisions in Article 19 of the Constitution, rather than in a distinct article; thus bringing together in one article the provisions defining the effects of ratification, "emphasizing that the

---

<sup>1</sup>I.L.O., Substitution for Article 35 of the Constitution, Report IX to the 48th Session of the Conference, 1964, p. 2.

problem under consideration constitutes a particular aspect of ratification by the member-states concerned, and eliminating an article which has been a matter of controversy."<sup>1</sup>

On the basis of the Committee's Report, the Governing Body decided in its 157th Session (November 1963) to include on the agenda of the 48th Session of the Conference the following item: 'Substitution of Article 35 of the Constitution of the International Labor Organization of the Proposals referred to the Conference by the Governing Body at its 157th Session'. The proposed amendment requires that "...with a view of promoting the universal application of conventions to all peoples, including those who have not yet attained a full measure of self-government, and without prejudice to the self-governing powers of any territory, Members ratifying conventions shall accept their provisions so far as practicable in respect of all territories for whose international relations they are responsible."<sup>2</sup>

In the light of the discussions at the various sessions of the Governing Body and the Conference, and in the light of the support such a proposal has already obtained,<sup>3</sup> it is expected that the amendment proposed by the Governing Body referred to above shall receive the necessary votes for its adoption at the coming Session of the Conference in June, 1964.

---

<sup>1</sup>Ibid., p. 8.

<sup>2</sup>Ibid., p. 14.

<sup>3</sup>Already 32 states have declared their acceptance of the proposed amendment.



The above illustrates clearly that the International Labor Organization is intent on going to the farthest limits to help universalize social justice. It is more than wishful thinking to say that the coming Session of the Conference (June, 1964) shall be a turning point in the history of the Organization emphasizing its determination to uphold its principles and to help establish and maintain social justice, the basic requisite for the establishment of peace.

We have now traced the development of the International Labor Organization. We have also seen how the Organization works and how international labor standards come into being through the Organization. It remains to find out the scope and the areas covered by such standards before we are ready to study their effects on labor legislation in the Lebanon.

## CHAPTER III

### THE SCOPE OF INTERNATIONAL LABOR STANDARDS

The standard setting work of the International Labor Organization is by all means the most basic activity of the Organization. We have traced the origin of the Organization and found it to be a response to the universal demands for minimum standards of working conditions. Most of the other activities of the Organization, namely, technical assistance, research, and the safeguarding of social justice revolve around the promotion of these minimum standards of working conditions for the workers.

The body of standards which the International Labor Conference has so far adopted include such matters as are of interest only to a limited number of countries. Maritime Conventions, over two dozen in number, only interest states possessing a merchant navy; conventions for the protection of indigenous workers relate only to states in which such populations exist. The majority of International Labor Conventions, however, relate to matters which are of universal application. For the purpose of this paper, international labor standards will be discussed in the general context of the following subjects: forced labor, freedom of association, safety and health of workers, social security, vocational training, discrimination in respect to employment, and the right to equal remuneration. This is by no means to suggest that these subjects cover all the standard setting work of the Organization. Other standards of

importance were also adopted to deal with a variety of questions.

Reference to these standards will be made in the last part of this chapter.

#### I. Forced Labor:

On September 28, 1926, The General Assembly of the League of Nations adopted four resolutions usually referred to as the International Slavery Convention. The third and fourth resolutions were devoted specifically to the question of forced labor. The resolutions ran as follows:

III. The Assembly, while recognizing that forced labor for public purposes is sometimes necessary is of the opinion that, as a general rule, it should not be resorted to unless it is impossible to obtain voluntary labor and that it should receive adequate remuneration.

IV. The Assembly, taking note of the work undertaken by the ILO in conformity with the mission entrusted to it and within the limits of its Constitution;

Considering that these studies naturally include the problem of forced labor:

Requests the Council to inform the Governing Body of the International Labor Organization of the adoption of the Slavery Convention, and to draw its attention to the importance of the work undertaken by the Office with a view of studying the best means of preventing forced labor or compulsory labor from developing into conditions analogous to slavery.<sup>1</sup>

In fact, however, the International Labor Organization had been giving attention to the problem of forced labor long before the adoption of the Slavery Convention by the League of Nations. Already in 1922, the Organization was studying problems of forced labor in mandatory territories. In 1926 the Governing Body appointed the 'Committee of Experts on Native

---

<sup>1</sup>League of Nations Document A, 123, 1926, VI.

Labor'. The Committee classed the question of forced labor and long term contract labor among "the first on which some international action might be taken."<sup>1</sup>

A report prepared by the ILO on forced labor along with a draft questionnaire to be sent to member governments was submitted to the 12th Session of the International Labor Conference in 1929. The following year, in accordance with the procedure of the Conference, the ILO submitted to the Conference the Summary Report of replies received from governments on the question with the first draft of a proposed convention to deal with the problem of Forced Labor. On June 28, 1930, the Conference approved the final text of the proposed Convention and thus Convention No. 29 concerning Forced or Compulsory Labor came into existence. The Conference, at the same session, adopted as supplementary instruments two recommendations.

A. Recommendation Concerning Indirect Compulsion to Labor: The Recommendation concerning Indirect Compulsion to Labor was meant to provide guiding principles for members endeavouring to avoid indirect compulsion to labor. It emphasizes the need of studying the labor market with a view of avoiding social disruptions in deciding upon economic development. It further emphasizes the "desirability of avoiding indirect means of artificially increasing the economic pressure upon populations to seek wage earning employment..."<sup>2</sup>

---

<sup>1</sup>The International Labor Organization, Report of the Ad Hoc Committee on Native Labor (Geneva: The International Labor Office Publications, 1927), p. 137.

<sup>2</sup>Para. II.

B. Recommendation Concerning the Regulation of Forced or Compulsory Labor: The Recommendation on the Regulation of forced or Compulsory Labor is designed to "give expression to certain principles and rules relating to forced or compulsory labor which appear to be of a nature to render the application of the said Convention (Convention on Forced or Compulsory Labor, 1930) more effective."<sup>1</sup>

The Recommendation emphasizes the need to publicize all information regarding regulations issued relating to the application of the principles embodied in the Forced or Compulsory Labor Convention.

The Recommendation further warns against recourse to forced or compulsory labor leading to shortage in the food supply of the community concerned.<sup>2</sup> It also provided that, should recourse to compulsory or forced labor be had, this should not lead indirectly ... "to the illegal employment of women and children on forced or compulsory labor."<sup>3</sup>

The Recommendation finds no excuse for recourse to compulsory or forced labor for the transport of goods and persons where mechanical transport or animal transport are available.<sup>4</sup>

Finally, the Recommendation warns against alcoholic temptations being placed within the reach of workers engaged in compulsory or forced

---

<sup>1</sup>International Labor Recommendation No. 36 concerning "The Regulation of Forced or Compulsory Labor," Preamble.

<sup>2</sup>Ibid., Para. II.

<sup>3</sup>Ibid., Para. III.

<sup>4</sup>Ibid., Para. IV.

labor.<sup>1</sup>

In its report on forced labor submitted to the Conference in 1929, the ILO pointed out the various methods used to overcome the lack of the required manpower in any country, noting that it is not possible always to indicate "whether the methods employed are in fact tantamount compulsion. This is especially the case (the report adds) where recruiting is carried out by officials of the administration."<sup>2</sup> The report also observes that in such matters "the line between encouragement and command is a narrow one."<sup>3</sup>

The question of recruitment was discussed by the Conference in 1935 and in the following year the Conference adopted Convention No. 50 concerning 'the Recruitment of Labor in colonies and in other Territories with analogous Labour Conditions'. Recommendation No. 46 concerning the 'Progressive Elimination of Recruiting' was adopted at that same Session. The main objective of the Convention and Recommendation was to prevent recruitment from ensuing in forced labor.

Still, however, the many exceptions which the Convention on Forced or Compulsory Labor contained and the ambiguity of some of the leading terms reduced greatly the efficacy of the Convention. Furthermore, a number of independent states emerged after the War and there was a change in outlook regarding social policies.

---

<sup>1</sup>Ibid., Para. V.

<sup>2</sup>I.L.O., Record of Proceedings of the 12th Session of the International Labor Conference, (Geneva: I.L.O. Publications, 1929), p. 344.

<sup>3</sup>Ibid., p. 345.

In 1947, the American Federation of Labor requested the Economic and Social Council to include on its Agenda for its Sixth Session to be convened in that year the question of 'the Survey of Forced Labor and Methods for its Abolition'. However, the question was not considered by the ECOSOC until the 8th Session in 1949. As a result of the deliberations a resolution was adopted to request the Secretary General of the United Nations to "co-operate closely with the ILO in its work on forced labor questions, to approach all governments and to inquire in what manner and to what extent they would be prepared to cooperate in an impartial investigation into the extent of forced labor in their countries, including the reasons for which persons were made to perform forced labor and the treatment accorded them; to inform and consult the ILO regarding the progress being made on this question and to report to the 9th Session of the Council the result of his approaches to governments and consultations with the ILO."<sup>1</sup>

On March 19, 1951, the ECOSOC adopted the following Resolution:

The Economic and Social Council,  
Recalling its previous resolutions on the subject of  
forced labor and measures for its abolition,

Considering the replies furnished by Member states to  
the communications addressed to them by the Secretary  
General in accordance with Resolution 195 VIII and 237  
IX,

Taking note of the communications from the International  
Labor Organization setting forth the discussions on the  
question of forced labor at the 111th and 113th sessions  
of the Governing Body,

---

<sup>1</sup>International Labor Office, Report of the Ad Hoc Committee on  
Forced Labor (Geneva: I.L.O. Publications, 1951), pp. 150-151.

Considering the rules and principles laid down in the International Labor Convention No. 29,

Recalling the principles of the Charter relating to respect for human rights and fundamental freedoms, and the principles of the Universal Declaration of Human Rights,

Deeply moved by the documents and evidence brought to its knowledge and revealing in law and in fact the existence in the world of systems of forced labor under which a large proportion of the populations of certain states are subject to a penitentiary regime,

Decides to invite the International Labor Organization to co-operate with the Council in the earliest possible in the establishment of an ad hoc committee on forced labor of not more than five independent members qualified by their competence and impartiality, to be appointed jointly by the Secretary General of the ILO with the following terms of reference:

(a) to study the nature and extent of the problem raised by the existence in the world of systems of forced or 'correction' labor, which are employed as a means to political coercion or punishment for holding or expressing political views, and which are on such a scale as to constitute an important element in the economy of a given country, by examining the texts of laws and regulations and their application in the light of the principles referred to above, and if the Committee thinks fit, by taking additional evidence into consideration.

(b) to report the results of its studies and progress thereon to the Council and to the Governing Body of the ILO; and

Requests the Secretary General and the Director General to supply the professional and clerical assistance necessary to ensure the earliest initiation and effective discharge of the Ad Hoc Committee's work.<sup>1</sup>

The Committee was duly appointed on June 27, 1951.<sup>2</sup> It interpreted its terms of reference as "including a survey, and thereafter, a

---

<sup>1</sup>Ibid., pp. 154-155.

<sup>2</sup>Members of the Committee were: Sir Ramawami Mudaliar, Mr. Felix Fulgenio Palovincini (Replaced after his death on February 19, 1952 by Mr. Eneique Garcia Sayon), Mr. A. Salkin (later replaced by Mr. Manfred Simon), and Mr. Henri Zwalken.



study of systems of forced labor; such systems of forced labor were alleged to take two forms. The first form was forced labor for corrective purposes. The second form of forced labor was exemplified whereas persons were obliged unvoluntarily to work for the fulfillment of the economic plans of the state."<sup>1</sup>

The Committee held 59 meetings, ten of them in public session and 49 in closed session. Questionnaires were prepared by the Committee were forwarded to all governments regardless of whether they were members or not of the United Nations of the Organization. Forty eight governments replied to the questionnaire.<sup>2</sup>

After two years of thorough work and study, the Committee finally submitted its Report to the Director General on May 27, 1953. In the conclusion of its Report, the Committee states:

The Committee's inquiry revealed the existence in the world of two principal systems of forced labor, the first being employed as a means of political coercion or punishment for holding or expressing political views, the second being employed for important economic purposes... Apart from the physical suffering and hardship involved, what makes the system most dangerous to human freedom and dignity is that it trespasses on the inner convictions and ideas of persons to the extent of forcing them to change their opinions, convictions and even mental attitudes to the satisfaction of the state.<sup>3</sup>

The findings and the Report of the Ad Hoc Committee on Forced Labor furnished an impetus for further international action on the subject and the question of forced labor was included on the Agenda of the 38th

---

<sup>1</sup>Ibid., p. 5.

<sup>2</sup>For list of governments which replied, see Appendix.V

<sup>3</sup>Ibid., pp. 124-125.

Session of the International Labor Conference with the view of adopting a Convention relating to the abolition of forced labor at the next Session. In 1957, the Conference adopted Convention 105 concerning 'the Abolition of Forced Labor'. This Convention is completely independent of the 1930 Convention on 'Forced or Compulsory Labor' and the exceptions applicable to the latter do not apply to the first. The 1957 Convention requires every member which ratifies it to:

undertake to suppress and not to make use of any form of forced or compulsory labor -

- (a) as a means of political coercion or education, or as a punishment for holding or expressing political views ideologically opposed to established political, social, and economic systems,
- (b) as a method of mobilizing or using labor for purposes of economic development,
- (c) as a means of labor discipline,
- (d) as a punishment for having participated in strikes,
- (e) as a means of social, racial, natural, or religious discrimination.<sup>1</sup>

The Convention was adopted by 240 votes against none with one abstention.<sup>2</sup> And by the first of January 1964, the Convention had been ratified by 92 states.

## II. Freedom of Association.

We have seen that the basic characteristic of the International Labor Organization is its tripartite structure. It is only natural,

---

<sup>1</sup>International Labor Conference, Convention No. 105 Concerning the Abolition of Forced Labor, (Geneva: International Labor Office Publications, 1953), Art. I.

<sup>2</sup>The U.S. Delegate abstained on the grounds that "it is inappropriate to embody in an international draft treaty provisions governing the relations of an individual to his own government."

therefore, that the Organization have a major interest in safeguarding, as well as defining, the freedom of association of workers' and employers' organizations. The framers of the Constitution of the Organization, in recognition of the importance of this principle, stated in the preamble of the Constitution that the "recognition of freedom of association" is one of the conditions "urgently required" to alleviate social injustice.<sup>1</sup>

The Governing Body had from its earliest years been called upon to deal with a variety of complaints about interference with the free exercise of the right of association and it came to the conclusion that "failing an international Convention regulating the freedom of association and ratified by the states concerned, it was unable to make use of the machinery of application and supervision laid down in article 24 and subsequent articles of the Constitution of the International Labor Organization."<sup>2</sup>

A. The Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87):

In 1923, the ILO undertook an exhaustive study of freedom of association in all member countries. In view of the findings of the ILO, the Governing Body deemed it necessary to include the question of freedom of association on the agenda of the 1926 Conference. However, the attempts of the Governing Body to arrive at a Convention to regulate and safeguard freedom of association for workers and employers organizations met

---

<sup>1</sup>I.L.O., The Constitution, (Geneva: International Labor Office Publications, 1950), p. 3.

<sup>2</sup>I.L.O., Freedom of Association, (Geneva: International Labor Office Publications, 1959), p. 30.

with failure. "The draft submitted to the Conference.... confined itself to guaranteeing the freedom of employees and employers to associate for the collective defence of their occupational interests and the freedom of such associations to pursue their objects by all means not contrary to the laws and regulations enacted from the maintenance of public order."<sup>1</sup> However, the draft underwent many changes through a series of amendments, two of which had decisive effect on the resulting failure. The first of these amendments called for the extension of the right to organize to the right not to organize.

The second amendment was designed to make the freedom of workers and employers to organize conditional on observing the legal formalities, which leaves a large degree of discretion to the state in regulating freedom of association, sometimes contrary to the aims of the draft.

In 1947, the question of freedom of association was again placed on the agenda of the Conference; this time at the request of the United Nations Economic and Social Council. At the end of the proceedings, the Conference adopted a report on the question defining the principles which should be included in the proposed Convention. The Conference also decided to include the question on the agenda of the next Session for final action.

In 1948, the Conference adopted a Convention on Freedom of Association and the right to Organize.

The Freedom of Association and the right to Organize Convention confines itself to defining very clearly certain fundamental principles

---

<sup>1</sup>Ibid., p. 32.

which should enable both employers and workers to exercise their right to organize freely without interference from the public authorities. Essentially it consists of four guarantees:

In the first place, workers and employers are given, "without distinction whatsoever" the right to establish and join organizations of their own choosing without previous authorization.<sup>1</sup>

In the second place the Convention gives employers and workers organizations complete independence.<sup>2</sup>

In the third place organizations of workers and of employers are given protection against administrative authority.

In the fourth place workers' and employers' organizations are given the right to form federations and confederations and the right to affiliate with international organizations of workers and employers.<sup>3</sup> Such federations and confederations are also given the same guarantees as their constituent organizations.

In addition to the four guarantees mentioned above, the Convention contains two safeguards which are equally important.

In the first place, workers' and employers' organizations, and federations and confederations thereof, are given legal personality; but their legal personality shall not be such as to impair or restrict the

---

<sup>1</sup>I.L.O., op.cit., art. 3(1).

<sup>2</sup>Ibid., art. 3(2).

<sup>3</sup>Ibid., art. 5.

guarantees referred to above.

In the second place, and in order to appease the maxim that 'public safety is the highest law', workers and employers and their organizations, in exercising the rights given them by the Convention are required to respect the law of the land.<sup>1</sup> On the other hand, the Convention stated that "the law of the land shall not be such as to impair nor shall it be so applied as to impair the guarantees provided by the Convention.

The Convention was adopted with a record vote of 107 votes against 0 with 11 abstentions and by January 1st, 1964, it had been ratified by 65 states.<sup>2</sup>

B. The Right to Organize and Collective Bargaining Convention:

In 1949, i.e., the year following the adoption of the Convention on the Freedom of Association and the Right to Organize, the Conference took another step to further develop the principle of freedom of Association in the form of a Convention concerning the Right to Organize and Collective Bargaining.

---

<sup>1</sup>Ibid., art. 8(1).

<sup>2</sup>Albania, Algeria, Argentina, Austria, Belgium, Brazil, Bulgaria, Beyelorussia, Cameroon, Chad, China, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, France, Gabon, Germany, Ghana, Greece, Guatemala, Guinea, Haiti, Hondouras, Hungary, Iceland, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Liberia, Libya, Luxembourg, Malaya, Morocco, Niger, Nigeria, Norway, Pakistan, Philippines, Polan, Rumania, Senegal, Sierra Leone, Sudan, Sweden, Syria, Tanganyika, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, U.A.R., U.K., Upper Volta, Urugway, U.S.S.R., Yugoslavia.

The new Convention was designed to deal with the fact that freedom of association, even when adequately guaranteed against interference by the public authorities, may still be impaired by the actions of the other party to the contract, i.e., the employer or the employers' organization.

The key article of this Convention affirms the right of workers or workers' organizations to protection against anti-union discrimination. It further defines such acts as may be considered discriminatory as acts calculated to... "make the employment of a worker subject to the conditions that he shall not join a union or shall relinquish trade union membership."<sup>1</sup>

### III. Safety and Health of Workers.

In the course of the 45 years of its existence, the International Labor Organization has adopted 119 Conventions and 115 Recommendations. Most of these Conventions and Recommendations could be said to have a bearing on the safety and health of workers. However, for the purpose of the present study, reference shall be made to those Conventions and recommendations that have a direct bearing on the question, namely, those dealing with labor administration and inspection, medical examination, general principles for the prevention of industrial accidents and protection of health in places of employment.

A. Administration and Protection: The I.L.O. has recognized the importance of labor administration and inspection at the very outset of its operation.

---

<sup>1</sup>Art. 3.

In 1919, the Conference adopted a Recommendation (No. 5) concerning the establishment of government health services "charged with the duty of safeguarding the health of the workers".<sup>1</sup>

In 1923, the Conference adopted Recommendation No. 20 concerning the Nature of the Functions and Power of Inspectors. It states that inspectors should be empowered by law:

(a) to visit and inspect, at any hour of day or night, places where they may have reasonable cause to believe that persons under the protection of the law are employed, and to enter by day any place they may have reasonable cause to believe to be an establishment, or part thereof, subject to their supervision, provided that, before leaving, inspectors should, if possible, notify the employer or some representative of the employer of their visit;

(b) to question, without witnesses, the staff belonging to the establishment, and, for the purpose of carrying out their duties, to apply for information to any other persons whose evidence they may consider necessary, and to require to be shown any registers or documents which the laws regulating conditions of work require to be kept."<sup>2</sup>

In 1947, the Conference adopted Convention No. 87 in Industry and Commerce. Members ratifying this Convention undertake to establish a system of labor inspection in industrial workplaces whose functions are:

(a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours of work, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labor inspectors;

---

<sup>1</sup>International Labor Conference, Conventions and Recommendations, Geneva: I.L.O. Publications, 1949), p. 21.

<sup>2</sup>International Labor Conference, Convention No. 81, (Geneva: I.L.O. Publications, 1923), art. 3.



- (b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- (c) to bring to the notice of the competent authorities defects or abuses not specifically covered by existing legal provisions.<sup>1</sup>

Convention No. 81 was supplemented by a Recommendation (No. 81) dealing with the question of labor inspection in general, and with a recommendation on Labor inspection in mining and transport undertakings, which deals, inter alia, with the preventive duties of labor inspectorates, collaboration of employers and workers in regard to health and safety and annual reports on inspection.

B. Medical Examination: The earliest efforts of the I.L.O. in the field of medical examination standard setting were specifically designed to protect workers at sea, since reports coming to the I.L.O. on the working condition of seafarers necessitated some international action to provide a minimum standard of protection for seafares.

The first Convention on the question of medical examination was adopted by the Conference in 1921 and related to the compulsory medical examination of children and young persons employed at sea. It provides that "the employment of any child or young person under eighteen years of age on any vessel, other than vessels upon which only members of the same family are employed, shall be conditional on the production of a medical certificate attesting the fitness for such work, signed by a doctor who shall be approved by the competent authority."<sup>2</sup> It further

---

<sup>1</sup>Ibid., p. 705.

<sup>2</sup>Ibid., Convention No. 26, art. 2.

requires the repetition of such medical examination at intervals of more than one year in the case of continued employment.<sup>1</sup>

In 1946, the Conference adopted Convention No. 73 concerning Medical Examination of Seafares, which generally, applies the same provisions of Convention No. 16 to all workers at sea.

Another Convention (No. 113) which was adopted in 1959 extends the provisions on medical examination to fishermen.

