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Human rights
A common responsibility

Report of the Director-General (Part I)



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PREFACE

As is customary, the Report of the Director-General is made up of two parts. Part II, which is in a separate volume, deals with the Organisation's activities during 1987. Part I, contained in this volume, is devoted to human rights issues. Forty years after the adoption of the Universal Declaration of Human Rights, I feel the time has come to take stock of the situation. By virtue of its mandate, its tripartite structure, its unwavering approach since it was first set up and the challenges it is having to confront at this time of crisis, our Organisation has a special responsibility.

In the following pages it will be seen how the Constitution of the ILO (1919), backed up by the Declaration of Philadelphia (1944), constantly mirrors the Universal Declaration of Human Rights.

Although the term "human rights" is not specifically mentioned as such in the ILO Constitution, the concept underlies all the activities of the Organisation; indeed, the ILO was the first to proclaim the indivisible character of human rights which encompass, without distinction, civil and political rights and economic, social and cultural rights.

This Report seeks to bring out this aspect, by broaching in turn the fundamental rights which, within the ILO, have been reflected in many international standards and other texts adopted by the ILO's decision-making bodies in respect of freedom of association, the struggle against forced labour and all forms of discrimination, equality of opportunity and treatment and a wide range of more specific rights in the social field.

In reading this Report we shall become aware of the wealth of texts — not only in the ILO but in the United Nations and elsewhere —

dealing with human rights. We shall also see the gap between the principles laid down in these texts and the situation actually prevailing in a world so crudely conveyed to us by the media.

One cannot help thinking that double standards have entered the indivisible realm of human rights. On the one hand, the vast majority of countries have signified their approval of the most solemn of declarations, as they have of the international instruments which, albeit less spectacular, fulfil specific requirements both in the sphere of freedom and in the economic and social spheres. On the other hand, it cannot be denied that fundamental human rights, like human freedom and dignity, far from being more widely respected, are being flouted, often in dramatic circumstances. Turning to economic and social rights, it is to be feared that the world may lose sight of the common development objectives proclaimed at national and international forums.

Although civil and political rights are entirely a national responsibility, no attempt to ensure respect for these rights can be fully successful unless it is backed by development to which all countries without exception whether rich or poor, from east or west, north or south must devote themselves without any further delay. Have we the willpower to overcome the crisis *together* or are we going merely to continue coping with it as best we can; are we going to resign ourselves to it?

This question is becoming increasingly pertinent at a time when demographic expansion is speeding up, indebtedness is increasing, unemployment and poverty are stagnating and in danger of spreading, when the gap between rich and poor — individuals as well as nations — is becoming wider, the disarmament process has still to get fully under way and regional conflicts threaten peace.

Never before has there been such a need for international co-operation, in which everyone takes an active part. There can be no denying that the ILO has joined in the common cause, threatened today by the tendency to reduce multilateral co-operation. The Medium-Term Plan, submitted to the Governing Body — and the

discussions on which are brought to the attention of the International Labour Conference — clearly makes the point: the time for decisions has come. One thing is certain: the ILO must continue its standard-setting activities whilst overhauling standards eroded by time, proposing new standards to meet new situations, supervising the application of these standards and helping member States to ratify and apply them. It is with this goal in mind that the ILO should consolidate its standard-setting and technical co-operation activities by linking them: there must be a greater defence of human rights through joint action in the field of standards and technical co-operation. This must be one of the major priorities of the next few years. Only thus will the ILO be able to fulfil its role and objectives.

23 February 1988

Francis BLANCHARD

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HUMAN RIGHTS — A COMMON RESPONSIBILITY

INTRODUCTION

The year 1988 marks a series of significant human rights anniversaries. Forty years ago the United Nations proclaimed the Universal Declaration of Human Rights and the International Labour Organisation adopted one of its key human rights Conventions, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The year 1958 saw the adoption of another vital ILO instrument, the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The year 1968 was proclaimed International Year for Human Rights by the United Nations General Assembly, as a basis for concentrating the attention of the world community on how to further the recognition and safeguarding of basic rights and freedoms. In the ILO, on that occasion, the Director-General reviewed the Organisation's human rights activities in his Report to the Conference,¹ thus providing an opportunity for discussion by the Conference and adoption of a resolution aimed at providing directives for the future work of the ILO in that field.

The moment appears appropriate for once more reverting to this theme, in order to assess the effect of ILO action and to review the principal problems which today face the ILO and its constituents in their efforts to secure the realisation of human rights. The gravity of the world economic situation makes it necessary to examine its implications for the enjoyment of human rights and to see how human rights standards and principles may contribute to decisions aimed at overcoming existing instability and tensions.

SIGNIFICANCE OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Declaration was proclaimed as a common standard of achievement for all peoples and all nations. As recalled in its preamble, the Declaration resulted from the realisation, from the events which had led to and occurred during the Second World War, that “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind” and that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. The Declaration thus echoed the opening words of the ILO Constitution, written after an earlier world conflict, that “universal and lasting peace can be established only if it is based upon social justice”.

The concern to combat and eliminate injustice remains one of the driving forces behind efforts, both national and international, to secure respect for human rights. The Universal Declaration remains an authoritative source of inspiration for those efforts. René Cassin, one of the authors of the Declaration, rightly emphasised that it had placed efforts to build a world political and legal order on the requisite ethical basis and regard for human beings.²

A number of general ethical notions are enshrined in the Universal Declaration which it is well to bear in mind in discussing the subject. Thus, it embodies the idea of *human dignity*, of beings free and equal in rights and opportunities and ensured also the material prerequisites for a dignified existence; the principle of *tolerance*, involving respect for the beliefs and views of others and allowing opportunities for all to play a part in determining the conditions under which their society lives; and the concept of *solidarity*, which finds its broadest expression in the words of article 28 of the Declaration — “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.”

The Universal Declaration, in addition to being universal in its geographic scope, is also wide-ranging in its substantive content. It covers, without any distinction or division into categories, rights in economic, social and cultural fields, as well as civil and political rights. In adopting that approach, the authors were influenced by the pioneering work done by the ILO in the preceding 30 years. The indivisibility of human rights has been repeatedly affirmed by the United Nations General Assembly.³

ILO RECOGNITION OF THE IMPORTANCE OF HUMAN RIGHTS IN THE REALISATION OF THE ORGANISATION'S OBJECTIVES

The expression "human rights" as such does not appear in the ILO Constitution but the concept itself pervades the Organisation's constitutional objectives and principles. This is shown by the opening words of the ILO Constitution, already recalled, which emphasise the link between peace and social justice, and most explicitly in the central statement in the Declaration of Philadelphia that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity".

The importance of human rights to the realisation of the ILO's objectives has been repeatedly recognised in resolutions of the International Labour Conference and of ILO regional conferences. Thus, in resolutions adopted in 1966 and 1968, the International Labour Conference called for a concerted ILO human rights programme. In 1970 the Conference adopted the important resolution on trade union rights and their relation to civil liberties. Numerous other Conference resolutions have called for reinforcement of action to guarantee freedom of association, most recently in 1987. Similar emphasis is to be found in resolutions of regional conferences.

In response to the call by the Conference for the co-ordination of ILO human rights activities into a concerted programme, this matter was given detailed consideration in the Programme and Budget proposals for 1970-71.⁴ The ILO's field of action in human rights

questions was there defined, in terms of rights recognised in the Universal Declaration and Human Rights Covenants, as covering freedom of association, freedom of labour, elimination of discrimination and promotion of equality of opportunity, the right to work, the right to a minimum income, the right to social security, the right to adequate conditions of work and life, and participation of individuals in measures to promote and safeguard human rights. Thus, the whole range of ILO activities was in fact related to the promotion of human rights. The conclusion was therefore reached that there was a need for the ILO to be more "human rights conscious" and to strengthen co-ordination in these matters within the Organisation, rather than to provide for a distinct human rights programme. That continues to be the approach.

FORMS OF ILO ACTION TO PROMOTE AND SAFEGUARD HUMAN RIGHTS

ILO action to promote and safeguard human rights takes three main forms: definition of rights (especially, though not solely, through the adoption of Conventions and Recommendations); measures to secure the realisation of the rights so defined (especially by means of international supervision); assistance in the taking of implementing measures (particularly through technical co-operation and advisory services).

It appears useful to recall briefly the main developments which have occurred within the Organisation since the International Year for Human Rights in carrying forward these responsibilities.

As regards the *definition of standards*, there have been overall reviews of existing standards and subjects for future standard setting, which resulted in the approval of classifications by the Governing Body, in 1979 and again in 1987, as a means of giving a greater sense of direction to standard-setting activities and to the adaptation, where necessary, of earlier standards to changed conditions. A considerable body of new standards has come into existence, mainly in the form of Conventions and Recommendations, but also in other types of social

policy statements. They include measures to strengthen trade union rights (e.g. for rural workers and workers in the public service), to further tripartite involvement in the formulation and implementation of social policy, to promote equality (e.g. as between men and women and for migrant workers), to bring up to date standards in the fields of conditions of work and social security, and to supplement protection against accidents and health hazards at work. Special attention has been given to employment questions (e.g. in the conclusions adopted by the World Employment Conference and arising out of its follow-up discussion, in the supplementary Recommendation on employment policy, as well as in standards on employment security) and to the promotion of sex equality (with general Conference discussions in 1975 and 1985 and a plan of action submitted to the Governing Body in 1987). Action against apartheid has included additional policy statements, addressed both to the Organisation itself and to its constituents. Measures have also been taken to define principles of social policy in regard to multinational enterprises, within the wider action of the United Nations system.

The period since the International Year for Human Rights has seen a significant increase in the number of ratifications of ILO Conventions, from a total of 3,338 at the beginning of 1968 to 5,311 on 1 January 1988. The position regarding several key Conventions is worth noting:

	1 January 1968	1 January 1988
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	76	98
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	83	114
Forced Labour Convention, 1930 (No. 29)	99	128
Abolition of Forced Labour Convention, 1957 (No. 105)	79	107
Equal Remuneration Convention, 1951 (No. 100)	60	108
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	63	108
Employment Policy Convention, 1964 (No. 122)	18	71

It should however be noted that in the past four years there has been a marked slowing down in the rate of new ratifications, which is currently equivalent to an average of one ratification per member State every four years. This situation, which is not unrelated to the economic difficulties faced by many countries and to the reopening of discussion on a number of general policy issues in the social field, calls for reflection on the part of the Organisation and its constituents.

