The Influence of I.L.O. Standards on Norwegian Legislation

by

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During the past few years a series of articles in the Review *have analysed the influence of international labour standards on legislation in Greece, India, Switzerland, Nigeria and Italy.*[2] *The present article continues this series by examining the case of a Scandinavian country which has ratified a large number of I.L.O. Conventions. The author attempts to evaluate the impact of Conventions before and after their ratification. He also deals with the role of Recommendations and reviews the areas where standards have so far not influenced Norwegian law and practice.*

NORWAY signed the Covenant of the League of Nations and thereby became a Member of the I.L.O. when it was established. It has always sent Government delegates to the General Conference, except in 1921 and 1930. Because of the split in the international labour movement, no Norwegian Workers' delegates were appointed from 1921 to 1924 and from 1926 to 1933. The absence of a Workers' delegation from those sessions greatly hampered the progress of I.L.O. standards in Norway, which had indeed ratified only four Conventions by 1929, when it stood twenty-eighth out of 32 in the table of member countries by number of ratifications. This low placing was a matter of concern

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[2] See N. VALTICOS : " The Influence of International Labour Conventions on Greek Legislation ", in *International Labour Review*, Vol. LXXI, No. 6, June 1955, pp. 593-615 ; V. K. R. MENON : " The Influence of International Labour Conventions on Indian Labour Legislation ", ibid., Vol. LXXIII, No. 6, June 1956, pp. 551-571 ; A. BERENSTEIN : " The Influence of International Labour Conventions on Swiss Legislation ", ibid., Vol. LXXVII, No. 6, June 1958, pp. 495-518 ; " The Influence of International Labour Conventions on Nigerian Labour Legislation ", ibid., Vol. LXXXII, No. 1, July 1960, pp. 26-43 ; and Luisa RIVA-SANSEVERINO : " The Influence of International Labour Conventions on Italian Labour Legislation ", ibid., Vol LXXXIII, No. 6, June 1961, pp. 576-601.

not only to Norwegians but also to Albert Thomas, then Director of the I.L.O. [1]

Twenty years later Norway had ratified 24 of the 90 Conventions but still stood well down the table. Ratification proceeded apace in the 1950s following establishment in 1947 of the Norwegian Committee for International Social Policy (or "I.L.O. Committee") which has the function, among others, of advising the Ministry of Social Affairs on action regarding Conventions and Recommendations.[2]

As at 1 June 1964 Norway had ratified 57 Conventions. Among the 62 not ratified, four are no longer open for ratification [3] because revised Conventions have already come into force; and ten more —intended to deal with non-metropolitan territories or indigenous populations—are not appropriate for ratification by Norway.[4] There thus remain 48 Conventions which, for various reasons, Norway has not considered itself able to ratify.[5]

Norway's attitude to the 119 Recommendations, on the other hand, cannot be so easily summarised. In some cases the reason is that the public authority concerned, or the legislature, has still not taken up a precise position; in others the question of acceptance has been deferred *sine die*. The seven Recommendations (Nos. 67-73) adopted in 1944 were never brought before the competent authority, as required by article 19 of the I.L.O. Constitution, because Parliament could not meet during the war. Many of the Recommendations have been accepted by Norway with important modifications. If these are included, and despite the uncertainty as to whether there has been formal acceptance of a few others, it may be said, by and large, that Norway has accepted the essential features of 55 Recommendations.[6]

[1] Albert Thomas told the Norwegian Prime Minister in 1927 that "ratification often has greater international than national significance, for every ratification registered is a step forward in international social reform and the development of international law".

[2] The Norwegian I.L.O. Committee is composed of representatives of the Ministry of Social Affairs, the Ministry of Local Government and Labour, the State Labour Inspection Service, the Norwegian Employers' Confederation and the Norwegian Confederation of Trade Unions.

[3] Nos. 28, 33, 41 and 66.

[4] Nos. 64, 65, 82, 83, 84, 85, 86, 104, 107 and 110.

[5] These include nine (Nos. 3, 4, 6, 31, 54, 57, 72, 76 and 93) which were revised by subsequent Conventions.

[6] These include Nos. 1, 6, 9, 12, 15, 16, 19, 21, 23, 25, 29, 40, 42, 45, 48, 50-57, 60, 75-77, 81, 83, 85, 87, 88, 90-94, 96-99, 101-103, 105-108, 111-117. This list is made in the light of submissions to Parliament under article 19 of the I.L.O. Constitution. However, over the years many other Recommendations have been implemented by law and practice without any formal decision by the authorities as to their acceptance. Furthermore, there is no practical ground for accepting Recommendations Nos. 35, 36, 58, 59, 74, 100, 104 and 110, which do not concern Norway. Recommendations Nos. 118 and 119 have not yet been brought before Parliament.

Co-operation between the Northern Countries

The Northern European countries have common traditions in the social and labour fields. Consideration of the legal and practical questions raised by I.L.O. standards has always been a feature of inter-Northern co-operation. When Norway ratified its first Convention in 1921—the Unemployment Convention, 1919 (No. 2) —there was already a similar resolution by a Northern meeting.[1] From the close of the 1920s this co-operation was particularly concentrated on the development of Northern reciprocity agreements. In 1955 and 1956 these were extended and consolidated into two main instruments—one dealing with social security, the other with transfers from one sickness fund to another.

Systematic co-operation regarding I.L.O. Conventions was established after the Northern Council had invited the Governments (in 1953) to prepare reports on obstacles to ratification ; in 1954, having examined these reports, the Council urged Governments to work towards the ratification of a number of Conventions. At a meeting of the Northern Ministers of Social Affairs in 1955 it was decided to attempt to speed up this process by means of a special Northern Committee. Between 1957 and the present time that Committee has gone through 43 Conventions.[2] The experience of such regional committee work is useful with a view to classifying the problems of interpretation which I.L.O. Conventions raise, either alone or in relation to agreements reached at the Northern or European level. In this connection it may be added that representatives of the Northern countries often have discussions during sessions of the International Labour Conference with a view to taking a common line on proposed Conventions or Recommendations.[3]

An important consequence of this Northern committee work is the stimulus it gives to the national authorities to take more rapid action for the removal of obstacles to the ratification of older Conventions. To specify the cases in which this form of regional co-operation has in fact accelerated the process of ratification by Norway would require a special report and lies outside the scope of the present article.[4]

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[1] Held at Oslo in May 1920 and attended by Denmark, Finland and Sweden as well as Norway.

[2] Nordisk Utredningsserie, 1962, No. 8 ; *Nordisk Rads verksamhet 1952-61.*

[3] Members of the I.L.O. Governing Body who represent the government or employers' or workers' organisations of a Northern country sometimes speak on behalf of their respective colleagues in the other countries of the region.

