

The Effective Application of International Labour Standards

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Although in recent years emphasis has been placed primarily on the I.L.O.'s technical assistance activities, notable advances have also been made during the same period in the Organisation's traditional legislative work. Two closely related factors are at the origin of these advances: first, the constitutional amendments adopted in 1946, and in force since 1948, which broadened materially the scope of the information supplied by governments on the effect they have given, or intend to give, to unratified Conventions and to Recommendations; and secondly, recent progress in both the ratification and application of Conventions.

In the following article¹ the author describes the machinery evolved by the I.L.O. to review the implementation of its standards and analyses, on the basis of concrete examples drawn from experience of the past few years, the influence exercised by the legislative work of the Organisation on the labour law of member countries and on the conditions of workers in these countries.

WHEN the Economic and Social Council considered at its Fourteenth Session (New York, 20 May-1 August 1952) the Sixth Report of the International Labour Organisation to the United Nations, Members of the Council laid particular stress on the close relationship between the I.L.O.'s technical assistance programme and its legislative work. Thus, the United States representative noted that "in spite of its new activities, I.L.O. has not lost sight of its principal task, the establishment of international labour standards. During recent years, I.L.O. has given the governments of member countries considerable assistance in

¹ The present article is a development of Chapter XXVI of the *Fifth Report of the International Labour Organisation to the United Nations* (I.L.O., Geneva, 1951) which described in a more general way the application of Conventions and Recommendations.

the implementation of those standards.”¹ The French representative expressed the opinion that “technical activities should be supplemented by the accession of the various States to the international standards established by the I.L.O.”.² These views reflect in a very clear manner the two-pronged policy now followed by the I.L.O. With the intensification of the Organisation’s technical and operational activities, its traditional legislative functions have assumed added significance, for, to quote again the French representative, “the workers must benefit from the increase in national income ensured by the improvement of working methods”. The present article aims at describing the progress made by the I.L.O. since the Second World War in its efforts to secure acceptance of its standards and to ensure their implementation.

What has come to be known as the “International Labour Code” consists of the body of 103 Conventions and 97 Recommendations adopted by the International Labour Conference since 1919.³ Both Conventions and Recommendations lay down standards in specified social fields, but it should at once be noted that there is a basic difference between these two types of instruments: the former create obligations for the States which ratify them, while the latter constitute essentially guides to national action. Taken as a whole, however, these texts, which require a two-thirds majority for their adoption by the Conference, form a collection of internationally approved standards jointly formulated by governments, workers and employers and have to be submitted by governments “to the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action”⁴ (i.e., normally to the legislature). It is this direct and unique relationship between an international forum and national parliaments which has transformed the decisions of the International Labour Conference from a mere determination of desirable labour standards into a comprehensive international network of social laws and regulations directly affecting the working and living conditions of millions of working people in over 50 countries.

¹ Economic and Social Council, Fourteenth Session: *Official Record of the 647th Meeting*, p. 599.

² *Idem*, p. 600.

³ The International Labour Office has recently published *The International Labour Code 1951*, a systematic arrangement, in two volumes and over 2,300 pages, of the Conventions and Recommendations adopted by the International Labour Conference, as well as of other standards of social policy framed by or, in certain cases, with the co-operation of the International Labour Organisation.

⁴ Article 19, paragraphs 5(b), 6(b), 7(a) and 7(b) (i) of the Constitution of the International Labour Organisation.

In its attempt to trace the important developments which have taken place in the application of international labour standards in recent years, the present survey begins with a summary of the progress achieved in the ratification of Conventions, particularly during the post-war period, and then describes the machinery set up by the Organisation to review the effect given by member States to Conventions and Recommendations, with special reference to the new arrangements existing since the coming into force, in 1948, of the amendments to the Constitution of the International Labour Organisation, adopted in 1946.

APPLICATION IN THE ABSENCE OF RATIFICATION

The ultimate value of the international labour standards depends, as stressed above, on the extent to which their standards contribute towards shaping national social policy. In the case of a Recommendation a member State may accept its principles in so far as this appears desirable and possible. In the case of a Convention also, governments may be unable to give effect to all its provisions in the exact terms laid down by the Conference. The federal structure of a country may constitute an obstacle to ratification in cases where, under the constitutional system, competence to adopt and enforce social measures rests with the states, provinces or cantons; or a Convention may be of no practical interest to a country, and it should be remembered in this connection that no less than 33 of the Conventions adopted by the Conference relate to labour standards for seafarers or for workers in non-metropolitan territories, and are therefore of no concern to non-maritime countries or to States which do not administer such territories.