As regards *measures to secure implementation of ILO standards*, there has been a continuing search for greater effectiveness. It has found expression in the in-depth review of the international labour standards programme carried out by the Governing Body in the years 1974 to 1977, in the 1984 Conference discussion on the same subject and follow-up measures, and in periodic re-examination of their methods of work by the principal supervisory bodies such as the Committee of Experts and the Conference Committee on the Application of Conventions and Recommendations and the Governing Body Committee on Freedom of Association. The principal developments include the direct contacts procedure, used both in regular supervision and in the examination of complaints of violation of trade union rights; regular reviews of the state of implementation of standards by regional advisory committees and ILO regional conferences, general surveys made by the Committee of Experts and discussed at the Conference on the basis of the article 19 reporting procedure (e.g. for freedom of association, forced labour, equal pay and, in 1988, discrimination); and special action to monitor developments in apartheid and to consider the conditions of workers of the Arab territories occupied by Israel. The increasing use made by workers' and employers' organisations of the various opportunities available to them to have problem issues examined by ILO supervisory bodies, and the general willingness of governments to co-operate in that process, bear out the fact that the ILO's constituents have confidence that their concerns will receive thorough, impartial and objective consideration. On questions concerning freedom of association, prior to or as an alternative to invoking more formal

procedures, trade unions frequently request me to approach the governments concerned, particularly in cases involving the arrest and detention of trade unionists and other forms of intervention in the life of trade unions. Such action at times makes it possible to obtain speedy and unobtrusive solutions.

Measures of *assistance* in the realisation of human rights have proceeded at various levels. In the first place, there are promotional activities in the field of international labour standards, ranging from comments on draft legislation, advisory missions and the appointment of regional advisers to seminars, manuals and training.⁵ A second dimension is represented by the ILO's general programmes of technical co-operation. Special measures have recently been taken to review and strengthen arrangements for co-ordination between the ILO's standard-setting and operational activities, while also ensuring tripartite involvement in the latter.⁶ Lastly, work under major ILO programmes — such as the World Employment Programme and the International Programme for the Improvement of Working Conditions and Environment and studies as to future policy in regard to social security — falls under the overall objective of securing the realisation of human rights.

THE INTERDEPENDENCE OF HUMAN RIGHTS

The ILO has its particular area of responsibility within the overall efforts of the United Nations system to promote and protect human rights, but it has always been aware of the linkages affecting the observance of human rights. This can be seen, for example, in the reciprocal relationship between respect for human rights and peace and stability. Reference may be made, by way of illustration, to several instances where, in the work of the ILO, the interdependence of human rights has become evident. Thus, the relation between the enjoyment of trade union rights and respect for civil liberties has been recognised both by the Conference in the resolution on this subject adopted in 1970, and in conclusions of the Freedom of Association

Committee.⁷ ILO standards have stressed the pervasive significance of participation, not only in exercising trade union rights but also in broader areas of social policy, such as the formulation and implementation of employment policy,⁸ the role of rural workers' organisations in rural development,⁹ and participation of indigenous populations in decisions concerning their status and conditions;¹⁰ participation can however be meaningful only where enjoyment of civil liberties makes possible the free shaping and expression of opinions and genuine involvement in processes leading to decisions.

More generally, the denial of civil and political rights tends to have adverse effects also on the enjoyment of economic and social rights: neglect of social protection and well-being often goes hand in hand with the inability of poorer and more vulnerable population groups (or the people as a whole) to have a voice in influencing decisions. ILO experience bears out the remarks made by the United Nations Secretary-General in a report to the Commission on Human Rights:

... human rights violations do not occur in a vacuum. In a number of instances such violations are not mere aberrations in the context of systems and structures which are otherwise equitable. Rather, they are more appropriately viewed as the natural consequence of systems rooted in injustice and inequality and which are often created and reinforced by a range of consciously pursued political, social and economic policies.¹¹

Interdependence is evident not only in measures and policies within nations but also in their effects beyond international boundaries. It was in recognition of this interdependence that the ILO was founded. The World Employment Conference focused its discussions on employment as a "one world problem", involving mutual responsibilities. It has become ever more evident that no country can pursue economic and social policies in isolation from developments in the world at large. This fact finds reflection, for example, in current anxieties concerning the global effects of the economic policies pursued by major industrialised nations and the

implications for world stability of Third World indebtedness, which were discussed in November 1987 at the High-Level Meeting on Employment and Structural Adjustment. The policies pursued on such questions will have a direct effect on the ability of individual countries to maintain and further the enjoyment of human rights. International collaboration and solidarity are thus a vital factor in efforts aimed at the realisation of human rights.

The United Nations system provides the framework for promoting such collaboration. It must involve full co-operation among the components of the system, both in their human rights activities as such, and in wider areas having repercussions on the realisation of human rights. The Conference had an opportunity last year to discuss the future of multilateral co-operation, which was then the special theme of my Report.

THE ECONOMIC BACKGROUND AND ITS SOCIAL REPERCUSSIONS

In his reply to the 1968 Conference discussion on human rights, the Director-General pointed out that the human rights debate must be placed in the context of the harsh realities of daily lives, which for many were the realities of underdevelopment and undernourishment. He observed that those who proclaimed the aim of universal enjoyment of human rights needed to prove their sincerity by greater efforts and greater sacrifices to reduce the gap between rich and poor, between the developed and developing nations of the world. He warned against the danger that, with the complexities of modern life, preoccupations with economic development might make us forget that all human endeavour must be aimed at advancing the freedom and dignity of man.

To what extent are these considerations being heeded in the world today? The general trend in the world economy, and the social repercussions which have ensued, must be matters of profound concern.¹² Even though there has been some improvement in overall

growth of the world economy since 1982, growth rates remain modest and markedly lower than in the 1960s. The long-term trend is towards a decline in growth rates. Subject to any major decisions of policy which may be taken by the principal industrialised countries to counteract that trend, it appears set to continue — if not indeed to worsen — in the years immediately ahead.

Overall figures, of course, do not tell the whole story. They do not reflect the marked differences between, and even within, regions. Moreover, they mask the serious deterioration in conditions of work and life which has occurred in much of the Third World, and indeed in a number of countries elsewhere too.

In the Third World only the countries of South-East Asia have on the whole been able to maintain growth rates which have led to improved living standards. On the other hand, in most of Africa and also in many Latin American countries rates of growth have lagged behind rates of population increase, resulting in the further reduction of per capita income. Insufficient growth has aggravated unemployment (especially in urban areas, with movement of labour from modern sector employment to informal sector activities), underemployment and poverty. Even allowing for lack of precision in available statistics, the general trend and the magnitude of the poverty problem are evident. Third World countries are estimated to have over 70 million unemployed and close to 500 million underemployed, with some 900 million living in extreme poverty. The deterioration of their conditions has been accentuated by the unfavourable economic environment (including the decline in prices of many of their basic export commodities) and the structural adjustment policies imposed as a consequence of external debt.

With few exceptions the industrialised market economy countries have likewise achieved only modest growth rates in recent years, which have been insufficient to have any real impact on the high level of unemployment. In spite of the significant increase in employment in the United States, total unemployment in OECD countries has remained above 30 million and is expected to rise further. There have

also been marked shifts in the nature of employment, with an increasing number of jobs in the relatively volatile (and often low-paying) service sector and growth in various forms of atypical and precarious employment. These developments have tended towards a fragmentation of the labour force, in terms of levels of remuneration, unionisation and social protection. Often the position of trade unions has been weakened by declining membership, legislative restrictions and, at times, deliberate anti-union discrimination.

European countries with a centrally planned economy have sought to maintain the full utilisation of labour, but insufficient productivity and rigidities in the functioning of the economy have affected living conditions. Currently there is a move towards basic reforms in the management of the economy, also involving rationalisation in the use of labour and the possible closing down of uneconomic enterprises. Such reforms will require new policies in regard to matters such as the placing of labour, training and retraining, remuneration, labour-management relations and income security.

Looking at the overall situation, it is evident that we are still far from a “one world” approach to questions of development. On the contrary, in large parts of the world the view has been gaining ground that the pursuit of self-interest is the motor of progress — an attitude affecting also the approach to international economic relations. The furtherance of respect for human rights in foreign policy should also involve consideration of the consequences of economic policy on other countries’ capacity to work towards that objective.

Increasing tendencies have manifested themselves in various parts of the world to let social policies be dictated largely by market forces. Social policy can never ignore economic realities or be immune from the need for adaptation. It nevertheless has a distinctive role to play in helping to shape responses to new situations. It is well to recall the basic purposes that animated the founders of the ILO: concern with social justice and humane conditions of labour and recognition that these objectives must not be undermined by unfettered competition. These thoughts were echoed by President Franklin

Roosevelt when he addressed the Conference of the ILO in Washington in 1941: "In international, as in national affairs, economic policy can no longer be an end in itself. It is merely a means for achieving social objectives." ¹³

Those words, spoken in the midst of a world conflict, should also remind us that the ILO's purposes, and human rights in general, are of relevance not only in periods of prosperity. In difficult times equity and regard for human needs and aspirations are all the more important in determining choices and priorities. We must see how the Universal Declaration of Human Rights and corresponding ILO standards can and should contribute in devising answers to the principal problems now facing the International Labour Organisation and its constituents.