[4] See Kaare Salvesen : " Co-operation in Social Affairs between the Northern Countries of Europe ", in *International Labour Review*, Vol. LXXIII, No. 4, Apr. 1956, pp. 334-357.

European Co-operation

" It is in Europe that the great struggles to improve the living conditions of the working man and his family have taken place ", said Jef Rens, Deputy Director-General of the I.L.O., when the European Social Charter was signed at Turin on 18 October 1961.[1]

Important sections of Norwegian social legislation in the widest sense are inspired by ideas stemming from European co-operation, particularly since the closing years of the nineteenth century, when Norway's first laws on accident insurance for workers and on workers' protection came into existence. It is therefore natural that reciprocity agreements should have been concluded between Norway and European countries or groups of countries in the fields to which I.L.O. standards relate.

Having been a member of the Council of Europe ever since it was established in 1949, Norway takes part in European co-operation regarding I.L.O. Conventions. Since 1959 the permanent Social Committee of the Council of Europe has been discussing groups of Conventions, in some cases with a view to clarifying the obstacles to ratification, in others in order to determine whether the Council's own Conventions should set higher standards than those of the I.L.O. Problems of interpretation and proposals for the revision of older I.L.O. Conventions are taken up in the same connection.

Three reciprocity agreements concerning social security schemes and social and medical assistance have been adopted at the European level [2]: all are ratified by Norway.

Regard was had, in this connection, to the questions of principle concerning the legal position of foreigners in Norway which had been discussed both before and after the adoption of the European agreements in connection with the corresponding I.L.O. standards.

The draft agreement for a European Social Security Code was likewise based on the Social Security (Minimum Standards) Convention, 1952 (No. 102). The European Social Charter (adopted in 1961), which draws more or less on the whole range of I.L.O. standards [3], has been ratified by Norway. When it comes into force and its supervisory and reports machinery begins to operate, this may awaken interest in bringing Norwegian law into harmony with the older I.L.O. Conventions this country has not ratified.

[1] *Europe Today*, No. 2, Jan. 1962 (Strasbourg, Council of Europe).

[2] European Convention on Social and Medical Assistance; European Interim Agreement on Social Security other than Schemes for Old-Age, Invalidity and Survivors; European Interim Agreement on Social Security Schemes relating to Old Age, Invalidity and Survivors; all dated 11 December 1953.

[3] " The European Social Charter and International Labour Standards ", in *International Labour Review*, Vol. LXXXIV, Nos. 5 and 6, Nov. and Dec. 1961, pp. 354-375 and 462-477.

The Council of Europe Convention on the Protection of Human Rights and Fundamental Freedoms, which covers the main I.L.O. standards and also lays down safeguards for individuals in fields where there are no I.L.O. standards as yet[1], has also been ratified by Norway.

Domestic Law and International Conventions

It is constitutional doctrine in Norway (but not, for instance, in the United States) that domestic law takes precedence over the provisions of treaties.[2] If there is conflict between international and domestic law the Norwegian courts must base their decisions on domestic law ; but should a legal point remain unsettled the court must presume that domestic law corresponds to international law.

The fact that an I.L.O. Convention is ratified does not therefore mean that its standards are *ipso jure* valid in Norwegian law. Its registration and coming into force in Norway do not alter that position. Any changes in Norwegian law which must be made so that Norway can perform its international obligations under a Convention have therefore to be introduced before ratification—or rather, before the decision to ratify is taken by the Norwegian Government. If ratification occurs before the domestic law has been brought into conformity with the Convention, the courts may be obliged to hand down decisions which are contrary to dispositions that bind Norway at the international level, though admittedly no court has yet had occasion to decide a case, for that reason, in a manner contrary to the provisions of a Convention.

For practical reasons the Government has occasionally asked Parliament for powers to ratify Conventions (as will be seen later) as soon as domestic law has been brought into conformity with their provisions. If such powers are granted, the Government does not need to bring the question of ratification before Parliament again when the legislative basis for ratification has been provided. The most usual course in recent years has been to modify the domestic law before ratification. This may be regarded as the best course, having regard to Norwegian constitutional doctrine on the relationship between treaties and domestic law.

Ratification of Conventions and Acceptance of Recommendations

According to Norwegian constitutional law it is the King in Council (i.e. the Government) who takes the decision to ratify and

[1] C. W. Jenks : *The International Protection of Trade Union Freedom* (London, Stevens, 1957), p. 481.

[2] Terje Wold : " The European Human Rights Convention and Norway ", in *Legal Essays* (Oslo, Universitetsforlaget, 1963), p. 355.

who signs the instrument of ratification. The Government's prerogative to conclude treaties is explicitly restricted.[1] Treaties of special importance, or requiring a new enactment or parliamentary decision, cannot be ratified until Parliament has consented. It has never been called in question that the Government must always obtain the consent of Parliament before an I.L.O. Convention can be ratified.

The Government's prerogative is considered to include also the sole right to bring treaties before Parliament in order to obtain the latter's consent to ratification. In general, therefore, the Government brings before Parliament only those treaties which it wishes to have ratified : but the Government is not considered to have this freedom of choice in the case of I.L.O. Conventions, because article 19 of the I.L.O. Constitution clearly provides that Conventions shall be brought before " the authority or authorities within whose competence the matter lies " for an expression of opinion on the question of ratification. Every I.L.O. Convention has therefore been brought before Parliament, irrespective of whether it was proposed for ratification or not. The Government has no legal obligation to proceed to ratification, even if Parliament has expressly given its consent thereto : but in the case of an I.L.O. Convention the Government has never claimed the right to abstain from ratifying in such circumstances. On the other hand, the Government has no obligation to bring before Parliament instruments which are not binding : but it does so—having regard to its responsibility before Parliament—whenever the matter is an important one.

In the case of I.L.O. Recommendations, however, the point is clear, because article 19 of the I.L.O. Constitution places upon the Government the obligation under international law to bring before Parliament all Recommendations of the International Labour Conference.

Among the 57 Conventions which Norway has ratified, two [2] have been denounced *ipso jure* by ratification of revised Conventions, two [3] are purely formal as they deal with the revision of the final Articles of I.L.O. Conventions in general, and two others [4] remain binding on Norway despite the coming into force of more advanced standards on the same subjects. One of the ratified Conventions [5] has not yet come into force.

[1] Erik COLBAN : *Stortinget og utenrikspolitikken* (Oslo, Universitetsforlaget, 1961), pp. 206 ff.

[2] Nos. 34 and 75.