2. Industrial Employment: Convention No. 77 on medical examination for employment in industry of children and young persons was adopted by the Conference in 1946. It goes along the same lines as Convention No. 16 providing for compulsory medical examination for seafares. It further deals, however, with vocational guidance and rehabilitation of children and young workers found by medical examination to be unfit for the work they are required to do. The Convention contains certain provisions regarding some particular, countries, namely, India permitting her not to apply certain provisions of the Convention until her socio-economic development so permits.<sup>2</sup>

3. Non-Industrial Employment: In the same 29th Session of the Conference, 1946, the Conference also adopted a Convention on medical examination of children and young persons employed in non-industrial undertakings. The provisions of this Convention run on the same lines as

---

<sup>1</sup>Ibid., art. 3.

<sup>2</sup>Ibid., art. 10.

those of Convention No. 77 referred to above. It applies to all "occupations other than those recognized by the competent authority as industrial, agricultural or maritime occupations."<sup>1</sup>

Conventions Nos. 77 and 78 are supplemented by Recommendation No. 79 concerning medical examination of young persons, adopted in the same year, 1946. The Recommendation is divided into five parts. Part one defined the scope covered by Conventions 77 and 78. Part Two deals with various matters relating to the type of medical examination. Part three outlines measures for persons found by medical examination unfit or partially unfit for employment. Part four contains guiding principles for the competent authorities. The last part deals with methods of enforcing the provisions of Conventions Nos. 77 and 78 in compliance with national laws and regulations.

C. General Principles for the Protection of Industrial Accidents:

At its Twelfth Session, 1929, the Conference adopted a comprehensive Recommendation (No. 31) concerning the 'Prevention of Industrial Accidents'. The said Recommendation advocated the development of statistical, physical, physiological, psychological research, including research into vocational guidance, and the standardization of industrial accident statistics. It deals in detail with cooperation between state inspectorates, employers' organizations and workers' organizations recommending that... "in every industry or branch of industry, in so far as circumstances require, periodical conferences should be held between the State inspection service,

---

<sup>1</sup>Art. 1(2).

or other competent bodies, and the representative organizations of employers and workers concerned: (a) to consider and review the position in the industry as regards the incidence and gravity of accidents, the working and effectiveness of the measures laid down by laws or agreed upon between the State or other competent bodies and representatives of industry, or tried by individual employers, and (b) to discuss proposals for further improvement."<sup>1</sup> The Recommendation further sets out the general principles that should be embodied in safety legislation, and suggests the part to be played in accident prevention by insurance institutions.

D. Protection of Health in Places of Employment: In 1953, the Conference adopted a Recommendation (No. 97) concerning the 'Protection of the Health of Workers in Places of Employment'. The Recommendation is concerned with the control of health hazards, medical examinations, notification of occupational diseases and the provision of first-aid facilities. It deals with ways in which suitable environmental hygiene may be maintained in workplaces and technical measures to protect workers from harmful agents.

A resolution of the Conference in 1953 proposed that the ILO should study the question of industrial medical service. The question was placed on the agenda of the Conference in 1958 which the Conference adopted as a result at its next Session in 1959 a Recommendation (No. 112) defining occupational health services. The Recommendation also sets out

---

<sup>1</sup>Part II, art. 2.

requirements concerning the organization of such services, their functions, personnel and equipment.

The International Labor Conference also adopted several other Conventions and Recommendations dealing with particular trades and crafts. Among these are a Convention (No. 28) concerning the protection of workers employed in loading or unloading ships,<sup>1</sup> a Recommendation (No. 33) on reciprocity as regards the protection of dockers against accidents, a further Recommendation (No. 40) adopted in 1932 recommending that the Governments of the principal countries concerned should make arrangements to confer with a view to securing reasonable uniformity in the application of Convention 28 as revised by Convention 32; and another Recommendation (No. 34) recommending that the authorities responsible for the making of regulations against accidents "should consult the workers' and employers' organizations concerned, if any, in the drawing up of new regulations under Convention No. 28."

The Conference also adopted certain Conventions and Recommendations<sup>2</sup> concerning safety provisions in the building industry. Several other Conventions and Recommendations were adopted concerning the protection of workers in particular industries.

---

<sup>1</sup>This Convention was revised in 1932 by Convention No. 32.

<sup>2</sup>Convention No. 62, and Recommendation No. 52.

#### IV. Social Security.

Every body is exposed to a certain number of risks, namely, unemployment, sickness, invalidity, maternity (in the case of women), employment injury, old age, etc. For the majority of workers any one of these contingencies is apt to plunge him in poverty.

In the terms of the Declaration of Philadelphia, which was so framed as to reflect the 25 years of experience of the social studies, poverty anywhere constitutes a danger to prosperity everywhere.<sup>1</sup> It is only natural, therefore, that the I.L.O. be greatly interested in the question of social security for workers.

Although, the I.L.O. did most of the pioneering work in the study of social insurance and social security, yet efforts at providing workers with a minimum degree of social protection against the hazards of work date far before the establishment of the Organization.

From the beginnings of the Industrial Revolution, various methods were used to shield workers from poverty, viz., through the means of saving banks, the principle of employers' liability in case of injury, mutual benefit societies and private insurance companies. However, "although voluntary commercial insurance developed on a large scale, its high premiums placed it virtually beyond the reach of the lower income

---

<sup>1</sup>Declaration of Philadelphia, op.cit.

groups, which include the majority of wage earners... The need for compulsory social insurance was inescapable."<sup>1</sup>

The Work of the International Labor Organization in the field of social insurance and social security falls into two main stages. During the first stage, covering the period from 1919 to 1939, the work of the Organization centered mainly on the promotion of social insurance. The second stage, which covers the period from 1939 till the present day, and which has not ended yet, is taken up with the introduction of integrated schemes of social security.

A. International Standards of Social Insurance: During the first twenty years of the existence of the Organization, the International Labor Conference has adopted some 20 Conventions supplemented by 10 Recommendations dealing with various aspects of social insurance. The subjects covered by these instruments, as could be seen from the following table, deal with questions of sickness, maternity, industrial accidents, occupational disease, invalidity, old age, death, and unemployment.

International Social Insurance Standards

<u>No.</u>	<u>Conventions</u>	<u>No.</u>	<u>Recommendations</u>
8	Unemployment Indemnity (shipwreck), 1920	10	Unemployment Insurance (Seamen), 1920
12	Workmens' Compensation (Agr.), 1921	17	Social Insurance (Agr.) 1921

---

<sup>1</sup> I.L.O., Social Security, (Geneva: International Labor Office Publications, 1961), p. 4.

International Social Insurance Standards (Cont'd)

<u>No.</u>	<u>Conventions</u>	<u>No.</u>	<u>Recommendations</u>
17	Workmens' Compensation (Accidents), 1925	22	Workmens' Compensation (Minimum Scale), 1925
19	Equality of Treatment (Accidents Compensation), 1925	23	Workmens' Compensation (Jurisdiction), 1925
24	Sickness Insurance (Industry), 1927	24	Workmens' Compensation (Occupational Diseases), 1925
25	Sickness Insurance (Agriculture), 1925	25	Equality of Treatment (Accident Compensation), 1925
35	Old Age Insurance (Industry, etc.), 1933	29	Sickness Insurance, 1927
36	Old Age Insurance (Agriculture), 1933	43	Invalidity, Old Age and Survivors' Insurance, 1933
37	Invalidity Insurance (Industry, etc.), 1933	44	Unemployment Provision, 1934
38	Invalidity Insurance (Agriculture), 1933		
39	Survivors' Insurance (Industry, etc.), 1933		
40	Survivors' Insurance (Agriculture), 1933		
42	Workmens Compensation (Occupational Diseases) Revised, 1934		
44	Unemployment Provision, 1934		
48	Maintenance of Migrants' Pension Rights, 1935		
55	Shipowners Liability, 1936		
56	Sickness Insurance, (Sea), 1936		

B. International Standards of Social Security: In conformity with the principle embodied in the Constitution of the Organization, namely, that "universal and lasting peace can only be established on



social justice," the International Labor Organization did not wait for the termination of the hostilities to resume its work in concretizing this principle. Thus the Conference, in the solemn Declaration of Philadelphia, recognized the solemn obligation of the Organization to further world programmes to achieve "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care."<sup>1</sup>

1. Two Recommendations on Social Security: The first step which the ILO took towards laying down international standards of social security consisted of two recommendations adopted by the Conference in the same year 1944. These Recommendations dealt with income security and medical care respectively. They differ from earlier instruments on social insurance by "their coherent and codified structure, since they incorporated measures and schemes of all types in a general framework comprising medical care as well as the provision of a substitute income."<sup>2</sup> They also provided for the extension of the coverage of income, security and medical care to the population as a whole.

2. The Convention on Minimum Standards of Social Security: The year 1952 is a landmark in the efforts of the Organization in the field of social security. In that year, the Conference adopted Convention No. 102 on 'Minimum Standards of Social Security'.

---

<sup>1</sup>Para. I.

<sup>2</sup>I.L.O., op.cit., p. 16.

The Convention on Minimum Standards of Social Security is a highly complex instrument. It consolidates social security legislation in most of the countries of the world into a general system of social security applicable to the population at large, unlike earlier conventions on the subject, which dealt with particular types of social insurance.

The details of the Convention is a matter for the specialist. However, its general scope covers nine different branches of social security. These are: medical care, sickness benefit, family benefit, old age benefit, unemployment benefit, employment injury, maternity benefit, invalidity benefit, and survivors' benefits.

In view of the complexity of the Convention and its comprehensive character, states ratifying it are free to accept all or only some of the provisions concerning the different branches of social security covered by the convention, without incurring a violation to their international obligations arising out of such ratification. Some of the provisions may also be temporarily waived by countries which find such provisions incompatible with their particular economies.

The Convention came into force in 1955. By January, 1964, it had been ratified by 15 States.

#### V. Vocational Training.

Considering the shortage of skilled labor in most of the countries of the world, particularly those countries still in the process of economic development, vocational training becomes of prime importance in the concerted efforts at increasing the pace of the economic develop-

ment of the world. However, vocational training is not important only because it provides the necessary skilled labor, but more so in that it leads to increasing productivity and thus enhances economic development.

Vocational Training in itself is a means and not an end. As such it is effective only in so far as it is able to cope with the demand of the employment market, and thus the needs of the economy as a whole.

The International Labor Organization had long recognized the importance of vocational training. Long before World War II, namely in 1928, the Conference had adopted a Recommendation concerning the development of agricultural education, and a similar Recommendation was adopted in 1937 concerning the building industry.

However, the rapid transformation in the economic structure of the various countries of the world necessitated a reconsideration of the question of Vocational Training on a more comprehensive basis and in the light of the new demands of society.

In 1939, the Conference adopted a Recommendation (No. 91) concerning Vocational Training. The Recommendation recognizes the dynamic character of vocational training. It recommends that programmes of vocational training should be based on ..."(a) the occupational interests and cultural and moral requirements of the worker; (b) the labour requirements of the employer; (c) the economic and social interests of the community."<sup>1</sup> It further states the factors which should be taken

---

<sup>1</sup>Part II, art. 2.

into account in any such programme as including: (a) the stage of development reached in general education and in vocational guidance and selection; (b) the changes in technique and methods of organization of work; (c) the structure of, and trend of development in, the labour market; (d) national economic policy.<sup>1</sup>

Part Two of the Recommendation deals with 'Prevocational Preparation' calling for compulsory education of a general character which should .."provide for all children a preparation developing and idea of, taste for, and esteem for, manual work..."<sup>2</sup>

Part Four deals with technical and vocational education calling for the establishment of a network of schools .."adjusted... to the economic requirements of each region or locality."<sup>3</sup>

The remaining four parts deal respectively with vocational training before and during employment, the measures relating to coordination and supply of information between technical and vocational schools and the industries or the other branches concerned, certificates and exchanges, and finally methods of choosing the technical staff.

---

<sup>1</sup>Ibid., art. 3.

<sup>2</sup>Part II, art. 3(1).

<sup>3</sup>Part IV, art. 5(1).

VI. Discrimination in Respect to Employment.

"The elimination of discrimination in respect of employment and occupation represents the application of this basic principle of human equality to the manner in which man gains his daily bread."<sup>1</sup>

The principle of non-discrimination has been recognized internationally. The Charter of the United Nations requires all members to promote "universal respect for, and observance of human rights and fundamental freedom for all without distinction as to race, sex, language or religion."<sup>2</sup> All Members of the International Labor Organization have pledged that "all human beings, irrespective of race, creed or sex have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity."<sup>3</sup>

On June 5, 1958, the Conference set up a special committee on Discrimination, (composed of 89 members) to study a proposed instrument on Discrimination. The United Nations was represented on the Committee and its representative .."stressed the interest of the United Nations in the work of the Committee and recalled that the proposed instrument ...has been studied by the Commission on Human Rights, by the Commission

---

<sup>1</sup>Wilfred Jenks, Human Rights and International Labor Standards, (London: Stevens and Sons, 1957), p. 73.

<sup>2</sup>Art. 55.

<sup>3</sup>Declaration of Philadelphia, op.cit., art. 23(1).

on the Status of Women and by the Sub-Commission on the prevention of discrimination and protection of minorities."<sup>1</sup> In the course of the general discussion in the Committee, the workers' delegates and certain government delegates were in favor of the inclusion of certain provisions for the enactment of legislation regarding discrimination. Those opposing this view argued that since discrimination is basically a social problem and as such has to do with attitudes and habits, laws could be enacted to help mould these attitudes and habits into the form desired, but no laws could create them. Finally, the Commission adopted two resolutions calling for the adoption by the Conference of a Convention concerning 'Discrimination in Respect of Employment and Occupation' whereby every Member, after its adoption by the Conference, undertook to promote equality of opportunity and treatment in respect of employment and occupation with a view of eliminating any discrimination in respect thereof. The other resolution which the Committee adopted called for the adoption by the Conference of a Recommendation concerning discrimination in respect of employment and occupation.

A. The Convention on Discrimination in Respect of Employment and Occupation: Upon the proposal of the Committee on Discrimination, the Conference adopted Convention No. 111 on Discrimination in Respect of Employment and Occupation. Article three of the Convention states the

---

<sup>1</sup>International Labor Conference, Record of Proceeding of the Forty Second Session, (Geneva: I.L.O. Publications, 1959), p. 709.

the obligations of Members for which the Convention is in force as follows:

- (a) to seek the cooperation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions for practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.<sup>1</sup>

B. The Recommendation Concerning Discrimination in Respect of Employment and Occupation: At the same Session of 1958, the Conference adopted a Recommendation as a supplementary instrument to Convention III on Discrimination in Respect of Employment and Occupation. The Recommendation deals with the formulation and application of policy relating to the elimination of discrimination. The Recommendation calls for the application of such policy by means of legislative measures, collective agreements between representative employers' and workers' organizations or "...in any other manner consistent with national conditions and practice."<sup>2</sup> The Recommendation also calls upon Members to ensure the

---

<sup>1</sup>Art. 3.

<sup>2</sup>Art. 1.

application and observance of the principles of non-discrimination in respect of employment and in the activities of vocational guidance and training.<sup>1</sup> The Recommendation finally calls for the coordination of measures for the prevention of discrimination in all fields.<sup>2</sup>

#### VII. The Right to Equal Remuneration.

The Universal Declaration of Human Rights provides that "everyone without any distinction has the right to equal pay for equal work."<sup>3</sup> This right is also recognized in the Constitution of the International Labor Organization which refers to the "recognition of the principle of equal remuneration for work of equal value."<sup>4</sup> Provisions for the application of this principle are embodied in the Convention on Equal Remuneration and the Supplementing Recommendation adopted by the Conference in 1951.

A. The Convention on Equal Remuneration: The Convention on Equal Remuneration provided that each Member for which it is in force undertakes "...by means appropriate to the methods in operation for determining rates of remuneration, promote, and, in so far as consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value."<sup>5</sup>

---

<sup>1</sup>Art. III(1).

<sup>2</sup>Art. IV(10).

<sup>3</sup>Art. 23(3).

<sup>4</sup>Art. 23(1).

<sup>5</sup>Art. 2(2).



The Convention specifies that this principle may be applied by any one or more of the following means: "(a) national laws or regulations, (b) legally established or recognized machinery for wage determination, (c) collective agreements between employers and workers."<sup>1</sup> As such the Convention is more of a promotional character.

During the discussions of the draft of the Convention an amendment was proposed requiring any State ratifying the Convention to introduce legislation which would ensure equal pay for equal work. This proposed amendment was rejected, however, on the ground that it would mean an interference with the freedom of collective bargaining. "It follows that the nature and extent of the obligations of each member ratifying depends on the methods in operation in the country concerned for determining rates of remuneration."<sup>2</sup>

For the purpose of the Convention, Remuneration is defined as "the ordinary, basic or minimum wage or salary and any emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising directly out of the workers' employment."<sup>3</sup>

As of January 1st, 1964, the Convention on Equal Remuneration had been ratified by 44 States.

---

<sup>1</sup>Jenks, op.cit., p. 93.

<sup>2</sup>Art. 1(a).

<sup>3</sup>Art. 1(a).

B. The Recommendation on Equal Remuneration: The Recommendation on Equal Remuneration was intended to supplement the Convention on the same question. It indicates certain procedures to be followed for the progressive application of the principles laid down by the Convention on Equal Remuneration. It further calls for appropriate action to be taken after consultation with organizations of workers where such exist or with the workers directly concerned "(a) to ensure the application of the principle of Equal Remuneration for men and women for work of equal value to all employees of central government departments and agencies and (b) to encourage the application of the principle to employees of state, provincial or local governments departments and agencies where these have jurisdiction over rates of remuneration."<sup>1</sup>

Appropriate action is also called for the same purpose in respect of other cases in which rates of remuneration are subject to statutory regulation or control.

The Recommendation also envisages programmes aimed at reducing the wage differentials between men and women doing work of equal value in cases where the application of the principle of equal pay for equal work is not deemed possible.

Furthermore, the Recommendation suggests measures to be taken to increase the productivity of women workers so as to make the application of the principle of equal pay for equal work possible.

---

<sup>1</sup>Para. 1.

VIII. The Right to Work.

The right to work is more of the nature of a moral challenge to the economic system rather than of a right susceptible to legal definition and enforcement. It is, therefore not surprising that no international labor convention guarantees, or is likely to guarantee, the right to work as such. However, the Organization has attempted to provide such guarantees in the Convention concerning the organization of the employment service.

A. The Convention on the Organization of the Employment Service, 1948: The Convention on the Organization of the Employment Service provides that each Member for which the Convention is applicable undertakes to "maintain or ensure the maintenance of a free public employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources."<sup>1</sup>

The Convention further requires suitable arrangements to be made, through advisory committees in which the workers and the employers enjoy equal representation, for the cooperation in the "organization and operation of the employment service and in the development of employment service policy."<sup>2</sup> The aim of the employment service should be to ensure the effective recruitment and placement of the supply of labor.

---

<sup>1</sup>International Labor Convention No. 88, Art. 1.

<sup>2</sup>Ibid., Art. 2.

B. Recommendation Concerning the Organization of the Employment

Service: In the same year 1944, the Conference adopted a Recommendation (No. 85) concerning the 'Organization of the Employment Service.' The Recommendation goes into detail in describing the organization of such services. It advocates the establishment of central headquarters, local offices and, where necessary, regional offices. These should operate in "...cooperation as may be necessary with management, workers' representatives, and bodies set up with a view to studying the special employment problems of particular areas, undertakings, industries, or groups of industries."<sup>1</sup>

Part II of the Recommendation is devoted to the description of the methods which should be utilized for employment market research activities.

Among the functions of the employment services is included also the question of manpower budgeting for the purpose of ascertaining the "anticipated volume and distribution of the labor supply and demand."<sup>2</sup>

The neutrality of the employment services and their objectivity is plainly stressed.<sup>3</sup> Furthermore, the facilitating of the mobility of labor is considered necessary "...to achieve and maintain maximum production and employment..."<sup>4</sup>

---

<sup>1</sup>International Labor Recommendation No. 85, Para. I(3).

<sup>2</sup>Ibid., Para. III(11).

<sup>3</sup>Ibid., Para. IV.

<sup>4</sup>Ibid., Para. V(14).

The Recommendation also calls for the close cooperation of the employment service with other public and private bodies concerned with employment problems; and "...continuous efforts should be made to encourage full voluntary use of employment service information and facilities by persons seeking employment or workers."<sup>1</sup> The Recommendation finally envisages close international cooperation among employment services particularly in the exchange of information and experience.

#### IX. Other Standards.

The international labor standards discussed in the previous sections, though the most important as they bear directly on basic human rights, and are of universal interest, do not by any means cover the whole field of the I.L.O. standard setting activities.

Various conventions and recommendations were adopted by the International Labor Conference at various sessions relating to conditions particular to only certain categories of states. The Convention on Seamen's Articles of Agreement No. 22, Repatriation of Seamen (No. 55), Certificates of Able Seamen (No. 74), Seafares' Identity Documents Convention No. 108, for example, are of interest only to maritime states.

There are certain other Conventions and Recommendations adopted by the Conference which deal with specific trades and crafts. For example, nine Conventions adopted between 1919 and 1939 deal with the one specific problem, namely, hours of work as applied to Industry (No. 1),

Commerce and Offices (No. 30), Coal mines (Nos. 31 and 46), Glass  
Bottle Works (No. 49), Public Works (No. 31), Manning at Sea (No. 57),  
Textiles (No. 61) and Road Transport (No. 67).

A complete list of the Conventions adopted by the International  
Labor Organization between 1919 and 1964 is included in the appendix.

## CHAPTER IV

### THE INFLUENCE OF INTERNATIONAL LABOR STANDARDS ON LABOR LEGISLATION IN LEBANON: I

#### I. The Development of Labor Legislation in Lebanon:

A. The Period Before 1946: Prior to the Second World War, industrial activity in the real sense did not exist in Lebanon, except for the cement, beer and textile industries. The production of typical Lebanese products, mainly, arak and wines, olive oil, salt, tobacco, and few other handicrafts was carried on by primitive methods. Furthermore, family ownerships of industrial concerns prevailed over partnerships and corporations. During this period, relations between workers and their employers were regulated by the general Law of Contracts and Obligations of 1932.

The Law of Contracts and Obligations contains a special section, Book Six, relating to 'the Hire of Services or Contract of Employment, the Industrial Hire and Contract of Enterprise'.<sup>1</sup> It defines employment contracts<sup>2</sup> and contains certain provisions to safeguard some basic human rights for workers, as, for example, declaring

---

<sup>1</sup>Judicial Review, The Law on Contracts and Obligations (Beirut: Sader Publications, 1959), p. 1.

<sup>2</sup>Article 624.

life contracts of employment as null and void.<sup>1</sup> It also requires employers to provide minimum standards of safety and health at places of employment, to ensure the safety of the tools placed at the disposal of the worker in the process of his work, and to take all the necessary precautions to ensure the safety of the worker at the place of work. Furthermore, employers are held responsible for any injury which a worker incurs while performing the duties of his job, except where such injury is proven to have resulted from negligence or purposeful violation of the instructions of the employer.<sup>2</sup>

The termination of the contract of employment is permissible under the law of Contracts and obligations in three cases only: (a) by the expiry of the period of the contract, (b) by judicial decisions declaring any contested work contract as null and void, and (c) in cases where it becomes impossible for the worker to carry on his work due to sickness or death. The death of an employer, however, does not terminate contracts of employment.<sup>3</sup>

In 1937, the Law on Contracts and Obligations was amended to include, inter alia, provisions permitting the termination of contracts of employment by either party to the contract provided the other party is given a notice of a period which varies directly with the length of

---

<sup>1</sup>Art. 627.