CURRENT PROBLEMS FROM THE PERSPECTIVE OF HUMAN RIGHTS

As has been pointed out, almost the entire range of ILO activities have a bearing on the realisation of human rights as set out in the Universal Declaration. The present Report, however, is not the framework for undertaking an overall review of the work of the Organisation. There are other occasions for doing so, such as consideration of the Medium-Term Plan 1990-95 and of programme and budget proposals. A number of relevant issues have been examined in my Reports to the Conference in recent years: the question of child labour in 1983, the ILO's standard-setting activities in 1984, industrial relations and tripartism in 1985, major issues in the world of work in 1986, and the future of multilateral co-operation in 1987. Questions concerning equality of opportunity and treatment of men and women were extensively discussed by the Conference in 1985 and, in the light of the conclusions then reached, continue to be the subject of consideration in the Governing Body. The issues taken up in the present Report have been chosen with due regard to the various other discussions which have taken place in the last few years.

THE GAP BETWEEN ASPIRATION AND ACHIEVEMENT

Two propositions express a general appreciation of the measures taken by the community of nations over the past 40 years with a view to safeguarding human rights.

On the one hand, an impressive body of standards has been brought into existence, within the United Nations system and also within a regional framework, to define human rights, accompanied by arrangements to monitor the effect which has been given to them. Whatever differences of detail there may be in the various instruments adopted, they reflect a remarkable identity of aspirations, confirming the value of the Universal Declaration of Human Rights as setting a common standard of achievement for all mankind. Many examples can be cited in which international human rights standards, not least those formulated by the ILO, have had a striking impact on attitudes, policies, laws and conduct.

On the other hand, we are daily made aware of innumerable other situations in which these same standards are disregarded, where individuals are submitted to degrading violations of elementary rights, where the weak and vulnerable suffer merciless exploitation. The existence of such situations necessarily raises the question of the credibility and effectiveness of all the efforts that have been made.

In weighing up these conflicting tendencies, one must maintain a sense of historical perspective. Endeavours to establish global institutions to further and protect human rights are still of relatively recent origin. A major task still lies ahead in ensuring knowledge and understanding of the standards adopted. Nor will progress towards the realisation of human rights take place as a matter of course. It calls for changes in social relationships and the reconciling of conflicting interests, generally attainable only after prolonged debate and political struggle. Impersonal factors beyond the control of individuals, and even of governments — such as climatic conditions, changes in terms of trade or of technology — will at times substantially modify the framework of discussion and thus make it necessary to examine afresh the implications which follow from accepted general principles.

In this continuing process two aspects of the ILO's mission deserve particular mention. Both concern the role of dialogue. The ILO has always insisted on the need for dialogue with the productive forces of society in resolving the major issues faced by its member States: the tripartite message. It has furthermore emphasised the function of the ILO itself as a forum for discussion, not only in broaching new issues but also in testing evolving ideas and practices against established values, as defined in the Organisation's constitutional principles and standards. It is in this spirit that the examination of the matters that follow has been undertaken.

FREEDOM OF ASSOCIATION

Central significance attaches to freedom of association, both in national life and in the functioning of the ILO, as a tripartite organisation. Two of the fundamental principles underlying the ILO's work, as defined in the Declaration of Philadelphia, refer to this question:

... freedom of expression and of association are essential to sustained progress,
... the war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

These statements recognise that freely established and freely functioning representative organisations are an essential part of the continuing dialogue which characterises a healthy body politic and on which the search for solutions to economic and social problems must be based. They affirm the position of the ILO in response to doubts which would see trade unions as obstacles to economic growth and stability and would downgrade the place allotted to such organisations in national deliberations. In the face of such questioning, it may be legitimate to ask: can trade unions be held responsible for such major

aspects of the world economy as turbulence in the monetary system, Third World indebtedness, famine and poverty, or the shifts in methods of production brought about by technological changes? Trade unions of course are very much concerned with the social consequences of such developments, and naturally wish to have their say when it comes to the adoption of adjustment measures. In grappling with those problems governments may be tempted to take decisions without seeking to base them on social consensus. In the longer term, however, the acceptability — and therefore the success — of authoritarian decisions will be in jeopardy, particularly if they imply that a free rein is given to capital without any countervailing influence for the masses of people most directly affected. It may be recalled for example that, in adopting the 1975 instruments on rural workers' organisations, the Conference recognised that the development of strong and independent organisations to represent the interests of these workers was an important element in efforts to overcome rural poverty.

Precisely because today the world of work is everywhere undergoing profound changes and because new solutions have to be pioneered, the participatory approach proclaimed by the Declaration of Philadelphia retains its full significance.

In linking freedom of expression and freedom of association as factors of progress, the Declaration of Philadelphia underlined the close relationship which exists between the enjoyment of trade union rights and other civil liberties. This is a point to which both the Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations have repeatedly drawn attention. The whole question of this inter-relationship was considered by the Conference in 1970. The resolution then adopted by the Conference emphasised in particular the following considerations:

- the rights conferred upon workers' and employers' organisations must be based on respect for civil liberties as enunciated in the Universal Declaration of Human Rights and the Covenant on

Civil and Political Rights, and the absence of those civil liberties removes all meaning from the concept of trade union rights;

- the normal exercise of trade union rights requires respect, in particular, of the rights to security of person and freedom from arbitrary arrest and detention, freedom of opinion and expression, freedom of assembly, the right to a fair trial by an independent and impartial tribunal, and the right to protection of the property of trade union organisations.

A substantial number (roughly half) of the cases brought before the Freedom of Association Committee arise out of alleged violations of the civil liberties of trade union leaders and members, or of the organisations themselves. This situation brings out the continuing concern which the ILO must have with the state of enjoyment of civil liberties in member countries, and the importance which also attaches to efforts outside the ILO to secure the observance of civil liberties (for example, in the supervisory processes operating under the Covenant on Civil and Political Rights and under regional human rights Conventions).¹⁴

Cases of alleged infringements of trade union rights resulting from limitations on civil liberties frequently raise the issue whether the activities sought to be protected have indeed been taken in pursuit of trade union objectives, or whether the unions have gone outside their proper sphere of action. Particularly at stake are questions of the involvement of trade unions in political activities and of their relations with political parties. Important principles on this matter were enunciated by the Conference in its resolution of 1952 concerning the independence of the trade union movement. Those principles, which have been endorsed also by the Freedom of Association Committee and the Committee of Experts on the Application of Conventions and Recommendations, are worth recalling:

1. The fundamental and permanent mission of the trade union movement is the economic and social advancement of the workers.

2. The trade unions also have an important role to perform in co-operation with other elements in promoting social and economic development and the advancement of the community as a whole in each country.

3. To these ends it is essential for the trade union movement in each country to preserve its freedom and independence so as to be in a position to carry forward its economic and social mission irrespective of political changes.

4. A condition for such freedom and independence is that trade unions be constituted as to membership without regard to race, national origin or political affiliations and pursue their trade union objectives on the basis of the solidarity and economic and social interests of all workers.

5. When trade unions in accordance with national law and practice of their respective countries and at the decision of their members decide to establish relations with a political party or to undertake constitutional political action as a means towards the advancement of their economic and social objectives, such political relations or actions should not be of such a nature as to compromise the continuance of the trade union movement or its social and economic functions irrespective of political changes in the country.

6. Governments in seeking the co-operation of trade unions to carry out their economic and social policies should recognise that the value of this co-operation rests to a large extent on the freedom and independence of the trade union movement as an essential factor in promoting social advancement and should not attempt to transform the trade union movement into an instrument for the pursuance of political aims, nor should they attempt to interfere with the normal functions of a trade union movement because of its freely established relationship with a political party.

The ILO supervisory bodies have pointed out that any relations between trade unions and political parties must be the result of freely

taken decisions and not be imposed by law. That position has at times been questioned, on the ground that Convention No. 87 does not refer to the relations between trade unions and political parties. That argument misses the real point however: a relationship imposed by law is contrary to the Convention because the State, as law-maker, restricts the freedom of trade unions to organise their activities and formulate their programmes, something which Convention No. 87 expressly requires it not to do. The considerations involved here are very similar to those which come into play in connection with the establishment of a single trade union movement. Where such a union structure is the result of free decisions by the unions themselves, it reflects the exercise of the rights and freedoms guaranteed by Convention No. 87. On the other hand, the imposition of trade union unity by law constitutes an interference by the State in the exercise of the very same rights and freedoms. It contravenes the requirement, laid down in Article 8, paragraph 2, of the Convention, that the law of the land shall not impair the guarantees provided for in the Convention. That is the case even where legislation confirms a situation of trade union unity originally decided upon by the trade union movement itself: what previously rested on free decisions henceforth exists by compulsion of law, and the possibility is removed of reaching free decisions in the matter in future.

Article 8, paragraph 2, of Convention No. 87 also needs to be borne in mind when one sees the tendency, even in industrialised countries with long-established traditions of trade unionism, to regulate to an increasing extent the functioning of organisations. A statutory framework may be justified to secure the fundamental democracy of the trade union movement. However, undue legislative interference in the minutiae of trade union action results in hamstringing the unions, and is not compatible with Convention No. 87.

The ILO supervisory bodies have also had to deal with a variety of restrictions imposed on the bargaining rights of trade unions. This is an area where conflicting interests need to be finely balanced and

where the public authorities cannot remain indifferent to the wider effects of agreements reached. Nevertheless, the general principle of voluntary negotiation among autonomous parties remains of vital importance, precisely when it is viewed from a human rights perspective, implying the ability of individuals to say on what conditions they are prepared to provide their labour. The vitality of a process of collective bargaining as a means of exploring new approaches, in advance of more generalised measures, needs also to be stressed. Some States have already sought the help of the ILO in measures to reconcile conflicting conceptions in this field. There will undoubtedly be increasing scope for such ILO action in the years ahead.

A related question concerns the possibility for workers, in the event of failure to resolve differences by agreement, to resort to strike action. The International Covenant on Economic, Social and Cultural Rights — today accepted by 91 States — provides that the right to strike shall be ensured, provided that it is exercised in conformity with the laws of the particular country. There are no ILO standards that expressly guarantee this right. However, ILO supervisory bodies have recognised that strike action is one of the essential means available to workers and their organisations for promoting and protecting their economic and social interests; it constitutes an exercise of the right of organisations freely to organise their activities and to formulate their programmes, provided for in Convention No. 87. The supervisory bodies have enunciated an extensive body of principles, delimiting in particular the circumstances and conditions under which strike action may be prohibited or restricted, for example, in cases of emergency, for workers in essential services, or while attempts at settlement by means of conciliation are pending.¹⁵ Here again the aim has been to secure a fair equilibrium between conflicting interests. The principles stated by the ILO serve, amongst other things, to give clearer definition to the right laid down in the United Nations Covenant.