[3] Nos. 80 and 116.

[4] Nos. 5 and 7.

[5] No. 91.

Employment and Migration

As stated above, the Unemployment Convention, 1919 (No. 2), was the first to be ratified by Norway. Article 2, paragraph 2, of this instrument provides that there shall be co-ordination between public and private free employment agencies on a national scale. There were very few private employment agencies in Norway and such co-ordination would have been inconvenient. However, the need for planning and supervision of the employment agencies' operations, to which the Convention refers, was discussed with great interest by a committee on unemployment legislation. It referred directly to the Convention and proposed that the private agencies should be required to report to the municipal authority in accordance with regulations issued under the Placement Act of 1906. In this way the Convention played an important role as support and inspiration for further work in the co-ordination and planning of the operations of employment agencies in Norway.

The provision in Article 3 of this Convention, which had the effect that workers belonging to other member States that had ratified the Convention should receive the same rates of unemployment insurance benefit as Norwegian workers, was inconsistent with the Act of 1915 concerning the state and municipal contribution to unemployment funds. This Act provided that unemployment funds could obtain treasury reimbursement only in the case of unemployed persons who were Norwegian nationals or had been resident in Norway for at least two years. Parliament undertook to repeal the requirement of two years' residence when reciprocity agreements should be entered into between Norwegian and foreign unemployment funds or if the Crown should make agreements with foreign countries. The legislative amendment came into force within the time laid down in Article 8, namely a date in 1921. The present Unemployment Insurance Act contains the rules required by the Convention.

While it is clear that the amending Act of 1921 was due exclusively to Convention No. 2, it is difficult to assess the extent to which the discussions of principle which took place the following year influenced Norway's attitude towards the reciprocal obligations under that Convention.

The Government did not take any clear line as to whether the Recommendations of the first International Labour Conference held in Washington should be accepted by Norway ; nor were any questions regarding acceptance raised in Parliament. The only source of information therefore remains the Government's comments on the Unemployment Recommendation, 1919 (No. 1), which supplements Convention No. 2. The first part recommends that

the establishment of employment agencies which charge fees or carry on their business for profit should be prohibited, that where such agencies exist they should be permitted to operate only under government licences, and that measures should be taken to abolish them. This Recommendation was examined by the committee on unemployment legislation, which proposed to comply with it by issuing regulations under the legislation in force.

The second part of the Recommendation (collective recruitment of workers for employment abroad) and the fourth part (reservation of public works for periods of unemployment) were complied with by the authorities, which proposed appropriate laws and administrative action.

A later Convention (No. 34) and Recommendation (No. 42), both dated 1933, deal further with the question of fee-charging employment agencies. At that time Norwegian law did not prohibit the issue of licences to employment agencies conducted " with a view to profit ", but since 1921 the employment authorities had taken a number of measures in accordance with the directives contained in Recommendation No. 1. Meanwhile Norway had ratified the Placing of Seamen Convention, 1920 (No. 9), and, by an Act of 1921, to charge a fee for the hiring of seamen was prohibited as from the middle of 1934.

Out of consideration for the owners of private employment agencies the question of ratifying Convention No. 34 had to be deferred. Sixteen years were to pass before that Convention was again brought before Parliament. Meanwhile, in 1947, the Act concerning measures to promote employment had come into existence. This prohibits private placement except by training institutions. The period for abolition of the agencies was fixed at three or five years, according to conditions. By July 1949 all private employment agencies had been abolished and the Convention was ratified in the same year. On the ratification by Norway of the Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96), Convention No. 34 was *ipso jure* denounced according to Article 13 thereof. Norway accepted Part II (Abolition of agencies conducted with a view to profit) of Convention No. 96 without modifying the domestic law, because that Convention's requirements were not stricter than those of Convention No. 34. This is an instance in which a Recommendation (No. 1, in its first part) put forward ideas and suggestions which later took on increased significance during consideration of a Convention (No. 34). Although prohibition of private employment agencies was not formally enacted until 1947, it is clear that I.L.O. standards had considerable influence on the legislative process.

The Migration for Employment Convention (Revised), 1949 (No. 97), which was ratified in 1955, is one of those which have had a considerable influence on Norwegian law. The provisions in Article 5 regarding supervision of the health of migrant workers required administrative measures. Furthermore, according to Article 8, illness or injury occurring after entry may not be a ground for returning an immigrant who has been admitted on a permanent basis. This was in conflict with the provisions regarding expulsion and refusal to authorise residence which are contained in Section II of the Norwegian Aliens Act. However, as that section states that its scope can be regulated in the light of agreements with foreign States, Article 8 of the Convention was accepted as equivalent to such an agreement. The authorities were already permitted by legislation to exempt from customs duties the effects of migrants specified in Annex III to the Convention ; on ratification they became obliged under international law to grant such exemption to all migrants. The requirements concerning social security rights for persons who are not nationals (Article 6, paragraph 1 *(b)*, of the Convention) were complied with, because Norway had previously modified its legislation in accordance with the Council of Europe Conventions of 1953.

Protection of Young Workers

The Minimum Age (Industry) Convention, 1919 (No. 5), fixed the minimum age for admission to employment in industrial undertakings at 14 years and required the employer to keep a register of all personnel under 16 years of age. At that time the Norwegian Workers' Protection Act permitted the employment of children between 12 and 14 years on certain conditions, and was therefore in conflict with the Convention. The question of ratification was raised again in 1937. By that time Norway had a new Workers' Protection Act, the whole content and form of which were strongly affected by I.L.O. standards ; this applies not least to the minimum age, which was fixed at 15 years except in fish-drying, peat-drying and errand work. The Government's statement to Parliament on the subject says that " the provisions are so framed as to make it possible for this country to accede later to the draft Conventions mentioned ". When Convention No. 5 was revised in 1937 by Convention No. 59, the most important alteration was to raise the minimum age from 14 to 15 years. In this regard there was no obstacle to Norwegian ratification.

The Minimum Age (Agriculture) Convention, 1921 (No. 10), was ratified only in 1955, because—among other things—of doubts regarding Article 2, which states that the total annual period of school attendance shall not be less than eight months. New legis-

lation, and an interpretation by the International Labour Office, made ratification possible.[1]

The Night Work of Young Persons (Industry) Convention, 1919 (No. 6), prohibits night work in the case of persons under 18 years of age. For that reason, among others, ratification by Norway would have required a stiffening of the current Workers' Protection Act. When the revised Convention (No. 90) was ratified in 1957, Norway already had a new Workers' Protection Act which contained (in section 36) rules concerning night work for young persons which were modelled on the Convention.