<sup>2</sup>Art. 648.

<sup>3</sup>Art. 643.



the period of employment.<sup>1</sup>

The outbreak of the Second World War shut off importation into Lebanon. This gave impetus to business men in Lebanon either to invest in already existing industries or in completely new ventures, in order to meet the increasing demands of the population for goods and services. The inflow into the country of the occupation forces increased greatly this demand, with a resulting quick response from the private sector of the economy. Furthermore, the internal market was largely due to the economic union then existing between Syria and Lebanon. Again, due to the position of the country and to the higher degree of education and development relative to other Arab countries, Lebanon was catering for the neighboring countries. Concomitant to the increase in industrial activity was, of course, a similar increase in the labor force in the country. The need was felt for safeguarding a minimum standard of living to this rising new class of workers.

The first official reaction to the new needs arising from the increase of the proportion of the population entering employment for others was the promulgation of Legislative Decree No. 125 of December 15, 1941, fixing minimum wages in industrial and commercial undertakings. This Decree underwent three amendments between the time it was promulgated and 1946. The first of these amendments came through Legislative Decree No. 204 of August 27, 1942; the second through Legislative Decree

---

<sup>1</sup>Art. 627.

No. 29 of May 12, 1942; and the third through the Law of September 30, 1944, later amended by the Law of May 12, 1945. The last amendment fixed the minimum monthly wages payable to workers as follows:

- LL 75.00 - for a bachelor who had taken employment in Beirut or its suburbs after January 1st, 1944;
- LL 94.25 - for a bachelor who had taken employment in Beirut or its suburbs before January 1st, 1944;
- LL 70.00 - for a bachelor who had taken employment outside Beirut or its suburbs after January 1st, 1944; and
- LL 62.25 - for a bachelor who had taken employment outside Beirut or its suburbs before January 1st, 1944.

The same Law introduced for the first time family allowances into the wage structure. It fixed these allowances as follows:

- LL 10 - for the wife
- LL 10 - for one child
- LL 17.25 - for two children
- LL 25 - for 3 children
- LL 30 - for four children
- LL 35 - for five children.

On May , 1943, a Legislative Decree (No. 25) was promulgated allowing for employment injury benefits in industrial establishments. The Decree specifies the beneficiaries under the law and the categories of establishments subject to it. It also settles the type of employment injuries covered and the amount of benefit due to the injured in each case. The Decree further provides judicial means to secure its enforcement and states the penalties against any encroachment upon it.

B. The Labor Code of 1946: Lebanon gained its independence by the end of 1943. The War ended in 1945. Industrial activity was at a boom. Workers could find no more excuse for the lack of a coherent set of rules and regulations organizing labor relations and providing minimum conditions of protection to workers. The Government responded to this need and drew up a draft labor code based on social exigencies and international norms of labor legislation. The draft was approved by the Parliament on September 23, 1946.

The Labor Code of 1946<sup>1</sup> is the first coherent body of rules regulating the relations between workers and employers in industry and commerce. It consists of seven parts.

Part One of the Code deals with 'Contracts of Employment', the employment of young persons and women, hours of work, wages, termination of employment and the safety and health of workers.

The second and third parts each consists of a single chapter relating respectively to 'the Organization of Employment' and the 'Arbitration Council'.

Part Four relates to Trade Union activity. It describes the requisites for the establishment of trade unions. And, while the principles of freedom of association with and formation of trade unions are recognized, nevertheless the Code contains certain limitation on the exercise of such freedoms in order to ensure, on the one hand the smooth operation of trade union activity, and, on the other hand, to safeguard

---

<sup>1</sup> Henceforth referred to as the Code.

national interest.

Chapter Five contains the penal clauses applicable in case of any infringement of the Code.

Chapter Six relates to the establishment, organization and objectives of public employment services.

Chapter Seven contains the final articles, which, among other things, provide for the cancellation of any law contradicting any of the terms of the Code.

A more detailed discussion of the Code will follow in the course of appraising the influence of international labor standards on labor legislation in Lebanon.

C. Since 1946: A series of decrees and decisions relating to labor problems were issued since the enactment of the Code to cope with social and economic changes. Following are the most important of these instruments.

1. Decision No. 6695 of April 1st, 1949: Article 71 of the Code provides that "the fines collected from workers by their employers as penalties under the terms of the Code are to be consecrated to no other purpose but cooperative activities and in accordance with the general rules to be laid down by a decision of the Minister of National Economy."<sup>1</sup>

In accordance with the article above, the Minister of National

---

<sup>1</sup>This Service was incorporated in the Ministry of Labor and Social Affairs when the latter was formed in 1950.

Economy issued Decision No. 6695 whereby the rules and regulations were established regarding the expenditure of funds accruing from fines imposed on workers in pursuance to the provisions of the Code. The Decision also defines the beneficiaries of the 'collective fund' thus formed.

2. Legislative Decree No. 14100 of May 2, 1949: By virtue of this Decree, a special Labor Inspection Service was added to the organs of the Ministry of National Economy.<sup>1</sup> The Decree defines the objectives of the Service and lays down the qualifications to be sought in appointing labor inspectors. It further states the duties of labor inspectors and contains certain provisions, the purpose of which is to safeguard the effective enforcement of labor inspection.

3. Decree No. 6341 of October 24, 1951: Pursuant to Articles 8,<sup>2</sup> 62,<sup>3</sup> and 113<sup>4</sup> of the Code, the Council of Ministers adopted on October 24, 1951 a Decree whereby measures were provided to ensure the safety and maintain the health of workers in all industrial and commercial undertakings, whether foreign or national, public or private, and branches thereof, and in all private or public charity and educational institutions.

---

<sup>1</sup>This Service was incorporated in the Ministry of Labor and Social Affairs when the latter was formed in 1950.

<sup>2</sup>This Article relates to the definition of the objectives of the Labor Code.

<sup>3</sup>This Article leaves the regulation of measures for the protection and safety of workers to decisions taken by the Council of Ministers.

<sup>4</sup>This Article states: "The measures for putting into effect the provisions of the Labor Code shall be defined by decisions taken in the Council of Ministers."

This Decree was supplemented by two decisions (No. 225 of December 13, 1955 and No. 10 of January 10, 1956) which regulated measures for the protection and health of workers in the printing industry and in the quarries of Nahr Al-Maot respectively.

4. Legislative Decree No. 7955 of March 28, 1952: This Decree relates to the duties of the Public Employment Services in compiling statistics on the labor force in Lebanon. It defines the methods to be followed in compiling such statistics and provides for the effective execution and enforcement of this task.

5. Decree No. 7973 of April 3, 1952: This Decree was issued in pursuance to Articles 89 of the Code which relates to the drafting of internal statutes of trade unions and Article 112 referred to earlier. The Decree serves to organize trade union activity. It lays down the principles which should be incorporated in the statutes of trade unions in conformity to the rules of the Code, namely, the name and legal residence of the union, its objectives, qualifications of membership, the composition and prerogatives of the union council and questions of finance.<sup>2</sup> The Decree also provides for government inspection of union records to ensure their conformity with the rules and regulations in force and with the constitutions of the unions. In the case of the dissolution of any trade union in accordance with article 105 of the Code, the Government assumes the responsibility of liquidating and settling the affairs of the

---

<sup>1</sup>Arts. 5, 7, 9, and 10.

<sup>2</sup>Arts. 1 through 8.

dissolved union.

6. Decree No. 8698 of June 16, 1952: This Decree lays down the principles and objectives of vocational training schemes and the ways and means to achieve these objectives through the cooperation of the various governmental agencies concerned and private institutions.

7. Decisions Relating to Hours of Work in Various Trades:  
In accordance with Article 32 of the Code relating to the extension of the limit of hours of work in particular trades and crafts, various decisions were taken by the Minister of Labor and Social Affairs whereby the hours of work in certain types of undertakings were fixed. These decisions are the following:

(a) Decision No. 28 of February 10, 1956, whereby the hours of work in the Restaurant and Bar of Beirut International Airport were increased to 12 hours, including, however, two hours of rest, which makes the effective maximum allowed 10 hours per day;

(b) Decision No. 30 of February 20, 1956, whereby hours of work in merchant shops could be increased to 60 hours per week;

(c) Decision No. 730 of April 10, 1956, whereby hours of work for servants in monasteries and other places of religious performance were increased to 12 hours per day including two hours of rest every day;

(d) Decision No. 103 of June 1st, 1956, whereby a schedule for the maximum hours of work allowed in Beirut area was instituted; and

(e) Decision No. 230 of October 23, 1956, whereby a schedule for the hours of work for certain categories of workers in the Railway

Transport Administration was instituted.

8. The Law of May 17, 1961: The Law of May 17, 1961, was enacted under pressure from trade unions, who called for a revision of the minimum wage fixed 17 years earlier and for a general raise in wages in view of the rising cost of living. By virtue of the terms of this law, the minimum wage in trade and industry was raised to LL 125 a month. The Law also required the increase in wages by 15%, over the wages in force on January 1st, 1955. This increase was applicable to all workers in all types of establishments except those whose records show effective increases in the wages of their workers exceeding 15% over the period 1955-1961.

9. Decree No. 9931 of July 2, 1962: This Decree consists of provisions regarding the measures to be followed in giving effect to Articles 77 through 83 of the Code relating to the Arbitration Council.

10. The Law of June 11, 1962: By the virtue of this Law all foreigners employed in Lebanon were exempted from duties and fees imposed on work-permits for all the years preceding 1961. The purpose behind this law is to facilitate the compilation of statistics on the labor force in the country.

11. The Social Security Law, 1963: The idea of social security scheme for Lebanon had been contemplated ever since the promulgation of the Labor Code of 1946.<sup>1</sup> However, the question was abandoned then due to the state of unpreparedness for such a new system. But, nevertheless,

---

<sup>1</sup>Art. 54.



the Code did include some provisions relating to some aspects of social security, namely, family allowances, minimum requirements for medical attention, and old age pensions.

By 1956, the Lebanese Government, in response to both the pressure made to bear upon it by the labor unions and to its conviction that the development of social consciousness permits the injection of the idea of a social security scheme, requested the International Labor Office to assist the Government in drawing up a scheme for social security in Lebanon. In that same year, the I.L.O. sent one of its chief experts in social security, Mr. Dobbernack, to Lebanon in response to the request of the Government. Mr. Dobbernack drew up a preliminary scheme of social security based on his observations during the few months he spent in the country. In his proposals, Mr. Dobbernack stressed the fact that a final scheme could not be prepared before certain vital statistics and labor statistics become available. A statistician was commissioned by the I.L.O. to visit Lebanon and assist the Government in planning the statistical research required.

The events of 1958 in Lebanon prevented any further action on the subject.

After the election of the new President in 1958 and the appointment of the new Cabinet, the question was brought to the fore. Various committees were established to draw up a scheme of social security in Lebanon. The final draft, however, was not finished until 1962 when it was submitted to the Chamber for approval. However, since the Chamber failed to take any decision regarding the draft thus submitted to it

within forty days of the date of submission, the Government, by virtue of the power given it by Article 58 of the Constitution issued Decree No. 13955 on 26 Sept., 1963 whereby it promulgated the Law on Social Security.

The main administrative organ under the Scheme of Social Security is the National Fund of Social Security, which is an autonomous body placed under the sponsorship of the Ministry of Labor and Social Affairs. The Board of Directors is composed of eleven members; three representing the Government, four representing the workers and four representing the employers. The Board is assisted by a Technical Consulting Committee of three members. This Committee is responsible for supervising and auditing the accounts of the Fund and also for financial and technical studies.

The Executive Office is run by a Director General appointed by the Council of Ministers upon the recommendation of the Board of Directors of the Fund.

The scope of the national scheme of social security covers four fields, namely, sickness and maternity, employment injury and occupational diseases, family allowances and old age benefits. However, a more detailed study of the provisions of scheme will be undertaken in a later section of this Paper.

## II. The Formal Relationship Between Ratified Conventions and Municipal Law in Lebanon.

Before attempting to assess the real influence which International Labor Conventions have had on labor legislation in Lebanon, it is necessary to examine the position allotted to International Labor Conventions - and

for that matter treaties in general - vis a vis the domestic law of the country. This influence may be expected to be more or less direct according to whether or not the Lebanese Constitution considers ratified conventions as becoming automatically part of the law of the land.

Under systems which adopt the monistic doctrine of International Law, which argues, inter alia, that the terms of international treaties, and for our purpose conventions as well, become automatically incorporated into the legal system upon their ratification without the need for any further action to that effect, no problems arise in the process of assessing the influence of International Labor Conventions on domestic law.

Under systems which adopt the dualistic doctrine of International Law, however, "the law of nations and municipal law of the several States are essentially different from each other ...wherever and whenever ... total or partial adoption (of international law into municipal law) has not taken place, municipal courts cannot be bound by international law, because it has, per se, no power over municipal courts."<sup>1</sup>

Which of the two doctrines of international law referred to above is applicable to Lebanon; or, in other words, what is the formal relationship between International Labor Conventions and Lebanese domestic law?

Article 52 of the Lebanese Constitution states:

---

<sup>1</sup> Lauterpacht, Oppenheim's International Law, (London: Longman's, Greene, and Co., 1958), 8th ed., v. 1, p. 37.

The President of the Republic shall negotiate and ratify international treaties. He shall make them known to the Chamber whenever the interest and safety of the state permit. However, treaties involving the finances of the State, commercial treaties, and in general, treaties which cannot be denounced every year shall not be considered until they have been approved by the Chamber.

It will be noticed that the Lebanese Constitution differentiates between treaties of political nature which can usually be denounced every year and treaties involving economic aspects. And while the Constitution gives the President of the Republic the unrestricted right to enter into political treaties, without having to take the consent of the Chamber, no such right is given to him in cases of treaties involving the finances of the State, or pertaining to economic matters in general. Our concern in this Paper is with the latter type of treaties; for, international labor conventions not only involve economic matters, and sometimes the finances of the State as is the case in Conventions on vocational training and social security, but they are also of the type that cannot be denounced every year. Even when a Member State withdraws from membership in the International Labor Organization, it remains bound by the Conventions which it has entered into.

"The rationale behind the whole institution of ratification is partly that states require an opportunity for re-examining not the individual provisions, but the whole effect of the treaty upon their interests."<sup>1</sup> These interests are of various kinds and types. It is argued

---

<sup>1</sup>Ibid., p. 905.

that commercial treaties, or rather treaties which bear on the economy as a whole, although they are signed between states, yet their provisions bear directly on the individuals in either of the contracting states. As such, the argument goes, the population, through its representative body, the Chamber, ought to have a hearing in the case of international commitments relating to commercial, financial, social matters and the like. On the other hand, should the President of the Republic be given the right to enter into such treaties, i.e., treaties bearing directly on the socio-economic interests of individuals in the state, as is the case with international labor conventions, this would be tantamount to an encroachment by the Executive on the Legislative authority in Lebanon; for the President would actually be legislating for the citizens. As such, any international labor convention which Lebanon may decide to enter into will have to be ratified by the Chamber for it to become effective.

Does it necessarily follow from the foregoing analysis that the mere act of ratification by the Chamber suffices to bring the ratified convention into force? The Lebanese Constitution is vague on this point. The usual procedure, however, is to include in every act of ratification an express article incorporating the instrument thus ratified into the domestic law of the land.

May it be concluded then that Lebanese domestic law is automatically brought into conformity with the terms of a ratified convention and that the influence of such ratified conventions may be appraised by merely comparing its terms to the domestic legislation before the Act of Ratification? NO. For, even though an international labor convention is incor-

porated into the law of the country by the 'Act of Ratification', yet it may contain certain general principles and policies which may call for further action, legislative or other, by the ratifying Member. For example, the Convention Concerning Labor Inspection requires the ratifying Member to take action to put the terms of the Convention into force, especially with regards the establishment of the Labor Inspection Service, laying down rules and regulations for the purpose of ensuring the effective enforcement of the system, etc.

There is at least another case where it may be necessary for further legislation to put the terms of a certain ratified convention into effect. It often happens that the position of the law before the ratification of a certain convention may be contradictory to some or all of the terms of the ratified convention. In such a case there is a necessity for an express action to annul previous contradictory legislation. Otherwise, the courts would remain under obligation to observe the previous laws in force and at the same time abide by the terms of the new legislation resulting from the act of ratification. In practice, however, and in order to avoid such contradictions, the Act of Ratification, and for that matter any newly promulgated law, contains a separate provision, usually the final article, declaring all previous laws and regulation contradictory to the terms of the new law as null and void.

Therefore, and in view of the foregoing analysis, the study of the influence of International Labor Conventions on labor legislation in Lebanon should not confine itself to the comparison of the terms of the ratified conventions to existing legislation, but should transcend to a

study of all the measures taken relating to the subject-matter of the conventions.

III. The Practical Relationship Between International Labor Conventions and Labor Legislation in Lebanon.

Although, as we have seen earlier, special legislative or other action may be necessary to give effect to the obligations under a ratified convention, yet it is not always possible to study the influence of ratified conventions on domestic labor legislation by merely referring to the relevant legislation, or any other action taken after the Act of Ratification. For "...a deduction of the post hoc, ergo proper hoc type would be particularly rash in this regard. Legislation adopted in a country following acceptance of an international convention may sometimes be the termination of a process that was essentially internal, ratification being only one stage, and perhaps only a formal stage, in this process.<sup>1</sup> Furthermore, the adoption of an international labor convention by a certain country may be a parallel expression of the aspirations of the international body and the ratifying state relating to the same idea.

In the case of Lebanon such difficulties as referred to above do not arise fortunately, since no legislative or other action has ensued, or is likely to ensue relating to the subject matter of any of the Conventions which Lebanon has thus far ratified.

Before going into the details of the analysis of the influence of ratified international labor conventions in Lebanon on labor legisla-

---

<sup>1</sup>Nicolas ~~Walticos~~, "The Influence of International Labor Conventions on Greek Legislation," International Labor Review, June 1955, P. 598.

tion in the country, it is interesting to review the history of the Acts of Ratification. For, aside from helping understand the administrative procedure leading to the ratification, such a review will also throw some light on the importance given in Lebanon to the obligations which the state has voluntarily bound itself to with regards the ratification of international labor conventions when Lebanon joined the International Labor Organization.

A. Steps Leading to the Ratification of Certain International Labor Standards by Lebanon: On December 12, 1955, upon the initiative of some members of the Lebanese Delegation to the International Labor Conference, and in accordance with the provision of Article 5 of the Constitution of the International Labor Organization which requires every Member to bring to the attention of the competent authorities international labor conventions and recommendations with a view of their adoption or any other action these authorities may deem appropriate, the Minister of Labor and Social Affairs submitted to the Chamber through the channel of the Council of Ministers, a draft law permitting the Government to sign seven international labor conventions. These conventions were the following:

- (1) Convention No. 14 Concerning Weekly Rest.
- (2) Convention No. 27 Concerning Minimum Wage Fixing Machinery.
- (3) Convention No. 45 Concerning Underground Work for Women.
- (4) Convention No. 52 Concerning Paid Leave.
- (5) Convention No. 81 Concerning Labor Inspection.
- (6) Convention No. 89 Concerning Night Work for Women.
- (7) Convention No. 90 Concerning Night Work for Young Persons.

The Chamber took no action. The Minister of Labor and Social Affairs forwarded a memorandum (No. 1213) on May 8, 1956, to the Council



of Ministers reminding it of the draft law for the ratification of the seven conventions. A little over a year later, namely, on May 29, 1957, when no action ensued, the Minister sent a further reminder; but with no avail. The matter was again brought up by the Minister concerned in the Council of Ministers in April 1960. However, the dissolution of the Chamber on May 4 of that year did not allow any action to be taken in this regard.

Finally, in the summer of 1960, after the new Chamber was elected and the new Cabinet formed, the Council of Ministers presented the Chamber with a Decree bearing the No. 6293 whereby the Government requested the authorization by the Chamber for the signing of the seven international labor conventions referred to above. Copies of the text of the Conventions were presented to all members of the Chamber for their Plenary Session of April 4, 1961. The Chamber, however took no action. After the lapse of forty days since the draft was submitted to the Chamber, and in accordance with article 58 of the Constitution, permitting the Government in such cases to promulgate the draft law by decree, the Minister of Labor and Social Affairs proposed that the government make use of the right given it by virtue of Article 58 of the Constitution above. The Minister of Foreign Affairs, however, refused at first on the grounds that matters creating internationally binding obligations for the country should not be passed without the cognizance of the Chamber.

Although the Government was fulfilling its obligations under the Constitution of the International Labor Organization, yet there was rising criticism in the Organization against Lebanon's position with regards the

ratification of International Labor Conventions; since by January 1st, 1962, Lebanon was one of two States only which had not ratified any Convention.<sup>1</sup> The Minister of Labor and Social Affairs presented the Council of Ministers with a detailed memorandum (No. 267/3) on January 29, 1962, explaining the situation and urgently requesting the ratification of the Conventions under study, emphasizing the fact that their ratification would not involve the necessity of any changes or amendments in existing legislation. Finally, the Council of Ministers agreed to the proposal of the Minister of Labor and issued two Decrees on June 22, 1962. The first Decree (No. 9824) promulgated the Draft Law for the ratification of the seven Conventions referred to above. The second Decree (No. 9825) authorized the Minister of Labor and Social Affairs and the Minister of Foreign Affairs to jointly sign the necessary documents relevant to the Act of Ratification in the name of the State.

B. The Influence of Ratified Conventions on Labor Legislation in Lebanon: The seven International Labor Conventions which Lebanon has ratified so far, did not, however, as will be clear from the analysis below, introduce any new legislation. They merely confirmed existing legislation on an international level. It would be erroneous, however, to dismiss such an act of ratification as a purely formal action entailing no importance. For, true as it is that the ratification of those conventions did not introduce any new labor standards into the country, yet the mere fact

---

<sup>1</sup>The other State was Uruguay.

that Lebanon has become internationally bound by the standards embodied in those conventions means that such standards are established further on firmer grounds. It would be impossible for Lebanon any more to enact any legislation contrary to the standards set by the ratified conventions without incurring thus a violation to its international obligations. Furthermore, in case any of the provisions of any one or more of the ratified Conventions are not fully observed by the State, it would be difficult to keep them observed any longer; for the country has become liable to the supervision and inspection machinery provided by the International Labor Office to ensure the application of ratified conventions.

Where and how, then, is labor legislation in Lebanon compatible with the standards set by the seven international labor conventions to which Lebanon is party?