The effective functioning of arrangements for tripartite discussion and for collective bargaining, as well as the responsible utilisation by

workers' organisations of the various means of action at their disposal, presupposes the existence of organisations which are not only independent but also sufficiently strong and representative to act as genuine spokesmen for the groups whose interests they purport to defend. It is this need which gives importance and urgency to the ILO's programmes of assistance to both workers' and employers' organisations.

EQUAL OPPORTUNITY AND TREATMENT

We have already recalled that the Declaration of Philadelphia affirmed the right of all human beings to pursue their material well-being and spiritual development, irrespective of their race, creed or sex. The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), is the main instrument in which the ILO has sought to lay the basis for national action to bring about equality in the social field. It goes further than the Declaration of Philadelphia in various respects. It calls for the pursuit of an active policy to promote equality of opportunity and treatment in employment and occupation. It also enumerates a wider range of grounds of discrimination to be eliminated, covering at least race, colour, sex, religion, political opinion, national extraction and social origin, with the possibility for ratifying States to accept its obligations in respect of further types of distinctions. The Convention adopts a promotional approach. This means, on the one hand, that ratifying States enjoy a certain degree of choice as to the nature and timing of measures to attain a clearly defined objective. On the other hand, the implementation of the Convention is a dynamic, continuing process, implying constant review and further development of policies and programmes to promote equality of opportunity and treatment in an evolving social context.

One should recall that non-discrimination clauses are included in many other ILO instruments — for example, those dealing with

employment policy, vocational guidance and training, paid educational leave, and termination of employment — and that provisions aimed at promoting equality have been adopted for specific categories of persons, such as workers with family responsibilities, disabled persons, older workers and migrant workers. All these standards reflect the pervasive concern of the ILO with equality as a fundamental condition of human dignity and social justice, which must at all times be borne in mind in the determination and application of social policy.

The most persistent and profound challenge to ILO principles on equality has come from South Africa's policy of apartheid. It led the Conference to adopt a Declaration on this problem in 1964, on the basis of a detailed analysis of the situation in South Africa in labour matters. Notwithstanding the withdrawal of South Africa from the ILO in 1966, the Organisation has felt obliged to follow developments there closely, not only because of the country's continuing commitments under previously ratified Conventions but also because of the implications of the situation for peace and security and for the policies and action in relation to South Africa of the governments, employers and workers of other countries.

Pursuant to the 1964 Declaration, the Director-General has each year presented to the Conference a report on developments under apartheid. These reports have demonstrated how seriously official policies and action involving discrimination and repression particularly (but not solely) against Black workers have conflicted with fundamental ILO principles in many areas. In 1981 the Conference updated the earlier Declaration, placing special emphasis on the responsibilities of governments, employers and workers everywhere to contribute to efforts aimed at ending the policy of apartheid and on the intensification of ILO training activities and technical assistance. Since then, the annual reports on apartheid presented to the Conference have included, in addition to an analysis of developments in South Africa and at the international level, information from governments and employers' and workers' organisations of ILO

member States. Since 1982 these reports have been considered by a standing committee of the Conference, with a view to determining the further action to be taken by the ILO. Two tripartite conferences have also been convened in southern Africa to assist the Conference in that process and a third such meeting is due to take place in Harare in May 1988. The results of that meeting will be communicated to the Conference at its present session, so that they may be taken into account in the further revision of the ILO Declaration on Apartheid then to be undertaken.

Initially, the main thrust of ILO action concerning apartheid involved the evaluation of the social consequences of that policy against the Organisation's constitutional principles and standards. Subsequently, and more particularly since the 1981 Declaration, there has been an expanding programme of assistance to the victims of apartheid in the southern African region, carried out in collaboration with other organisations within the United Nations system, national liberation movements recognised by the Organisation of African Unity, and international and national employers' and workers' organisations. This programme has been financed from special funds provided by various member States as well as from the ILO's regular budget. It has included vocational training and rehabilitation, workers' education, training in small-scale enterprise development, in employment planning, in industrial relations and in labour administration, and advice on migrant labour problems. Its aim has been not only to counter present disadvantages but also to equip people for a useful role in a society freed from the effects of apartheid. A further concern has been to arrest, and if possible reverse, the effects in neighbouring countries of a growing dependency on South Africa. Closer attention has likewise been given to the situation under apartheid in Namibia. All these developments have led to an intensification of co-operation with front-line and neighbouring States.

The need for radical change in southern Africa is today far more widely recognised than ever before, not only within the region but in

the world at large. The ILO's efforts have been part of the extensive and persistent action which has been directed over the years at bringing about such changes, based on the realisation that the denial of racial equality and of other fundamental human rights was both a challenge to the world's conscience and a threat to peace and stability. These efforts, involving the ILO's constituents everywhere, must be relentlessly pursued.

At the present session the Conference will have before it a general survey by the Committee of Experts on the Application of Conventions and Recommendations of the state of implementation of the Discrimination (Employment and Occupation) Convention and its supplementary Recommendation. This will provide an opportunity to assess existing problems and to identify areas in which intensified action by the ILO is called for.¹⁶ It may, however, also be appropriate in the present context to consider in what manner the ILO approach to questions of equality might be given a broader dimension.

Article 2 of the Universal Declaration of Human Rights states that the rights and freedoms set forth in the Declaration are to be enjoyed by everyone *without distinction of any kind*. While the Declaration goes on to enumerate a list of grounds on which distinctions should not be made, these are of an illustrative, non-exhaustive character. This broad approach is also to be found in the ILO's Human Resources Development Convention, 1975 (No. 142), according to which national policies and programmes of vocational guidance and training should be aimed at enabling all persons to develop their capabilities for work "on an equal basis and without any discrimination whatsoever". Similarly, the Termination of Employment Convention, 1982 (No. 158), lays down the general rule that the employment of a worker should not be terminated without a valid reason connected with the capacity or conduct of the worker, or based on operational requirements; various non-valid reasons for termination are enumerated without in any way limiting the generality of the main principle.

Measures might therefore be considered to widen the scope of ILO standards concerning discrimination in employment and occupation, so as to make them cover generally distinctions, preferences or exclusions in employment and occupation on any grounds which are not objectively justified.¹⁷

Parallel to such attempts to broaden the perspective of action to promote equality, action remains necessary to deal with specific forms of discrimination or unequal opportunities. The recent discussions on equality of opportunity and treatment of men and women in employment, and the conclusions adopted by the Conference on this question in 1985, emphasise the wide range of measures still needed to give women their rightful place in economic and social life. A complex issue to which answers remain to be provided concerns the extent to which protective standards for women can still find justification, either in terms of their child-bearing function or on account of more general considerations related to the social conditions under which they have to live and work.¹⁸ Earlier discussions as to possible revision of existing standards on night work of women in industry and on maternity protection failed to produce consensus. The Conventions dealing with the former subject have encountered increasing objection, which has been reflected in a growing number of divergencies of national law and practice and a growing number of denunciations. Their revision, together with the adoption of new standards to regulate conditions of night work for workers generally, has now been placed on the agenda of the Conference. The suggestion has also been made by the Committee of Experts on the Application of Conventions and Recommendations, and endorsed by the Governing Body Working Party on International Labour Standards, that new standards might be adopted on the equal treatment of men and women in matters of social security.

Another group who remain exposed to varied forms of often acute discrimination are migrant workers. Even where they have entered and are employed lawfully in a country, they are generally in too weak a position to have any influence on the conditions under which they

are employed, often also unable to secure the observance of agreed conditions or generally applicable labour standards. The large number of migrant workers in an irregular situation who form part of the labour force in many countries are in an even more vulnerable situation. The ILO sought to lay down standards to combat these forms of exploitation and inequality in the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and its supplementary Recommendation (No. 151). The Convention has however received only a limited response. Some of its provisions appear too rigid. In other respects the standards of 1975 could usefully be supplemented and amplified. The United Nations General Assembly has, since 1980, been engaged in the preparation of a Convention on the rights of all migrant workers and their families, a process in which the ILO has participated. It has appeared preferable for the ILO to refrain from any parallel standard setting while those United Nations discussions have been going on. However, in fulfilment of its constitutional responsibilities for the protection of migrant workers, and as a tripartite forum best equipped to appreciate their problems and needs, the ILO should in due course consider how it can improve and develop its own standards in this field.

The ILO Constitution proclaims that labour is not a commodity. It is especially in the treatment of migrant workers that this precept is in danger of being disregarded. Countries of employment, concerned with the economic benefits to be gained from necessary additions to their labour force, may give inadequate attention to the social needs of workers for whom they do not feel the same sense of responsibility as for their own people. In certain regions, one finds differences in wage rates not only between national and foreign workers, but even among the migrant workers themselves, according to the level of remuneration which those coming from different countries may be prepared to accept. In such a situation, the worker becomes a mere import commodity. Such treatment is contrary to the Universal Declaration of Human Rights — which states that “Everyone, without any discrimination, has the right to equal pay for equal work” — and to

the specific standards on equality of treatment contained in ILO Conventions dealing with migrant workers.¹⁹ Countries of origin of migrant workers have at times sought to maximise the economic advantages gained from the inflow of foreign currency by imposing obligations on their nationals working abroad to remit specified proportions (sometimes even the greater part) of their earnings to their home country. Facilities should certainly be provided to enable workers to make remittances when that is their wish (as indeed provided for in the relevant ILO Convention). On the other hand, the elementary freedom of the worker to dispose of his wages — guaranteed in the Protection of Wages Convention, 1949 (No. 95) — ought to be respected. Migrant workers also frequently suffer abuses in regard to wage payments in their countries of employment.