Weekly Rest

The Workers' Protection Act of 1919 included provisions on weekly rest, but did not meet the requirements of the relevant Convention, the Weekly Rest (Industry) Convention, 1921 (No. 14), because some activities and some employed persons were not covered. It was therefore decided to defer action regarding this Convention and the supplementary Recommendation, the Weekly Rest (Commerce) Recommendation, 1921 (No. 18), pending proposals to amend the Act. In 1937, when the Convention was ratified, the Workers' Protection Act covered the whole field to which the Convention extends. The degree to which Convention No. 14 itself influenced the development of the new provisions on weekly rest is uncertain.

Equal Remuneration

In 1947 the women's associations and the Norwegian Confederation of Trade Unions asked the Government to appoint a committee which would consider the equal pay question. This committee was set up in 1949, and two years later the relevant I.L.O. standards—the Equal Remuneration Convention (No. 100) and Recommendation (No. 90), both of 1951, were sent to it for examination. There was some doubt as to whether ratification would be compatible with one of the basic principles of Norwegian law—that there should be free negotiations between the parties to industry in all matters of remuneration. Ratification was raised at " question time " in Parliament, and Norway's attitude towards the standards was constantly mentioned in the public press. The Government for its part took action to ensure that the contents of I.L.O. standards should be known to all institutions and organisations in the country with wage-fixing functions.

[1] See I.L.O. : *International Labour Code 1951* (Geneva, 1952), Vol. I, p. 304, note 26.

When the Equal Pay Committee made its report in 1958 the majority recommended establishment of an Equal Pay Council and ratification of the Convention. The Norwegian I.L.O. Committee recommended (the employers' representative voting against) that the Convention be ratified. The Employers' Confederation explained its dissent by saying among other things that ratification would oblige the authorities to make regulations regarding men's and women's wages that would be incompatible with the principle of free wage negotiation.

Norway's ratification in 1959 relies on the interpretation that the Convention does not require legislation prescribing equality of wages, and that at the moment of ratification equal rates need have been introduced only for public employees. In undertakings in which the State has an interest but does not determine wages the assumption was that it would suffice if government policy sought to put the equal pay principle into effect. In other respects it was considered that the Convention required initiation of a gradual process of wage equalisation, whereby the increases in pay could be spread over a prolonged period.

Thus, in the minds of the Equal Pay Committee, the Government and Parliament, the desirability of ratifying Convention No. 100 and accepting Recommendation No. 90 was a decisive reason for the establishment of the Equal Pay Council and the definition of its duties. In other words the Convention had a powerful effect on Norway's domestic law and on the attitude of the employers' and workers' organisations as regards practical action to promote the principle of equal pay. Moreover, specific alterations were made in government pay scales, as rates of pay had not complied with the requirements of the Convention. It is a characteristic expression of the importance attached to ratification that the Government did not wait until the above action was effectively taken before deciding to ratify.

Since 1959 the parties to industry have concluded blanket agreements on job evaluation and the principle of equal pay: these provide for full application of equal pay in 1967.

Labour Statistics

Norway was specially interested in the Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63), because the director of its own statistical bureau had presided over the preparatory technical conference which elaborated the draft of this instrument. In Norway only the statistics in agriculture complied with the requirements of the Convention (Part IV), but there had long been a desire for more extensive coverage, so that the Convention

came at an opportune moment and provided a decisive stimulus to further reinforcement of Norway's statistical agency. In addition, a motion was carried at the 1939 Meeting of the Northern Ministers of Social Affairs concerning co-operation in the statistical field, most of the points of which were to take effect if the Northern countries accepted the objectives of Convention No. 63. Having regard to the Convention and to Northern co-operation, Parliament approved expenditure for the expansion of the statistical agency and at the same time gave its consent to ratification.

Employment at Sea

The Minimum Age (Fishermen) Convention, 1959 (No. 112), lays down the general rule that children under 15 years shall not be employed. In 1959 the trade unions strongly urged the authorities to carry the same minimum age into Norwegian legislation. Although work was proceeding on a special Bill on fishing, the Government wished to comply with the Convention's requirements without awaiting introduction of the Bill. The Seamen's Act of 1953 fixes the minimum age at 15 years, but according to an ordinance of November 1956 the rules on minimum age were not to be applied to fishing vessels of under 100 gross register tons. The requirement of the Convention was therefore not met. In 1961 the Government decided that the minimum age laid down in the Seamen's Act should apply also to smaller vessels (under 100 G.R.T.). It is evident that the new provisions of the Seamen's Act regarding the minimum age for fishermen were influenced by the fact that Norway as a fishing nation attached special importance to the earliest possible ratification of Convention No. 112.

There was strong feeling in favour of pension rights for seafarers in Norway after the First World War. As no legislation was enacted between the wars, this feeling was still more strongly expressed after 1945. The Government's Committee on Pensions was asked to give its view on the Seafarers' Pensions Convention, 1946 (No. 71), although this involved some considerable delay in framing the legislation. The discussion in Parliament was one of the bitterest of all those relating to I.L.O. standards. One representative pointed to the resolution adopted by the International Labour Conference in 1941. He threatened international strike action if the Conventions adopted by the 28th (Maritime) Session of the Conference (Seattle, 1946) were not ratified forthwith.

The Seamen's Pension Insurance Act was voted in 1948 ; it complies fully with the Convention. Both parties to the industry were deeply committed on the question of ratification, and this fact naturally had a powerful influence both on the speed of the

parliamentary proceedings and on the definition of the principles underlying the Act.

Norwegian legislation on medical examination of seamen did not meet the requirements of the Medical Examination (Seafarers) Convention, 1946 (No. 73). The question of ratification was taken up again in 1949, when a Bill was before Parliament giving the authorities the power to require medical examination of any person serving on board ship or about to do so. Parliament empowered the Government to ratify as soon as the Bill had been passed and the necessary regulations elaborated. For these reasons the Convention was not ratified until 1955, after the passing of a new Seamen's Act. Having regard to the desire for rapid ratification, an attempt was made to introduce new statutory provisions on medical examination before the full revised text of the new Seamen's Bill was available: but this attempt was unsuccessful. That Parliament should have taken the exceptional step of giving the Government advance authority to ratify bears witness to the great interest felt for this Convention in Norway: indeed, its provisions were at the heart of the proceedings which led to the adoption of the Norwegian Seamen's Act of 1953.