1. Convention No. 14 on Weekly Rest: Article 2 of the Convention Concerning the application of weekly rest in industrial undertakings requires any Member ratifying the Convention to ensure that the staff employed in any such undertaking enjoys "in every period of seven days (of work) a period of rest comprising at least 24 consecutive hours."<sup>1</sup>

Article 36 of the Labor Code goes beyond the minimum weekly rest required by Convention 14 above and provides for a weekly rest of 36 consecutive hours. As such the ratification of the Convention did not necessitate any change in relevant labor legislation.

---

<sup>1</sup>Art. 1.

2. Convention No. 26 Concerning the Creation of a Minimum

Wage Fixing Machinery: This Convention, as the title implies, calls for the establishment of a permanent "...machinery whereby minimum rate of wages can be fixed for workers employed in certain trades..."<sup>1</sup>

Workers and employers concerned are to be represented in this machinery.

Convention No. 26 was supplemented by Recommendation No. 30 which lays down the principles for the establishment of the minimum wage fixing machinery. It recommends that the minimum wage fixing body should in any case take account of the necessity of enabling the workers concerned to maintain a minimum standard of living. It also calls for measures to provide the possibility of revising the minimum wage "...when such revision is desired by the workers or employers who are members of such bodies..."<sup>2</sup>

The Code has incorporated all the principles embodied in both Convention No. 26 and Recommendation No. 30. Article 44 of the Code states that "...the minimum wage should be enough to cater for the basic needs of the worker and his family, taking into consideration the type of work performed..."<sup>3</sup> The Code also provides for the revision of minimum wages which are to be fixed by special committees in which workers and employers are to be represented.<sup>4</sup> The Code also provides for the revision

---

<sup>1</sup>Art. 1.

<sup>2</sup>Para. III.

<sup>3</sup>Art. 46.

<sup>4</sup>Art. 45.

of minimum wages thus fixed "...whenever the economic situation calls for such a revision."<sup>1</sup> These provisions have been effectively enforced as we have seen earlier, and the minimum wage has been revised four times since 1937.<sup>2</sup>

3. Convention No. 45 Concerning the Employment of Women in Underground Work in Mines of all Kinds: This Convention requires any Member ratifying to make sure that "...no female, whatever her age, shall be employed on underground work in any time."<sup>3</sup> This provision has been incorporated textually in the Code.<sup>4</sup>

4. Convention No. 52 Concerning Holidays with Pay: According to the terms of this Convention, any person to whom it is applicable "...is entitled after one year of continuous service to an annual holiday with pay of at least six working days."<sup>5</sup> In cases where the holiday with pay given to workers exceeds the minimum number of days prescribed above, the excess holidays may be divided into parts. The Convention also contains certain provisions to safeguard this right to holidays.

The Code, however, not only grants workers the right to annual leaves with pay exceeding the minimum required by Convention No. 52,<sup>6</sup> but

---

<sup>1</sup>Art. 46.

<sup>2</sup>Refer to page 80.

<sup>3</sup>Art. 2.

<sup>4</sup>Art. 27.

<sup>5</sup>Art. 2(1).

<sup>6</sup>Art. 39 of the Code gives workers who have completed a continuous service of one year in any one establishment the right to an annual leave with pay of 15 days.

also prohibits employers from serving notice of dismissal to workers on their annual holidays.<sup>1</sup>

5. Convention No. 81 Concerning Labor Inspection in Commerce and Industry: The Convention requires every Member which is party to it to establish and maintain a system of labor inspection in industrial and commercial workplaces.<sup>2</sup> Such systems of labor inspection should have as objectives: (a) the securing of enforcement of the legal provisions relating to conditions of work and the protection of workers in workplaces, (b) the supplying of technical information to workers and employers relating to the most effective means of complying with legal provisions, and (c) the bringing to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.<sup>3</sup>

For the purpose of the smooth working of the system of labor inspection, the Convention requires, so far as compatible with administrative practice, that labor inspectors be placed under the supervision of a central authority.<sup>4</sup> It also empowers labor inspectors to "...enter freely and without previous notice at any hour of day or night any workplace liable to their inspection."<sup>5</sup>

---

<sup>1</sup>Art. 39.

<sup>2</sup>Art. 1.

<sup>3</sup>Art. 3(1).

<sup>4</sup>Art. 4.

<sup>5</sup>Art. 12(1), a.

Convention No. 81 is supplemented by Recommendation No. 81 which lays down guiding principles for the organization of labor inspection. It defines the 'preventive' duties of labor inspectors and strongly recommends the collaboration of employers and workers with regards to the enforcement of provisions relating to the safety and health of workers.<sup>1</sup> It also warns against the overlapping of duties of labor inspectors and those of conciliators and arbitrators in proceedings relating to labor disputes.<sup>2</sup> The Recommendation finally lists the elements to be included in the annual reports which labor inspectors are required to prepare on the performance of their work.

The Code did not have much to say on the question of labor inspection. As we have seen,<sup>3</sup> legislation relating to this subject was not enacted until 1949 through Decree No. 14100. This Decree embodies all the principles embodied in both Convention No. 81 and Recommendation No. 81.

In the first place the Decree established a permanent Service in the Ministry of National Economy for Labor Inspection.<sup>4</sup>

In the second place, the Decree states the function of labor inspectors to include the following: compiling all information relating to working conditions, ensuring the enforcement of rules and regulations

---

<sup>1</sup>Para. II.

<sup>2</sup>Refer to page 83.

<sup>3</sup>Refer to page 83.

<sup>4</sup>Art. 1.

relating to the protection of the safety and health of the workers, ensuring that the activities of authorized trade unions are kept within the limits prescribed by the law and by their own statutes.<sup>1</sup>

In the third place the Decree authorizes labor inspectors to enter freely and at any time any workplace.

The Decree even goes further to require a high standard of qualifications in labor inspectors<sup>2</sup> and in providing for penal sanctions against any encroachment upon the duties of labor inspectors in the process of performing their jobs.<sup>3</sup>

6. Convention No. 89 on Night Work for Women: According to the provisions of this Convention "...women, without distinction of age, shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed."<sup>4</sup> This provision is transplanted textually into the Code.<sup>5</sup>

7. Convention No. 90 of Night Work of Young Persons (Industry): This Convention prohibits the engagement of persons under 18 years of age from working during the night in any private or public industrial undertaking or in any branch thereof.<sup>6</sup> Exception to this

---

<sup>1</sup>Art. 3.

<sup>2</sup>Art. 2.

<sup>3</sup>Arts. 8, 9, and 10.

<sup>4</sup>Art. 3.

<sup>5</sup>Art. 23(2).

<sup>6</sup>Art. 3(4).



rule is made in the case of apprenticeship or vocational training in certain industries, or in countries where climatic conditions makes day work particularly tiring. In such cases "...the night period and barred interval may be shorter ...provided that compensatory rest is accorded during the day."<sup>1</sup>

The Labor Code of 1946 reflects all the principles embodied in Convention 90 above. Furthermore, the schedules annexed to the Code relating to the application of the provisions prohibiting night work for young persons are in full coordination with the relevant section of the 'Instrument for the Amendment of the Schedule to the Labor Standards Convention Relating to Night Work of Young Persons, (Industry)'.<sup>2</sup>

The foregoing comparison of the provisions of the International Labor Conventions which Lebanon has so far ratified with existing labor legislation shows clearly that none of the terms of any of the ratified conventions introduced any new legislation on the subjects covered by them.

---

<sup>1</sup>Art. 4(1).

<sup>2</sup>Art. 23(2).

## CHAPTER V

### THE INFLUENCE OF INTERNATIONAL LABOR STANDARDS ON LABOR LEGISLATION IN LEBANON: II

#### I. The Influence of Unratified Conventions on Labor Legislation in Lebanon

Although Lebanon has so far ratified only seven International Labor Conventions, this should not be taken as a gauge to the country's progress in social legislation; nor should it lead to the conclusion that Lebanon exhausted its ability to follow international trends in social legislation.

Furthermore, it would be erroneous to believe that the influence of international labor standards on labor legislation in Lebanon is restricted to the fields covered by the seven conventions to which the country is party. Lebanon is still a young State compared to the life of the International Labor Organization. We have seen that the codification of labor legislation in Lebanon started only in 1946, i.e., three years after the country gained its independence. By that time the International Labor Organization had adopted 80 conventions and 78 recommendations, i.e., over 65% of the total of international labor standards adopted by the Organization. Furthermore, these instruments adopted by 1946 represent, aside from the questions of freedom of association and minimum standards of social security, the core of the Organization's standard setting work.

It would be inevitable, in view of the factors mentioned above, for Lebanese labor legislation not to be influenced by international labor standards, save for the seven conventions which have been ratified.

How is it possible to appraise the influence of unratified international labor conventions and recommendations on labor legislation in Lebanon - and for that matter on the labor legislation of any country? Does it suffice for the purpose of such a study to compare the terms of international labor standards with the provisions of existing relevant laws in order to draw conclusions relating to the influence ascribed to such standards? Fortunately, in the case of Lebanon, it is possible to base our conclusions on the influence of international labor standards on labor laws by such a process of comparison. We are permitted to do so because, in the first place, the explanatory note which introduced the draft Labor Code of 1946 listed international labor conventions and recommendations among the elements which were taken into consideration in drawing out the draft Code. In the second place, the interviews which the author had with some of the members of the Committee<sup>1</sup> which drafted the Labor Code and with the various officials of the Ministry of Labor and Social Affairs confirm the importance of the role played by international labor standards in drawing up the labor laws in Lebanon. In the third place, by comparing the texts of some of the terms of international labor conventions and recommendations with relevant provisions in the Labor

---

<sup>1</sup>Especially the interview with Mr. Joseph Donato, Chairman of the Committee.

Code, it will be noticed that in many cases these texts are identical. This could not be sheer coincidence.

Where and how, then, does the influence of international labor standards on labor legislation in Lebanon manifest itself? The answer to this question will follow the same lines of discussion as followed in the discussion of the scope of international labor standards in Chapter III of this Paper. In other words, it shall be attempted to see whether and how labor laws in Lebanon comply with the international norms laid down on the subjects of freedom from forced labor, freedom of association, safety and health of workers, social security, vocational training, the right to work, the right to equal remuneration, and whatever other international standards may be applied in Lebanon.

A. Forced Labor.

Reduced to their simplest terms, international labor standards relating to the question of freedom from forced labor aim to ensure that persons looking for employment are free to choose the employment which suits best their aptitudes, qualifications or desires, and to ensure, on the other hand, that such freedom is safeguarded.

The question of freedom from forced labor, while relating to an important aspect of the conditions of work, yet it transcends this limited scope to bear more directly on questions of basic human rights. As such it is natural to find that provisions to safeguard against recourse to forced labor were incorporated in the general Law of Contracts and Obligations of 1939.

While the Law of Contracts and Obligations does not specifically mention the question of forced labor, yet it contains certain provisions which bear directly on the freedom of workers to choose their own jobs. For, the Law insists on the principle of 'consent' as the basis of any contract of employment.<sup>1</sup> It further safeguards against indirect recourse to forced labor by prohibiting persons who are underage from entering into contracts of employment without the written approval of their legal guardians,<sup>2</sup> by declaring life contracts, ipso facto, null and void,<sup>3</sup> and by insisting that remuneration for work be in tangible form.<sup>4</sup>

When the country gained its independence in 1943 and a new constitution was being drafted, the framers of the Constitution, in recognition of the importance and sanctity of personal freedom, incorporated the following article:

All the Lebanese are equal before the law. They shall equally enjoy civil and political rights and shall, without any distinction whatsoever, bear public duties and obligations.<sup>5</sup>

As such the Constitution cherished the principle of equality among the citizens. This equality means that any Lebanese, irrespective of religion,

---

<sup>1</sup>Arts. 624 and 625.

<sup>2</sup>Art. 626.

<sup>3</sup>Art. 627.

<sup>4</sup>Arts. 630 through 634.

<sup>5</sup>Department of Political Studies and Public Administration, The Lebanese Constitution (Beirut: Kayat's Publications, 1960), art. 7.

race, or creed, shall enjoy equal right to assume public office, to take part in national elections, and to occupy any post on a footing of equality with any other fellow citizen, the only criterion for distinction being the personal qualifications of the citizen himself.<sup>1</sup>

After it establishes the principle of equality before the law, the Constitution goes further to maintain that:

Every Lebanese shall have the right to hold public office, no preference being made except on the basis of merit and competence, according to the conditions established by law. A special statute shall guarantee the rights of state officials in the departments to which they belong.<sup>2</sup>

As such any attempt to force a citizen to do some work against his will, except where provided by law, is considered an outright violation of the Constitution and the defaulter held responsible before the law. Furthermore, no provisions allowing for forced labor are to be found in any law in Lebanon, except as penalties for certain offences.

It could be concluded therefore, that Lebanese legislation has sanctioned the principle of freedom from forced labor more than any other labor standard. The ratification of the Convention on Forced Labor, should it be undertaken by Lebanon, will serve merely to convey on an international level, principles already sanctioned by the Constitution of the Country.

---

<sup>1</sup>Ibid., art. 12.

<sup>2</sup>Ibid.

B. Social Security.

1. The Scope of the Lebanese Scheme of Social Security:

We have noted earlier that the Lebanese Scheme of Social Security covers the four fields of sickness and maternity, employment injury and occupational diseases, family allowances and indemnity. It is worth noting also that the only novelty in the Scheme is the sickness and maternity benefits, since all the other three fields are already covered by the Labor Code. Furthermore, the Scheme does not cover only the workers of the persons insured, but extends to their wives and children/ And in the case of the death of the insured, his legal dependents are entitled either to periodical allowances or to a lumpsum aid.<sup>1</sup> These provisions, it will be noticed, are compatible with the International Labor Convention on Minimum standards of Social Security (No. 102), which, although lays down ten fields of social security benefits, nevertheless, entitled Members ratifying it to limit the scope of the social security scheme in the Member's country to four fields including however the field of sickness and maternity.<sup>2</sup>

The execution of the Scheme is divided into two stages. During the first stage, workers and apprentices in all but the agricultural establishments are covered by the Scheme.<sup>3</sup> In the second stage the

---

<sup>1</sup> Arts. 39-44.

<sup>2</sup> Art. 7.

<sup>3</sup> Art. 9.

coverage of the Scheme will extend to workers in agriculture.<sup>1</sup>

The coverage of the Scheme as far as sickness and maternity, employment injury and occupational diseases are concerned extends, but only in so far as providing medical assistance and the necessary medicaments, during the first stage, to all civil servants, employees in all municipal and public offices.

2. Benefits Under the Lebanese Scheme of Social Security:

a. Sickness and Maternity Benefits: Medical assistance benefits, including hospitalization, medicaments, dental services, mid-wife visits are offered to all persons covered by the Scheme and for a period of 26 weeks. However, during the first seven days of sickness or confinement, the insured is entitled to medical attention only. Furthermore, the period prescribed earlier may be extended to a maximum of 52 weeks upon the recommendation of a medical commission. These provisions conform textually to relevant provisions in Convention No. 102.

Furthermore, and in conformity with Article 12 of Convention No. 102 per diem allowances for a person covered by the Scheme are payable starting with the fourth day of work stoppage due to sickness at the rate of 60% of the normal wage for the first 30 days. This rate is increased to 75% starting with the 31st day of sickness.

In case of confinement, the assured women worker is entitled under the Scheme, aside from the normal sickness benefits, to a maternity

---

<sup>1</sup>Art. 11.



allowance equivalent to 2/3 of her normal wage; and that only during the 10 weeks during which delivery takes place. In the case of continued sickness, benefits are payable in accordance with the normal rates under the provisions relating to sickness benefits.

b. Employment Injury and Occupational Diseases:

In the case of employment injury or occupational diseases, the assured is entitled to the same benefits under the sickness insurance scheme with the important exception that there is no time limitations for the offering of such benefits. Furthermore in the case of temporary inability to work, the financial benefit payable to the injured is 75% of his normal wage. In the case of permanent disability, however, the injured is entitled to annual payments which should not exceed 2/3 of his normal wage, and in no case can they exceed the sum of LL 4800 a year. In the case of the death of the injured, these benefits are payable to his legal heirs.

c. Family Allowances: Under the Scheme, family allowances are payable at the same rate prescribed in the Code in respect to one wife and a maximum of five dependent children. However, the Scheme provides for the possibility of increasing these rates by decrees taken in the Council of Ministers.

d. Indemnity: The provisions relating to indemnity in the scheme could be considered to represent a transitory stage between the system incorporated in the Code relating to pensions and future plans to extend the coverage of the Social Security Scheme to old age pension.

The coverage of the Scheme as regards indemnity is voluntary to all workers engaged in work prior to the date of the coming into force of the Scheme, but compulsory to all other workers, i.e., workers employed after that date.

Indemnities are payable at a minimum rate of one month's pay for every year of work, calculated on the basis of the last salary cashed, to all persons covered by the Scheme after they reach the age of 60 or after they have completed 20 years of work. This provision conforms to both the relevant terms of the Code and of Convention No. 102. However, under the Scheme, which is in conformity with Convention No. 102, in the case of permanent disability or death of the insured, the dependents of the insured are entitled to the same allowance which would have been due to the insured himself should he have completed 20 years of service. In case a women worker gets married, she is entitled, and for one time only, to an allowance equal to that under the Code. In the case of unemployment, the insured is entitled, and for one time only, to an allowance equivalent to three months salaries based on the amount of the last salary cashed, but payable in six monthly installments. This sum will be deducted, however, from the indemnity due to the beneficiary when the payment of the indemnity falls due.

C. The Financing of the Scheme.

1. The subscriptions due to the Social Security Fund to cover the Fund's liability as regards pensions are borne wholly by the employers. In return, the Fund assumes full responsibility as regards provisions relating to pensions under the Code. However, there has been no consensus

of opinion as to the way this shifting of responsibility is to be best effected, namely, how the amounts due to workers already engaged in work and who voluntarily choose to join the Scheme are to be transferred to the Fund. Employers have resisted any attempt to force them to pay these amounts to the Fund lumpsum, as this will involve them in critical financial troubles due to the resulting decrease in liquidity. Finally it was decided to leave this matter to the discretion of the Council of Ministers.

2. The financing of the sickness and maternity branch is to be effected from subscriptions of employers and workers and a government subsidy equal to 25% of the total cost of this branch.

3. The cost of all the other branches of security under the Scheme is to be financed wholly by subscriptions collected from employers and workers. However, it is not enough that these subscriptions just cover the costs incurred in these branches. They should also provide for a minimum reserve fund equivalent to at least  $1/6$  of the total cost of the sickness and maternity branch and  $1/3$  of the total cost of the employment injury and occupational diseases branch. The Government may advance a loan to the Fund should the reserves required fall short of the minimum required.

4. The rates of subscriptions of employers and workers are to be fixed by the Council of Ministers taking into consideration the results of the research and inquiry undertaken actually by the Ministry of Labor and Social Affairs. Should it prove, after the rates are fixed, that such rates are not enough to cover the liabilities of the Fund, the

Council of Ministers has the right to increase these rates accordingly.

D. The Investments of the Fund:

The method and channels of investment of the amounts accruing to the Social Security Fund are to be decided upon by the Board of Directors in accordance with the Statutes of the Fund.

E. Evaluation:

The foregoing analysis serves to show that the Social Security Scheme which came into force recently in Lebanon is in full conformity with the international standards of social security as laid down by the international labor convention on minimum standards of social security. In other words, should Lebanon now decide to ratify the said Convention, there will ensue no need to promulgate any new law or amend existing laws to comply with the provisions of the Convention.

The question which poses itself, however, is not whether the terms of the Scheme and those of the international Convention are compatible. More important is the harmony between the principles which underly the efforts of the International Labor Office in setting minimum standards of social security with the principles governing the establishment of a social security scheme for Lebanon.

The basic principle underlying any system of social security is the notion that society as a whole is responsible for providing the basic needs of everyone of its members. Thus from the sociological point of view, a social security scheme should be harmonious with the degree of social development of the society for which the scheme is intended.

A close look at the social security in Lebanon will reveal that

the scheme has overestimated the degree of social consciousness of the persons covered by it, especially as relates to their ability to comprehend, and readiness to comply with, the new responsibilities laid upon their shoulders by virtue of the new Scheme. It follows that any unethical attempt to abuse the privileges inherent in the Scheme would be at the expense of other beneficiaries under the Scheme.

From the economic point of view, social security schemes are designed to reduce the effects of wide disparities in the distribution of income among the population. In other words it is a system of income re-distribution.

Social security increases the financial burden of economic development projects and as such plays a great role in gearing economic development in any country, especially in the case of a country still struggling to achieve a higher standard of economic development. In view of this, the need for coordinating schemes of social security with the actual needs and potentialities of any particular society become paramount. Such an assessment of needs and potentialities cannot be undertaken without reliable statistical information. "Social security schemes ...which have been established without actuarial preparation or for demogical motives with deliberate disregard of actuarial exigencies, have, in the long run, disappointed their expectant beneficiaries."<sup>1</sup> The Lebanese Scheme of Social Security recognizes the impor-

---

<sup>1</sup>I.L.O., Social Security (International Labor Office Publications: 1958), p. 85.

tance of actuarial preparation when it leaves the fixing of rates of subscription until the necessary information becomes available. But, on the other hand, we find the Scheme enlarging the scope of immediate benefits especially in the field of sickness and maternity. Furthermore, the Scheme, as we have seen earlier, empowers the Council of Ministers to increase the rates of subscription should the established rates prove insufficient. As such and since no financial obligations on the part of the State are involved, should the solvency of the Scheme fall short of the minimum required, the Government will find no easier way to cope with such a shortage than by issuing a decree increasing the rates imposed on workers and employers. This involves at least three shortcomings. In the first place, the cost of production in Lebanon will increase and, conversely, the ability of Lebanese goods and services to compete with foreign goods and services will decline both in the local market and in outside markets. In the second place, the prospective investors are denied the ability to plan for future investments, since a basic element in his cost of production remains unknown to him. In the third place, Lebanese employers find it more profitable to reduce the number of workers they employ in order to reduce their financial burden. As such the general level of employment will decline; and, which is even more important as far as the Scheme is concerned, the funds accruing to the Scheme will decrease due to the decrease in the number of subscribers. For, there are always practical limits to the sums which could be extracted from an economically active population in order to finance a scheme of social security; and "...when the limit is reached, the benefits

will be cut down either in nominal value or by inflation."<sup>1</sup> Therefore, the problem of financing a proposed benefit must always be thoroughly studied before the scheme is made a law.

## II. Freedom of Association.

The vital importance of the development of trade union movement and the building up of a healthy system of labor management relations in the process of economic and social development has long been recognized in Lebanon. The Labor Code has gone far afield in complying with international standards relating to freedom of association for trade union purposes; but not all the way.

The Convention on 'Freedom of Association and the Protection of the Right to Organize', as we have seen earlier,<sup>2</sup> centers around three main principles: (a) that workers and employers are free to establish and join organizations of their own choosing, (b) that the public authorities shall refrain from any interference which would restrict the right of workers' and employers' organizations to draw up their own constitutions and rules, and (c) that workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority.

