Social Legislation in Paraguay

by

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Among the resolutions adopted by the International Labour Conference at its Twenty-sixth Session, recently held at Philadelphia[1], *was one expressing the hope that certain American States which do not at present form part of the International Labour Organisation will resume active membership, and welcoming the presence of observers from two of these countries, Nicaragua and Paraguay. The representative of the Government of Paraguay was Dr. Acosta, who in an address to the Conference spoke of his country's desire to bring its social legislation into line with the latest achievements in this field. The following brief survey of the present state of that legislation which he has written for the* Review *is intended by him as a contribution to that knowledge of each others' conditions which can be of service to the different countries in their efforts to improve their own.*

WHILE social problems in Paraguay are not yet as acute as in other, industrially more advanced countries, attention is nevertheless being given to the solution of those which have arisen in the same form as elsewhere in the world, and during the past four years social legislation has made considerable progress. Generally speaking, the laws are based on essentially practical considerations and on the experience of other countries, as well as on the political and economic conditions, the needs and resources of Paraguay.

The following article describes the new social institutions incorporated in the legislation of Paraguay, and brings out the determination of the present Government to promote, to the extent of its ability, the steady improvement of the social conditions of the workers.

[1] See above, pp. 1-39.

The National Department of Labour

The National Department of Labour was set up on 24 June 1936 by Legislative Decree No. 2,303, for the purpose of preventing and settling labour disputes, improving the living conditions of the workers, regulating the co-operation between the factors of national production, guaranteeing freedom of work and security for the workers, and promoting justice and respect for human personality.

Its activities were to aim at the progressive application of the following principles:

(*a*) Freedom of association for the workers;
(*b*) Freedom of work;
(*c*) Establishment of an eight-hour day and a forty-eight-hour week;
(*d*) Right to a Sunday rest;
(*e*) Right to a fair wage;
(*f*) Right to health assistance;
(*g*) Right of the worker to technical and vocational training and to general education to raise his level of culture;
(*h*) Compensation for industrial accidents;
(*i*) Regulation of the employment of women and children;
(*j*) Prohibition of night work for children;
(*k*) Assistance to working class mothers and children;
(*l*) Organisation of workers' co-operative societies;
(*m*) Payment of wages in cash;
(*n*) Compulsory inclusion of a workers' delegate and an employers' delegate in the National Department of Labour;
(*o*) Procedure for the prevention and settlement of questions arising between workers and employers;
(*p*) Voluntary arbitration;
(*q*) A permanent service for the inspection and supervision of industrial and commercial establishments to ensure the enforcement of the legislation concerning employment and the conditions of the workers.

The Department was reorganised in 1937 by Legislative Decree No. 3,080, and transformed from a temporary into a permanent Government institution, responsible for the settlement by judicial methods of disputes between capital and labour.

As the legal principles laid down in the Civil and Commercial Codes of the Republic of Paraguay were essentially individualistic, the National Department of Labour, in the exercise of its functions, was able to apply the labour legislation in force, together with a number of universally recognised principles of labour law. These principles were as follows: freedom of association for workers and employers; the right to a fair wage; payment of wages in cash; prohibition of night work for children; terms of contracts normally to be valid for the agreed period, and their clauses to have force of law for the parties; the parties to be entitled to ask for a variation in wages before the expiry of the term of the contract, in the event

of a rise or fall in general living conditions affecting the cost of living of working class families.

The National Department of Labour is the general authority for the administration of labour legislation. The important functions entrusted to this Department have made it the first of its kind in Paraguay. Its organisation and operation are gradually being improved with a view to establishing strict supervision of the enforcement of labour legislation, and providing an absolute guarantee of impartiality and fairness in the accomplishment of its functions as arbitrator in labour disputes.

The Sunday Rest

The Sunday rest was introduced by Act No. 242 of 7 June 1917. The general principle laid down is the prohibition on Sunday of physical work performed on account of another, and also of work performed publicly on a person's own account, in factories, workshops, commercial establishments, and other establishments or workplaces.