When the Holidays with Pay (Sea) Convention, 1936 (No. 54), was examined by the Conference Norway had no legislation concerning holidays for seafarers; provisions on the subject were included in agreements between the Norwegian Shipowners' Federation and the various organisations of seafarers. The question of ratification was deferred and did not come up again until the Paid Vacations (Seafarers) Convention, 1946 (No. 72), was on the books. In 1947 Norway's own Holidays Act came into existence; section 15 requires the Government to issue regulations suited to conditions in seafaring; and such regulations were elaborated in 1948. When Convention No. 91—the second revision—was adopted in the following year, 1949, it was this which henceforward became the focus of interest. Convention No. 91 modifies the previous requirements on one point: it says that "a suitable subsistence allowance" (in addition to the seafarer's pay during the vacation) *may* be included, instead of *shall* be included as required under Convention No. 72. In other respects the two are identical. As the Norwegian provisions of 1948 give a seafarer the right to "reasonable subsistence money", Norway complied with both Conventions. In these circumstances, Parliament's consent to ratification is of particular interest: it was given on the assumption that the provisions of the Norwegian Act which relate to withdrawal of the right to a vacation in case of breach of discipline were compatible with the Convention. Ratification took place in 1950. The three Conventions thus led to three discussions of the subject

in Parliament but it is not possible to gauge with any precision to what extent the Conventions influenced the content of Norwegian legislation.

The Safety at Sea Act, the Shipping Act and the regulations on seafarers' food did not comply with the requirements of the Food and Catering (Ships' Crews) Convention, 1946 (No. 68). The Convention was frequently referred to in the discussions on new provisions but not until 1956 did rules regarding inspection and food come into existence that complied fully with the requirements of the Convention.

Norwegian legislation was not in conformity with the Certification of Ships' Cooks Convention, 1946 (No. 69), when that instrument came before Parliament in 1948, although a Bill on stewards' and cooks' certificates had been prepared. Parliament enacted the relevant legislation in 1952 after consent to ratification had already been given, on the basis of the Bill, in 1949.

Norwegian provisions on accommodation on board ship were not in accordance with the Accommodation of Crews Convention, 1946 (No. 75). When the question of ratification was raised again, the Government submission to Parliament read: "In order to bring Norwegian law into line with the Convention, new provisions governing berths, etc., are issued under Royal Resolution of 2 July 1948 . . . ."

The Seamen's Act of 1923 did not fully meet the requirements of the Seamen's Articles of Agreement Convention, 1926 (No. 22). In connection with a review of the Seamen's Act, the Convention was re-examined and provisions corresponding to its principles were inserted in the Act.

The requirement of the Minimum Age (Sea) Convention, 1920 (No. 7), that the shipmaster shall keep a register of crew members under 16 years of age, was met by Norwegian legislation only in respect of crews of foreign-going vessels. In 1924 a committee put forward draft legislation respecting the registration of seafarers that was modelled on the Convention, and in 1927 Parliament consented to ratification on the specific condition that it be deferred until the new provisions had come into force.

When the Seamen's Act was amended in 1923 an attempt had been made to introduce provisions which would meet the requirements of the Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8); but this did not prove successful. Only on amendment of the Act in 1935 did it become law in Norway that every seaman is entitled to compensation for unemployment due to shipwreck.

In the case of another instrument also—the Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15)—ratification

was impeded because Norway had no legislation requiring registration of crew members under 16 years of age. Accordingly ratification did not occur until the Registration of Seamen Act came into force in 1927.

Freedom of Association

Norwegian law has never included provisions restricting the right to organise. There was accordingly no obstacle to ratification of the Right of Association (Agriculture) Convention, 1921 (No. 11). Nevertheless Parliament discussed the question four times [1] before it consented to ratification. The reason lay in a great reluctance to ratify a Convention that only confirmed the existing legal situation in Norway. In 1929, however, the view that ratification by this country would contribute to international co-operation in the social field finally won the day.

The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), was ratified in 1949 on the same ground as Convention No. 11, but there was doubt whether its sequel—the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)—could be ratified without legislation protecting workers who have, or seek, jobs with unorganised employers. As soon as it became clear that such legislation need not be enacted, the decision to ratify was taken. Norway's first and, so far, only Act concerning the right to organise was adopted in 1951 : it applies only to managerial personnel [2] and is of little interest in relation with the Convention.

Hours of Work

The Workers' Protection Act of 1915 did not meet the requirements of the Hours of Work (Commerce and Offices) Convention, 1930 (No. 30). The question of ratification was raised afresh in 1937, Norway having by then a new Workers' Protection Act ; but it was assumed that the Convention applied to office work in hotels, restaurants, theatres and places of entertainment. When subsequent inquiries revealed that this assumption was erroneous, ratification ensued (in 1952). The Convention had a powerful effect on certain provisions, both of the above-mentioned Workers' Protection Act (1936) and of the present Act (1956).

Minimum Wage Fixing

When the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), came up for consideration, the Norwegian Industrial

[1] In 1923, 1925, 1927 and 1929.

[2] The Provisional Act respecting the right of organisation of managerial personnel, etc., 1951.

Home Work Act—which met the requirements of the Convention—was applicable only until 1933. To ratify, Norway would have had to extend the validity of the Act for ten years. When, in 1933, the question of its extension was being discussed, the Convention played a decisive part: the Act was prolonged *sine die* and the Convention could be ratified.

Workmen's Compensation

The old Act of 1915 respecting accident insurance for industrial workers covered agricultural workers only when using power-driven machinery. The Workmen's Compensation (Agriculture) Convention, 1921 (No. 12), was ratified in 1963 on the basis of the Industrial Injury Insurance Act, 1958, which covers all wage earners and lays down rules for entitlement to benefit which likewise apply to all.

The question of extending the Accident Insurance (Industrial Workers) Act of 1915 to include occupational diseases was discussed in 1926. An amending Act to provide for such an extension was adopted in 1928, and ratification of the Workmen's Compensation (Occupational Diseases) Convention, 1925 (No. 18), occurred in the following year. The existence of that Convention at least hastened the adoption of the amending Act covering occupational diseases.

Discrepancies having been found between the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), and the Norwegian Accident Insurance Act, the Government proposed in 1927 to bring the Act into accordance with the Convention. The amending measure, which made textual reference to the Convention, came into force in 1929. It is probable that this amendment was not even thought of until the first parliamentary discussion of the Convention in 1926.

The Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42), modified the original Convention —No. 18—and provided a schedule of occupational diseases that were to be placed on the same footing as employment accidents. It was decided by Royal Resolution of 11 January 1935 that the occupational diseases so scheduled should be placed on the same footing as accidents under the Accident Insurance (Industrial Workers) Act. Here we have the somewhat unusual case of insertion of the provisions of a Convention into Norwegian law before the Convention had even been brought before Parliament in accordance with article 19 of the I.L.O. Constitution.