The Code provides all the guarantees for the freedom of workers and employers to join in organizations of their own choosing and to draw

---

<sup>1</sup>Ibid., p. 86.

<sup>2</sup>See above, pp. 48 et seq.

up their own constitutions and by-laws. The right of workers and employers not to join respective organizations is equally guaranteed.<sup>1</sup>

While no express provisions are found in the Code to safeguard against possible interference by the public authorities with regards to the right of workers and employers organizations to exercise the right given them to draw up their own constitutions and statutes, express provisions are included to regulate the exercise of this right by the public authorities.<sup>2</sup> While this may seem to involve a divergence from the terms of the Convention, in fact it is not so.

The provisions relating to denying the public authorities the right to interfere with workers' and employers' organizations in drawing up their own constitutions were contested by some government members in the course of the discussion of the draft Convention at the 31st Session of the Conference. A number of amendments were submitted to include in the text a reference to national legislation concerning industrial organizations, with a view of permitting states to promulgate certain rules which, without restricting the right of these organizations, would however establish certain minimum conditions to be fulfilled by them with respect to their constitutions and operation. However, the chairman (of the drafting committee) stated that the Convention was not intended to be a 'Code of Regulations' for the right to organize, but rather a concise statement of certain fundamental principles. In other words,

---

<sup>1</sup>Arts. 83 and 90.

<sup>2</sup>Arts. 86 through 89.



States would remain free to provide such formalities in their legislation as appeared appropriate to ensure the normal functioning of industrial organizations.<sup>1</sup>

The Code, however, contains express provisions allowing, under certain circumstances, the Government to dissolve any workers' or employers' organization. While this may be an outright contradiction to the principles embodied in Convention 87 on the Freedom of Association and the Right to Organize, yet the position of the Code as regards this question could be quite understood. As a matter of fact several government Members tried in the course of the discussion of the draft of Convention No. 87 at the 31st Session of the Conference to introduce certain amendments which would give governments the right to dissolve or suspend a union by administrative authorities when that union engages in illegal activity. However, these amendments met with failure due to the joint efforts of workers' and employers' representatives.<sup>2</sup>

Why is it that Lebanese law, while recognizing the principle of freedom of association, still contains certain reservations regarding the full implementation of this principle as envisaged by relevant international standards?

The fundamental objective of trade union activity is to enable the worker to achieve a higher standard of living. There are three traditional methods whereby trade unions try to achieve this objective:

---

<sup>1</sup>I.L.O., Record of Proceedings of the 31st Session of the International Labor Conference (Geneva: I.L.O. Publications, 1952), p. 476.

<sup>2</sup>Ibid., p. 477.

"(a) collective bargaining and furtherance of claims, (b) action to influence public policy and legislation, (c) provision for direct services to members."<sup>1</sup> The ability of trade unions to play the important role expected of them calls for high qualifications in trade union leaders and an insight into socio-economic problems. It requires above all a sense of devotion to the cause of labor development and duty consciousness. Furthermore, in order that their efforts be given their due weight, trade union leaders should have a strong representative union behind them.

The trade union movement in Lebanon is relatively very young compared to that in older industrialized societies. They have not yet had the time to consolidate the very rapid gains they have made during the short period of their life, particularly since the promulgation of the Labor Code which recognized the existence of trade unions. For one thing, while trade unions flourish in numbers, most of them have small memberships, largely organized at the undertaking or local level, and unable to carry out the normal functions of trade unions. Trade union leaders are aware of this weakness. The President of the Merchant Workers Union, for example, stated that the percentage of union members to the total number of workers employed in commercial undertakings is very small.<sup>2</sup>

---

<sup>1</sup>I.L.O., Report of the Director General, 1962 (Geneva: International Labor Office Publications, 1962), p. 91.

<sup>2</sup>Lebanese Federation of Labor Syndicates, Union Organization in Lebanon (Beirut: Publications of the Federation of Labor Syndicates in Lebanon, 1963), p. 37.

Out of 80 accredited banks in Lebanon, only 39 banks had any union representatives on their payroll in 1962.<sup>1</sup> Union activity has tended, as a result, to concentrate on efforts to increase union membership. This is being done mainly through the furtherance of claims, especially those relating to increase of wages and the reduction of working hours, with a negligible effort to increase the social consciousness and productivity of workers.

On the other hand there is a tendency for trade union leaders to overestimate their role and to sacrifice their true duties to personal glories; the result being an increasing gap between those leaders and the respective union members. Trade union leaders are aware of this gap, although they tend to explain as being a result of the long working day of workers which leaves them little time for union activity.<sup>2</sup>

The situation could be summed up as follows: We have on the one hand an economy in the process of development and thus requiring concerted efforts of all the sectors of society. On the other hand, we have a rising number of trade unions with, however, small memberships and union leaders preferring short term gains to long term stable profits. The Government, aware of this situation, finds itself still called upon to safeguard the interest of trade union members, workers, and employers and the economy as a whole against possible, not necessarily certain,

---

<sup>1</sup>Ibid., p. 38.

<sup>2</sup>Ibid., p. 40.

abuses in trade union activity. And as such, the Government, when it reserves to itself the right to dissolve any trade union which is proved to be engaged in illegal activity, considers such a reservation to be in the interest of workers primarily. In order to assure of its good intentions and its recognition of the importance of trade union movement for the social development of labor, the Government has undertaken to call for the election of a new union council to replace the dissolved one within three months from the date of the act of dissolution.

D. Safety and Health: International labor standards relating to safety and health of workers seem to have had a pronounced influence on labor legislation in Lebanon. A special decree (No. 6431) was issued in October 24, 1951, dealing with questions of health, safety and prosperity of workers. The provisions of the said decree run parallel to the norms laid down in the International Labor Recommendation concerning the prevention of industrial accidents, power driven machinery, and the Convention relating to safety in the building industry.

1. The Prevention of Industrial Accidents: The Labor Code requires employers to keep workplaces free of harmful odors, to open sanitary outlets and to dispose of any materials which are liable to decay.<sup>1</sup> The Code further insists that sanitary and rest places should be established at a distance from the actual working place.<sup>2</sup> Women

---

<sup>1</sup>Art. 2.

<sup>2</sup>Art. 5.

workers whose jobs require them to remain standing, should have special facilities enabling them to take quick rests in the course of their work.

Facilities for first-aid treatment are required in every establishment. Furthermore, every establishment which employs 20 or more workers is required to have a special attending physician whose hours of work at the establishment are fixed in proportion to the number of workers in the establishment. A medical examination for every worker before he is engaged is required. No worker who has suffered an occupation disease and was hospitalized is allowed to resume his work without a medical examination. Attending physicians are also under obligation to take the necessary precautions to safeguard the safety and health of workers while at work, and to provide preliminary treatment to workers before they are referred to specialists' treatment where necessary.<sup>1</sup> These provisions, it will be noticed, are in conformity with the principles embodied in the international labor Recommendation concerning Medical Examination of Young Persons (Industry).<sup>2</sup>

The decree also deals with safety measures in particular trades and industries, e.g., elevators, drilling, scaffold maintenance, steam boilers, etc.<sup>3</sup> Special provisions deal also with safety measures in the building industry along the same lines as those embodied in the International Labor Convention concerning safety and health (Building

---

<sup>1</sup>Arts. 11-16.

<sup>2</sup>See above, p. 55.

<sup>3</sup>Arts. 23-26, and 29.

Industry).<sup>1</sup>

2. Protection in the Case of Power-Driven Machinery: The Recommendation (No. 32) concerning power-driven machinery which was adopted in 1929 provides that "...each Member (should) adopt and apply to as great an extent as possible the principle that it should be prohibited by law to supply or install any machinery intended to be driven by mechanical power and to be used within its territory, unless it is furnished with safety appliances required by the law for the operation of machines of that type."<sup>2</sup> The provisions of this Recommendation are transplanted textually into the Labor Code.<sup>3</sup>

E. Vocational Training: Here we find ourselves in a field where the International Labor Office has played a most direct and decisive role. It has already been stated that vocational training is in itself a response to a need to provide the technical skill required in the various types of industries.

The keen competition which Lebanese industries found themselves facing in the few years after the War made itself even more marked with the rupture of the economic union between Syria and Lebanon in 1950. Lebanese industrialists had to take one of two decisive decisions: either to re-equip their industries with up to date machinery and equipment at any cost, in order to bring them up to international standards,

---

<sup>1</sup>Arts. 27 and 28.

<sup>2</sup>Para. II.

<sup>3</sup>Arts. 21, 22 and 29.

or to resign themselves to unequitable competition threatening their very existence. Fortunately, however, the majority of Lebanese industrialists chose the first alternative. Many difficulties were faced in this process of development, managerial, financial, marketing and technical. Our concern in this section is with the technical difficulties as they relate to the problem of skilled labor.

The only supply of skilled labor in Lebanon before 1960 came from professional schools (Arts et Metiers). However, graduates of these schools, aside from the fact that they lacked to a great extent the necessary background to enable them to assume responsibility in factories, the majority resented the manual work which the factories needed. On the other hand the supply of skilled labor from the market itself, i.e., the number of workers who had acquired skills by their own experience, was very limited.

By 1956 the capital invested in industry had reached a total of about LL 350,000,000; more than three times that reached in 1943. The need for skilled labor became more and more pronounced. In order to meet this need, the Government requested the International Labor Office to assist Lebanon in establishing a vocational training center for adult workers. The Office promptly responded to this request and sent, in the beginning of 1957, one of its experts to Lebanon with a view to studying the economic situation and assessing the needs of the country for skilled labor. After this preliminary study, the Office sent another expert, an executive, Mr. Andre Morere, to prepare the final proposals relating to the form of assistance which the Office could best provide in this regard.

Mr. Morere reached Lebanon in October, 1957 and by July, 1958, his final proposals were ready.

The report of Mr. Morere found out, among other things, that the general supply of labor in Lebanon is insufficiently regimented and that more often craftsmanship is not of the required technical level.<sup>1</sup> As far as the workers are concerned the report goes on to say that although the ability of the worker is beyond any doubt, yet he lacks the theoretical and practical training required for his work.<sup>2</sup> The Report concluded by recommending the establishment of a vocational training center for adults.

In order to substantiate the study undertaken by Mr. Morere, the Association of Lebanese Industrialists carried a sample survey of 57 representative industrial establishments with a view of assessing manpower needs in industry. As such a most basic principle governing vocational training was met, viz., that "vocational training for adults should be studied, worked out and developed in accordance with the situation or trend of employment market, the efforts to improve or increase production, and the possibilities of absorbing trainees into suitable employment."<sup>3</sup>

The events of 1958, however, suspended any further action. In 1960, the Lebanese Government, through the Ministry of Labor and Social

---

<sup>1</sup>Bureau International du Travail, Rapport au Gouvernement Libanais sur la Mission Portant sur la Formation Professionnelle, (Geneva: B.I.T., 1958), p. 5.

<sup>2</sup>Ibid.

<sup>3</sup>International Labor Conference, Recommendation Concerning Vocational Training, (Geneva: 1950), Para. II.



Affairs, assisted by the good offices of the Association of Lebanese Industrialists finally reached an agreement with the International Labor Office whereby the latter undertook to provide experts' services and the necessary tools and machinery for the establishment of a pilot center for vocational training of adults in Lebanon. The Government, for its part, undertook to provide the location necessary for the premises of the center as well as an annual financial assistance to cover running expenses of the proposed Center. The Association of Lebanese Industrialists undertook the responsibility of the administration of the Center as well as providing the trainees. A tripartite Committee was appointed to act as a Board of Directors for the Center.

In planning the programme of the activities of the Center, the Administrative Committee keeps in view the norms and principles laid down in Recommendation concerning Vocational Training, particularly Art. 3, which states, inter alia, that ".training should, as far as possible provide adults with background knowledge related to the skills they are learning and to the industries which they wish to be employed in with a view, in particular, to facilitate upgrading."

In accordance with the principles embodied in Article 11 of the Recommendation mentioned above, trainees are given the training which is most suitable to their aptitudes. Furthermore, training programmes are made flexible and possibilities for adaptation to new training needs are provided for within the limits, of course, of the potentialities of

of the Center.

Finally, the Association of Lebanese Industrialists in accordance with the terms of the Agreement with the International Labor Office, which are based on the provisions of Article 19 of the Recommendation on Vocational Training, undertake to take the necessary measures to ensure that workers sent for training in the Center are paid their wages in full during the whole period of training as if they were working full time at the factories where they come from.

The International Labor Office standard setting work relating to technical training extend further to lay down norms for vocational guidance, embodied in a special Recommendation on Vocational Guidance. The principles outlined in this Recommendation were adopted by labor legislation in Lebanon at about the same time the Center was established by Decree No. 5768 dated December 23rd, 1960. The Decree lays down the norms for the organization of Vocational Education Schools. It also created the High Council for Vocational and Technical Education in which workers, employers, and the Government cooperate in laying down the official policy relating to vocational education and guidance. The Council is called upon to provide consultation on the following matters:

1. proposed laws and decrees on the organization of vocational training and education,
2. proposals for the establishment of public vocational schools,
3. draft decrees authorizing the establishment of private vocational schools,
4. the yearly reports of the Director of Vocational and Technical Education,
5. any other subject which the Minister of Education, in his capacity as Chairman of the Council, may wish to consult the Council upon.

The Council may also take the initiative in proposing long term programmes for the development of vocational and technical training in Lebanon.

It is evident from the foregoing analysis, that the Government in Lebanon has followed closely international labor standards relating to the question of vocational training. The correlation between national laws pertaining to vocational training and guidance to relevant international instruments is a matter of fact, since it is the experts of the I.L.O. who have been responsible for the development of vocational training schemes in Lebanon.

F. The Right to Work: The Labor Code requires the municipal authorities in every Muhafazah to establish public employment offices in the capital of the Muhafazah. The Code also permits the establishment of similar employment offices in other municipal towns, by a decision of the Minister of Labor and Social Affairs.<sup>1</sup> The functions of these employment offices are stated to include (a) the registration of applications for work, (b) registration of demand for labor in any craft, (c) the classification of such applications for work and demand for labor in a way which permits easy reference, (d) providing all facilities for the unemployed to find work and (e) directing workers towards employment channels most required by the economy; taking into consideration the aptitudes and qualifications of the workers concerned.

---

<sup>1</sup>Art. 110.

Employment offices are also expected to facilitate the mobility of labor. They are further required to keep up to date vital statistics relating to the various aspects of the labor force in the country.<sup>1</sup> These provisions in the Labor Code were supplemented by Decree No. 7955 relating to the methods to be followed in the compilation of labor statistics.

It will be noticed, that the provisions of labor legislation in Lebanon pertaining to the right of workers to work are fully compatible with the norms laid down in the International Labor Conventions on the Organization of Employment Service and the International Labor Recommendation relating to the Organization of Employment Service.

G. Equal Renumeration: Article 3 of Legislative Decree No. 29/ET states the following:

"Women workers performing work similar to that performed by men shall be entitled to the same basic wages which men workers get for that work in addition to the increments mentioned in Art. one above." (Namely the cost of living allowance.)

By a simple comparison of the provision above with the terms of the Recommendation on Equal Renumeration, it will be seen that the Legislative Decree referred to above has adopted these terms textually.

H. Other Standards:

1. The Protection of Wages: The Code requires that wages which are not payable in kind shall be paid only in legal tender.<sup>2</sup> Wages

---

<sup>1</sup>Ibid.

<sup>2</sup>Art. 47.

payable in legal tender are to be paid at least once a month to employees and twice a month to workers.<sup>1</sup> These provisions confirm to the provisions of Articles 3 and 4 of the International Labor Convention on the Protection of Wages which states, inter alia, that "...wages payable in money shall be paid only in legal tender..." and that "...national laws and regulations ...may authorize the payment of wages in the form of allowances in kind in which the payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned." It will also be noticed that the provisions in the Code referred to above are compatible with the norms laid down in Recommendation No. 85 on the same subject, which states, inter alia, the following:

The maximum intervals for the payment of wages should ensure that wages are paid: (a) not less than twice a month at intervals not exceeding sixteen days in the case of workers whose wages are calculated by the hour, day or week; and (b) not less often than once a month in the case of employed persons whose remuneration is fixed on a monthly or annual basis.

Article 4 of the Code also requires that the payment of wages be made on working days and at the place of work; which textually conforms to Article 13 of the Convention of the Protection of Wages.

In the case of the judicial liquidation or the bankruptcy of an establishment, wages due to the workers of such an establishment are considered as debts of the first order and rank directly after Government debts, court fees, and compulsory insurance liabilities. These same provisions are to be found in Article 11 of the Convention on the

Protection of Wages.

On the other hand, there is nothing in the Code or anywhere else to contradict any of the obligations under Convention No. 95; and as such the Convention may be ratified in Lebanon without the need to any form of amendment to existing laws and regulations.

2. Hours of Work in Industry: The Code limits the hours of work in industrial establishments to 48 hours per week, concomittant to the provisions of Convention No. 1 concerning hours of work (industry). True as it is that there were several other decrees which allowed exceeding the limits, however this did not constitute a violation of the terms of the Convention. For the Convention permits governments which have ratified it to exceed the limit of hours of work "...in processes which are required by reason of the nature of the process to be carried on continuously by a succession of shifts, subject to the condition that the working hours shall not exceed 56 in the week on the average."<sup>1</sup> All the decrees which allowed for the excess of hours of work in specified trade have observed this further limitation.

3. Maternity Protection: Under the Code, women workers are entitled to a maternity leave of forty days with full pay. Employers are under an obligation not to allow women workers on maternity leave to resume their work before the lapse of a minimum of 30 days after delivery. Furthermore, no notice of dismissal may be forwarded to any

---

<sup>1</sup>Art. 2.

women worker during her maternity leave. These provisions run parallel to the terms of Convention No. 3 on Maternity Protection which was adopted at the 1st Session of the International Labor Conference in 1919.

4. The Protection of Women and Young Persons: The Code provides for the following measures for the protection of young persons and women workers:

(a) Young persons, i.e., children under 13 years of age are barred from work in all the mechanical industries and in all other industries which may have any harmful effect on children.<sup>1</sup>

(b) The employment of children under sixteen years of age in mines, quarries, foundries, explosives, glass manufacture, alcoholic and paints industries, in zinc, boilers, machine cleaning, tanning industries and in natural fertilizer warehouses is absolutely prohibited.<sup>2</sup>

(c) The employment of children under 16 years of age in certain industries<sup>3</sup> is conditional upon the presentation of a medical certificate of fitness to work in such industries.<sup>4</sup>

(d) The employment of children under sixteen years of age is not allowed between 7.00 p.m. and 6.00 a.m.<sup>5</sup>

---

<sup>1</sup>See Appendix.VI

<sup>2</sup>Art. 23.

<sup>3</sup>See Appendix.VII

<sup>4</sup>Art. 23.

<sup>5</sup>Ibid.

(e) Night work for women is not allowed in certain mechanical and handicraft industries.<sup>1</sup>

(f) The employment of women is not allowed in industries which it is believed may have harmful effects on their safety and health.

The provisions of the Code referred to above represent in a condensed form the provisions included in Convention No. 4 on Night work for women, Convention No. 5 on Minimum Age (Industry), Convention No. 59 which revised the latter Convention, and Convention 77 and 78 relating to Medical Examination of Young Persons in Industry and Medical Examination of Young Persons in Non Industrial Employment respectively.

5. The International Seafares' Code: The question of the possibility of establishing an international code for seamen was among the items for the 2nd Session of the International Labor Conference in 1920. This question was considered by a committee of the Conference, which made a report proposing a resolution which was adopted at the plenary session. "The gist of the recommendations made in this report was that the preparation for an international seafares' code should be undertaken gradually by the adoption of conventions and recommendations dealing with particular subjects."<sup>2</sup> This method has been used with success. By January 1st, 1964, the International Labor Organization

---

<sup>1</sup>See Appendix.

<sup>2</sup>I.L.O., The International Labor Code, (Geneva: Publications of the International Labor Office, 1952), v. 2, p. 755.



had adopted 27 Conventions and 14 Recommendations relating to maritime questions. These international instruments cover nearly every aspect of conditions of work for seafarers, namely, questions related to training (Recommendation No. 1), placing of seamen (Convention No. 9), seafarers' articles of agreement (Convention No. 22), certificates of qualifications (Conventions Nos. 54 and 74), certificates of ships' cooks (Convention No. 69), hours of work on board ship, manning and annual holidays with pay (Conventions Nos. 91 and 93), conditions of admission to employment (Conventions Nos. 7, 15, 16, 72 and 73), ship-owners' liability in respect of sickness, injury, or death of seafarers (Convention No. 56), Pensions (Convention No. 71), unemployment indemnities and insurance (Conventions Nos. 8 and Recommendation No. ), repatriation of masters, seamen, and apprentices (Convention No. 23 and Recommendation No. ), welfare of seafarers on board ships and in ports (Conventions Nos. 61, 92, and Recommendation No. ), Inspection of seafarers' conditions of work (Recommendation No. ).

Lebanon, although historically renowned for its maritime trade, have long relapsed among the countries with the least maritime commercial activity. Although the number of registered ships in Lebanon is large, yet this should not misleads us into overestimating the importance of Lebanese maritime activities. For only few of those vessels are actually owned wholly or for the greater part by Lebanese. Furthermore, the number of Lebanese seamen working on these vessels does not exceed 60. This serves to explain in part why Lebanese laws and regulations related

to commercial maritime activities were more concerned with the organization of maritime trade, e.g., nationality of vessels, charter terms, insurance, owners' liability, than in questions related to the conditions of work of seamen. Nevertheless, the Law on Maritime Commerce bears some important traces of influence by international labor standards, namely, in the case of the definition of the term 'vessel'; but more so with regards to seamen's articles of agreement, medical examination and insurance, and repatriation of seamen.

1. Seamen's Articles of Agreement: The International Labor Convention concerning Seamen's Articles of Agreement requires that such agreements be signed by both the shipowner, or his accredited representative, and the seaman under conditions which ensure adequate supervision by the public authority.<sup>1</sup> It further requires that "...every seaman.. be given a document containing a record of his employment on board the vessel."<sup>2</sup> These two provisions are combined under one article of the Law on Maritime Commerce in Lebanon.<sup>3</sup> The Convention also states that a seaman's agreement of work may be made either for a definite period of time, or for the period of one voyage, or, if permitted by national laws, for an indefinite period. This provision is transplanted into article 130 of the Law under study. The same Law also adopts the terms of the

---

<sup>1</sup>Art. 3.

<sup>2</sup>Art. 5.

<sup>3</sup>Art. 128.

agreement enumerated by the Convention. Furthermore the provisions in the Law related to the termination of employment are parallel to the relevant provisions in the Convention.<sup>1</sup>

2. Medical Examination: Under the Law on Maritime Commerce, no seaman may be employed without having produced a medical certificate of fitness for the job applied for. Such provisions conform textually to the terms under the International Labor Convention No. 16 on 'Medical Examination of Seafarers'.