In many other cases where ratification does not take place, the provisions of a Convention may still exercise a concrete influence on national legislation or practice even though the States in question have not assumed any binding international obligations. Although this hidden impact of the Conference's legislative work cannot usually be measured in concrete terms, evidence of its positive results emerges, for instance, in the statements made by speakers in the yearly Conference discussions on the Report of the Director-General. Thus, the Australian Workers' delegate referred during such a discussion in 1949 to a Convention to which his country has not adhered :

If there is one international labour Convention that has been of value to the workers of Australia, it was that adopted in 1935 in the matter of the reduction in the hours of work (Forty-Hour Week Convention (No. 47)).... The decision of the I.L.O. was persistently quoted in the

campaign conducted by the unions and used as an argument in the Arbitration Court when the case was being heard by that body. I am pleased to relate that ... without any stoppages of work or undue pressure whatsoever, the Commonwealth Court of Conciliation and Arbitration in 1947, acting on the evidence submitted and after months of protracted argument, decreed that a 40-hour week should come into operation as from 1 January 1948.¹

Government reports on unratified Conventions also confirm that, despite the absence of any formal obligation, I.L.O. standards are often applied. The Swedish report on the effect given to the Food and Catering (Ships' Crews) Convention, 1946 (No. 68) indicated, for instance, that—

the matters covered by the Convention are the subject of an inquiry which is expected in the near future to result in proposals designed to improve the living conditions of seamen in the respects referred to in the Convention. The Ministry of Commerce has recommended, therefore, that the Convention should not be ratified for the time being, but that its conditions should be observed as far as possible in the meantime.²

And this is by no means an isolated case: as pointed out in a recent I.L.O. report to the United Nations, no less than 13 of the 27 governments who reported on the effect given to this particular Convention, in the absence of ratification, referred to measures they had taken to implement its provisions.³ It is significant that three of the countries subsequently ratified the Convention.

While implementation on an informal practical basis is thus possible and even desirable, it is the act of ratification that indicates most unequivocally that the relevant standards have been or are to become the law of the land. For this reason figures on the progress of ratifications provide a valuable yardstick of the extent to which I.L.O. Conventions are fulfilling their purpose of stimulating and guiding national action in the field of social legislation. It is necessary, therefore, at this point to pass briefly in review the developments that have taken place in this respect in recent years.

PROGRESS OF RATIFICATIONS

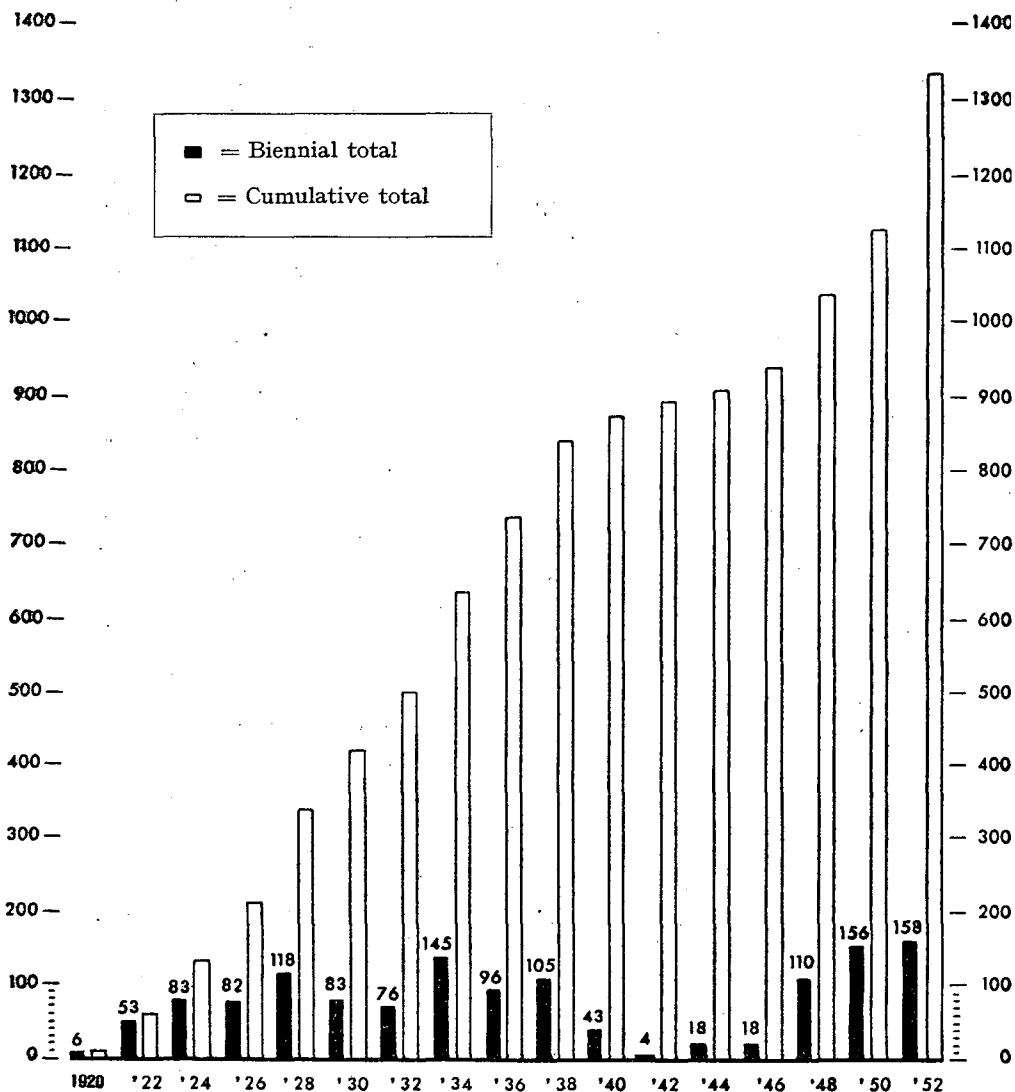
When the International Labour Conference met at Philadelphia during the closing stages of the war the total number of ratifications