The Act was supplemented last year by an Act establishing a Saturday half-holiday, which gave legislative sanction to a custom of long standing in commerce and industry.

This legislation provides as a general rule for days of rest on Sundays and holidays, but allows the granting of the weekly rest on other days in the week in the case of employees and workers engaged in certain industries or kinds of work, in which a stoppage of work on Sundays would inevitably cause serious inconvenience.

Regulation of Hours of Work

With regard to the regulation of hours of work, Act No. 3,544 of 6 January 1938 has remained in force without amendment. Moreover, the Legislative Decree of 24 June 1936 setting up the National Department of Labour explicitly recognises the principles on this subject embodied in Article 41 of the Constitution of the International Labour Organisation and approved by the first International Labour Conference, held in Washington in 1919.

The Act lays down that hours of work may not exceed eight in the day or forty-eight in the week for any person of either sex employed on account of another in a public or private undertaking. An exception is made in the case of work in agriculture, stock raising, and domestic service, and for urgent repairs to machinery or working premises necessary to prevent a serious interruption of the regular operation of the undertaking.

Furthermore, the working day is limited to six hours in the

case of work performed in unhealthy places, or work which by its nature may be prejudicial to the worker's health.

The practical application of the Act must be co-ordinated with that of the Act concerning the Saturday half-holiday so as to provide for a free Saturday afternoon. Hence the eight-hour day may be extended by thirty minutes to make up the forty-eight-hour week.

Overtime must be paid for at time-and-a-half rates, unless higher rates are provided under the contract of employment. Night work and work on Sundays and holidays is normally paid at double the usual rates.

A comparison between the international labour Conventions on hours of work adopted at Washington and Geneva and the legislation in force in Paraguay shows that in many respects the latter is more favourable to the workers. In the case of unhealthy work, the number of hours which may be worked either as normal hours or as overtime is less, and the scope of the Act is wider, since the only exceptions made are for work in agriculture, stock raising, and domestic service.

Regulation of Wages

Wage legislation differs according as wages are considered from the point of view of the minimum wage, the living wage, or the fair wage. In Paraguay the Government adopted on 5 October 1943, after thorough study by representatives of workers, employers, and the Government, a Legislative Decree, No. 620, introducing the principle of the minimum wage. This reform may be regarded as the most important so far taken in this field, and it reveals how deeply the Government is concerned with the fate of the workers and with the improvement of their living conditions.

Experience of the operation of collective agreements had shown that they were not sufficiently developed in practice, and had proved the need of measures to solve the many questions arising in connection with the fixing of wages. A committee was accordingly set up, consisting of representatives of the State and of employers and workers, for the purpose of enquiring into the practicability and advantages of introducing minimum wage legislation. The committee completed its task satisfactorily and submitted a preliminary draft, which served as the basis for the Legislative Decree referred to above, which is now in force. The benefits of the application of this very important measure are already apparent. It has resulted in the fixing of wages for the first time on a rational basis after a serious study of the cost of living, of the economic conditions of industry, and of general conditions in the country.

The Decree provides that every worker over eighteen years of age, irrespective of sex or nationality, is entitled to a minimum wage adequate to satisfy his or her normal needs in respect of food, housing, clothing, health, transport, and culture. In fixing the minimum wage, account is taken of the cost of living for working class families, with due regard to circumstances of time and place and, where necessary, to the nature of the work and the worker's output.

The authority responsible for the administration of the Decree is the National Department of Labour, which fixes rates after consulting assessors representing employers and workers.

This measure is supplemented by an earlier Legislative Decree, No. 2,848 of 9 December 1927, providing for the payment to every public or private employee of a children's allowance at the rate of 5 per cent. of wages for each legitimate child. On 24 December 1937 the definition of the term "employee" was amended to include all manual workers.