3. Sickness Insurance: While the Law on Maritime Commerce does not conform to all the provisions under the International Labor Convention on sickness insurance (Sea), it nevertheless adopts certain important principles embodied in the Convention, namely, that Every seaman who gets wounded or falls sick while on board ship is entitled to his wages in full so long as he remains on board. After he is landed ashore, he shall be entitled to a cash benefit equivalent at least to his normal wages for four months."<sup>2</sup>

4. Repatriation: The similarity between the provisions in the Law and the terms of the Convention on 'Repatriation of Seamen' does not escape attention. Article 152 of the Law states the following:

The shipowner is under obligation to repatriate seamen who leave the vessel in the course of a voyage for any reason; except for those who have been landed ashore

---

<sup>1</sup>Arts. 153-156.

<sup>2</sup>Art. 147.

by order of public authority or because of a wound or illness not caused by their work, and which cannot be treated on board. In the case of wilful termination of a work contract, the costs of repatriation shall be borne in accordance with the joint consent of the parties.

The right to repatriation includes board, food and transport.

Foreign seamen shall be entitled to the right of repatriation to the port where they assumed their work, or to a Lebanese port in case their work contract so provides.

Article 2 of the Convention concerning Repatriation entitles, inter alia, any seaman who is landed during the term of his engagement or on its expiration, to be taken back to his own country, or to the port where the voyage started. Article 5 of the same Convention provides that "the expenses of repatriation shall include the transportation charges, the accommodation, and the food of the seaman during the journey..."

The foregoing analysis serves to show that Lebanese legislation is in conformity with at least three International Labor Conventions relating to conditions of work for seafarers, namely, Convention No. 22 concerning 'Seamen's Articles of Agreement, Convention No. 23 concerning the Repatriation of Seamen', and Convention No. 73 on 'Medical Examination for seafarers. Lebanese legislation is also in harmony with other international labor instruments, viz., those relating to shipowners' liability in the case of sick and injured seamen, and sickness insurance for seafarers.

The need for further expansion in legislation relating to the

organization of working conditions for the seafarers in Lebanon may make itself more felt in the near future in view of the establishment of the first Lebanese Maritime and Shipping Company in 1963, which is expected to start operating in the middle of 1965.

## CHAPTER VI

### HAZARDS AND OPPORTUNITIES

#### I. The Influence of International Labor Standards on Future Legislation in Lebanon.

Has the legal system in Lebanon exhausted its ability to absorb international labor standards? In other words, has social progress relating more particularly to labor problems, reached its limit, or are there grounds for the belief in the possibility of introducing new legislation compatible with the need for social development?

International Labor Standards continue to play an important role in shaping labor legislation in Lebanon. The question of the influence of such standards on future legislation in Lebanon is not a matter of prophecy. It is rather based on concretized efforts to introduce new labor laws.

The increasing pace of industrial development which marked the 1950's in Lebanon was not accompanied by a parallel development in social legislation. The need was felt for a revision of the labor Code and the coordination of all rules and regulations relevant to labor problems into a coherent form.

#### A. The Draft New Labor Code: In 1955, a tripartite committee<sup>1</sup>

---

<sup>1</sup>The Members of the Committee were: Mr. Nadim Harfouche, Director General of the Ministry of Social Affairs, (Chairman); Mr. Rachid Solh, President of the Labor Arbitration Council of Beirut; Mr. Fuad Nasr, Chief, Department of Labor Inspection; Mr. Khalil Soubra and Mr. Fuad Diryan, members of the Arbitration Council representing employers and workers respectively.

was appointed to prepare proposals for introducing the necessary amendments in labor legislation in line with the socio-economic development of the country. The Committee interpreted its terms of reference to include the task of preparing a new labor code which would be based on the following principles:

- 1) Safeguarding of the acquired rights of workers;
- 2) harmony with the stage of socio-economic development of the country;
- 3) raising the standard of living of workers; and
- 4) adopting the principles embodied in International Labor Conventions and Recommendations.<sup>1</sup>

The new Draft Labor Code was submitted to the Minister of Labor and Social Affairs in 1955.

The principles incorporated into the Draft Code included first of all provisions for the regularization of foreign work in Lebanon with a view to protecting national labor.

Secondly, the Draft Code introduced for the first time the principle of Collective Agreements.

Apprenticeship was referred to in the 1946 Code. The New Draft Code, however, enlarged the idea and outlined the principles which should govern apprenticeship contracts; particular measures required to render apprenticeship most effective and the matter of equitable remuneration.<sup>2</sup>

Fourthly, the Draft Code enlarged the scope of legislation relating to the protection of safety and health of workers.

---

<sup>1</sup>See Explanatory Note to the Draft Code.

<sup>2</sup>Arts. 24 and 28.

Fifthly, occupational diseases were included among the group of employment injuries in respect of which workers are entitled to remuneration.

Sixthly, the procedures in Councils of Arbitration were further clarified.

It will be noticed that the main novel concept introduced by the new Draft Code is the concept of Collective Agreements. However, the New Draft Code was subject to criticism from both employers and workers, especially the former found the provisions relating to collective agreements, apprenticeship and arbitration much more ahead of the social awakening of the parties concerned. Discussions dragged until the Minister of Labor and Social Affairs, in view of the rising frequency of strikes in industrial establishments, mainly in the textile industry which alone gives employment to over 10% of the total number of industrial labor force, decided to introduce the principle of collective agreement separately, in the belief that industrial relations could better be maintained on a national level through collective discussions in each industry or group of similar industries or trades.

The Minister of Labor also found it more expedient to put into immediate effect the proposed provisions relating to the protection of national labor against imported labor. Accordingly a Decree was issued in 1963 relating to the organization of Foreign Work in Lebanon.

More important, however, remains the Draft Law on Collective Agreements, which was submitted to Parliament by the Ministry of Labor through the Council of Ministers.



B. The Draft Law on Collective Agreements: Collective Agreements are defined by the relevant international labor Recommendation (No. 91) as meaning "...all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more representative workers' organizations, or in the absence of such organizations, the representatives of workers duly elected and authorized by them in accordance with national laws and regulations."<sup>1</sup>

The main objectives behind the principle of collective agreements are (a) to raise the standard of work to a level compatible with the socio-economic development of any one country, (b) to establish some degree of social balance between workers and employers, in the same craft, and (c) to maintain a balance in the working conditions in the same craft, thus avoiding inequitable competition between establishment in the same craft or industry.

How do the principles referred to above harmonize with the proposed Draft in Lebanon?

The first part of the Draft Law on Collective Agreements is consecrated to the definition of collective agreements. The Draft Law adopts the definition given in the International Labor Recommendation on Collective Agreements. It goes further to define what it considers as "representatives of Workers duly elected and authorized." The Draft

---

<sup>1</sup>Para. II(1).

insists that persons or organizations negotiating a collective agreement on behalf of the workers must prove first their acting on behalf of at least 60% of the workers concerned. However, the Draft Law fails to specify the methods to be followed in ascertaining such representation.

The preamble to the Recommendation on collective agreements indicates that the Recommendation is "...designed to be implemented by the parties concerned or by the public authorities as may be appropriate under national conditions." The draft Law exploits this provision to a maximum when it provided that any collective agreement negotiated between workers and employers does not come into force until its publication in the Official Gazette by the Ministry of Labor and Social Affairs.<sup>1</sup> Labor Unions have contested this limitation on the grounds that it involved a contradiction to the provisions of International Labor Conventions Nos. 78 and 89 relating to the freedom of association and the right to organize collective bargaining respectively.<sup>2</sup>

Whatever value judgement may be passed on the limitations on the right to conclude collective agreements thus contested by labor unions in Lebanon, such limitations do not involve any violation of the obligations of Lebanon under the Constitution of the I.L.O. since, in the

---

<sup>1</sup>Art. 6.

<sup>2</sup>Union of Labor Syndicates Memorandum of May 17 to the Minister of Labor and Social Affairs concerning the Draft Law on Collective Agreements, Conciliation and Arbitration.

first place Lebanon is party to neither of the two Conventions on which the workers base their opposition. In the second place the limitations under question are in full harmony with the principles embodied in the Recommendation on Collective Agreements. For, during the discussion of the Recommendation in its draft form at the 34th Session of the International Labor Conference, it was made clear that "...States Members should be left complete freedom of choice between the method of implementation by agreement or that of implementation by legislation."<sup>1</sup>

Section Two of the Draft Law deals with the methods of extending the applicability of all or particular provisions of a collective agreement to all workers and employers included within the industrial and territorial scope of the Agreement. The Draft Law considers the possibility of such an extension in any one or more of the following cases: (a) upon the request of either an employers' or workers' organization, (b) upon the request of any one employer, and (c) upon the desire of the Minister of Labor and Social Affairs, after consultation with the High Committee on Collective Agreement provided for in the Draft Law.<sup>2</sup>

While the provisions of the Draft Law on Collective Agreements are in fact a reflection of most of the principles and norms embodied in the relevant Recommendation (No. 91), yet they neglect an important provision, namely, that "prior to the extension of an agreement, the employers

---

<sup>1</sup>I.L.O., Record of Proceeding of the 34th Session, (Geneva: Publications of the International Labor Office, 1955), p. 602.

<sup>2</sup>Art. 14.

and workers to whom the agreement would be made applicable by its extension should be given an opportunity to submit their observations."<sup>1</sup> True as it is that the Draft Law provides for the establishment of a tripartite High Committee on Collective Agreements with consultative functions, the workers and employers representatives in that Committee do not necessarily represent the particular craft or industry in regards to which the extension of a collective agreement may be contemplated. Aside from this discrepancy, the terms of the Draft Law on Collective Agreements are in full harmony with the principles and norms laid down in Recommendation 91, aforementioned.

However, in view of the protests of both employers' and workers' organizations, and in view of the desire to make this Draft more compatible with the potentialities of either party to whom it is destined to apply, the Ministry of Labor and Social Affairs withdrew the Draft from the Chamber in order to introduce certain amendments required to make the Law more applicable.

## II. Possibilities of Additional Ratifications.

Chapter IV discussed in a rather detailed manner the steps which led to the ratification of the seven International Labor Conventions by Lebanon. Such a detailed description was not undertaken without a purpose. It serves to point out to the difficulties of ratification of

---

<sup>1</sup>Part V(2), c.

ratification of international labor conventions in Lebanon. These difficulties may seem, on the surface, to be purely procedural. Unfortunately, however, although government red-tape plays an important role in delaying action in this regards, yet this represents only one side of the picture. The more serious, and, for that matter, the more gloomy side of the picture is that there is a general unawareness of the importance of active membership in the International Labor Organization. Such unawareness was manifested in the puzzled answers which the author received in return for his inquest as to the reasons Lebanon has not accepted international obligations vis a vis already existing in the country.

The question may be posed as to what difference it makes whether Lebanon, and, for that matter any Member of the I.L.O., ratifies international Labor Conventions or not, since the Government may have already incorporated the norms and principles embodied in these international instruments in the domestic law of the country. In other words, what makes the subjects treated in international labor conventions international? Why cannot they be treated as purely domestic matters best dealt with by each state in accordance with its own needs and potentialities?

Labor legislation places certain financial obligations upon the economy of a state. The more advanced the social legislation of any given country, the less its ability to compete commercially with countries with a lower level of social legislation. A unified code of international

labor legislation will help reduce this inequitable competition and the ensuing international economic friction.

From the social point of view, the laying down of international labor standards by members of the international family tends to universalize prosperity and to give workers everywhere the feeling of security.

From the political point of view the adoption of international labor standards serves many purposes. Most important of all is that the universalization of labor laws will help establish international social peace. Economic rivalry among nations will be reduced. The amelioration of conditions of work of nationals of other countries will help maintain peaceful and friendly relations among the states. Furthermore, international labor conventions relate most directly to international law, e.g., the equality of treatment between nationals and non-nationals in social security, the repatriation of seamen, migration, etc. As such international labor conventions are sources of international law; and States which have participated in the laying down of rules of international law are bound to observe these rules and to respect them.

The I.L.O., while never denying Lebanon any assistance it could provide, has never ceased to criticize it for failing to give formal recognition to International Labor Conventions. However, the increasing contacts between the officials of the I.L.O. and the Government Officials in Lebanon since 1957, the efforts of the Association of Lebanese Industrialists, the election to the Governing Body of Dr. Rida Wahid,<sup>1</sup> the Director General of the Ministry of Labor and Social Affairs and Mr.

---

<sup>1</sup>Now Minister of Labor and Social Affairs.

Gabriel Khoury, the President of the Union of Labor Syndicates, as substitute Members in 1963 have helped greatly the adoption of a closer official attitude towards the Organization. It is worth noting that the ratification of fourteen more International Labor Conventions is being contemplated by the Government. In fact a draft Law is being prepared to authorize the Government to ratify the following Conventions:

Convention No. 1	concerning	Hours of Work (Industry)
Convention " 3	"	Maternity Protection
Convention " 15	"	Minimum Age
Convention " 17	"	Workmen's Compensation (Accidents)
Convention " 19	"	Equality of Treatment (Accident Compensation)
Convention " 30	"	Hours of Work (Commerce and Offices)
Convention " 41	"	Night Work of Women (Revised)
Convention " 59	"	Minimum Age (Industry - Revised)
Convention " 60	"	Minimum Age (Non-Industrial employment)
Convention " 77	"	Medical Examination of Young Persons (Industry)
Convention " 78	"	Medical Examination of Young Persons (Non-Industrial occupations)
Convention " 88	"	Employment Services
Convention " 95	"	Protection of Wages
Convention " 100	"	Equal Remuneration.

## CONCLUSION

To sum up, Lebanon has ratified only seven International Labor Conventions. However, we have seen that this cannot and should not be taken as a gauge to the country's progress in social legislation.

Many factors have to be taken into consideration in order to determine the influence of international labor standards - the economic and social development of the country, the number of ratified conventions, the dates of their ratification and the date of similar national laws and regulations. However, whatever the results, the over all appraisal of the influence which international labor standards have had on Lebanese labor and social legislation as a whole cannot be assessed by the mere reference to ratified conventions. For as we have seen in the previous pages, unratified conventions and recommendations, which are not open for ratification, have played a decisive role on labor legislation in Lebanon. We have noted that the terms of at least 35 Conventions are incorporated in the Labor Code and other pertinent legislation. We have also noted the reliance upon, and the importance attached to, international labor standards in the drafting of social legislation in Lebanon. For Lebanon, being a young State, has to draw upon the experiences of the more developed and more highly industrialized states. The International Labor Organization, being an international forum for labor and social questions, represents the best conveyor of such



experiences.

Nor is the number of ratifications of international labor conventions deposited by any one country a measure of that country's readiness to comply with international standards of labor. For conditions among the various countries are very dissimilar. Some countries may be adhering to far more developed standards than those laid down by the I.L.O. but refrain from ratification of international labor conventions for national or ideological reasons. Still, some of the international labor conventions and recommendations, while of great importance to one country may be completely irrelevant to another. It would be of no help to the country's social development should Lebanon, for example, ratify Convention No. 31 concerning hours of work in coal mines when no such activity is undertaken in Lebanon. The same applies in the case of the three conventions (Nos. 112, 113, 114) relating to conditions of work for fishermen, when Lebanon has not developed as yet any fishing industries and where fishing is carried so far by members of one family, who, in any case, would be excluded from the provisions of international conventions. Furthermore, the ratification of the Convention on Radiation, for example, would also be a mere act of good will but with no consequence on the social development of the country, since the problems arising from radiation do not exist in Lebanon.

The irrelevancy, or rather the inapplicability of certain international labor conventions and recommendations in Lebanon is sometimes not only the result of the stage of economic and social development of

the country, but also of the political and demagogical structure of the country. Lebanon has no colonies nor is it a trustee of any territory. As such, international standards relating to conditions of work in non-metropolitan countries have no direct bearing to Lebanon; except perhaps in the case where the Government may have political aims transcending its political borders, namely, in case the Government wishes to join international labor conventions relating to non-metropolitan territories so that it may be able to play a part in ascertaining the abidance by international standards in such territories. For, in that case, should any country which may be responsible for the administration of any area outside its territory, and which is a signatory to the conventions relating to non-metropolitan territories, violate any of the terms of such conventions with respect to the non-metropolitan territories for which it is responsible, Lebanon will be in a position to come to the side of these territories and raise complaints against the violating country. We have seen a clear example of this in the case of Ghana vs. Portugal, to which the United Arab Republic also associated itself on the side of Ghana.

What has been said with respect to international labor standards relating to non-metropolitan territories also applies to standards relating to indigenous workers.

Moreover, it would be detrimental to the national economy of the country and also to social stability, should Lebanon decide to adopt international labor standards which are directed towards the more developed

economies. For example, should Lebanon adopt the forty-hour week convention, with the productivity of workers in Lebanon at its low level, such an adoption would immediately lead to a decrease in productivity with a corresponding effort on the part of employers to reduce wages, which action will most certainly be resisted by workers. And this will involve the country in serious social disturbances.

Nevertheless, among the underdeveloped countries, Lebanon ranks high in the progress it has achieved with respect to social legislation along the lines suggested by international labor standards. It is hoped that this would not be a cause for content and resignation but an incentive for the future.

## APPENDIX I

## MEMBERSHIP OF THE I.L.O.

<u>States</u>	<u>Date of Membership</u>
Afghanistan	Since 1934
Albania	Since 1920
Algeria	Since 1962
Argentina	Since 1919
Australia	Since 1919
Austria	From 1919 to 1938 and since 1947
Belgium	Since 1919
Bolivia	Since 1919
Brazil	Since 1919
Bulgaria	Since 1920
Burma	Since 1948
Burundi	Since 1963
Byelorussia	Since 1954
Cameroon	Since 1960
Eastern Cameroon	
Western Cameroon	
Canada	Since 1919
Central African Republic	Since 1920
Ceylon	Since 1948
Chad	Since 1960
Chile	Since 1919
China	Since 1919
Colombia	Since 1919
Congo (Brazzaville)	Since 1960
Congo (Leopoldville)	Since 1960
Costa Rica	From 1920 to 1927 and since 1944
Cuba	Since 1919
Cyprus	Since 1960
Czechoslovakia	Since 1919
Dahomey	Since 1960
Denmark	Since 1919
Dominican Republic	Since 1924
Ecuador	Since 1934
Ethiopia	Since 1923
Finland	Since 1920
France	Since 1919
Gabon	Since 1960
Fed. Rep. of Germany	From 1919 to 1935 (Germany) and since 1951

Ghana	Since 1919
Greece	Since 1919
Guatemala	From 1919 to 1935 (Germany) and since 1945
Rep. of Guinea	Since 1959
Haiti	Since 1919
Honduras	From 1919 to 1938 and since 1955
Hungary	Since 1922
Iceland	Since 1945
India	Since 1919
Indonesia	Since 1950
Iran	Since 1919
Iraq	Since 1932
Ireland	Since 1923
Israel	Since 1949
Italy	From 1919 to 1939 and Since 1945
Ivory Coast	Since 1960
Jamaica	Since 1962
Japan	From 1919 to 1940 and since 1951
Jordan	Since 1956
Kuwait	Since 1961
Lebanon	Since 1948
Liberia	Since 1919
Libya	Since 1952
Luxembourg	Since 1920
Malgasy Rep.	Since 1960
Malaysia	Since 1957
Republic of Mali	Since 1960
Islamic Rep. of Mauritania	Since 1961
Mexico	Since 1931
Morocco	Since 1956
Netherlands	Since 1919
New Zealand	Since 1919
Nicaragua	From 1919 to 1938 and since 1957
Niger	Since 1961
Nigeria	Since 1960
Norway	Since 1919
Pakistan	Since 1947
Panama	Since 1919
Paraguay	From 1919 to 1937 and since 1956
Peru	Since 1919
Philippines	Since 1948
Poland	Since 1919
Portugal	Since 1919
Rumania	From 1919 to 1942 and since 1956
Rwanda	Since 1962
El Salvador	From 1919 to 1939 and since 1948

Senegal	Since 1960
Sierra Leone	Since 1961
Somali Rep.	Since 1960
Former Trust Territory of Somaliland	
Former British Somaliland	
Republic of South Africa	Since 1919
Spain	From 1919 to 1941 and since 1956
Sudan	Since 1956
Sweden	Since 1919
Switzerland	Since 1919
Syrian Arab Republic	From 1947 to 1958 (Syria) and since 1961
Tanganyika	Since 1962
Thailand	Since 1919
Togo	Since 1960
Trinidad and Tobago	Since 1963
Tunisia	Since 1956
Turkey	Since 1932
Uganda	Since 1963
Ukraine	Since 1954
United Arab Republic	From 1963 to 1958 (Egypt) and since 1958
United Kingdom	Since 1919
United States	Since 1934
Upper Volta	Since 1960
Uruguay	Since 1919
U.S.S.R.	From 1934 to 1940 and since 1954
Venezuela	From 1919 to 1957 and since 1958
Viet-Nam	Since 1950
Yugoslavia	From 1919 to 1949 and since 1951

## Appendix II

### Constitution of the Commission on International Labor Legislation

#### United States of America

Mr. Samuel Compers, President of the American Federation of Labor;  
Hon. A.N. Hurley, President of the American Shipping Board.  
Substitutes: Hon. H.M. Robinson, Dr. J.T. Shotwell, Professor at  
Columbia University.

#### The British Empire.

The Rt. Hon. G.N. Barnes; M.P., Member of the War Cabinet. (Substi-  
tute: Mr. H.B. Butler, C.B., Assistant Secretary, Ministry of  
Labour.) Sir Malcolm Deleringne, K.C.B., Assistant Under-Secretary  
of State, Home Office.

#### France.

Mr. Colliard, Minister of Labour. (Substitute: Mr. Arthur  
Fontaine, Counsellor of State, Director of Labour.) Mr. Loucheur,  
Minister of Industrial Reconstruction. (Substitute: Mr. Leon  
Jouhaux, General Secretary of the Confederation Generale du Travail.)

#### Italie.

Baron Mayor des Planches, Hon. Ambassador, Commissioner-General for  
Emigration. Mr. Cabrini, Deputy, Vice-President of the Supreme  
Labour Council. (Substitute: Mr. Coletti.)

#### Japan.

Mr. Otchiai, Envoy Extraordinary, Minister Plenipotentiary of His  
Majesty The Emperor of Japan at The Hague. Mr. Oka, formerly  
Director of Commercial and Industrial Affairs at the Ministry of  
Agriculture and Commerce.

#### Belgium.

Mr. Vandervelde, Minister of Justice and of State. (Substitute:  
Mr. La Fontaine, Senator.) Mr. Mahaim, Professor at Liege University,  
Secretary of the Belgian Section of the Association for the Legal  
Protection of Workmen.

Cuba.

Mr. De Bustamante, Professor at Havana University. (Substitutes: Mr. Raphael Martinez Ortiz, Minister Plenipotentiary; Mr. De Blanck, Minister Plenipotentiary.)

Poland.