Problems arising in the treatment of migrant workers at times give rise to acute tensions between countries of employment and countries of origin. In such situations action by the ILO may help in finding solutions aimed both at restoring harmonious relations and at securing recognition of the rights of the workers concerned. Assistance of this kind, following termination of the employment of large numbers of foreign workers in a country affected by recession, was recently able to bring about an agreed settlement and to obviate the need for further action under the constitutional complaints procedure, which had already been initiated.

The preceding example underlines the importance, where reductions in the employment of migrant labour appear necessary, of ensuring a maximum degree of consultation among the countries concerned so as to minimise hardship and safeguard acquired rights. These principles should also apply where those affected are workers in an irregular situation. Frequently, their employment has been acquiesced in over long periods, even welcomed as a contribution to the economic well-being of their country of employment. Their precarious status does not justify precipitate action disregarding considerations of humanity or denial of rights born out of services rendered.

The United Nations has in recent years considered the measures which might be taken on the problem of mass exoduses due to man-made or natural disasters, and has in particular recognised the importance of preventive action wherever possible.²⁰ As such movements have their roots in lack of personal or material security, all action to ensure the enjoyment of human rights — economic, social and cultural rights as well as civil and political rights — has an obvious relevance in this context.

The ILO has been called to give close attention to the situation of Arab workers of the Arab territories occupied by Israel. Since 1978 representatives of the Director-General have each year visited Israel and the occupied territories to examine the situation of those workers and the measures to be taken to improve their living and working conditions, in the light of ILO standards, particularly those dealing with equality of opportunity and treatment in employment and occupation, conditions of work and trade union activities. The reports on the results of these missions have been presented to the Conference, thus following up the resolution on the matter adopted by the Conference in 1974 and confirmed by a further resolution in 1980. Over the years attention has been concentrated on three major issues: employment and economic development within the occupied territories; equality of treatment in conditions of work, wages and social benefits for the large number of Arab workers from the territories employed in Israel; and trade union rights of these workers and the development of trade union activities within the occupied territories. In the course of their visits the Director-General's representatives have always sought to obtain the guarantees necessary for the objective and effective discharge of their task. In particular, they have regularly been able to have contacts with Arab personalities, trade union leaders and workers of the occupied territories without the presence of representatives of the Israeli authorities. Over the years it has been possible to note some improvement, even though slow and partial, in the living and working conditions of Arab workers from the occupied territories employed in Israel through official channels.

However, a very large number of workers from these territories continue to be employed outside such channels under conditions which are in various respects more precarious. Within the occupied territories economic development — and consequently employment — as well as the trade union situation continue to be subject to serious restrictions resulting from the state of occupation, and there is little prospect of any significant improvement while that situation persists. Recent events have underlined how critically that situation dominates the entire life of the territories. There is an urgent need for a process which will bring peace to this region, since a continuance of the 20-year-old occupation could only lead to a progressive deterioration of the situation, including that of Arab workers. So long as it exists the ILO will, within the framework of its means and competence, have to pursue its action for the benefit of Arab workers of the territories. In particular, it should further develop the assistance which it has sought to provide in recent years, through technical co-operation projects responding to their needs and aspirations.

The principle of seeking to ensure equality of opportunity and treatment, free from distinctions which are not objectively justified, to which I have referred above, may suggest new thinking on certain broader issues of social policy. There is, for instance, the question of the status and conditions of workers in public employment. While in many countries there is a trend to assimilate their position to that of workers in the private sector, significant differences still exist.²¹ Often, they reflect traditional approaches more than objective differences in the character of the functions performed. Both equity and social cohesion might be enhanced by removal of artificial differentiations.

The equality principle likewise has implications for the manner of responding to the phenomenon of social fragmentation. We have noted, for example, the growth of various forms of precarious employment, where social protection tends to be much less extensive than for persons in a regular employment relationship. Atypical forms of work are not in themselves a matter for criticism, and may indeed

offer new opportunities to adapt activities to personal preferences and needs. But they can also become depressed forms of employment which, for lack of other openings, workers are led to accept against their real wishes. Social policy should be concerned to prevent such trends from hardening into a kind of occupational caste system, where the active population finds itself divided into those who enjoy the benefits of a regular wage-earning relationship, those working with a status of precarious security and substandard social protection, and those without work dependent at best on welfare subsistence.

For the ILO, these remarks suggest that, in pursuing its major responsibilities on employment questions (aimed at the realisation of full, productive and freely chosen employment), the Organisation should give closer attention to the problems of those in precarious forms of employment. It may be recalled that the possible subjects for new standards identified by the Governing Body Working Party on International Labour Standards in its final report of 1987 included the working and employment conditions of part-time workers and the regulation of temporary work agencies. Both subjects have been among items placed before the Governing Body in recent years when considering the Conference agenda. While other topics may have been considered as deserving priority, the Governing Body ought to revert to these questions as part of the action to be taken by the ILO on precarious forms of employment.

THE RIGHT TO FULL, PRODUCTIVE AND FREELY CHOSEN EMPLOYMENT

It is no accident that the first Article in Part III of the International Covenant on Economic, Social and Cultural Rights, which sets out the substantive rights, deals with the right to work. Work occupies a central place in action to make effective the whole range of economic, social and cultural rights, by reason of its implications for wealth creation and for the realisation of individual potentials. As pointed out by the International Labour Conference in 1979, "In the trilogy of growth, employment and needs satisfaction . . . employment provides

an essential link: . . . [it] yields an output, it provides an income to the employed and it gives an individual a feeling of self-respect, of dignity and of being a working member of society.”²²

The question has frequently been raised whether, having regard to the recognition of the right to work both in the Universal Declaration of Human Rights and in the Covenant on Economic, Social and Cultural Rights, it would not be appropriate for the ILO specifically to recognise and guarantee that right in an international labour Convention. In that connection, it is useful to examine more closely the provisions of Article 6 of the Covenant, which indicate the action to be taken for the realisation of the right to work, as a basis of comparison with the standards already adopted by the ILO.

Article 6, paragraph 1, of the Covenant states that the right to work “includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts”. The steps to be taken by States Parties to achieve the realisation of the right to work are spelled out in paragraph 2 of the same Article. They are to include “technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual”.

Similar measures are provided for in a whole series of ILO instruments. In particular, the Employment Policy Convention, 1964 (No. 122), provides that, with a view to stimulating economic growth, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, ratifying States should declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment. The policy should aim to ensure that there is work for all who are available for and seeking work, that such work is as productive as possible, and that there is freedom of choice of employment and the fullest possible opportunity for each worker without discrimination to qualify for and use his skills and endowments in a job for which he is well suited.

Ratifying States are required to decide and keep under review, within the framework of a co-ordinated economic and social policy, the measures to be adopted for attaining these objectives, and provision is made for consultation of employers' and workers' representatives. More detailed measures for the implementation of the policy defined in this Convention have been set out in the Employment Policy Recommendation, 1964 (No. 122), and the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169). In adopting the latter instrument, the Conference considered the link between employment policy and the right to work. The first two Paragraphs of the Recommendation state that the promotion of full, productive and freely chosen employment provided for in the Employment Policy Convention and Recommendation, 1964, should be regarded as the means of achieving in practice the realisation of the right to work, and that full recognition by States of the right to work should be linked with the implementation of economic and social policies aimed at promoting these objectives.

Particular aspects of the right to work, as defined in the Covenant, are dealt with in many other ILO Conventions and Recommendations, such as the instruments on vocational guidance, training and rehabilitation, employment services, the abolition of forced labour, equal opportunity and treatment in employment and occupation, protection against arbitrary termination of employment, and income protection in the event of unemployment.²³

It will be noted that the measures provided for in the above-mentioned body of ILO standards correspond in all essentials to the action which, according to the Covenant, should be taken with a view to the realisation of the right to work.²⁴ Indeed, the relevant ILO standards provide a broader and far more detailed set of guide-lines. The Covenant itself, in Article 23, envisages such a process of "norm specification" through other international conventions and recommendations.

Several other aspects of ILO standards on employment promotion deserve to be stressed. In the first place, what is aimed at is

not exclusively work under an employment relationship, but all forms of activity which provide means of earning a livelihood, including peasant farming and self-employment in sectors such as small-scale industry, handicrafts and services. Secondly, the emphasis is on employment that is productive. Employment which does not meet that condition tends to mask the true dimensions of the underutilisation — and therefore waste — of human resources, and exacts its price in terms of reduced living standards. As the Conference noted in its resolution of 1979 concerning follow-up to the World Employment Conference, without important improvements in economic growth, the problems relating to unemployment, poverty and satisfaction of basic needs cannot be solved. For similar reasons income security measures in favour of those seeking but unable to find work, important as they are, cannot be an adequate substitute for productive, remunerative activity. Nor do they meet the need to give an individual “a feeling of self-respect, of dignity and of being a working member of society”.²⁵

The employment policy standards insist that work must be freely chosen. That principle is also enshrined in the Conventions on forced labour. The surveys and comments made by the Committee of Experts on the Application of Conventions and Recommendations show the wide variety of problems which still require solution in that respect.²⁶ They range from measures for the abolition of slavery, debt bondage or compulsory cultivation to protection of workers from coercion in recruitment or at their place of work and enabling them to terminate an employment relationship by due notice. Persons in detention require protection from exaction of labour without the requisite guarantees. Much remains to be done also to secure observance of the provisions of the Abolition of Forced Labour Convention that prohibit the use of any form of forced or compulsory labour as a means of political coercion or punishment for holding or expressing views, as a means of labour discipline or as a punishment for participation in strikes.

An issue on which some confusion is still encountered is whether

the recognition of a right to work should carry with it a duty for able-bodied persons of working age to engage in socially useful work. A link of this kind between right and duty is to be found in a number of national constitutions.²⁷ There is no self-evident corollary between these two concepts. Many human rights are aimed at granting individuals an opportunity to act in a particular manner, while remaining free to refrain from doing so. Examples, among others, are freedom of thought and religion, freedom of expression, the right to take part in public life and to have access to the public service, and the right to leave any country. Man of course finds it necessary in practice to engage in gainful activity in order to ensure subsistence, and work as a moral duty finds a place in many value systems. Stated merely as a moral principle, the duty to work does not impinge on the area of protection of the forced labour Conventions. In contrast, ILO supervisory bodies have pointed out that the imposition of a legally enforceable duty to work is not compatible with those Conventions.²⁸ Such a situation indeed has far-reaching practical implications. It tends to lead to various forms of direction to work. It denies individuals the choice to subsist on means lawfully acquired, whether through their own earlier gainful activities or the willingness of others to support them due to family links, to a desire to encourage different kinds of non-productive endeavours (for example, of a literary, artistic, philosophical or even purely contemplative character) or to other considerations. There is no reason why in such circumstances the State should interfere in the freely taken decisions of those concerned.