¹ International Labour Conference, 32nd Session, Geneva, 1949: *Record of Proceedings* (I.L.O., Geneva, 1951), p. 120.

² International Labour Conference, 33rd Session, Geneva, 1950: *Summary of Reports on Unratified Conventions and on Recommendations (Article 19 of the Constitution)*, p. 90.

³ INTERNATIONAL LABOUR OFFICE: *Seventh Report of the International Labour Organisation to the United Nations* (I.L.O., Geneva, 1953), p. 105.

RATIFICATIONS OF INTERNATIONAL LABOUR CONVENTIONS, 1920-52



of the 67 Conventions then adopted stood at 887, and 52 of these Conventions had been ratified by a sufficient number of governments to bring them into force.¹ Since then 48 countries have communicated 467 further ratifications. In addition there are certain Conventions which remain binding in virtue of the principle

¹ International labour Conventions usually enter into force 12 months after their ratification by two, or in certain cases, a larger number of States.

of state succession : on becoming Members in 1947 and 1948, Pakistan and Burma undertook to implement respectively the 15 and 14 Conventions which India had ratified while they formed a part of that country. The total number of ratifications has thus reached the figure of 1,389.¹ As a consequence of the ratifications registered since 1944 further Conventions have come or will shortly come into effect, bringing the total in force to 80. It is noteworthy that no less than 22 of these are Conventions adopted since the war.

In the course of the International Labour Organisation's existence, the rate at which ratifications have been received has varied with changes in world conditions. The diagram below illustrates how the steady progress of the first decade continued almost unaltered during the 1930s and how the Second World War brought ratifications almost to a standstill. The past several years have on the other hand witnessed a sustained increase in the rate of ratifications, which is strikingly illustrated by the fact that for the first time in the history of the I.L.O. the yearly total reached and exceeded the 100 mark in 1952.

It has also been possible, over the successive periods in the life of the Organisation, to discern certain patterns in the regional distribution of the ratifying countries. During the first decade (1920-30) 361 out of a total of 414 ratifications came from European States ; during the following ten-year period the share of these States was only 201 out of 465, whereas the countries of the Americas accounted for an almost equal number, 192, the balance coming largely from Asia and the Middle East (31) and from Australia and New Zealand (34). This demonstrates convincingly that the trend towards universality finds expression not only in the membership of the Organisation but also in its work. The same tendency is again clearly reflected in the 1952 figures : out of a total of 102 ratifications 62 came from European countries, 31 from the Americas, seven from Asia and the Middle East, two from Australasia and one from Africa. It is equally significant that, of the new States which only recently became Members of the Organisation, Ceylon, Iceland, Indonesia, Israel, Pakistan, Syria and Viet-Nam have already communicated together 46 ratifications and the Philippines Senate has recently concurred in the ratification of ten international labour Conventions, the first adhered to by this country.

