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The origins of an international labour Convention

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The standard-setting function of the ILO is probably known to most people throughout the world who are concerned with labour matters at the national level, whether as government ministers or officials, employers or trade union leaders. There must be few such people who are not familiar with the ILO's Conventions and Recommendations in fields such as freedom of association, social security, occupational safety and employment.

There is, however, one aspect of standard-setting which is not as well known as it should be outside the International Labour Office itself, namely how these standards originate. Many books and probably a greater number of theses have dealt with the origins of the ILO, but as far as I am aware there is nothing in the literature on the way a Convention is born.

The object of the present article, therefore, is to stimulate interest in, and the study of, what is in fact just as important an aspect of standard-setting as any other, but one which has been neglected for far too long. It is hoped that interest will be aroused above all in trade union circles, because the subject is very relevant to trade union preoccupations.

The instrument which has been chosen as an example is the Occupational Cancer Convention, 1974 (No. 139). Before turning to this particular Convention, however, it might first be worth while to look back to 1919, the year the International Labour Conference met for the first time. The agenda of this first session was drawn up by the Paris Peace Conference, inaugurated earlier in the same year, on the recommendation of its Commission on International Labour Legislation. It may be recalled that the chairman of this commission had been Samuel Gompers, the President of the American Federation of Labour. It is not surprising, therefore, that the agenda in question should have reflected rather closely a succession of resolutions adopted before and during the First World War by trade union conferences in the United States and elsewhere. The items were, briefly, the eight-hour day or the 48-hour week; preventing, or providing against, unemployment;

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the conditions of employment of women and children; and the extension and application of two international conventions adopted in Berne, Switzerland, in 1906, dealing with the night work of women and the prohibition of the use of white phosphorus in the manufacture of matches.

To recall the link between trade union resolutions and the adoption, in 1919, of the first six ILO Conventions[1] is not in any way to underestimate the important role played then, and earlier, by progressive government ministers, employers and independent persons concerned with welfare. All contributed to the final result; but undoubtedly the trade unions were, and remain today, what the ILO's first Director, Albert Thomas, used to call "the engine of the ILO".

The point is perfectly, though tragically, illustrated by the Occupational Cancer Convention. The story behind this Convention is revealing, and it provides the basis for several important conclusions, which we shall try to list at the end of this article. It begins–so far as the ILO is concerned–with the death in 1964 of George Lucy, a member of the Transport and General Workers' Union, in the United Kingdom.

George Lucy worked, between 1935 and 1950, in a London-based company making insulated cables. For many years the insulation took the form of synthetic rubber, in the manufacture of which certain antioxidants were used to retard the process of deterioration. (At this point, the present writer should make it clear that he has no qualifications in medicine and chemistry, and to avoid any possible misunderstanding, all technical terms which are not immediately intelligible to the average reader will be avoided.) The point is that the substances referred to were later banned, although it was still possible to obtain them "under the counter".

At the inquest, the coroner stated that George Lucy had died as a result of handling an antioxidant material in the course of his work many years previously. This "latent period" has been the subject of considerable research, and of controversy over entitlement to workmen's compensation. It is now known that the period can be anything between five and 50 years, so the fact that the worst of the harmful agents were now officially banned did not bring much comfort to workers who had handled them earlier on in their careers.

The General Secretary of the union to which George Lucy belonged took up the legal defence of the widow's interests and pressed the Ministry of Labour to improve the regulations aimed at protecting the workers concerned. At the annual meeting of the Trades Union Congress (TUC) in September 1965, he successfully moved a resolution calling for "the establishment of Government-sponsored research organisations, independent of private industry, for the purpose of identifying the dangers and advising on the essential precautions in dealing with chemical substances; and the introduction of appropriate regulations and safeguards covering the use, and notification under the Factories Act, of any chemical substances found to involve health hazards". By coincidence, the President of the 1965

TUC Congress was Lord Collison, a Worker member of the Governing Body of the ILO.

The resolution aroused a great deal of public interest, but in fact the TUC's Social Insurance and Industrial Welfare Committee, under the chairmanship of Lord Collison, had already begun a series of meetings with the Minister of Labour seeking the adoption by the Government of a number of protective measures and suggesting that the question of cancer in industry be brought before the ILO for action at the international level. The death of George Lucy had been the incident which prompted the TUC to take action.