The concept of freely chosen employment enunciated in the Employment Policy Convention, while embracing non-recourse to forced labour, is wider in scope. As defined in the Convention, it extends to ensuring the fullest possible opportunity for each worker to qualify for, and use his skills and endowments in, a job for which he is well suited. While this does not mean that work must be made available in accordance with individual preferences irrespective of a need for the services concerned, it implies the development of

programmes to foster skills for the use of which opportunities can reasonably be expected to exist. It is also evident that, in situations of widespread unemployment, the degree of choice which workers will effectively enjoy will tend to diminish. During recent discussions in the Employment Committee of the Governing Body, Worker spokesmen have expressed concern at the more or less involuntary nature of shifts in employment, such as workers' untimely entry into or exit from the labour force, their acceptance of part-time or temporary employment, participation in local employment-creation initiatives or self-employment.²⁹ Care should be taken, in particular, that special unemployment relief measures are not turned into instruments of direction of labour in which workers are led, under the threat of loss of subsistence, to accept work which by its nature or conditions would not constitute "suitable employment" according to the criteria generally applied in determining entitlement to unemployment benefit. Such coercion would compound society's failure to provide adequate opportunities for employment in jobs corresponding to the individual's endowments and aspirations. These considerations underline the inter-relation between the components of a policy aimed at full, productive and freely chosen employment.

A further aspect of the Employment Policy Convention which merits attention is its requirement for consultation of representatives of persons affected by measures to be taken, and in particular representatives of employers and workers. The importance of such consultations has been repeatedly stressed by the Committee of Experts on the Application of Conventions and Recommendations. In its report of 1987 that Committee observed:

Nowhere is the tripartite approach to problems more pertinent than in the complex field of employment, where those in government cannot hope to know what policies are appropriate or can be implemented without being in constant contact and collaboration with the employers and workers with actual experience. Their views are worth listening to: it would indeed be unrealistic to suppose that employment policies and measures could ever be applied successfully without securing the full co-operation of employers and workers in formulating and supporting them.³⁰

These remarks were echoed by the High-Level Meeting on Employment and Structural Adjustment (Geneva, November 1987), which referred to the value of strengthened tripartite discussion for the creation of social cohesion and broad-based support for policies of national development.³¹

While employers' and workers' organisations have a distinctive role to play as partners in discussions concerning employment questions and social and economic policy in general, they are not the only groups whose views should be taken into consideration. As I pointed out in my Report to the Conference in 1985, consultation may have to encompass a variety of other interests, such as the self-employed and generally those working in the rural sector.³² The Rural Workers' Organisations Convention and Recommendation of 1975 bring into relief the varied types of organisations which may be involved in that process.

The foregoing comments have been concerned with the main principles underlying policies aimed at full, productive and freely chosen employment. Throughout the 1980s, however, the notion of full employment has been placed in jeopardy. For an increasing number of countries it has become ever more remote as the world economy has been buffeted by a series of shocks. The interdependence of the world's financial and trading systems has resulted in a contraction of economic activity which few countries have been spared. Economic contraction has had a devastating impact on employment, resulting in rising open unemployment and a further spreading of underemployment in the vast majority of nations. Although faster growth and expanded employment are clearly necessary, the fight against inflation has emerged as a greater preoccupation for many of the world's policy-makers.

Reduced or low inflation may be viewed as a precondition for the resumption of stable and steady growth. Yet, measures which excessively impair a country's employment-generating capacity are not consistent with the objectives of the Employment Policy Convention. Less costly means of curbing inflation than recession and

unemployment must be found. Of particular concern is that the most vulnerable groups of the population, already affected by the economic impact of the crisis, often find their employment opportunities, incomes and living standards further eroded by painful stabilisation and structural adjustment measures.

A major challenge for the ILO and for the international community, therefore, is to ensure that employment promotion, human resources development and poverty alleviation are given adequate weight in policies and programmes for growth, stabilisation and structural adjustment. It was in response to this situation that the ILO convened the High-Level Meeting on Employment and Structural Adjustment in November 1987. The Meeting recognised the need for measures to encourage stable, sustained non-inflationary growth and for a flexible response to change, while stressing the importance of scrutinising the impact of stabilisation and adjustment programmes on poverty groups. International organisations were seen as having an important role to play in helping countries to design programmes which, while achieving their adjustment objectives, maintained essential social services and provided the poor with productive assets. It was felt that the efficiency and targeting of programmes could be improved, and unnecessary or unproductive expenditures reduced.

The Meeting also recognised the need fully to integrate in decision-making on adjustment policies their social dimensions and consequences. In addition, it pointed to the crucial role of training and retraining as part of the adjustment effort, with a view to raising the productivity and performance levels of enterprises, facilitating geographical and occupational mobility and providing appropriate skills to young people entering the labour force.

The conclusions of the High-Level Meeting can be seen as a reaffirmation of the provisions of the ILO's standards on employment policy. They underline that employment promotion and social protection, rather than being policy goals to be pursued merely during periods of prosperity, call for diligent scrutiny and active support in

periods of economic stress as well. The High-Level Meeting called upon the ILO to remain vigilant in ensuring that full respect for its standards on employment, human rights and tripartism, including freedom of association and collective bargaining, form an integral part of adjustment policies.

Governments anxious to devise immediate responses to higher unemployment and reduced real wages have increasingly resorted to a variety of direct job-creation schemes. Often termed special employment programmes in developing countries, these initiatives aim to generate large numbers of short-term jobs at a modest cost, while contributing to the survival of the poorest households. In industrialised market economy countries job-creation measures typically offer some combination of work experience, training and temporary employment, and may provide a transition to more permanent employment.

The question nevertheless arises (and is being increasingly heard) whether in today's world "full, productive and freely chosen employment" is a realistic or attainable goal. It is understandable that such a question should be raised. When one surveys the harsh realities of the contemporary world, one may indeed wonder whether the appalling situation of unemployment, underemployment and the poverty and despair that they cause for hundreds of millions of people throughout the world, are not inevitable. One may also wonder whether the factors that have contributed to this situation — the huge disequilibria in the world economy, the steady growth in the world's population, the labour-displacing effects of technological change, the rigidity of social and economic structures — are not in fact intractable. Have "full employment" and "the right to work" become outdated concepts?

Such counsels of despair have no place in the ILO. The world has immense needs — the production of goods and services to ensure that everyone has a decent standard of living, the construction and improvement of social and economic infrastructures, the provision of care for the sick and needy, the protection and improvement of the

environment without which life on this planet could not be sustainable — that can be met only by a full mobilisation of the world's resources, including its human resources. Massive unemployment represents a tragic waste of such resources, and a wasted opportunity for development and social progress. Moreover, as already pointed out, the availability of gainful employment is a vital link to the enjoyment of other human rights. As long as large sections of the world's labour force are deprived of the opportunity to earn a decent living through satisfying, productive and remunerative jobs, they lack the basis for freedom, dignity, economic security and equal opportunity.

The question is not, therefore, whether full employment should remain a central goal, but how it can be attained.

It would be beyond the scope of this Report to attempt to answer that question and indeed there is no universal prescription that can produce the miracle cure to this most fundamental of all the world's social and economic ills.

Even those countries — particularly the socialist countries of Eastern Europe — which had sought to banish the spectre of unemployment by guaranteeing their citizens the right to work are now confronted with the major task of restructuring their economies and reforming their systems of economic management so as to make more efficient use of their resources, including manpower. These reforms will inevitably involve considerable displacement of labour as inefficient and uneconomic enterprises are closed down or restructured and the machinery of government is streamlined; the challenge will be to reconcile this process with the guaranteed right to work. To face up to this challenge will require a wide range of measures to facilitate the mobility of labour to more productive jobs, including wage reforms, training and retraining schemes and greatly strengthened machinery for the placement and vocational counselling of redundant workers as well as young workers entering the labour force. It may also require some form of income support for workers during the period of transition from one job to another.

These are not new problems for developed market economy

countries which have not sought to guarantee or enforce the right to work in the same manner, but have rather attempted — with some success until 15 years ago — to achieve full employment through a combination of macro-economic and labour market measures. Today full employment is an elusive goal in most of those countries. In view of the key position that they occupy in the world economy, it is of critical importance — as was stressed by the High-Level Meeting on Employment and Structural Adjustment — that they improve their capacity to generate productive employment at home while keeping their markets open in order to stimulate a resumption of world economic growth. Governments of these countries need to be particularly concerned with creating the macro-economic environment which will encourage growth, investment and job creation, and with improving the capacity of their economies, their enterprises and their labour force to adjust to a rapidly changing economic and technological environment.

These countries have resorted to a number of labour market interventions designed to reduce their unemployment problem. They have included measures to raise the school-leaving age, lower the retirement age, reduce hours of work, increase paid holidays, facilitate part-time work and job-sharing schemes, as well as special job-creation schemes — particularly for young people — offering some combination of work experience, training and temporary employment.

Some of these measures need to be approached with caution. For example, the shortening of working hours (while an important objective in its own right) has not generally proved to be a very effective means of reducing unemployment. Lowering the retirement age may be not only socially unjust (since it tends to lead to discrimination against older workers) but also economically wasteful by removing from the labour force people with experience, skills and capacities which younger people are not necessarily able to replace. Job-creation schemes, if carefully selected and properly designed and targeted, may have much to commend them as an alternative to

unemployment, especially when they provide a transition to more permanent employment, but they should be viewed as a complement to, and certainly not as a substitute for, the macro-economic policies and structural change which remain vital for the resumption of employment-oriented patterns of growth. The question may also be raised whether sufficient place is being given to public investment both as a means of meeting social and economic needs and as a potentially significant source of productive employment.