Industrial Safety and Health

It is interesting that action on the White Lead (Painting) Convention, 1921 (No. 13), can be traced through four government

White Papers to Parliament in 1923, 1924, 1927 and 1929. These discussions resulted in the Act respecting partial prohibition of the use of white lead, etc., in 1929, and the Convention was ratified the same year.

Norway had no legislation to meet the requirements of the Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27). In the government proposal on the question of ratification, made in 1932, it is explicitly stated that, having regard to the desirability of ratifying this Convention, special legislation ought to be enacted. As soon as the relevant Act had come into force the Convention was ratified.

Consideration of the Protection against Accidents (Dockers) Convention, 1929 (No. 28), had not been concluded when the revised Convention (No. 32) was adopted in 1932. A decision regarding ratification was deferred pending negotiation between Norway and other seafaring countries on the subject of reciprocity agreements under Article 18 of the Convention. In 1929 and 1949 proposals to amend the Seamen's Act were elaborated with a view to making ratification possible. Consent to this step was finally given on the explicit understanding that the ratification order should not be issued until the amending Act had come into force and the necessary regulation had been issued. These conditions were fulfilled in 1956.

Social Security

The Norwegian Sickness Insurance Act operating in 1928 did not require the provision of " medicines and appliances " to the extent laid down in the Sickness Insurance (Industry) Convention, 1927 (No. 24), and the Sickness Insurance (Agriculture) Convention, 1927 (No. 25). These Conventions were discussed on several occasions over the years in connection with the review of the Sickness Insurance Acts and served as an objective of Norwegian social legislation. They were not ratified until 30 years after their adoption by the Conference.

When the Unemployment Provision Convention, 1934 (No. 44), was adopted, Norway had no statutory unemployment insurance scheme covering all the groups of persons to which the Convention applies. More than 20 years later the Unemployment Insurance Act was extended and modified in the light of the Convention—i.e. the income limit was removed and forestry workers were included. The Convention could then be ratified.

Among the branches of social security listed in Article 2, paragraph 1, of the Equality of Treatment (Social Security) Convention, 1962 (No. 118), Norwegian social security legislation met the requirements of the Convention only in respect of item *(f)*

Survivors' benefit. Item *(i)* " Family benefit " corresponds to benefit under the 1946 Act relating to children's allowances ; but under that measure if the parents are foreigners the benefit is payable only provided the child or one of its parents has been resident in Norway for six months. These special conditions for foreigners are in conflict with Article 4, paragraph 1, of the Convention. However, the Act empowers the Government to enter into reciprocity agreements with other countries, as it may think fit, respecting conditions for payment of children's benefit. Having regard to this provision of the 1946 Act, Parliament consented to ratification, which is deemed equivalent to the conclusion of reciprocity agreements for the removal of the residence condition in respect of nationals of other ratifying countries.

Conventions Which Had No Influence at the Time of Ratification [1]

Even if some Conventions can be ratified without the need for new legislation or for amendment of the law, they may nevertheless have a definite influence on domestic law. For one thing, ratification places limits on the domestic law within the scope of the particular Convention over a number of years. For another, legislative development in application of a ratified Convention is guided by the I.L.O. supervisory Committee of Experts and the other bodies set up under its Constitution to receive complaints. Accordingly, when a given Convention is alleged not to have influenced Norwegian law, it should be understood that as a rule the statement is incontrovertible only at the moment of ratification.

Influence of Accepted Recommendations on Norwegian Law

When Norway accepts a Recommendation in whole or in part, Norwegian law is, in almost all cases, already in conformity with it. There are very few cases in which Norwegian provisions were amended or extended with a view to complying with a Recommendation. On the other hand, the relatively large number of Recommendations which have been accepted shows that Norway has found these instruments well suited to serve as objectives for its social policy.

Eight Recommendations are selected as examples of how Norwegian law has been affected in this way.

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[1] Namely, Nos. 9, 11, 21, 29, 43, 49, 50, 53, 58, 81, 87, 88, 92, 95, 98, 101, 102 (Parts. II-VII), 105, 111, 115, 118 (item *(f)* in Article 2, paragraph 1) ; also 80 and 116.

The Migration Statistics Recommendation, 1922 (No. 19), Parts I and II, was put into effect in 1923 when the competent department gave the required instructions for expansion and improvement of migration statistics and for statistical co-operation with the International Labour Office.

The Prevention of Industrial Accidents Recommendation, 1929 (No. 31), was a matter of very great public interest and discussion in Norway. The provisions were regarded as well-conceived directives for future work in accident prevention. Many of the present provisions in that field were inspired by and modelled on the Recommendation.

As a seafaring nation Norway was particularly interested in the Seamen's Welfare in Ports Recommendation, 1936 (No. 48). The Ministry of Commerce stated in 1937 that compliance with its provisions should be aimed at and proposed several relevant measures, such as the establishment of welfare institutions and of port councils. In the event, this Recommendation has over the years played an important part in the development of the laws and administrative measures now governing the organisation of seafarers' welfare work in Norway.[1]

In such important branches of the economy as industry, handicrafts and commercial and office employment Norway had no apprenticeship schemes in conformity with the Apprenticeship Recommendation, 1939 (No. 60), and it was considered advisable to use the Recommendation as a directive for the expansion of apprenticeship arrangements in this country. This instrument therefore served as a useful and instructive model.

The Norwegian laws and regulations regarding the rehabilitation of disabled persons, and the administrative arrangements made in their regard, do not correspond to all the directives given in the Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99). However, this Recommendation was accepted as a whole by Norway because it gives what the Ministry of Local Government and Labour has described as " a very good exposition of modern principles of rehabilitation and their practical application ". Thus this Recommendation has also been of great importance, as it has helped in the development of a branch of Norwegian employment policy which has particular social value.

[1] Recommendation No. 48 was examined during the preparatory work for the Welfare Fund and Council Act, 1946, in the course of which the following statement was made : " A seafaring nation like Norway must, in the interest of the industry and of the country, be among the first advocates of international action and agreement on matters of seamen's welfare. The international organ which provides the best platform for such discussion is the International Labour Office."

Although the present Workers' Protection Act and the regulations issued by the Labour Inspectorate do not fully correspond to the protective measures prescribed in the Radiation Protection Recommendation, 1960 (No. 114), it has been accepted without reservation.

The Vocational Training Recommendation, 1939 (No. 57), has been a vital element in the reorganisation of vocational training in Norway. Part II (General organisation) has been followed with particular care in the plans for this kind of training.

