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COMMISSION ON HUMAN RIGHTS  
SUB-COMMISSION ON PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES  
Third session

ACTIVITIES OF THE INTERNATIONAL LABOUR ORGANISATION IN THE  
FIELD OF PREVENTION OF DISCRIMINATION AND  
PROTECTION OF MINORITIES<sup>1/</sup>

A. Introduction

1. At its second session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities requested the Secretary-General, inter alia:<sup>2/</sup>

"... to furnish the members of the Sub-Commission with relevant data on the activities of all organs of the United Nations and its specialized agencies in the field of the prevention of discrimination and the protection of minorities, as and when it becomes available."

This memorandum contains such relevant information concerning the activities of the International Labour Organisation, since the drafting of a statement entitled "Activities of the International Labour Organisation in the Field of the Prevention of Discrimination and the Protection of Minorities", which was prepared by the International Labour Office and circulated as document E/CN.4/Sub.2/10, dated 5 November 1947.

B. Migration for employment

2. The Permanent Migration Committee of the International Labour Organisation held its second session in Geneva in February and March 1948. The agenda of the Committee included the possibility of the revision of the Migration for Employment

1/ This study is one of a series dealing with the activities of various organs of the United Nations and its specialized agencies in the field of prevention of discrimination and protection of minorities.

2/ Regulation B, Report of the Second Session of the Sub-Commission (document E/CN.4/351, paragraph 15).

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/Convention, 1939.

Convention, 1939. The Permanent Migration Committee recommended a complete revision of the provisions of the Convention and asked the Governing Body to place the question on the agenda of the 1949 session of the International Labour Conference. The Governing Body so decided.

3. Certain general principles were emphasized by the Committee as being suitable for inclusion in the revised Convention; one of these was the principle that equality of treatment for foreign workers with respect to nationals should be established, particularly in regard to social security as well as to other aspects of conditions of work and employment.

4. At its 32nd session, 1949, the International Labour Conference adopted the Migration for Employment Convention (Revised) 1949, of which article 6 reads:

"Article 6

"1. Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters:

(a) in so far as such matters are regulated by law or regulations, or are subject to the control of administrative authorities -

(i) remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age for employment, apprenticeship and training, women's work and the work of young persons;

(ii) membership of trade unions and enjoyment of the benefits of collective bargaining;

(iii) accommodation;

(b) social security (that is to say, legal provision in respect of employment injury, maternity, sickness, invalidity, old age, death, unemployment and family responsibilities, and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations;

(i) there may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) national laws or regulations of immigration countries may prescribe special arrangements concerning benefits or portions of

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benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension;

- (c) employment taxes, dues or contributions payable in respect of the person employed; and
- (d) legal proceedings relating to the matters referred to in this Convention.

"2. In the case of a federal State the provisions of this Article shall apply in so far as the matters dealt with are regulated by federal law or regulations or are subject to the control of federal administrative authorities. The extent to which and manner in which these provisions shall be applied in respect of matters regulated by the law or regulations of the constituent States, provinces or cantons, or subject to the control of the administrative authorities thereof, shall be determined by each Member. The Member shall indicate in its annual report upon the application of the Convention the extent to which the matters dealt with in this Article are regulated by federal law or regulations or are subject to the control of federal administrative authorities. In respect of matters which are regulated by the law or regulations of the constituent States, provinces or cantons, or are subject to the control of the administrative authorities thereof, the Member shall take the steps provided for in paragraph 7 (b) of Article 19 of the Constitution of the International Labour Organisation."

5. The Conference also adopted the Migration for Employment Recommendation (Revised) 1949, extending the principle enunciated in the Convention referred to above, and including an Annex consisting of a Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons, which was intended to serve as a guide to Governments in the negotiation of bilateral agreements. In the Annex, the phrases and passages in italics refer primarily to permanent migration; those enclosed within square brackets refer solely to migration of refugees and displaced persons.

6. Articles 17 to 19 of the Model Agreement provide:

"Article 17. Equality of Treatment

"1. The competent authority of the territory of immigration shall grant to migrants and to members of their families with respect to employment in

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which they are eligible to engage treatment no less favourable than that applicable to its own nationals in virtue of legal or administrative provisions or collective labour agreements.