For developing countries the problems are even more complex and seemingly untractable. The external shocks, and the consequent drastic measures that many of them have been obliged to take to stabilise and adjust their economies, have exacerbated the extremely serious employment problems that they faced already before the crisis. The main employment problem that confronts most of these countries is not so much open unemployment (although even that has increased in a number of countries, especially in Latin America, with particularly serious effects for workers and their families in the absence of any organised form of unemployment benefits), but the prevalence and growth of various forms of precarious, casual, often exploited forms of labour to which many millions of workers are exposed. The rapid growth of population in most of these countries is further aggravating these difficulties.

Overcoming these problems will require a sustained effort by governments, with the support of the international community, over many years. A more favourable international economic environment, which would enable these countries to export their products and import capital and equipment under much more favourable terms than at present, is a first prerequisite. But no government of a developing country can afford to wait until the external environment improves before tackling employment problems. If there is any lesson at all to be learned from the present crisis it is that the developing world must, to the extent possible, reduce its dependence on the rest of the world, and make much better use of its own resources, if it is to offer its population better prospects for employment and income. The

root of current problems is precisely that many developing countries have neglected their domestic potential for development — particularly the potential offered by their human resources — or have misallocated the resources that they had available.

For most of the developing world the key to increased and more productive employment lies in the development and revitalisation of rural areas, which have tended to be neglected in favour of urban-based, often capital-intensive, but rarely viable industries. This vital question of rural employment promotion is a separate item on the agenda of the present session of the Conference and I am confident that the discussion of that item will lead to important conclusions to guide national and international action in the coming years. It will also be important not to neglect the huge employment problems in urban areas where many millions of people, whose numbers are increasing daily, live and work in conditions of extreme hardship.³³

The key to the promotion of expanded, more remunerative and more productive employment lies in improving access to skills, capital, technologies, markets and basic social amenities such as health and education. In many countries the possibility of progressing in that direction has suffered a severe setback as a result of the crisis. It is important that the lost momentum should be regained. A number of developing countries, in some cases with the assistance of the ILO, have launched special employment-creation schemes to mobilise unemployed or underemployed people for the construction of much needed rural and urban infrastructures. Some countries have also launched special schemes for young people — for instance, by providing them with some training and some rudimentary equipment to set up their own businesses. These schemes have laudable aims and, if carefully planned and executed, can bring long-term benefits to the individuals concerned and to their communities. However, they will not by themselves solve the long-term employment problems which require a sustained effort of development targeted to, and with the participation of, the poorest sections of society.

The conclusion that I would draw from this necessarily summary

review is that, as stated in the Employment Policy Convention, full, productive and freely chosen employment must remain a vital goal of national policy for all States. Yet, in recent years, in many countries — including countries that have ratified the Convention — full employment has ceased to be a “major goal”, as they have concentrated on other urgent tasks such as combating inflation, stabilising their economies or adjusting to a hostile external environment. While these economic constraints exist and have to be tackled, it is necessary to find means of doing so which create less hardship. Above all, it is imperative to create the macro-economic conditions, and to undertake the reforms in national policies and international economic relations, that will make a resumption of employment growth in all countries possible. The major industrial Powers have a central responsibility in this regard. There is a need for a greater sense of urgency, for greater political will and for new efforts of thought and imagination. Failing the requisite action, we must expect the world’s economic and social stability to come under increasing strain, as the gap continues to widen between the wealthy few and the masses living in deprivation and despair. In such a setting human rights, democracy and peace itself would be at risk. That is the measure of the issue at stake.

THE RIGHT TO JUST AND FAVOURABLE REMUNERATION

The Universal Declaration of Human Rights and the Covenant on Economic, Social and Cultural Rights recognise the right of everyone to just and favourable conditions of work, including more particularly the right to just and favourable remuneration ensuring to the worker and his family an existence worthy of human dignity. The attainment of such conditions also appears among the ILO’s constitutional objectives, stated originally as “the provision of an adequate living wage” and, in the Declaration of Philadelphia, as the furtherance of “policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all,

and a minimum living wage to all employed and in need of such protection”.

As one of the main measures to be adopted to these ends, the ILO has advocated the establishment of legally binding lower limits to wages. The Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), provides for the creation and maintenance of machinery for fixing minimum wages in trades (especially homeworking trades) in industry and commerce where no arrangements exist for the effective regulation of wages by collective agreements or otherwise and wages are exceptionally low. It remains one of the most widely accepted ILO instruments. Similar provisions for workers in agriculture were established in 1951. A further stimulus to the extension of minimum wage protection was given by the Conference in 1970, when it adopted the Minimum Wage Fixing Convention (No. 131). Bearing in mind particularly conditions prevailing in developing countries, that Convention requires the establishment of minimum wage systems covering virtually all workers.

Reflecting these standards, the vast majority of countries have enacted minimum wage legislation in one form or another. The main exceptions are some developed market-economy countries where most workers receive wage protection through collective agreements, and a few developing countries.

Although minimum wage legislation has been widely adopted, and coverage extended to more and more workers, implementation has remained a controversial and problematic process. In developing countries enforcement proves difficult precisely for the categories of workers most in need of minimum wage protection. The absence of record-keeping, the transient and uncertain character of many work relationships, widespread illiteracy, the inadequacy of labour inspection services to deal with numerous small, scattered and poorly identified places of employment, the weakness of workers' organisations, plus the ready availability of people who desperately need to find work no matter how poorly paid and the precarious financial position of many employers, all combine to make

enforcement highly problematic. As a result, in many instances the minimum wage for many lower-paid vulnerable workers has the practical force of only a recommendation rather than an effectively enforceable legal right. There is an evident need in many developing countries to design and implement low-cost strategies for achieving more effective compliance with minimum wage standards.

In many countries minimum wages have not been regularly adjusted. Problems in this respect have intensified in the last ten to 15 years following the acceleration of world-wide inflationary tendencies and the adoption by many developing countries of wage restraint policies as part of their structural adjustment programmes. As figures compiled for Volume 3 of the *World Labour Report* show, even though the experience of developing countries varies considerably, in many of them real wages have not been improved or have suffered substantial declines. Wage restraint has been pursued not only in attempts to reduce inflation and improve the balance of payments but also to redress income inequalities between urban and rural workers. However, the extent of wage restraint has sometimes been drastic, with real wages declining by 30 to 50 per cent or even more in just a few years and statutory minimum wage protection being completely undermined.

Concern to counteract unemployment, particularly among younger workers, has made certain governments adopt a negative view of labour market regulation generally, including statutory minimum wages. Instead of reconsidering the appropriateness of different minimum wage levels or structures (e.g. the rates applicable to young workers), the very legitimacy of government intervention in the labour market to fix lower limits to wages has been called into question. The problem remains how, in such circumstances, the right of workers to remuneration which would enable them and their families to lead "an existence worthy of human dignity" can be safeguarded. The High-Level Meeting on Employment and Structural Adjustment convened in November 1987 emphasised that the burden of structural adjustment should be shared equitably and that efforts

should be made to protect the poorest and most vulnerable groups, including particularly women and young people, against sharp falls in their standards of living and social protection.³⁴

Apart from problems affecting the establishment and enforcement of minimum wage rates, there is considerable evidence that in many countries difficulties are encountered, particularly by the most vulnerable groups, in obtaining the actual payment of their wages. These difficulties take the form, for example, of delays in payment, payment in the form of vouchers or in kind under exploitative conditions, or improper deductions. The persistence of such abuses can be traced to the same difficulties of enforcement as were mentioned earlier as prejudicing the observance of minimum wage rates.

THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

Apart from questions of just remuneration, the international human rights instruments also provide for just and favourable conditions of work. The Covenant on Economic, Social and Cultural Rights makes reference, more particularly, to the reasonable limitation of working hours and to ensuring safe and healthy working conditions.

In the Conclusions which it adopted in 1984 concerning future action in the field of working conditions and environment, the Conference stressed that improved working conditions and environment are a positive contribution to national development and a measure of the success of economic and social policy, and that the conditions in which work is performed directly influence the quality and quantity of production. It called for immediate and fully effective national action wherever conditions present a serious danger to the worker's life or health or fall below a minimum standard of decency and dignity. Such action should include protection against hazards arising from machinery, equipment, substances, work processes or the

physical environment, protection against excessive hours of work and the provision of minimum weekly rest and annual holidays with pay, maternity protection, protection of children and the provision of essential welfare services such as sanitary facilities and safe drinking water. The Conference emphasised that the reinforcement of tripartism is fundamental to action for the improvement of working conditions and environment.

While the present context does not permit a general discussion of the various aspects enumerated in the above-mentioned Conclusions, comment on several of these issues appears to be called for.

In the past ILO standard-setting on hours of work has been concerned with establishing maximum limits on daily and weekly working hours. These standards have influenced the evolution of national legislation and practice far beyond what would be suggested by the ratification figures.³⁵ Today the whole question of working time is again the subject of intense discussion, relating to the possibility and desirability of further reduction in hours of work and of a more flexible arrangement of working time.³⁶ The existing ILO standards are being questioned as imposing too rigid a framework and as standing in the way of new practices which are moving away from the concept of a normal working day and week. As already noted, the question of night work is due to be considered by the Conference and other aspects of working time will no doubt also merit further action by the Conference once a sufficient consensus as to appropriate policies and forms of regulation can be perceived.

Even though it may be premature to seek to forecast the precise form which working time arrangements should take in the future, two points deserve to be stressed. While flexible working time arrangements may bring advantages to workers as well as to enterprises, one should guard against solutions which, although attractive at first sight, may in practice impose undue strain or prove socially disruptive. It is therefore essential that any new solutions should not be imposed unilaterally but should be arrived at by a process of full and genuine negotiation with the representatives of the

workers concerned. That condition should clearly also be a central feature of any new ILO standards on the question.