The above short list of examples speaks for itself. The objectives set by the Recommendations have inspired both legislation and administrative action. Although it is impossible to ascertain the extent to which the Recommendations listed have materially influenced the elaboration of detailed Norwegian statutory provisions, the attitude of the authorities towards them justifies the conclusion that the Recommendations have sometimes affected Norwegian law, often to a decisive extent.

Influence of Supervision of Application of Ratified Conventions

When it examines the governments' reports, the I.L.O. Committee of Experts on the Application of Conventions and Recommendations attempts to assess the extent to which the member States apply the Conventions through their national law and practice. There are instances in which Norwegian law was further affected and influenced by I.L.O. standards after the date of ratification because the obligation to report to the Committee of Experts has guided Norwegian legislative development on some point in a certain direction.

For instance, under section 28 (3), second paragraph, of the Workers' Protection Act the Ministry can grant exemption from the rule requiring 24 hours' consecutive time off (at the week-end). The Weekly Rest (Industry) Convention, 1921 (No. 14), provides that a Member may authorise exceptions from the provisions of Article 2 (which concerns such time off) after consultation with the employers' and workers' associations. In 1954 the Committee of Experts " trusted " that the Norwegian Government " will in future conform to this requirement in all cases ". As a consequence of this finding, section 28 of the Act was supplemented by placing a statutory obligation on the Ministry to consult the parties in accordance with Convention No. 14.

In 1948 the Committee of Experts noted that the obligation to keep a register of young persons, as required by the Minimum Age (Industry) Convention (Revised), 1937 (No. 59), had not yet been

imposed on all undertakings covered by the Workers' Protection Act of 1936. The following year the Committee was able to note that the necessary regulations had been issued.

The Old-Age Insurance Act of 1936 provided for the exclusion of certain persons (vagrants, drunkards, etc.) from the right to pension. In 1957 the Committee of Experts pointed out that Article 69 of the Social Security (Minimum Standards) Convention, 1952 (No. 102), did not provide for exclusions of this kind; the matter was settled in 1958, when the Committee noted that the new Old-Age Insurance Act of July 1957 did not contain any such provision.

In 1959, following previous observations on the matter, the Committee of Experts found that the Seafarers' Act had been amended in 1958 in order to provide for payment of indemnity to seamen whatever their nationality or residence, in conformity with Article 2 of the Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8).

For a number of years Norwegian legislation on industrial accidents and occupational diseases insurance did not contain a list of occupational diseases and corresponding industries and processes similar to that of Article 2 of the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42). In 1964 the Committee of Experts, following comments on this subject in previous years, noted that, by a Royal Decree of 1962, a list had been established which instituted, in accordance with the Convention, a presumption of occupational origin for the diseases appearing in this list when they affect workers employed in the trades and industries in question.

Summing Up

In 1954 a new article 110 was added to Norway's Constitution, stating that: " It shall be the responsibility of the public authorities to provide conditions in which every person capable of working can earn a living from his work."

The United Nations Declaration of Human Rights says that " everyone has the right to work ". According to the Declaration of Philadelphia the International Labour Organisation includes among its objectives the furtherance of " full employment and the raising of standards of living ". Passages of the same kind may be found in treaties, declarations and national constitutions throughout the world.[1]

[1] See C. W. Jenks: *The Common Law of Mankind* (London, Stevens, 1958), pp. 256 ff.

In a country where economic life is hampered by unemployment, I.L.O. standards are likely to be used primarily with political aims in view. This was formerly the case in Norway. During the difficult period of the 1920s and 1930s the authorities were hindered from improving social legislation and the protection of the worker in accordance with I.L.O. standards. At that time, therefore, the standards played a predominantly political role : Conventions and Recommendations alike were banners in the struggle about fundamental objectives and principles in the labour field.

In the post-war years, with full employment in Norway, some great social aims have already been reached. During that period I.L.O. standards have been used directly in drafting legislation and have thus helped to create new provisions, to introduce new ideas and to serve as guidelines for future action.[1]

In the 1930s too, there was recognition in Norway that I.L.O. standards that in themselves were of no direct interest for this country ought nevertheless to be ratified because of Norway's obligation to contribute to international co-operation in matters of social policy.[2]

Of the 57 ratified Conventions there are, as we have seen, well over half which—at the time of ratification—directly influenced either Norwegian legislation or the practice of the administrative authorities, or the action taken by the parties to collective agreements.

If one examines the various circumstances which now prevent ratification of the other 39 Conventions and parts of Conventions [3] which it is, formally speaking, possible for Norway to ratify, the following picture emerges.

Convention Standards above Norwegian Levels

The Sickness Insurance Act does not require payment of such a big maternity allowance as that prescribed in the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Maternity Protection Convention (Revised), 1952 (No. 103). The Workers' Protection Act permits longer working hours than the

[1] Odd FRIBERG (*Arbeidervernloven* (Oslo, 1963), p. 16) says: " As in the case of the 1936 revision of the Act, many provisions of the Act of 1956 were drafted with a view to enabling I.L.O. Conventions to be applied " ; but Edvard BULL (*Arbeidervern gjennen 60 år* (Oslo, Tiden Norske, 1953), p. 217) takes a contrary view : " If we considered that an Act corresponding to an international Convention was right for Norway, then we could ratify the Convention ; but there was no reason for straining ourselves to make this possible."

[2] This applies to Conventions Nos. 29 and 50.

[3] Convention No. 102, Parts VIII to X, and Convention No. 118 as regards items *(a)*, *(b)*, *(c)*, *(g)* and *(h)* in Article 2, paragraph 1.

limits set in the Forty-Hour Week Convention, 1935 (No. 47), the Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51), and the Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61) ; and it permits greater recourse to overtime than the Hours of Work (Industry) Convention, 1919 (No. 1). The Old-Age Insurance Act provides for a higher pensionable age than the 65 years prescribed in the Old-Age Insurance (Industry, etc.), and the Old-Age Insurance (Agriculture) Conventions, 1933 (Nos. 35 and 36), and in the Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48). There is no legislation providing for general widows' insurance [1] as prescribed in the Survivors' Insurance (Industry, etc.), and the Survivors' Insurance (Agriculture) Conventions, 1933 (Nos. 39 and 40), and in Part X (Survivors' benefit) of Convention No. 102. It is considered that there would not be sufficient medical practitioners to carry out an annual medical examination of all fishermen under 21 years of age, as required by the Medical Examination (Fishermen) Convention, 1959 (No. 113). As for the Fishermen's Articles of Agreement Convention, 1959 (No. 114), no legislation has been passed to regulate fishermen's articles of agreement ; aboard small vessels conditions of employment are governed by customary law and usage. The safety provisions concerning scaffolds and hoisting appliances do not meet the requirements of the Safety Provisions (Building) Convention, 1937 (No. 62). The Act respecting medical examination of children and young persons employed at sea does not apply to fishing, whaling and sealing—cf. the Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16). The right of seamen to repatriation is more restricted in Norwegian legislation and practice (collective agreements) than in the Repatriation of Seamen Convention, 1926 (No. 23). The provision, contained in the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), that the shipowners' liability for maintenance shall not be for less than 16 weeks is not reflected in Norwegian law. The Seamen's Act and the Insurance Acts do not make it entirely certain that sick pay will be drawn until an ailing seaman is cured or repatriated, whichever first occurs—cf. the Social Security (Seafarers) Convention, 1946 (No. 70). There is no statutory requirement that able seamen shall be provided with certificates—cf. the Certification of Able Seamen Convention, 1946 (No. 74). The Sickness Insurance Act does not provide for the grant of medicines to the extent prescribed in the Sickness Insurance (Sea) Convention, 1936 (No. 56). The condition of