Count Zoltowski, Member of the Polish National Committee, afterwards replaced by Mr. Stanislas Patck, Counsellor of the Court of Cassation. (Substitute: Mr. Francois Sokal, Director-General of Labour.)

Czecho-Slovak Republic.

Mr. Benes, Minister for Foreign Affairs, afterwards replaced by Mr. Rudolph Broz.



### Appendix III

#### Composition of the Committee of Experts

- Sir Grantley ADAMS**, Q.C. (Barbados),  
Former Premier of the West Indies; former delegate to the United Nations Assembly;
- Sir Adetokunbo ADEMOLA** (Nigeria),  
Chief Justice of the Federation of Nigeria;
- Baron Frederik M. Van ASBECK** (Netherlands),  
Former Professor of International Law and of Comparative Constitutional Law of Non-Metropolitan Countries at the University of Leyden; Member of the Permanent Court of Arbitration; Judge of the European Court of Human Rights; Member of the Institute of International Law; former Member of the Mandates Commission of the League of Nations;
- Mr. Henri BATIFFOL** (France),  
Professor of Private International Law at the Faculty of Law and Economics of the University of Paris; Member of the Institute of International Law; Member of the Curatorium of the Academy of International Law;
- Mr. Gunther BEITZKE** (Federal Republic of Germany),  
Dean of the Faculty of Law of the University of Bonn; Professor of Civil Law and of Private International Law at the University of Bonn; Director of the Institute of Private International Law and Comparative Law at the University of Bonn;
- Mr. Choucri CARDAHI** (Lebanon),  
Former Minister of Justice; Honorary First President of the Supreme Court of Appeal of Lebanon; Honorary Professor of Law at the University of Beirut; Corresponding Member of the Institute of France (Academy of Moral and Political Sciences); Professor at the Academy of International Law of The Hague, 1933 and 1937;
- Mr. Isaac FORSTER** (Senegal),  
First President of the Supreme Court of the Republic of Senegal;
- Mr. E. GARCIA SAYAN** (Peru),  
Former Professor of Civil Law at the University of Lima; former Minister of Foreign Affairs; Member of the Advisory Council on Foreign Affairs; Vice-President of the Inter-American Commercial Arbitration Commission;

- Mr. Arnold GUBINSKI (Poland),  
Doctor of Laws; Lecturer of Law at the University of Warsaw;  
Chairman of the Working Party of the Codification Commission on the  
Legal Liability of Minors; Member of the Working Party on the  
Systemisation of Labour Law;
- Mr. Paul M. HERZOG (United States),  
President, American Arbitration Association, 1958-63; Associate  
Dean, Graduate School of Public Administration, Harvard University,  
1945-53; Chairman of the New York State Labor Relations Board,  
1937-44; Member of the United States Government Delegation to the  
International Labour Conference, 1950;
- Begum Liaquat Ali KHAN (Pakistan),  
Ambassador to Italy and Tunisia; former delegate to the United  
Nations Assembly; former Professor of Economics at the Inderprastha  
College, Delhi University; former Ambassador to the Netherlands;
- Mr. H.S. KIRKALDY (United Kingdom),  
Barrister; Professor of Industrial Relations at the University of  
Cambridge; Deputy-Chairman of the Royal Commission on National  
Incomes; Member of the United Kingdom Delegation to the sessions of  
the International Labour Conference, 1929-44;
- Mr. E. KOROVIN (U.S.S.R.),  
Corresponding Member of the Academy of Sciences of the U.S.S.R.:  
Member of the Permanent Court of Arbitration; Professor of Interna-  
tional Law at the Faculty of Law of Moscow State University; former  
Director of the Law Institute of the Academy of Sciences of the  
U.S.S.R.: former Secretary-General of the Russian Red Cross;
- Mr. S. KURIYAMA (Japan),  
President of the Japanese Branch of the International Law  
Association; Member of the Permanent Court of Arbitration; former  
Judge of the Supreme Court of Japan (1947-56); former Ambassador  
to Belgium; former Minister of Japan to Sweden, Denmark and Norway;
- Sir Ramaswami MUDALIAR, K.C.S.I., D.C.L. (Oxon.), (India),  
Minister of the Government of India, 1939-46; Member of the  
Imperial War Cabinet, London, 1942-43; Prime Minister of Mysore  
State, 1946-49; President of the Economic and Social Council,  
1946 and 1947; leader of the Indian Delegation to the United  
Nations Conference on International Organisation (San Francisco,  
1945); Chairman of the International Civil Service Advisory Board,  
United Nations;
- Mr. Afonso Rodrigues QUEIRO (Portugal),  
Professor of International Law at the University of Coimbra;  
Member of the International Institute of Administrative Science;

Mr. Paul RUEGGER (Switzerland),

Ambassador; former Minister of Switzerland in Rome and London;  
President of the International Committee of the Red Cross,  
1948-55; Member of the Permanent Court of Arbitration; Associate  
Member of the Institute of International Law;

Mr. Isidoro RUIZ MORENO (Argentina),

Professor of International Public Law at the University of Buenos  
Aires; Member of the National Section of the Court of International  
Arbitration; Member of the Argentinian Institute of International  
Law; Member of the Brazilian Society of International Law; Member  
of the Institute of International Law of Chile; Member of the  
National Academy of Law.

## Appendix IV

### THE WRITTEN STATEMENTS SUBMITTED BY THE GOVERNMENT OF GHANA AND THE GOVERNMENT OF PORTUGAL

The information received from the Minister of Labour and Co-operatives of the Government of Ghana on 11 April 1961, following the decision adopted by the Governing Body of the International Labour Office on 10 March 1961, prior to the appointment of the Commission (see paragraph 7 above) was as follows:

1. I have the honour to refer to the decision of the 148th Governing Body of the International Labour Office inviting the Government of Ghana to submit a detailed account of the non-observance by the Government of Portugal of the Convention concerning the abolition of forced labour in Angola, Mozambique and other Portuguese territories in Africa.

2. I should like to state that, in view of the ruthlessness of the police and secret service of the Government of Portugal, I have decided not to mention the names and show the identity of the witnesses to all the forced labour atrocities and slavery appertaining in Angola, Mozambique and elsewhere. As some of these freedom fighters will return to Angola and Mozambique when those forlorn places have been liberated from the clutches and brutality of Portuguese colonialism, it is inadvisable on security grounds to allow Portugal to be aware of their existence.

3. The evidence I shall enumerate below have appeared in all respected newspapers of the N.A.T.O. powers, such as the London Times, New York Times, the Toronto Globe and Mail, Le Monde de Paris, etc. Can anyone deny the truth of these statements when they have been headlined by these newspapers, uttered in the Security Council of the United Nations and the General Assembly by statesmen of impeccable character? Portugal has erected a bamboo curtain around her colonies in Africa but sufficient evidence has been gathered by Ghana and other countries to warrant the establishment of a Commission of Inquiry by the International Labour Organization.

4. It is the view of the Ghana Government that an inquiry should be instituted to check the veracity or otherwise of this tale of woe and misery which I shall shortly recount. The International Labour Organization would fail in its duty if it were to listen to sweet pleadings of the Government of Portugal, if it were to be beguiled by the fact that since Portugal adopted in 1958 the Convention on the Abolition

of forced labour all is well in Portuguese Africa. It is true that the recent Native Labour Code is based on Convention 105. But the Government of Ghana holds firmly to the view that Portugal only ratified the Convention as a cover to continue her ruthless labour policies.

5. It has been said that as far as the Government of Portugal is concerned only the dead African is spared from forced labour and slavery. Forced labour in those unhappy places is today indistinguishable from outright slavery. Africans are rounded up for private employers by professional recruiters who threaten to have them drafted into the army or into government labour gangs for even lower wages than the nine dollars a month they receive from private employers. If there is a shortage of manpower to fill work quota Africans are often taken from their homes and sent to distant labour gangs even though they have already worked their statutory six months. As if not enough, forced labour is not confined to men only, but women, pregnant women, children, are recruited with gladness Portuguese officials when there is a shortage of labour for a required contract.

6. Some of the refugees from Angola to Accra Conakry and elsewhere have all related similar abuses. Chiefs of all villages and towns are ordered by law to contribute a large number of workers monthly as free labour on government farms and plantations. Worst of all these African labourers are not paid but rather supplied with food rations at the end of each day. They have inadequate shelters built by themselves with palm trees and grass. The labourers work from morning till evening and any break for rest depends upon the whims and fancies of the overseers.

7. I shall now describe in detail the various forms of slave labour and forced labour still employed by the Portuguese in Africa.

- (a) Obligatory labour: In spite of the ratification of Convention 105 Africans are compelled to work on "public works of general or collective interest the results of which will benefit them, to fulfil judicial sentences of penal character, and to fulfil physical obligations". This means that Africans are requisitioned to work on public projects whenever voluntary workers are insufficient or there are disaster emergencies. Africans are forced to work to clean African dwelling areas and for local road construction. They receive menial wages for such obligatory labour except when working on roads. The unfortunate ones who work on roads in addition to receiving no pay have to furnish their own tools and their own food. Sometimes in lieu of prison sentences or to make up payments for taxes Africans are forced to work.
- (b) Contract labour: Africans are recruited under the supervision of provincial administrators to work on private or public projects. These Africans usually work outside the region in

which they normally reside, and thereby breaking up family ties unnecessarily. The minimum time to be engaged for contract work is six months. In theory Africans who can show that they have already worked during the past six months are exempted, but this exemption, in practice, does not arise since cheap labour is always short. Children under 14, the sick and the aged are also in theory exempted from work but in practice once they are not bedridden they are liable to be roped in for work. The exact number of Africans working under this category is difficult to ascertain; but it has been estimated by the U.P.A. (Union de la Population de Angola) to be about half a million Africans.

- (c) Voluntary labour: Under this system Africans work directly with an employer they normally work reside in their neighbourhood (sic.). The contract may be for varying lengths of time and is not under the direct supervision of the Provincial Administrator. There are estimated to be 400,000 Africans under this category.

8. Under all three categories of cheap labour the practice is even worse than the policies. The minimum requirements of any labour law are often not met. The commonest complaints are these. Inadequate wages, illegal extensions of contracts, use of pregnant women and small children in road projects, corporal punishments and bribes for forced labour from chiefs. These violations are not only committed by the Government of Portugal in Angola and elsewhere, but also by the private employer.

9. I could go on enumerating more of these social and inhuman evils, but I would just add a few examples to show the incessant brutality of the Portuguese in Africa.

- (a) The Benguela Railroad is partly maintained by forced labour.
- (b) The situation is sometimes worse than simple slavery. Under slavery the African is bought as an animal and his owner prefers him to remain as fit as a horse or an ox. If the African is not bought, but hired by the State, although the Portuguese cynically call him a free man, his employer cares little if he is sick or dies once he is working because when he is sick or dies his employer will simply ask for another African to replace him.
- (c) Forced labour is in general use on sugar, coffee, sisal and other European-owned plantations. The Portuguese Government allows a theoretical average of 33 contract workers for every 220 acres of plantation. Wages are very low and not fixed, the highest paid African on these plantations is about 2/6d. a day.
- (d) Working hours for all types of labour are from 5 a.m. to 7 p.m. Sundays included.

10. This tale of unhappiness would be incomplete if I did not mention that under a contract between the Government of Portugal and the Government of the Union of South Africa nearly 100,000 Angolans are shipped to work in mines in South Africa. To obtain this large supply of labour entails bribing the chiefs; it entails brutality against the Africans who may resist, and it entails broken homes and unhappiness all round.

11. It is the earnest hope of the Government of Ghana that the conscience of members of the Governing Body of the International Labour Office will be sufficiently aroused by the above evidence and so set in a Commission of Inquiry without further delay.

The observations received from the Portuguese Government on 27 May 1961 in reply to the above-mentioned communication from the Government of Ghana (see paragraph 8 above) were as follows:

(Translation)

1. On 25 February 1961 the Republic of Ghana filed with the I.L.O., Geneva, a complaint against Portugal concerning the non-observance of the Abolition of Forced Labour Convention (No. 105) in the African provinces of Mozambique, Angola and Guinea.

The Governing Body of the International Labour Office received the complaint and requested the Government of Ghana to communicate to it within a period of six weeks from the date of the filing of the complaint "particulars of the grounds on which the Republic of Ghana is not satisfied that Portugal is securing the effective observance in her African territories of Mozambique, Angola and Guinea, of the provisions of the Abolition of Forced Labour Convention, 1957, and of the evidence which the Republic of Ghana adduces for the purposes of substantiating the complaint".

2. A document purporting to substantiate the complaint in the terms set forth above (those used by the Governing Body), has been filed by the Government of the Republic of Ghana with the International Labour Office; this document from Accra dated 6 April was filed subsequently to 8 April, at a date which it is not possible to establish.

The Portuguese Government, as the Government of the member State against which the complaint has been filed, was requested by letter No. ACD 14-3-1, dated 12 April 1961, to communicate "its observations concerning the complaint" to the International Labour Office within six weeks from the above-mentioned date. It is these observations that we have the honour to present in this document.

3. We may begin by making two observations on the subject of procedure.

In the first place, in view of the fact that a time limit of six weeks from the date of 25 February 1961 (the date of filing the complaint) was appointed for the Government of the Republic of Ghana to communicate particulars of the grounds and the evidence on which it bases its complaint, this time limit expired on 8 April.

Since the further document from the Republic of Ghana was lodged with the International Labour Office after that date, the said State has not conformed to the time limit appointed by the Governing Body.

The second observation has to do with the content of the document thus filed, but it is not directed to the substance of the question raised in the complaint and is still solely a matter of procedure.

The comment we wish to make is as follows. The Governing Body requested "particulars (in French: indications detaillées) of the grounds on which the Republic of Ghana is not satisfied that Portugal is securing the effective observance in her African territories of Mozambique, Angola and Guinea, of the provisions of Abolition of Forced Labour Convention, 1957, and of the evidence which the Republic of Ghana adduces for the purpose of substantiating its complaint". The document now filed does not fulfil the required conditions, since it confines itself to formulating vague accusations of a general nature which are not supported either by concrete facts or by evidence.

4. In making these observations, Portugal does not seek to evade the duty of answering the charges brought by the Republic of Ghana.

We merely wish to make it clear that from the procedural point of view the two reasons given above would be sufficient to justify taking no further action on the complaint, for the time limit has not been observed and no extension thereof has been requested by the party failing to observe it. Moreover, it is not possible to determine the substance of the complaint with any degree of clarity, and it is obviously the subject of the complaint which defines the subject of the procedure.

We wish to draw attention to these two points, although the Portuguese Government does not intend to rely on them and is not unaware of the absence of any rules of procedure in the Standing Orders of the Governing Body; nevertheless if these two points were passed over in silence a dangerous precedent might be created and the procedure to be followed for the consideration of complaints filed with the Governing Body of the International Labour Office might continue to be subject to the whims of the parties.

5. We will now examine the document in question, which will be analysed paragraph by paragraph.



At the outset, however, we are bound to make a formal protest at the language in which this document is couched. This language does not conform to the most elementary precepts of courtesy which should apply in relations between States, and for that very reason falls short of the respect which is due to the worthy traditions of the International Labour Organisation.

6. In paragraph 2 of the document in question (paragraph 1 is the introduction and contains no statement calling for comment) the Government of the Republic of Ghana endeavours to turn the difficulty of citing the evidence requested of it by the decision of the Governing Body. For this purpose, it alludes to an alleged and totally imaginary danger of victimisation by the Portuguese police and secret service (whatever that may be) of the witnesses who might have been named by the Government of Ghana in support of its complaint. We reject such allegations, merely pointing out that this device is easy and is unfortunately familiar, since it has been used all too frequently; it could obviously not be taken into consideration to dispense the Government of Ghana from doing what it has been asked to do, namely to adduce evidence.

7. Paragraph 3 is also dictated by the same desire to evade the obligation to furnish evidence. Can vague and imprecise reference to various newspapers and to statements made in the United Nations be considered adequate proof of the grave charges laid against Portugal? If the answer were in the affirmative, an extremely serious precedent would be created in the International Labour Office: it would suffice to lodge a complaint, however far-fetched and defamatory it might be, backed up by a vague reference to the Press and perhaps to the debates (almost always heated and lacking in objectivity) in the organs of the United Nations for the complaint to be regarded as proven.

8. Paragraph 4 contains nothing but inexactitudes or statements for which there is no foundation.

In point of fact, Convention No. 105 to which Ghana's complaint refers was not ratified by the Portuguese Government in 1958 as is stated in the text, but on 23 November 1959; the Convention accordingly came into force for Portugal on 23 November 1960.

After these dates, and contrary to what is stated in the paragraph in question, no "native labour code" has been published. The Native Labour Code in force in the Portuguese African provinces is dated 6 December 1928 (Decree No. 16199).

So much for the mistakes.

The unfounded statements are those which relate to the "firmly held view" of the Government of Ghana "that Portugal only ratified the Convention as a cover to continue her ruthless labour policies".

How can one make an assertion of this nature in an international organisation of the importance and prestige of the I.L.O. without at least making some serious attempt to substantiate it?

The want of courtesy in the language is directed to Portugal, but the irresponsibility of the statements is nonetheless a gesture of disrespect towards the Organisation.

9. Paragraph 5 is written in even more vague language than the previous ones.

It does not contain a single concrete fact; loose charges are levelled against Portugal, just as they might be against any other country, for it is always possible to accuse without saying why. We refrain from commenting further.

We confine ourselves to rejecting such statements formally and forcefully, as we do not wish to reverse the onus of proof which should rightfully rest upon the person making the charges.

10. In paragraph 6 further assertions unsupported by evidence are made. We repeat what we have said above in paragraph 9: the onus of proof is on the person making the charges. We reject such charges on the grounds of their falsity.

11. Paragraph 7 is the first one in which the Republic of Ghana makes an effort to provide some apparent substantiation of the complaint it has filed. We say "makes an effort to provide some apparent substantiation" as no evidence is adduced in relation to the accusations.

Thus, in subparagraph (a) - Obligatory labour, the passage cited has been taken from the text (not given) of Article 146 of the Portuguese Political Constitution.

It is wrongly transcribed. What is said in this provision is that "the State may only compel the natives to work on public works of general interest to the community, on tasks of which the finished product will belong to them, in the execution of judicial sentences of a penal character or for the discharge of fiscal liabilities". We might point out, in the first place, the bad faith in which the quotation is made, for the restrictive clause ("the State may only compel the natives....") which demonstrates the exceptional nature of this provision has been left out.

Under Portuguese law prohibition is the rule in matters of forced labour. Only in exceptional cases (i.e. in the cases contemplated in the constitutional provision reproduced above) is this form of labour authorised. This provision, incidentally, is in conformity with the wording of Article 8 of the draft Covenant on Human Rights approved by the Third Committee of the United Nations General Assembly (see document A/C.3/586 dated 7 December 1959).

Here again, Ghana does not adduce any concrete evidence. It confines itself to transcribing (and wrongly) a provision of which the source is not given and to indulging in absolutely fanciful comments thereon.

Subparagraph (b) - Contract labour: It is not known what this expression means in Ghana. In Portugal it means a meeting of the minds (contract) under which an individual undertakes to perform certain services in return for payment. It is, accordingly, a form of free labour.

The considerations developed in this paragraph concerning this form of work are absolutely false. We regret that the only authority quoted in support of such statements is the organisation responsible for the acts of terrorism perpetrated in the northern part of the province against peaceable and defenceless inhabitants, acts which by their gravity might well be described as genocide.

Subparagraph (c) - Voluntary labour: As stated above, voluntary labour is contract labour - Labour under contract. This paragraph makes a purely arbitrary distinction for which there is no justification.

12. In paragraph 8 the Government filing the complaint once again makes affirmations which are entirely devoid of foundation. We will not comment, except to say that it is up to Ghana to prove what it asserts.

13. Paragraph 9 purports to give a few examples of "the incessant brutality of the Portuguese in Africa". Once again these statements are not supported by any evidence.

Thus, in subparagraph (a) - Benguela Railroad: The staff employed by the Benguela Railroad, in Angola, at present comprises some 17,000 persons of both sexes, all of them Portuguese.

In the supervisory grades there are 3,383 negro, white and coloured (half-caste) employees who, if they possess the requisite qualifications, may occupy any position in the staff establishment without distinction of colour.

They likewise enjoy all the advantages under the applicable regulations, particularly accommodation or a housing allowance, free medical and pharmaceutical care, family allowances, holidays with pay, foodstuffs, clothing and other articles at reduced prices through the Company's commissary store, and entitlement to a retirement and survivor's pension if they are contributors to the company's Provident Fund.

The staff in the non-supervisory grades, i.e. the wage earners, number 13,628, all of whom without exception entered the employ of the company of their own free will.

Wages increases, which may be given each month, depend solely on the individual's greater or lesser ability to adjust himself to the work.

In addition to their wages the workers receive an attendance bonus which is proportional to the actual number of days worked in the course of each year.

Each worker taken on as a wage earner may advance into the supervisory grades as soon as he has acquired the necessary qualifications.

Every worker engaged for work of a permanent nature is given company housing for himself and his family. Whenever possible the company distributes allotments of land to the workers free of charge.

Wage earning workers are also entitled to medical and pharmaceutical care for themselves and their families, holidays with pay, facilities for purchasing foodstuffs at less than cost, and reduced-price clothing through the company's commissary store which operates on a non-profit-making basis. At the end of their working career the wage earners receive a gratuity corresponding to the number of years of service.

The company has welfare services which maintain kindergartens and primary schools and give tuition in home crafts for the workers' families.

- (b) Here again we are dealing with empty words. No facts are mentioned. We can reply to such false assertions, which are not supported by facts, only by saying that they are false. The only desire of the Portuguese Government is that the whole truth should be known.

Herein lies the radical difference between the position of the Portuguese Government and that of the Government of Ghana on this, as on many other matters.

- (c) Our answer to this accusation is as follows: Article 110 of the above-mentioned Labour Code makes provision for a nine-hour working day (daily hours of work are eight hours in the majority of cases and throughout the industrial sector, following ratification of Convention No. 1 of the International Labour Organisation). All workers are entitled to one day of weekly rest with pay.

14. In paragraph 10 Ghana reverts to its device of making downright false assertions.

In point of fact, and contrary to the statement in this paragraph, there is no contract or agreement between Portugal and the Union of South Africa on the subject of emigration from Angola to the Union.

15. The Ghana document ends with paragraph 11, in which it is stated:

"It is the earnest hope of the Government of Ghana that the conscience of members of the Governing Body of the International Labour Office will be sufficiently aroused by the above evidence and so set in a Commission of Inquiry without delay."

On the contrary, the Portuguese Government is sure that the Governing Body, in a matter where doubt is cast on the probity of a State member which has belonged to the I.L.O. since its inception and has always fulfilled its obligations under the Constitution and the international Conventions it has ratified, will not allow itself to be swayed by the completely unfounded statements of the Government of Ghana and will instead seek to discover the truth and nothing but the truth.