The process of ratification is necessarily a slow one from the national point of view. It involves the adoption of certain measures by the legislative and executive branches of government ; appro-

¹ The International Labour Office publishes periodically a chart of ratifications listing, Convention by Convention and country by country, all the ratifications communicated since the establishment of the Organisation.

priate social laws must be adopted or modified ; regulations must be issued ; consent to ratify the international treaty must be secured and a formal instrument prepared. The completion of these successive stages involves delays varying from country to country according to constitutional procedure and practices. Nevertheless, the four Conventions adopted by the International Labour Conference in 1947, 1948 and 1949 on the subjects of labour inspection, employment service organisation and freedom of association have each already received from 11 to 17 ratifications and came into force in 1950 and 1951. This could not have been achieved without an active interest in the legislative work of the Organisation on the part of many of its Members.

Far from engendering a feeling of complacency, however, these encouraging results have only strengthened the desire, often expressed at I.L.O. meetings, to see the international labour standards secure still wider acceptance. Thus, during the 32nd Session of the Conference, Government, Employers' and Workers' representatives, after a lengthy discussion on the subject, concurred in the view that, while cold ratification figures alone were not sufficient, in isolation, to measure the influence of these standards, the formal acceptance and scrupulous implementation of its provisions by the member States constituted none the less the most tangible evidence of national adherence to these internationally conceived principles and standards. The steady increase in the number of ratifications registered since the above discussion took place tends to confirm that numerous governments have come to share this conviction and are willing, despite their many other pressing preoccupations, to translate it into positive action.

THE BROADENED SCOPE OF REPORTING

The crucial test of the effectiveness of international labour standards cannot, of course, be one of mere formal acceptance. Just as the Conventions adopted by the Conference acquire force of law only when ratified by Members, so ratifications become fully operative only when implemented in practice by the countries concerned. The degree of implementation is therefore of the greatest importance to the International Labour Conference, which formulates these standards, to the States, which are bound by them and, above all, to the workers and employers, who are directly affected by their day-to-day application. It is for this reason that all these interests collaborate in the international machinery set up by the I.L.O. for examining the effect given to its Conventions and Recommendations.

It was recognised early in the Organisation's history that this examination constitutes a basic and indispensable element in the I.L.O.'s task of promoting world-wide labour standards, and the significance of this supervisory function was given further emphasis through the amendments to the Constitution of the Organisation, adopted in 1946, which materially widened the scope of reporting on the effect given to Conference decisions.

With the entry into force of these amendments in April 1948 a more comprehensive system of mutual supervision was brought into operation, and sufficient time has now elapsed to describe its functioning in some detail. This may be done by considering in turn the information supplied by governments and the machinery set up by the Organisation to scrutinise this information.

Before 1948 governments were required to submit reports only on the Conventions to which they were parties.¹ One important objective of the constitutional revision was to secure fuller and more authoritative data on the action taken nationally to give effect to the decisions of the Conference. Thus, enlarging upon one of the original and fundamental obligations of the Constitution, governments are now required to inform the International Labour Office whether they have brought Conventions and Recommendations before their "competent authorities" (specifying the nature of these authorities) within 12 to 18 months after their adoption by the Conference and what action the competent authorities have taken thereon²; in cases where ratification of a Convention is not decided upon by the above authorities, the Governing Body may request reports on the extent to which effect has been given to the Convention by legislation, administrative action, collective agreement or otherwise, and on the difficulties which prevent or delay its ratification³; similar reports may be asked for in respect of Recommendations, but the question of ratification does not arise in this case.⁴

When requesting, in pursuance of these powers, reports on certain unratified Conventions and on certain Recommendations, the Governing Body has consistently taken the view that the administrative services of Members should not be unduly overburdened and that the information solicited should therefore be

¹ Article 22 of the Constitution calls for the submission of annual reports on ratified Conventions. A summary of these reports is laid before each General Session of the Conference as Report III (Part I).

² Article 19, paragraphs 5(c), 6(c), 7(a) and 7(b) (iii). The information received is summarised in Conference Report III (Part III).

³ Article 19, paragraphs 5(e), 7(a) and 7(b) (iv).

⁴ Article 19, paragraphs 6(d), 7(a) and 7(b) (v). A summary of the reports on unratified Conventions and on Recommendations forms Conference Report III (Part II).

limited in scope and should relate to texts which are clearly of current interest. This has included decisions of pre-war sessions of the Conference as well as more recently adopted texts relating to such varying subjects as forced labour, labour inspection, protection of dockers against accidents, employment, freedom of association, migration, etc.

Although it is still too early to draw any conclusions on the working of this expanded system of reports, its potentialities are already becoming apparent. The governments' replies, when drawn up in the form laid down by the Governing Body, supplement usefully the information which was available so far only in respect of ratified Conventions and put at the disposal of the Conference a survey of broadening scope which derives its principal value from the authoritative character of the facts it contains and from the solidity of the basis it provides for any critical examination of the effect given to I.L.O. standards. The reports on the Food and Catering (Ships' Crews) Convention, referred to above, illustrate the interest and usefulness of the information so obtained.