In order to be entitled to the allowance, the worker or employee must have had at least one year of service, the child on account of which it is payable must be legitimate and resident on national territory, and must have been born after the issue of the Decree, and the wages or salary of the beneficiary must not exceed a specified maximum. The allowance ceases to be payable when the child reaches the age of eighteen years.

The Protection of Women and Children

The employment of children was recently regulated by Legislative Decree No. 16,875, dated 8 February 1943. Experience in the administration of this law has shown the need for its amendment, especially with respect to certain industries, such as the textile industries, in which the employment of children, without endangering their health and education, may be very useful as a form of vocational training.

The object of the legislation is to fix a minimum age for admission to employment. It is laid down as an invariable rule that children under twelve years of age may not be employed on any work on account of another. Those over twelve and under fourteen years may be admitted to employment if they can show that they have completed their primary education or that the employment does not prevent their attendance at school; that their employment is necessary for their own maintenance or for the maintenance of parents or brothers and sisters who are incapable of work; that they have the permission of their legal guardian and of the officer

for the protection of minors, and that they can read, write, and count.

Night work is forbidden for all children under fourteen years, but exceptions may be permitted by the National Department of Labour subject to a certificate of physical and mental fitness issued by the national health authorities, and provided that the employment is in an undertaking in which work is necessarily continuous.

With regard to maternity protection, before the introduction of the present Social Insurance Act, there was in force an Act, No. 2,448 of 9 December 1937, to establish the maternity rights of women workers. This provided for maternity leave of thirty days before the probable date of confinement and thirty days after, with payment of wages, and applied to women employed in public offices and private undertakings and establishments.

The Social Insurance Act introduced recently, by a Legislative Decree of 13 April 1943, gives further protection to working mothers. Under the Act the Social Insurance Institution grants a cash allowance during the 21 days preceding and the 40 days following childbirth; this allowance is equal to 40 per cent. of the wages or salary received during the three months preceding the confinement. Furthermore, insured women who are unable for physical reasons to provide satisfactorily for the care of their babies are entitled to the necessary assistance for the period specified by the doctor. The Social Insurance Institution is also responsible for the protection of mothers in case of sickness resulting from childbirth.

In making provision for the protection of mothers and children, the Government seeks to protect the vitality of the people and to contribute generously, as befits a civilised nation, to the steady improvement of the general welfare of the country, and especially to the strengthening of the family, which is the primary cell of any political organisation based on the moral principles of human solidarity.

Social Insurance

Substantial progress has also been made in the field of social insurance. Generally speaking, current legislation has followed the lines of the recommendations of the International Labour Organisation, the prevailing modern principles of insurance, and the experience of other countries which have introduced social insurance systems.

On 1 February 1944 there came into force Legislative Decree No. 17,071, of 13 April 1943, introducing social insurance against

sickness, maternity, invalidity, old age, and occupational accidents and diseases.[1]

The Social Insurance Institution was set up to operate the scheme, and is pursuing its objectives with prudence and caution. As the Institution is a new one, it has aroused suspicion in various quarters, but this suspicion is gradually disappearing as the public is able to compare the results of the application of the Act with the unfavourable forecasts and suppositions which were made concerning the fate of the scheme and its possible effects on the national economy.

In establishing the scheme, the authorities had the benefit of the valuable assistance of Professor E. Shoenbaum, actuarial adviser to the International Labour Office, and of Mr. Guillermo de la Maza, a Chilean insurance expert, who visited Paraguay and brought their unrivalled knowledge and impartial judgment to bear on the legislation and made suggestions for its amendment.

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The foregoing survey, brief though it is, may serve to give some notion of the present state of social legislation in Paraguay, and thus to help to spread among the peoples that mutual knowledge of their difficulties and development which is essential for the solution of common social problems.

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[1] Cf. *International Labour Review*, Vol. XLVII, No. 6, June 1943, p. 785.