[1] Government proposals for widows' insurance were sent to Parliament on 6 March 1964 ; a National Pensions Act is also under consideration.

residence in Norway which the Insurance Acts attach to the payment of benefit to foreign seamen is contrary to the Equality of Treatment (Social Security) Convention, 1962 (No. 118).[1] Lastly, it is doubtful whether the provision of the Employment Injury Insurance Act, which excludes seamen with special working conditions in the far-eastern trade, is compatible with the same Convention.[2]

Political Obstacles to Ratification

For a number of years Norwegian women's organisations, fighting for equality between the sexes, have opposed inclusion in the Workers' Protection Act of provisions giving women special protection in matters of employment. Parliament has deferred to this policy. As a result there are no statutory provisions respecting night work of women in industry or the employment of women underground, such as would correspond to the Night Work (Women) Convention (Revised), 1948 (No. 89), and the Underground Work (Women) Convention, 1935 (No. 45). Norway has no protective provisions for women workers other than expectant and nursing mothers.

It is an essential principle of the Workers' Protection Act that its provisions shall protect employed persons. Accordingly there are no provisions on night work by employers in bakeries or on working hours for employers in road transport—cf. the Night Work (Bakeries) Convention, 1925 (No. 20), and the Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67).

Since the 1870s, when the first workers' associations were set up in Norway (the present central bodies—the Norwegian Confederation of Trade Unions and the Norwegian Employers' Confederation —were not established until the end of the last century), the principle has been respected that determination of the terms of wage agreements should be left to the employers' and workers' organisations and that the State should not interfere. This principle has been considered to be incompatible with the Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99).

Having regard to the detailed character of the Workers' Protection Act and the strength of the Norwegian trade union movement it is considered unnecessary for public contracts to contain special clauses requiring conditions of labour to be not less favourable than those current in the district—cf. the Labour Clauses (Public Contracts) Convention, 1949 (No. 94).

[1] Items *(a)* to *(e)* and *(h)* in Article 2, paragraph 1.

[2] Article 2, paragraph 1, item *(g)*.

Technical Obstacles to Ratification

The policy of equal protection for all employed persons in Norway is incompatible with special protection against night work in non-industrial occupations—cf. the Night Work of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 79), and the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106).

It has not been considered necessary to provide for a separate record of holidays and holiday pay and to lay down a statutory obligation that members of the employer's family shall have paid holidays, as prescribed in the Holidays with Pay Convention, 1936 (No. 52).

The Domestic Aid Act 1963 does not require such supervision and inspection as are prescribed in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 (No. 60).

The Workers' Protection Act does not apply to employment on inland waterways, as does the Maternity Protection Convention, 1919 (No. 3).

The possibility of exemption from the restrictions on night work for young persons (Workers' Protection Act) for the purpose of instruction in the plant is contrary to the Night Work of Young Persons (Industry) Convention, 1919 (No. 6).

It has not been possible to arrange for the issue on a Northern basis of seamen's identity cards in accordance with the provisions of the Seamen's Identity Documents Convention, 1958 (No. 108).

Ratification Possibilities

The Acts respecting employment injury insurance and disablement insurance, which came into force in 1960 and 1961 respectively, now make it possible to re-examine the ratification of the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37), and the Invalidity Insurance (Agriculture) Convention, 1933 (No. 38), as well as Part IX (Invalidity benefit) of the Social Security (Minimum Standards) Convention, 1952 (No. 102).

According to the Workers' Protection Act, the Government can raise the age limits for compulsory medical examination from 16 to 18 and from 19 to 21 years if the work is arduous or dangerous; but the main provision of the Act in this respect sets age limits of 16 and 19 years. The question arises whether this main provision can be retained considering that Article 9 of the Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77), merely permits a ratifying country which has previously had no legislation on the subject to start with age limits of 16 and 19 years. The provisions of the Norwegian Act were introduced in 1959 and

had been drafted with special regard to applying Convention No. 77 and the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78).

Of course many of the requirements of unratified Conventions also have been put into effect. For instance the Wages, Hours of Work and Manning (Sea) Conventions were the model for some provisions of the Norwegian Hours of Work on Shipboard Act of 1949, but technical difficulties regarding hours of work and wage fixing prevent ratification. Furthermore, the unratified Conventions or those parts of them which Norway has not yet equalled are, almost without exception, real present objectives of Norwegian labour and social policy. Provisions of Recommendations which have not been complied with stand in the same relationship to Norwegian law as the unratified Conventions or parts of Conventions.

It has often been maintained that in a socially advanced country like Norway technical circumstances are the commonest obstacles to ratification : but, as the above review will have shown, such a statement is not valid in respect of Norway. We have seen that the decisive obstacle to ratification of some Conventions is the fact that Norway has so far not brought its standards up to those of the Conventions. Obstacles to ratification of a more political character have been decisive in regard to other Conventions ; and special Norwegian technical provisions hinder the ratification of yet others. Ratification can now be re-examined in the light of a new situation as regards nine Conventions together with Convention No. 102, Part IX (Invalidity benefit). On two Conventions Parliament has not yet determined its attitude.

Turning to the Recommendations, one may say once more that, on the whole, it is lower Norwegian social standards which hamper full or partial compliance with many of these instruments.

It has not been possible in the present paper to give more than a rapid sketch of the relations between I.L.O. standards and Norwegian law. However, the author hopes that he may have left with his readers material for thought which will enable them to form their opinion and draw their conclusions on the influence of the standards in Norway. There is one maxim which, in all these matters, should never be forgotten : " Toleration of differences is a natural and normal incident of civilised life." [1]

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[1] J. L. BRIERLY : *The Outlook of International Law* (London, Oxford University Press, 1944), p. 60.