The next stage in the story unfolded in Geneva in June 1967. Two draft resolutions were moved, one by Lord Collison, the other by the Workers' delegates of Austria and Mexico, both dealing, inter alia, with occupational cancer. In the Resolutions Committee, some members expressed the view that the connection between cancers and occupation had not been proved, and that one should be wary about drawing hasty and probably wrong conclusions. An unsuccessful attempt was made to amend the merged draft resolution by deleting from the preamble the reference to cancers of the skin and bladder. Later, supporting the adoption of the resolution in plenary sitting, Lord Collison made specific reference to the case of the rubber cable worker whose death at the end of 1964 had led the TUC to raise the question of bladder cancer at the ILO.[2] The text eventually adopted by the Conference, without opposition, requested the Governing Body to give careful consideration to the whole question of occupational cancer with a view to developing suitable measures for its prevention and control.[3]

The Governing Body responded to this resolution, after Lord Collison had insisted on several occasions that priority should be given to the matter as a possible item for the agenda of the International Labour Conference, by allocating resources for a meeting of experts on the control and prevention of occupational cancer; this was held in Geneva in January 1972. The Office had prepared, for consideration by the experts, a summary of available information concerning occupational cancer, and certain guidelines for future international action.[4] Participants included persons nominated by employers' and workers' organisations as well as government experts and independent specialists.

In their report[5] the experts described in great detail the history, nature and extent of the potential hazards and made a large number of suggestions for future action by governments, employers, workers and the ILO. On the basis of this extensive report, the Governing Body decided to place on the agenda of the 58th (1973) Session of the International Labour Conference an item entitled "Control and prevention of occupational cancer".

When the first Office questionnaire on this item was addressed to member governments in 1972, all of the 65 which replied expressed the view that the Conference should adopt a new international instrument concerning the prevention of hazards caused by carcinogenic substances or agents.

However, only two governments considered that the instrument should take the form of a Convention only, while 11 thought that there should be a Convention supplemented by a Recommendation and 51 favoured a Recommendation only (the remaining government considering that it should be left to the Conference to decide). The Office had therefore prepared a set of proposed conclusions for the consideration of the Conference in 1973, specifying that the instrument should take the form of a Recommendation.

The Workers' members of the Committee which dealt with the item strongly disagreed, but they were clearly in a minority and the text of a proposed Recommendation was duly adopted and referred for final decision to the 1974 Session of the Conference.[6]

At the second discussion, in 1974, the Workers reopened the question of a possible Convention. They were supported by a number of Government members, while other Government members said that, although they favoured a Recommendation, they would not oppose the adoption of a Convention. The Employers reaffirmed their preference for a Recommendation but, somewhat to the surprise of the Workers, agreed to consider a possible Convention. Thus it was that a draft Convention and a draft Recommendation were approved by the Committee and later adopted by the Conference in two unanimous votes. It was not the first time in the history of the ILO that the Workers had succeeded by sheer persuasive argument in transforming a proposed Recommendation into a Convention, but it was probably the first time that a Committee had dealt with an item from beginning to end without having to take a single vote.[7]

A careful examination of the whole story of this item indicates that, even when due weight is given to the extensive research and other preparations undertaken by the Office and the valuable participation of members of the Government and Employers' Groups of the Governing Body and the Conference, the main thrust for the effective treatment by the ILO of the subject of occupational cancer came from the ranks of the workers. It would not be invidious to underline the patience and determination shown throughout by Lord Collison, supported by his colleagues.

The Occupational Cancer Convention, 1974 (No. 139), was adopted, therefore, as a direct result of the death of a rubber worker; but it was adopted ten years after his death, and then only because of the determined efforts of the Worker delegates and advisers attending the International Labour Conference. If it had been adopted ten years before his death instead of ten years after, it is very doubtful whether it would have helped to save his life. It would, however, have saved many other lives, and before expressing satisfaction at the adoption of such an important Convention, it might be worth looking at some of the reasons for the delay.

When George Lucy died, his union began to investigate the incidence of bladder cancer among its members. It was in no position to carry out an epidemiological study, and could only gather information forthcoming from

its own members or their survivors. Nevertheless, it did bring together a mass of material, including reports and articles in the medical press. The results were profoundly disturbing.

It became increasingly obvious to the union that the dangers associated with a certain group of chemicals, to which the antioxidants were related, had been known for a very long time. Certain employers were well aware of the hazards and had in fact commissioned a study of them which was interrupted during the Second World War and resumed in 1946.[8] As a direct result of this research, the use of certain chemicals likely to cause cancer was banned, while regulations were formulated, by the rubber industry itself, for the safe use of others. Unfortunately, these self-regulatory efforts were not 100 per cent effective. At an inquest held in the United Kingdom in 1965, following the death of another rubber worker, the personnel manager of the firm concerned said that he knew of the recommendation of the Rubber Manufacturing Employers' Association that workers on certain processes should undergo regular medical examinations, but did not follow it for fear of arousing the workers' anxiety.

Even if the hazards in question had come to light only in the 1930s, when the research project was initiated by the employers, it would be disturbing to note the long delay before any kind of regulatory action was taken. In fact, the situation was more disturbing than that. It appeared that cases of related carcinogenic chemicals had been discovered in the synthetic dye industry in Basle, Switzerland, in 1912, and in Germany in 1895. And yet in 1967, when the International Labour Conference was discussing Lord Collison's draft resolution on occupational cancer, some of the Employers' delegates were still insisting that the connection between certain chemical substances and the incidence of cancer was not yet proved conclusively. In case this might be regarded as an unfair reflection on the Employers as a group, it might be appropriate to quote the words of Mr. Henniker-Heaton, the United Kingdom Employers' adviser, during the plenary debate on the 1967 resolution: "And sometimes it is necessary to deal with shortsighted and even unscrupulous employers, or with workers who are reluctant to be medically examined or too careless to adopt safety measures."