"2. Such equality of treatment shall apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within the territory of immigration in respect of the following matters:

- (a) in so far as such matters are regulated by laws or regulations or are subject to the control of administrative authorities,
  - (i) remuneration including family allowances where these form part of remuneration, hours of work, weekly rest days, overtime arrangements, holidays with pay and other regulations concerning employment, including limitations on home work, minimum age provisions, women's work, and the work of young persons;
  - (ii) membership of trade unions and enjoyment of the benefits of collective bargaining;
  - (iii) admission to schools, to apprenticeship and to courses or schools for vocational or technical training, provided that this does not prejudice nationals of the country of immigration;
  - (iv) recreation and welfare measures;
- (b) employment taxes, dues or contributions payable in respect of the persons employed;
- (c) hygiene, safety and medical assistance;
- (d) legal proceedings relating to the matters referred to in this Agreement.

"Article 18. Access to Trades and Occupations and the Right to Acquire Property

Equality of treatment shall also apply to -

- (a) access to trades and occupations to the extent permitted under national laws and regulations;
- (b) acquisition, possession and transmission of urban and rural property.

"Article 19. Supply of Food

The treatment applied to migrants and the members of their families shall be the same as that applied to national workers in the same occupation as regards the supply of food."

7. Article 21 of the Model Agreement provides:

"Article 21. Social Security

1. The two parties shall determine in a separate agreement the methods of applying a system of social security to migrants and their dependents.

2. Such agreement shall provide that the competent authority of the territory of immigration shall take measures to ensure to the migrants and their dependents treatment not less favourable than afforded by it to its nationals, except where particular residence qualifications apply to nationals

3. The agreement shall embody appropriate arrangements for the maintenance of migrants' acquired rights and rights in course of acquisition framed with due regard to the principles of the Maintenance of Migrants' Pension Rights Convention, 1935, or of any revision of that Convention.

4. The Agreement shall provide that the competent authority of the territory of immigration shall take measures to grant to temporary migrants and their dependents treatment not less favourable than that afforded by it to its nationals, subject in the case of compulsory pension schemes to appropriate arrangements being made for the maintenance of migrants' acquired rights and rights in course of acquisition."

C. Migration for Land Settlement

8. At its third session (January 1949) the Permanent Migration Committee of the ILO adopted some general principles applicable for land settlement. Among these principles, the following deals with equality of treatment for foreign settlers with nationals, with regard to conditions of establishment for land settlement:

"IV.1. Immigration countries should ensure to alien settlers and to their families treatment no less favourable than that which they grant to their own nationals as regards conditions of establishment for land settlement including the renting, freehold possession and transmission of property and land, conditions concerning the cultivation of land and the conditions for the financing thereof."

9. In pursuance of a decision taken by the Governing Body at its 108th session (Geneva, March 1949), the ILO has transmitted to the Governments of States Members of the Organisation the text of the general principles applicable to migration for land settlement adopted by the Permanent Migration Committee, and has drawn their attention to the suggestions and recommendations embodied in that text.

/D. Freedom of

D. Freedom of association and the right to organize and to bargain collectively

10. The International Labour Conference at its 31st session, San Francisco, 1948, adopted the Freedom of Association and Protection of the Right to Organisation Convention, 1948, of which Article 2 provides:

"Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation."

11. At the same session, the International Labour Conference adopted certain proposed conclusions to serve as a basis for the adoption of a Convention on the right to organize and to bargain collectively, or of a Recommendation on the same question, as might be decided by the Conference at its 32nd session in 1949. The proposed conclusions adopted covered, inter alia, the protection of workers against any acts of anti-union discrimination in respect of their employment.

12. At its 32nd session, 1949, the Conference adopted the Right to Organize and Collective Bargaining Convention, 1949, of which Articles 1, 3 and 6 provide as follows:

"Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to -

- (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
- (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours."

"Article 3

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding articles."

"Article 6

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way."



E. Women's work

13. Paragraphs 3-23 of document E/CN.4/Sub.2/10 contain a statement of the activities of the International Labour Organisation within the field of women's work up to the time of the drafting of that document. At its 31st session, the International Labour Conference adopted the Night Work (Women) Convention (Revised) 1948. The question of equal remuneration for men and women workers for work of equal value has been entered on the agenda of the 1950 session of the International Labour Conference with a view to a final discussion.

F. Maritime labour

14. Reference is also made, in footnotes to paragraphs 26 and 28 of document E/CN.4/Sub.2/10, to, respectively, the Wages, Hours of Work and Manning (Sea) Convention, 1946 and the Accommodation of Crews Convention, 1946. These Conventions were revised at the 32nd session of the International Labour Conference by, respectively, the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949, and the Accommodation of Crews Convention (Revised), 1949, but not in respect of their provisions relating to discrimination.

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