Another amendment to the Constitution can, if put to general use, add further to the validity of the data available: it requires governments to communicate to the representative employers' and trade union organisations of their country copies of the information and reports submitted to the International Labour Office¹, thus providing an opportunity to these organisations to comment on the contents of the documents in question.

It will be seen from the foregoing that the Organisation has now at its disposal year after year a wealth of material on social law and practice supplied by governments, as well as any comments thereon which the groups most closely familiar with the working of the relevant legislation may find it necessary to make. By its nature and scope alone this material deserves and receives most thorough consideration, not only from the International Labour Office but particularly from persons with special experience of, or a special interest in, the application of labour legislation. Ever since 1927, in consequence of a resolution voted by the Conference the year before, the governments' annual reports on ratified Conventions have been submitted to a small committee of independent experts and to a tripartite committee of the Conference. With the coming into force of the amended Constitution the mandates of these two committees were broadened to enable them to consider the additional information and reports from Members described above and the Committees have respectively been known since then as the Committee of Experts, and the

¹ Article 23, paragraph 2, of the Constitution.

Conference Committee, on the Application of Conventions and Recommendations. It is in these two bodies that takes place the expert and mutual examination on which the Organisation relies for promoting effective application of its standards. The basic differences in their character and procedure help to make for an objective and critical appraisal of the information submitted by governments.

THE COMMITTEE OF EXPERTS ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS

The Committee of Experts is entrusted with the task of carrying out a preliminary examination of the reports. It is composed at present of 13 independent members chosen by the Governing Body for their special qualifications in the formulation and enforcement of social legislation¹; they are appointed for a period of three years, which is renewable upon expiration, and some Experts have sat on the Committee since its inception. The Committee meets usually in the early spring, but its members are supplied with copies of the governments' reports as soon as these are received in the International Labour Office, i.e., in the summer and autumn of the preceding year. Each Expert assumes responsibility for a given group of Conventions and Recommendations and submits his findings thereon to his colleagues in the course of the Committee's meeting. These observations, when adopted, become an expression of the Committee's collective and unanimous opinion and are incorporated in a report² for communication to the Governing Body, to the member States and to the International Labour Conference.

Over the years of its existence the authority of the Committee of Experts has steadily grown, owing to the painstaking care with which it sifts the available information and the restraint with which it phrases its comments. Four case histories may serve to illustrate the manner in which the Experts discharge their delicate tasks, and in particular the technique they have evolved for pointing out in "observations" discrepancies between the terms of a Convention and the relevant national law and practice.

¹ The present composition of the Committee is as follows: Mr. Grantley ADAMS (Barbados); Baron F. van ASBECK (Netherlands); Mr. Paal BERG (Norway); Sir Atul CHATTERJEE (India); Professor H. S. KIRKALDY (United Kingdom); Mr. HELIO LOBO (Brazil); Professor Tomaso PERASSI (Italy); Professor William RAPPARD (Switzerland); Professor G. SCELLE (France); Professor F. SITZLER (Federal Republic of Germany); Miss G. J. STEMBERG (Netherlands); Mr. Paul TSCHOFFEN (Belgium); Hon. C. E. WYZANSKI, JR. (United States of America).

² This document is published as Report III (Part IV) to the Conference,

At their 1949 Session the Committee of Experts made this observation concerning the application by Austria of the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) :

The Committee notes that the Government's report does not indicate clearly to what extent the payment of compensation may be permitted when Austrian workers and their beneficiaries or foreign workers and their beneficiaries reside abroad.

The Committee notes with interest that a Bill has been submitted to Parliament with a view to establishing full equality of treatment between Austrian and foreign workers. It expresses the hope that this draft legislation will be adopted shortly.¹

The following year the Committee was already able to point to an important step forward :

The Committee notes with satisfaction the information communicated by the Government concerning the amendments made to the Federal Act of 16 December 1948, which established full equality of treatment with regard to the payment of compensation to beneficiaries residing abroad, whether Austrian workers or nationals of countries which have ratified the Convention. The Committee notes, however, that the payment of compensation to beneficiaries residing abroad is only granted if the insurer has authorised these beneficiaries to live abroad. The Committee would be glad to know whether this condition is applied to both Austrian workers and foreigners.²

The remaining doubts were dispelled by the Austrian Government's reply that—

...the payment of compensation abroad is made conditional upon the authorisation of the insurer, regardless of whether the beneficiary is an Austrian or a foreign national. In the practical application of the relevant legislative provisions as well, nationals are not treated differently from foreigners.³

Another example of the effectiveness of the Experts' work concerned the application in Cuba of the Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33). Following previous observations on the matter, the Experts noted in 1950 that—

...the Government has prepared a Decree stipulating that young persons under 16 years of age may not be employed in any dangerous or unhealthy occupations determined by the Directorate-General of Health and Social Welfare.