We count firmly on this and await with equanimity the decisions that the Governing Body may take to this end.



## Appendix VII

### INDUSTRIES IN WHICH THE EMPLOYMENT OF YOUNG PERSONS IS CONDITIONAL UPON THE PRESENTATION OF MEDICAL CERTIFICATES

1. Blood cooking.
2. Bone cooking.
3. Soap cooking.
4. Grease cooking.
5. Fertilizer cooking
6. All activities relating to leather manufacture.
7. Glue manufacture.
8. Cement.
9. Cotton harvest.
10. Glass manufacture.
11. Sugar manufacturing.
12. Cotton packing.
13. Printing.
- 14.
15. Manufacture of jute, cotton and wool.
16. Engraving on marble and all other stones.
17. Copper handicrafts.
18. Tobacco manufacture.
19. Cotton and silk machine spinning and weaving.
20. Building constructions, with the exception of building constructions in the country provided such constructions do not exceed 8 meters in height.

21.

22. Blacksmith works.

23. Transport of goods and passengers on roads, rails or rivers and the transport of goods in warehouses, on bridges and queues.



## Appendix VIII

### INTERNATIONAL LABOR CONVENTIONS

#### First Session (Washington) 1919

1. Hours of Work (Industry).
2. Unemployment.
- + 3. Maternity Protection.
- + 4. Night Work (Women).
- + 5. Minimum Age (Industry).
- + 6. Night Work of Young Persons (Industry).

#### Second Session (Genoa) 1920

- + 7. Minimum Age (Sea).
8. Unemployment (Shipwreck).
9. Placing of Seamen.

#### Third Session (Geneva) 1921

10. Minimum Age (Agriculture).
11. Right of Association (Agriculture).
12. Workmen's Compensation (Agriculture).
13. White Lead (Painting).
14. Weekly Rest (Industry).
15. Minimum Age (Trimmers and Stokers).
16. Medical Examination of Young Persons (Sea).

#### Seventh Session (Geneva) 1925

17. Workmen's Compensation (Accidents).
- + 18. Workmen's Compensation (Occupational Diseases).
19. Equality of Treatment (Accident Compensation).
20. Night Work (Bakeries).

#### Eighth Session (Geneva) 1926

21. Inspection of Emigrants.

#### Ninth Session (Geneva) 1926

22. Seamen's Articles of Agreement.
23. Repatriation of Seamen.

Tenth Session (Geneva) 1927

- 24. Sickness Insurance (Industry).
- 25. Sickness Insurance (Agriculture).

Eleventh Session (Geneva) 1928

- 26. Minimum Wage-Fixing Machinery.

Twelfth Session (Geneva) 1929

- 27. Marking of Weight (Packages Transported by Vessels).
- = 28. Protection against Accidents (Dockers).

Fourteenth Session (Geneva) 1930

- 29. Forced Labour.
- 30. Hours of Work (Commerce and Offices).

Fifteenth Session (Geneva) 1931

- +\*31. Hours of Work (Coal Mines).

Sixteenth Session (Geneva) 1932

- 32. Protection against Accidents (Dockers) (Revised).
- = 33. Minimum Age (Non-Industrial Employment).

Seventeenth Session (Geneva) 1933

- 34. Fee-Charging Employment Agencies.
- 35. Old-Age Insurance (Industry, etc.).
- 36. Old-Age Insurance (Agriculture).
- 37. Invalidity Insurance (Industry, etc.).
- 38. Invalidity Insurance (Agriculture, etc.).
- 39. Survivors' Insurance (Industry, etc.).
- 40. Survivors' Insurance (Agriculture).

Eighteenth Session (Geneva) 1934

- = 41. Night Work (Women) Revised).
- 42. Workmen's Compensation (Occupational Diseases) (Revised).
- 43. Sheet-Glass Works.
- 44. Unemployment Provision.

Nineteenth Session (Geneva) 1935

- 45. Underground Work (Women).
- \* 46. Hours of Work (Coal Mines) (Revised).

47. Forty-Hour Week.
48. Maintenance of Migrants' Pension Rights.
49. Reduction of Hours of Work (Glass-Bottle Works).

Twentieth Session (Geneva) 1936

50. Recruiting of Indigenous Workers.
- \* 51. Reduction of Hours of Work (Public Works).
52. Holidays with Pay.

Twenty-First Session (Geneva) 1936

53. Officers' Competency Certificates.
- +\*54. Holidays with Pay (Sea).
55. Shipowners' Liability (Sick and Injured Seamen).
56. Sickness Insurance (Sea).
- +\*57. Hours of Work and Manning (Sea).

Twenty-Second Session (Geneva) 1936

58. Minimum Age (Sea) (Revised).

Twenty-Third Session (Geneva) 1937

59. Minimum Age (Industry) (Revised).
60. Minimum Age (Non-Industrial Employment) (Revised).
- \* 61. Reduction of Hours of Work (Textiles).
62. Safety Provisions (Building).

Twenty-Fourth Session (Geneva) 1938

63. Statistics of Wages and Hours of Work.

Twenty-Fifth Session (Geneva) 1939

64. Contracts of Employment (Indigenous Workers).
65. Penal Sanctions (Indigenous Workers).
- =\*66. Migration for Employment.
67. Hours of Work and Rest Periods (Road Transport).

Twenty-Eighth Session (Seattle) 1946

68. Food and Catering (Ships' Crews).
69. Certification of Ships' Cooks.
- \* 70. Social Security (Seafarers).
71. Seafarers' Pensions.
- +\*72. Paid Vacations (Seafarers).
73. Medical Examination (Seafarers).

- 74. Certification of Able Seamen.
- =\*75. Accommodation of Crews.
- +\*76. Wages, Hours of Work and Manning (Sea).

Twenty-Ninth Session (Montreal) 1946

- 77. Medical Examination of Young Persons (Industry).
- 78. Medical Examination of Young Persons (Non-Industrial Occupations).
- 79. Night Work of Young Persons (Non-Industrial Occupations).
- 80. Final Articles Revision.

Thirtieth Session (Geneva) 1947

- 81. Labour Inspection.
- 82. Social Policy (Non-Metropolitan Territories).
- \* 83. Labour Standards (Non-Metropolitan Territories).
- 84. Right of Association (Non-Metropolitan Territories).
- 85. Labour Inspectorates (Non-Metropolitan Territories).
- 86. Contracts of Employment (Indigenous Workers).

Thirty-First Session (San Francisco)  
1948

- 87. Freedom of Association and Protection of the Right to Organise.
- 88. Employment Service.
- 89. Night Work (Women) (Revised).
- 90. Night Work of Young Persons (Industry) (Revised).

Thirty-Second Session (Geneva) 1949

- \* 91. Paid Vacations (Seafarers) (Revised).
- 92. Accommodation of Crews (Revised).
- +\*93. Wages, Hours of Work and Manning (Sea) (Revised).
- 94. Labour Clauses (Public Contracts).
- 95. Protection of Wages.
- 96. Fee-Charging Employment Agencies (Revised).
- 97. Migration for Employment (Revised).
- 98. Right to Organise and Collective Bargaining.

Thirty-Fourth Session (Geneva) 1951

- 99. Minimum Wage Fixing Machinery (Agriculture).
- 100. Equal Remuneration.

Thirty-Fifth Session (Geneva) 1952

- 101. Holidays with Pay (Agriculture).
- 102. Social Security (Minimum Standards).
- 103. Maternity Protection (Revised).

Thirty-Eighth Session (Geneva) 1955

104. Abolition of Penal Sanctions (Indigenous Workers).

Fortieth Session (Geneva) 1957

105. Abolition of Forced Labour.  
106. Weekly Rest (Commerce and Offices).  
107. Indigenous and Tribal Populations.

Forty-First Session (Geneva) 1958

108. Seafarers' Identity Documents.  
\*109. Wages, Hours of Work and Manning (Sea)(Revised)

Forty-Second Session (Geneva) 1958

110. Plantations.  
111. Discrimination (Employment and Occupation).

Forty-Third Session (Geneva) 1959

112. Minimum Age (Fishermen).  
113. Medical Examination (Fishermen).  
114. Fishermen's Articles of Agreement.

Forty-Fourth Session (Geneva) 1960

115. Radiation Protection.

Forty-Fifth Session (Geneva) 1961

116. Final Articles Revision.

Forty-Sixth Session (Geneva) 1962

117. Social Policy (Basic Aims and Standards).  
118. Equality of Treatment (Social Security).

Forty-Seventh Session (Geneva) 1963

- \*119. Guarding of Machinery.

---

\* Convention which has not yet received the required number of ratifications for entry into force.

+ Convention revised by a subsequent Convention.

= Convention no longer open to ratification as a result of the entry into force of a revising Convention.

## BIBLIOGRAPHY

### I.L.O. Documents

- I.L.O., Report of the Director General to the 26th Session, Geneva, 1944.
- \_\_\_\_\_, Report of the Director General to the 40th Session, Geneva, 1957.
- \_\_\_\_\_, Report of the Director General to the 41st Session, Geneva, 1958.
- \_\_\_\_\_, Report of the Director General to the 42nd Session, Geneva, 1958.
- \_\_\_\_\_, Report of the Director General to the 45th Session, Geneva, 1961.
- \_\_\_\_\_, Report of the Director General to the 7th Conference of American States Members of the I.L.O., Mexico City, 1961.
- \_\_\_\_\_, Report of the Director General to the 46th Session, Geneva, 1962.
- \_\_\_\_\_, Report of the Director General to the 47th Session, Geneva, 1963.
- \_\_\_\_\_, Record of Proceedings of the 31st Session of the International Labor Conference, Geneva, 1952.
- \_\_\_\_\_, Record of Proceedings of the 34th Session of the International Labor Conference, Geneva, 1955.
- \_\_\_\_\_, Record of Proceedings of the 46th Session of the International Labor Conference, Geneva, 1962.
- \_\_\_\_\_, Governing Body Proceedings, Geneva, 1927.
- \_\_\_\_\_, Governing Body Document No. 157/11/1.
- \_\_\_\_\_, Governing Body Document No. 158/2/5.
- \_\_\_\_\_, Report of the Ad Hoc Committee on Native Labor.
- \_\_\_\_\_, Report of the Ad Hoc Committee on Forced Labor, 1951.
- \_\_\_\_\_, Preliminary Draft of the Proposed International Institute for Labor Studies, Geneva, 1958.
- \_\_\_\_\_, Convention No. 1 Concerning Hours of Work (Industry), Washington, 1919.
- \_\_\_\_\_, Convention No. 3 Concerning Maternity Protection, Washington, 1919.
- \_\_\_\_\_, Convention No. 4 Concerning Nights Work (Women), Washington, 1919.

- \_\_\_\_\_, Convention No. 5 Concerning Minimum Age (Industry), Washington, 1919.
- \_\_\_\_\_, Convention No. 6 Concerning Night Work of Young Persons (Industry), Washington, 1919.
- \_\_\_\_\_, Convention No. 13 Concerning White Lead (Painting), Geneva, 1921.
- \_\_\_\_\_, Convention No. 14 Concerning Weekly Rest (Industry), Geneva, 1921.
- \_\_\_\_\_, Convention No. 15 Concerning Minimum Age (Trimmers and Stockers), Geneva, 1921.
- \_\_\_\_\_, Convention No. 16, Concerning Medical Examination of Young Persons (Sea), Geneva, 1921.
- \_\_\_\_\_, Convention No. 17 Concerning Workmen's Compensation (Accidents), Geneva, 1925.
- \_\_\_\_\_, Convention No. 18 Concerning Workmen's Compensation (Occupational Diseases), Geneva, 1925.
- \_\_\_\_\_, Convention No. 22 Concerning Seamen's Articles of Agreement, Geneva, 1926.
- \_\_\_\_\_, Convention No. 23 Concerning Repatriation of Seamen, Geneva, 1926.
- \_\_\_\_\_, Convention No. 24 Concerning Sickness Insurance (Industry), Geneva, 1927.
- \_\_\_\_\_, Convention No. 26 Concerning Minimum Wage-Fixing Machinery, Geneva, 1928.
- \_\_\_\_\_, Convention No. 29 Concerning Forced Labor, Geneva, 1930.
- \_\_\_\_\_, Convention No. 30 Concerning Hours of Work (Commerce and Offices), Geneva, 1930.
- \_\_\_\_\_, Convention No. 41 Concerning Night Work (Women) Revised, Geneva, 1934.
- \_\_\_\_\_, Convention No. 45 Concerning Underground Work (Women), Geneva, 1935.
- \_\_\_\_\_, Convention No. 52 Concerning Holidays with Pay, Geneva, 1936.
- \_\_\_\_\_, Convention No. 59 Concerning Minimum Age (Industry), Geneva, 1937.
- \_\_\_\_\_, Convention No. 60 Concerning Minimum Age (Non-Industrial Employment) Revised, Geneva, 1937.

- \_\_\_\_\_, Convention No. 62 Concerning Safety Provisions (Building), Geneva, 1937.
- \_\_\_\_\_, Convention No. 63 Concerning Statistics of Wages and Hours of Work, Geneva, 1938.
- \_\_\_\_\_, Convention No. 73 Concerning Medical Examination (Seafarers), Geneva, 1946.
- \_\_\_\_\_, Convention No. 77 Concerning Medical Examination of Young Persons (Industry), Geneva, 1946.
- \_\_\_\_\_, Convention No. 81 Concerning Labor Inspection, Geneva, 1947.
- \_\_\_\_\_, Convention No. 87 Concerning Freedom of Association and Protection of the Right to Organize, Geneva, 1948.
- \_\_\_\_\_, Convention No. 88 Concerning Employment Services, Geneva, 1948.
- \_\_\_\_\_, Convention No. 89 Concerning Night Work (Women), Revised, Geneva, 1948.
- \_\_\_\_\_, Convention No. 90 Concerning Night Work of Young Persons (Industry), Revised, Geneva, 1948.
- \_\_\_\_\_, Convention No. 95 Concerning the Protection of Wages, Geneva, 1949.
- \_\_\_\_\_, Convention No. 98 Concerning the Right to Organize and Collective Bargaining, Geneva, 1949.
- \_\_\_\_\_, Convention No. 100 Concerning Equal Remuneration, Geneva, 1951.
- \_\_\_\_\_, Convention No. 102 Concerning Minimum Standards of Social Security, Geneva, 1952.
- \_\_\_\_\_, Convention No. 105 Concerning the Abolition of Forced Labor, Geneva, 1957.
- \_\_\_\_\_, Convention No. 106 Concerning Weekly Rest (Commerce and Offices), Geneva, 1957.
- \_\_\_\_\_, Convention No. 111 Concerning Discrimination (Employment and Occupation).

Recommendation No. 5 Concerning the Establishment of Government Health Services, 1919.

\_\_\_\_\_ No. 20 Concerning the General Principles for the Organization of Systems of Inspection to Secure the Enforcement of the Laws and Regulations for the Protection of Workers, Geneva, 1923.

\_\_\_\_\_ No. 30 Concerning the Application of Minimum Wage-Fixing Machinery, Geneva, 1928.



Recommendation No. 31 Concerning the Prevention of Industrial Accidents,  
Geneva, 1929.

\_\_\_\_\_  
No. 35 Concerning Indirect Compulsion to Labour, Geneva,  
1930.

\_\_\_\_\_  
No. 36 Concerning the Regulation of Forced or Compulsory  
Labour, Geneva, 1930.

\_\_\_\_\_  
No. 41 Concerning the Age for Admission of Children to  
Non-Industrial Employment, Geneva, 1932.

\_\_\_\_\_  
No. 79 Concerning Medical Examination of Young Persons,  
Geneva, 1946.

\_\_\_\_\_  
No. 81 Concerning Labor Inspection, Geneva, 1947.

\_\_\_\_\_  
No. 91 Concerning Collective Agreement.

\_\_\_\_\_  
No. 97 Concerning the Protection of the Health of Workers  
in Places of Employment, Geneva, 1953.

\_\_\_\_\_  
No. 112 Concerning Occupation Health Services, Geneva,  
1959.

#### Other Documents

League of Nations, Document 17123, 19268.

\_\_\_\_\_, Report of the Commission on International Labor  
Legislation, Geneva, 1919.

International Association for Labor Legislation, Compte Rendu de la 3eme  
Assemblee Generale du Comite, Bele, 26, 27, 28 Sept., 1904,  
(Paris: Berger-Levant-et Cie, 1905).

Lebanon, The Constitution.

\_\_\_\_\_, Law of Contracts.

\_\_\_\_\_, Law of September 30, 1944.

\_\_\_\_\_, Labor Code, September 23rd, 1946.

\_\_\_\_\_, Law of Maritime Commerce, February 18th, 1947.

\_\_\_\_\_, Law of May 17, 1961 Concerning Minimum Wage.

\_\_\_\_\_, Law of June 21, 1962 Concerning the Employment of Foreigners.

- \_\_\_\_\_, Legislative Decree No. 204 N.I., August 27, 1942.
- \_\_\_\_\_, Legislative Decree No. 324 N.I., February 3rd., 1943.
- \_\_\_\_\_, Legislative Decree No. 25, E.T., May 12, 1943.
- \_\_\_\_\_, Legislative Decree No. I/T.B., July 24, 1943.
- \_\_\_\_\_, Legislative Decree No. 14106, May 2, 1949.
- \_\_\_\_\_, Decree No. 6341, October 24, 1951.
- \_\_\_\_\_, Decree No. 7955, March 28, 1952.
- \_\_\_\_\_, Decree No. 7973, April 3, 1952.
- \_\_\_\_\_, Decree No. 8698, June 16, 1952.
- \_\_\_\_\_, Decree No. 5768, December 23, 1960.
- \_\_\_\_\_, Decree No. 9931, July 2, 1962.
- \_\_\_\_\_, Decision No. 6695, April 1st, 1948.
- \_\_\_\_\_, Decision No. 225, December 3, 1955.
- \_\_\_\_\_, Decision No. 10, January 25, 1956.
- \_\_\_\_\_, Decision No. 30, February 30, 1956.
- \_\_\_\_\_, Decision No. 103, June 1st, 1956.
- \_\_\_\_\_, Decision No. 230, October 23rd, 1956.

#### Books

- Dicey, A., Law of the Constitution, (London: Macmillan and Co. Ltd., 1956).
- Dolleans, Edouard, Histoire du Mouvement Ouvrier, (Paris: Librairie Armand Colin, 1953).
- Federation of Labor Syndicates, Union Organization in Lebanon, (Beirut: Publications of the Federation of Labor Syndicates, 1963).
- Guepin, A., Nante au XIXeme Siecle, (Nante: Sabire, 1925).
- Harris, Herbert, American Labor, (New York: Yale University Press, 1938).
- Al-Hassan, Hassan, Constitutional Law and the Constitution in Lebanon, (Beirut: Dar Al-Hayat, 1959), Arabic.

Jenks, Wilfred C., The Common Law of Mankind, (London: Stevens and Sons Ltd., 1959).

\_\_\_\_\_, Human Rights and International Labor Standards, (London: Stevens and Sons Ltd., 1960).

Lauterpacht, Oppenheim's International Law, (London: Longmans, Greene and Co., 1958), 8th ed. v. 1.

Lowe, Boutelle, The International Protection of Labor, (New York: MacMillan and Co., Ltd., 1935).

Maclure, Stuart, If you Wish Peace Cultivate Justice, (Geneva: Sprint S.A., 1960).

Price, John, The International Labor Movement, (London: Oxford University Press, 1947).

Richardson, Henry, An Introduction to the Study of Industrial Relations, (London: Allen and Urwin, 1954).

Scott, Arthur P., An Introduction to the Peace Treaties, (Chicago: University of Chicago Press, 1920).

Scott & Baltzly, Readings in European History, (New York: Appleton, Century, Crofts, 1950).

#### Articles

Bawarshi, Tewfiq, "The Lebanese Labour Scene," Middle East Forum, vol. XXXIX, No. 6, June 1963.

Jenks, W.C., "The Application of International Labor Conventions by Means of Collective Agreements," Firstgabe Fur an Makarov, No. 1-3, Bonn, August, 1958.

Valticos, Nicholas, "The Influence of International Labor Standards on Greek Legislation," International Labor Review, vol. LXXI, No. 6, Geneva, 1955.

Wahid, Rida, "Relations Between Management and Workers," The Social Magazine, Vol. 1, No. 1, Nov., 1963 (Arabic).

#### I.L.O. Publications

I.L.O., Ghana vs. Portugal, 1962.

\_\_\_\_\_, International Labor Standards, Denmark, 1958.

- I.L.O., International Survey of Social Security, Geneva, 1950.
- \_\_\_\_\_, Freedom of Association, Geneva, 1959.
- \_\_\_\_\_, Model Code of Safety Regulations for Industrial Establishments for the Guidance of Government and Industry, Geneva, 1952.
- \_\_\_\_\_, Social Security, Geneva, 1960.
- \_\_\_\_\_, Vocational Training, Geneva, 1950.

Unpublished Documents

- Bureau International du Travail, Rapport au Gouvernement Libanais sur la Mission Portant sur la Formation Professionnelle, 1958.
- \_\_\_\_\_, Memorandum on the Draft Social Security Scheme, March, 1961.
- \_\_\_\_\_, Memorandum on the Draft Industrial Law, 1962.
- Ministry of Labor and Social Affairs, Social Policy in Lebanon, October, 1963.
- Minutes of the Meetings of the Administrative Committee of the Vocational Training Center for Adults, Lebanon, 1960-61.
- Union of Labor Syndicates in Lebanon, Memorandum on the Draft Law on Collective Agreements, May 17, 1961.

Personalities Interviewed

- Mr. Choucri Cardahi, Lebanon, Former Minister of Justice, Honorary First President of the Supreme Court of Appeal of Lebanon; Professor of Law at St. Joseph University, Corresponding Member of the Institute of France (Academy of Moral and Political Sciences); Professor at the Academy of International Law of the Hague, 1933 and 1937; Member of the I.L.O. Committee of Experts.
- Mr. Joseph Donato, Director General of the Office of Social Development, Lebanon.
- Mr. A. Guilleron, Industrial Chief Expert, Ministry of General Planning, Lebanon.
- Mr. Nicholas Khair, Chief, Labor Service, Ministry of Labor and Social Affairs, Lebanon.
- Mr. Elie Abu-Khalid, Chief, International Relations Section, Ministry of Labor and Social Affairs.
- The Rt. Hon. Hilary S. Marquand, Director of the International Institute for Labor Studies.
- Mr. Andre Morere, Chief of I.L.O. Mission to Lebanon on Vocational Training, 1957-1959.
- Mr. Marwan Nesr, First Executive Secretary of the Association of Lebanese Industrialists; Member of the Governing Body of the I.L.O.; Member of the Board of Directors of the International Institute for Labor Studies; Member of the Administrative Committee of the Vocational Training Center for Adults in Lebanon, Lebanese Employers' Delegate to the International Labor Conference since 1957.
- Mr. Andre Volentin, Chief of I.L.O. Mission to Lebanon on Vocational Training, 1959-1962.