The research carried out by George Lucy's union found that not all the responsibility rested with either shortsighted employers or careless workers. In September 1953 the United Kingdom Government decided to prescribe (for social security purposes) the disease of "papilloma of the bladder" connected with the use of certain chemicals, including antioxidants. In presenting its proposals to the tripartite Council on Industrial Injuries, the Government explained that the natural description of the disease would be "tumour of the bladder" but that it was considered that the blunt use of the word "tumour" might create unnecessary alarm. (A papilloma, it should be explained, is a wart, which is normally, but not always, harmless.) The result, for workers who were handling, or had handled in the past, the chemical substances in question, would have been to lessen considerably their fear of

developing a tumour, and therefore also their insistence on regular examinations and similar precautions.

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The main purpose of this article being to stimulate interest in the origins of international labour Conventions, the following tentative conclusions are offered in the hope that they may provide a basis for discussion and further inquiry, particularly in workers' circles.

1. While the Occupational Cancer Convention, 1974, may be a special case in some respects, it may be taken as a fair illustration of the fact that ILO standards are born out of the experience of workers. They are not normally the creation of benevolent governments or employers. When, as in the case of Convention No. 139, they are adopted unanimously, this is largely because of the determined efforts of the workers.

2. The workers are the ones best placed to know "where the shoe pinches", but they are not necessarily those who are best placed to initiate action by the ILO. As the case described above makes clear, workers must have been dying for nearly a century as a result of using carcinogenic substances in the course of their work in the dyestuffs, solvents and antioxidant-using industries. During this period, the link between the substances and the disease became well known. Does not some responsibility rest with governments and employers to raise the alarm at the international level?

3. "Codes of conduct" are not without value, but workers regard them as insufficient, just as they regarded a Recommendation on occupational cancer as unsatisfactory on its own. There is no substitute for a Convention in such matters and at the national level a Convention should be given effect in laws and regulations which can be enforced.

4. Workers are entitled to the fullest possible information concerning the hazards to which they are exposed. To conceal unpleasant facts, or to call a tumour a wart, is not only unhelpful but dangerous.

5. Much more needs to be done by all concerned–governments, employers, workers and the medical profession–to encourage knowledge and understanding of work-related hazards and the international machinery which is available, through such organisations as the ILO, the World Health Organisation and the United Nations Environment Programme, to provide protection. How many trade union leaders, for example, are fully conversant with the PIACT, the ILO's International Programme for the Improvement of Working Conditions and Environment, and the IRPTC, the UNEP International Register of Potentially Toxic Chemicals? Equally important is to ensure that there is widespread knowledge of the standards which apply in this field: how they came to be adopted, what they specify, and how they should be applied.

6. The subject of international labour standards should be among the top priorities for workers' education courses. Much has been done already by the Workers' Education Branch of the ILO, but still relatively few workers are able to link their daily experience with the adoption of new standards. For many workers, it must seem that an ILO Convention is the brainchild of some anonymous official far away in Geneva. As we have seen in the case of George Lucy, nothing could be further from the truth.

Notes

[1] Hours of Work (Industry) Convention, 1919 (No. 1); Unemployment Convention, 1919 (No. 2); Maternity Protection Convention, 1919 (No. 3); Night Work (Women) Convention, 1919 (No. 4); Minimum Age (Industry) Convention, 1919 (No. 5), and Night Work of Young Persons (Industry) Convention, 1919 (No. 6).

[2] ILO: *Record of Proceedings*, International Labour Conference, 51st Session, 1967, pp. 560 and 499).

[3] For the text of the resolution, see *Official Bulletin* (Geneva, ILO), July 1967, Supplement 1, pp. 42-43.

[4] See in particular ILO: *General considerations in the evaluation and control of occupational cancer*, doc. OC/1972/1 (Geneva, 1971).

[5] For extracts from this report, see idem: *Control and prevention of occupational cancer*, Report VII(1), International Labour Conference, 58th Session, Geneva, 1973, pp. 25-36.

[6] For a full report on the first discussion, see idem: *Record of Proceedings*, International Labour Conference, 58th Session, Geneva, 1973, pp. 599-612 and 697-700; a summary is given in *International Labour Review*, Oct. 1973, pp. 270-273.

[7] The full report on the second discussion appears in idem: *Record of Proceedings*, International Labour Conference, 59th Session, Geneva, 1974, pp. 329-346 and 429-433, and a summary in *International Labour Review*, Oct. 1974, pp. 280-282.

[8] See *Report of the Chief Inspector of Factories, 1965* (London, HM Stationery Office), pp. 52-59.