¹ International Labour Conference, 32nd Session, Geneva, 1949 : *Report of the Committee of Experts on the Application of Conventions and Recommendations* (I.L.O., Geneva, 1949), p. 23.

² International Labour Conference, 33rd Session, Geneva, 1950 : *Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19 and 22 of the Constitution)* (I.L.O., Geneva, 1950), p. 24.

³ *Ibid.*, *Record of Proceedings* (I.L.O., Geneva, 1951), p. 470.

The Committee hopes that this Decree will soon be put into effect and that the list of types of employment which are prohibited for young persons under 16 years of age will soon be drawn up in conformity with Articles 5 and 8 (b) of the Convention.¹

In 1952 a Government representative stated in the Conference Committee that—

... the Government had examined the original text (of the above Decree), approved it in principle, and referred it to the Advisory Council. The latter would submit it to the Cabinet and this body would issue the corresponding Legislative Decree. The Legislative Decree would provide sanctions in the case of infringements.²

In 1953 the same representative was able to inform the Conference Committee that—

Legislative Decree No. 883, which had recently been enacted, brought together in a single text all the provisions relating to the employment of young workers, which are now in conformity with the Convention.³

A further instance of results obtained by the Committee of Experts is connected with the effect given in Burma to the Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27). Having noted that the Government's reports covered only the application of this text in the Port of Rangoon, the Committee indicated in 1951 that it—

... would be glad to know whether similar measures for regulating the marking of weights on heavy packages transported by vessels have been taken in the other ports of the country, such as Moulmein, Akyab, Henzada, and Bassein.⁴

A Government representative attending the subsequent session of the International Labour Conference stated in reply that—

... the Mercantile and Marine Department under the Ministry of Transport and Communications had issued administrative orders to ensure application of this Convention in the ports of Moulmein, Akyab and Bassein. Since no seagoing vessels touched the river port of Henzada and since no packages weighing over 1,000 kilogrammes were handled there, the question of application in this particular port did not arise.⁵

¹ International Labour Conference, 33rd Session, Geneva, 1950: *Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19 and 22 of the Constitution)* (I.L.O., Geneva, 1950), p. 28.

² International Labour Conference, 35th Session, Geneva, 1952: *Record of Proceedings* (I.L.O., Geneva, 1953), p. 501.

³ International Labour Conference, 36th Session, Geneva, 1953: *Provisional Record*, No. 19, p. xxi.

⁴ International Labour Conference, 34th Session, Geneva, 1951: *Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19 and 22 of the Constitution)* (I.L.O., Geneva, 1951), p. 21.

⁵ *Ibid.*, *Record of Proceedings* (I.L.O., Geneva, 1952), p. 569.

At their 1952 Session the Experts were able to note that according to the Government's report the application of the Convention had also been extended to the ports of Tavoy and Mergui.¹

A final example, covering standards of quite a different character, involves the implementation by Denmark of the Statistics of Wages and Hours of Work Convention, 1938 (No. 63). The Committee of Experts drew attention, in 1951, to discrepancies between the relevant Danish statistics and certain provisions of this Convention—

(1) Current statistics on the wages of skilled workers are compiled only by trades, whereas the statistics for unskilled workers are given by industries. Article 5 of the Convention calls for the establishment of wage statistics for wage earners in each of the principal industries.

(2) At present statistics are not available for hours actually worked as required by Article 5 of the Convention.

(3) Separate statistics on average earnings are not compiled once every three years for juvenile workers as provided for in Article 10 of the Convention.

The Committee would be glad to know whether it is intended to take account of the above points when contemplating any changes in the compilation and publication of statistics on wages and hours of work.²

Already in 1952 the Committee was able to note that—

... recent decisions taken by the Government will lead to full conformity with regard to two points mentioned by the Committee in 1951: compilation of statistics of average earnings by industries (Article 5, paragraph 3 of the Convention) and for juvenile workers (Article 10, paragraph 2).

The Committee also notes that the Government has postponed the compilation of statistics of hours actually worked (Article 5) pending consultations with the International Labour Office with a view to clarifying this provision. The Committee hopes that these consultations, which are being pursued, will render possible, in due course, the implementation of this provision of the Convention.³

And further progress could be registered this year, when the Committee stated that it was—

... glad to note that the first statistics of earnings classified by industries have now been compiled and submitted to the International Labour Office, in accordance with Article 5, paragraph 3, of the Convention. The Committee also notes with interest that, as a consequence of consultations held with the International Labour Office and of discussions shortly to be entered

¹ International Labour Conference, 35th Session, Geneva, 1952: *Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19 and 22 of the Constitution)* (I.L.O., Geneva, 1952), p. 25.

² International Labour Conference, 34th Session, Geneva, 1951: *Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19 and 22 of the Constitution)* (I.L.O., Geneva, 1951), pp. 27-28.

³ International Labour Conference, 35th Session, Geneva, 1952: *Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19 and 22 of the Constitution)* (I.L.O., Geneva, 1952), p. 31.

into with the Danish Employers' Confederation, the Government hopes to be able to compile the statistics of hours actually worked also provided for in Article 5, paragraph 3, of the Convention.¹

The fact that the report of the Committee of Experts contains usually between eighty and one hundred observations of the type quoted above indicates the scope and importance of the work accomplished by this body year after year.

Until the coming into force of the recent constitutional amendments the Experts were exclusively concerned with the application of ratified Conventions. Their main emphasis in this respect shifted gradually from problems of legislative conformity to an appreciation of the manner in which the relevant obligations were discharged in practice. The Committee of Experts was able in this connection to make valuable suggestions both to the governments concerned and to the Governing Body. It advised the latter on the questions to be included in the forms of annual report² having particular regard to certain types of data—such as inspection reports, court decisions, statistics, etc.—which might give a clearer and more concrete idea of how a given Convention is implemented, not only in law but also in actual fact. With a view to securing the fullest possible information on both the legal and practical aspects of application, governments are asked in these forms of report to “indicate in detail . . . the legislation and administrative regulations, etc., or other measures under which each article (of the Convention) is applied”. At the Experts' suggestion a question was also included in the forms asking governments whether they had “received from the organisations of employers or workers concerned any observations regarding the practical fulfilment of the conditions prescribed by the Convention or the application of the national law implementing the Convention”.

An important part of the Experts' work has been devoted in recent years to an examination of the progress achieved in the application of ratified Conventions to non-metropolitan territories. The Constitution of the Organisation requires member States to apply such Conventions to the territories administered by them, in so far as local conditions permit.³ At the suggestion of the Committee the governments concerned had been specially requested

¹ International Labour Conference, 36th Session, Geneva, 1952: *Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19 and 22 of the Constitution)* (I.L.O., Geneva, 1953), p. 34.

² In accordance with Article 22 of the Constitution, which provides that annual reports “shall be made in such form and shall contain such particulars as the Governing Body may request”, the relevant forms are adopted by the Governing Body.

³ Article 35 of the Constitution.

to provide in their annual reports for the period 1948-49, and at five-yearly intervals thereafter, precise information on the application, non-application or partial application in their territories of every Convention to which they are a party. The large volume of information received in response to this request enabled the Committee to form a clearer concept of the degree of implementation of I.L.O. standards in those portions of the globe which have not as yet achieved self-government. The examination of these data is facilitated by the fact that two of the Committee's members are particularly qualified to consider problems of non-metropolitan countries.

In the case of the new reports on unratified Conventions and on Recommendations, the task of the Committee of Experts is somewhat different, since there exists no international obligation to apply. The Committee has therefore limited itself so far in the main to taking note of the progress achieved and of the difficulties that have arisen, pointing in the case of Conventions to instances where ratification clearly appears possible. Its findings are contained in analytical surveys of the information received on each Convention and Recommendation, appended to its report.

Finally, the Committee of Experts is called upon to scrutinise the information communicated by governments under the terms of the revised Constitution on the action taken by them to submit Conventions and Recommendations to their competent national authorities and has devoted considerable attention to the various practical aspects of this constitutional obligation. The Committee stressed the necessity for governments to take the required action within the time limits prescribed and to inform the Office promptly of the results achieved.

The mounting number of annual reports and the added duties assigned to the Experts in recent years have made it necessary for the Governing Body to increase the membership of the Committee and to lengthen the duration of its sessions. An attempt has also been made to simplify the whole reporting procedure, which has enabled the Committee to conduct the necessary examination with the usual thoroughness and has reduced the tasks of governments to the strictest minimum.

THE CONFERENCE COMMITTEE ON THE APPLICATION OF CONVENTIONS AND RECOMMENDATIONS

The International Labour Conference has repeatedly emphasised the very great importance it attaches to the independent examination carried out by the Experts. It has affirmed on many occasions that without this preliminary authoritative study the Conference

itself would be quite unable to complete the second stage of the examination procedure which is its ultimate responsibility. Every regular session of the Conference appoints for this purpose a tripartite committee. This body bases its discussions first on the summaries of the information and reports communicated by Members, which the Director-General is required to lay before the Conference; secondly on the report of the Committee of Experts; and thirdly on the statements received from governments in reply to the observations made by the Experts. At the 1953 Session of the Conference, for instance, no less than 41 governments supplied such additional information, 13 in writing and 28 orally. This very full response led the Committee to state in its report that "the fact that all the governments concerned availed themselves of this opportunity to clarify doubtful points constitutes conclusive evidence that the methods of work of this Committee, which are based on the voluntary co-operation of all the groups, are best suited to its objectives".¹

The very full data thus at its disposal enable the Committee to base its work of mutual examination on a solid foundation of facts. This element of realism is of the greatest importance to the success of its deliberations, which constitute the focal point of the successive stages of reporting, expert scrutiny and clarification of doubtful points by governments. For in this Committee of the Conference, often described as the "conscience" of the Organisation, the representatives of the three groups can bring their collective experience to bear in a whole-hearted attempt to secure an ever wider measure of application for the provisions of the Conventions.

The Committee's business usually proceeds as follows: a general review of the working of the system of Conventions and Recommendations is followed by a detailed examination, Convention by Convention and country by country, of the observations and comments made by the Committee of Experts on ratified Conventions, and of the replies thereto received from governments. The discussions which take place on such occasions clearly reflect the outlook of the professional interests that have a stake in the working of international labour standards. Workers' and Employers' representatives seldom hesitate to give expression to their disappointment in cases where the obligations implicit in ratification have not been fully carried out. Governments on the other hand are in a position to explain their difficulties and to indicate the measures they intend to take to overcome them. The

¹ International Labour Conference, 36th Session, Geneva, 1953: *Provisional Record*, No. 19, p. III.

Committee at the 1953 Session of the Conference devoted eight of its 13 sittings to this type of discussion. In addition, a sub-committee specially appointed for this purpose examined reports received too late for scrutiny by the Committee of Experts.

From these deliberations, often detailed and even tedious at times, emerge the conditions and perspectives of future progress. At this year's session of the Conference the Committee stated, in taking stock of its work, that despite the continued existence of—
... some serious cases of non-application ... [it] would not wish these to obscure the many instances where its observations and those of the Committee of Experts have led to the elimination of discrepancies between ratified Conventions and national law and practice and have thus contributed to social progress in the countries concerned.¹

And one member of the Committee, the Government delegate of Switzerland, gave expression to a similar view during the discussion of the Committee's report in the plenary sitting of the Conference—

I think that a fruitful effort has been and is being made. I do not belong to the group of delegates who cannot speak from this rostrum without adopting an optimism which is often more official than sincere. I have a critical mind when I am engaged on work of the Organisation. But I must say that in this constant, obscure and patient effort to watch over the application of Conventions and Recommendations there is something positive.²

It has been suggested on occasion, in the Conference and elsewhere, that only through an international system of labour inspection could the effect given by States to their international obligations in the field of labour law be accurately supervised. Mature reflection has always led to the conclusion, however, that the time is not yet ripe for such a development. Instead, the Organisation has attempted to promote the adoption and implementation of its standards through the interplay of factual examination and moral persuasion described above, through improvements in the working of national labour inspection services and through the existence of strong and independent trade union movements and employers' organisations in the member countries. Its unique tripartite character thus remains the Organisation's principal source of strength in carrying out its global task of promoting the effective implementation of nationally accepted I.L.O. standards.

Steady progress in the ratification of Conventions and growing evidence of the governments' positive attitude towards their

¹ International Labour Conference, 36th Session, Geneva, 1953: *Provisional Record*, No. 19, p. III.

² Idem, No. 25, p. 264.

application tend to confirm that the I.L.O.'s standard-making function, far from losing any of its usefulness, has come to be an element of strength in the Organisation's post-war activities. To use the words of the Director-General, replying to the discussion of his Report during the 1951 Session of the Conference—

Can anyone have listened to speaker after speaker from the less industrially developed regions of the world tell of the great influence which the International Labour Code has had on national legislation and codes and not feel a real sense of satisfaction at this proof of the value of international labour Conventions and Recommendations? It is not spectacular work. It makes no headlines. But slowly, steadily, this legislation has created and is continuing to create the solid foundations on which many countries are building a healthy social structure.¹

¹ International Labour Conference, 34th Session, Geneva, 1951 : *Record of Proceedings* (I.L.O., Geneva, 1952), p. 408.