Recent discussions on international labour standards have shown that, whatever divergence of views may exist as to the degree of flexibility appropriate to the regulation of working conditions in general, there is wide agreement that flexibility should have no place in standards aimed at ensuring safety and health at work. The need for proper protection of workers' physical integrity everywhere has been underlined by a number of major disasters in various regions in recent years.

The constant introduction of new technologies, substances and work methods brings with it also new hazards which are often not clearly perceived but may produce severe long-term effects. The situation must therefore be subject to constant supervision and control. Occupational injury and disease are not an inevitable part of the cost of production but are hazards which can and must be controlled. Humanitarian concern is reinforced by economic considerations. The cost of occupational accidents and disease to national economies is high. Within enterprises, too, the level of working conditions is likely to have direct repercussions on a firm's prosperity. The value of international standards in this field is recognised as a basis for seeking common solutions to common problems.

Particular significance attaches to the adoption of the comprehensive standards on occupational safety and health and on occupational health services in 1981 and 1985 respectively. They establish the principles on which the development of policy and institutions in these fields should be based, with specific responsibilities for the public authorities, employers and workers.³⁷ Thus, the Occupational Safety and Health Convention and Recommendation of 1981 place upon the State the responsibility, in consultation with the most representative organisations of employers and workers, to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health

and the working environment, including the adoption and enforcement of laws, regulations or other standards, with due regard to ILO instruments on specific aspects of these matters. They define the duties incumbent upon employers to maintain a safe and healthy working environment and to provide workers with requisite information. They provide for a major share by workers' representatives in the planning, implementation and enforcement of safety and health measures. The growing importance attached to workers' participation may indeed be regarded as the most significant development in this field over the past 20 years. The important principle is also recognised that a worker shall be entitled to remove himself from a work situation when he has reasonable justification to believe that it presents an imminent and serious danger to his life or health.

The instruments of 1985 concerning occupational health services provide for a similar comprehensive and co-ordinated approach, with a view to facilitating optimal physical and mental health in relation to work and the adaptation of work to the capabilities of workers, by measures of a primarily preventive nature, beginning already at the stage of decisions on the design of workplaces and the choice of technology and substances used in work. These instruments seek to ensure that occupational health services will enjoy the confidence of the workers, more particularly by providing for the full professional independence of the personnel of these services and for the confidentiality of information and records. They call for measures to protect the privacy of workers and to ensure that health surveillance is not used for discriminatory purposes or in any other manner prejudicial to their interests. More specifically they provide that personnel of occupational health services shall not be required by the employer to verify the reasons for absence from work.

It is not only in the field of occupational health that questions of protection of privacy arise. The protection of workers against the improper use of personal data also calls for consideration in regard to other records, such as those kept by employers and by social security institutions. Some guide-lines in the field of computerised data have

been drawn up by the United Nations human rights organs.³⁸ It may however be appropriate, as suggested by the Governing Body Working Party on International Labour Standards, for the ILO to adopt more specific standards in respect of data protection for workers.

Modern electronic equipment has opened up new possibilities for the control and surveillance of performance at work. How far can they be considered as legitimate tools of personnel management or, on the contrary, do they involve an inadmissible invasion of privacy and form of pressure? This is a matter deserving study, also as a potential item for standard-setting.

THE RIGHT TO SOCIAL SECURITY

The right of everyone to social security is recognised both in the Universal Declaration of Human Rights and in the Covenant on Economic, Social and Cultural Rights. In the Universal Declaration the question is viewed in a comprehensive perspective, as related to the realisation of economic, social and cultural rights generally.

Several years before the adoption of the Universal Declaration the ILO, in the Declaration of Philadelphia, had laid down the objective of extending social security measures “to provide a basic income to all in need of such protection and comprehensive medical care”, and had at the same time, in the Income Security Recommendation, 1944 (No. 67), and the Medical Care Recommendation, 1944 (No. 69), formulated the principles which should govern that action. It is well to remember that, both nationally and internationally, the principles on which the modern conception of social security is based were fashioned in the midst of war, as part of the vision of a fairer society to which men aspired.

The 1944 Recommendations provided the starting-point for a programme of further standard setting in this field leading to the adoption, first, of the Social Security (Minimum Standards) Convention, 1952 (No. 102), and then of a series of Conventions and Recommendations establishing more advanced standards. That

process is due to be taken a step further at the present session of the Conference by the adoption of instruments dealing with benefits in the event of unemployment. The body of ILO instruments serves to give substance to the general concept expressed in the Universal Declaration and the Covenant.

The realisation of the right to social security necessarily involves the progressive development of protection in accordance with available resources. That point is recognised in the Covenant on Economic, Social and Cultural Rights. This is also the underlying approach in the relevant ILO standards. In determining the measures to be taken, three basic principles should be borne in mind: universality of protection, equality and solidarity among the members of society.

Social security can be ensured to everyone only if there is *universality* in protection. The generalisation of coverage has been an aim both in ILO standards and in the development of national legislation. It was advocated in the two Recommendations of 1944, according to the nature of the benefits dealt with: Recommendation No. 67 sought protection in respect of loss of income for all workers and their dependants, while Recommendation No. 69 aimed at the coverage by medical care services of all members of the community, whether or not gainfully occupied. In accordance with the principle of progressive implementation of the right to social security, the Social Security (Minimum Standards) Convention fixed more limited objectives. Apart from permitting a gradual extension in the range of contingencies in respect of which obligations might be assumed, it required coverage of only stated proportions of employees, the economically active population, or residents. The later Conventions on old-age, invalidity and survivors' benefits and on medical care and sickness benefits, while adopting a similar approach, set far higher levels of coverage. The Convention on employment injury benefits in principle requires the protection of all employees, and this is also one of the options provided for in the other Conventions. The Recommendations supplementing these Conventions advocate

further extension of protection (for example, the provision of medical care to all residents).

National social security legislation has followed a similar path, with a gradual widening in the range of persons covered, thus confirming that generalisation of protection constitutes an essential objective.

In industrialised countries social security systems today generally cover the bulk of the population. A number of these countries have universal systems providing protection in respect of medical care and old-age, invalidity and survivors' pensions. Universal family allowance systems are also to be found in most industrialised countries. In countries or for branches where coverage is still incomplete, a process of gradual extension is being followed, for example in favour of the self-employed or certain classes of non-active persons. The extension of protection to further eventualities, including certain newly perceived needs, also calls for attention.

The current aggravation of poverty in industrialised countries has given increased urgency to the question of providing social protection for persons without adequate means who remain outside the scope of social security schemes. To make good the gaps in the safety net of social security, some countries are experimenting with schemes to guarantee a minimum income for all, and others are contemplating similar action.³⁹ The group of eminent experts whom I commissioned to advise on the development of social security systems in industrialised countries considered that a national minimum income was essential to meet the responsibility of social security towards the disadvantaged and underprivileged. They recommended that "building an effective minimum income for all residents should be accepted as the major challenge for social security policy to be achieved before the year 2000".⁴⁰ This question is admittedly a matter of controversy. So are the modalities through which the concept might be implemented: some proposals would seek to replace existing benefits by a minimum income, whereas others would involve solutions adapted to the institutional context and socio-economic

constraints of individual countries. The problems to be resolved in implementing a minimum income scheme were acknowledged by the group of eminent experts, but they considered the persistence of poverty as intolerable in affluent societies which have the resources and the potential administrative skill to remove it. The ILO has the responsibility to contribute in the years to come to the further clarification of these issues.

The Office is also engaged at present in a study of future policy in regard to social security in developing countries. Those countries generally started by providing limited protection to certain categories of employees and then gradually extending the personal scope of their legislation. Although the risks against which protection is provided generally remain more limited than contemplated in ILO standards, a number of developing countries now provide for the application of protection in the branches in force to all employed persons. Exceptionally, they have gone further in covering also the self-employed or even the entire active population or all residents. The ILO has often been instrumental in assisting developments.

At present, however, owing to economic difficulties, this process of gradual extension has slowed down, since it necessarily calls for increased resources. Furthermore, Third World countries encounter particular difficulties in extending protection to persons other than wage earners, since they fall into very varied categories and almost everywhere constitute the majority of the population. The ILO is studying possible ways of overcoming these difficulties, particularly in favour of rural populations.

Equality of social protection is closely related to the principle of universality, since it implies in the first instance the availability of coverage to all in need of protection. It also requires equality in conditions of entitlement. Action is accordingly called for to improve conditions for persons who are at present not adequately protected. This should involve the harmonisation of benefits. Significant progress has been made in recent years in reducing differences between various schemes applicable to employed persons, not only in

industrialised countries but also in some developing countries. There has also been a trend, particularly in Europe, towards assimilation of benefit levels of employed persons and the self-employed. In the socialist countries of Eastern Europe benefits under pension schemes for workers in agriculture have been progressively brought into line with those under the general scheme. Harmonisation of benefits has also tended to occur among supplementary pension schemes, especially in countries where they are generalised. To be effective, this also requires the transferability of pension rights between schemes or the protection of acquired rights in the event of change of job. The process of harmonisation has been furthered both by ILO standards and by the Organisation's technical co-operation activities.

Other dimensions of the equality principle concern measures to ensure equality of treatment in regard to social security between men and women and between nationals and migrant workers.

The Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111), already established the principle that all persons should, without discrimination, enjoy equal treatment in respect of social security measures and welfare facilities and benefits provided in connection with employment. In 1975, and again in 1985, the Conference called for elimination of differences of treatment between men and women under social security schemes. As already mentioned, the adoption of specific standards on the question was recommended by the Governing Body Working Party on International Labour Standards in its final report of February 1987. A comprehensive study on the subject has just been published by the ILO.⁴¹ That study, as well as the group of eminent experts previously referred to, pointed out that in addition to ensuring the application of the same conditions of coverage, contributions and entitlements to men and women in a like position, there were also specific needs arising from situations which, while not necessarily limited to women, tended to affect them especially.

While progress has undoubtedly been made in eliminating discrimination against women in the field of social security,

particularly in the past ten years, much remains to be done to ensure equality in conditions of coverage and entitlements. While the claim to equality is strong and in principle finds wide adherence, its implementation in times of crisis tends to be given relatively low priority. However, within the reconsideration of social security systems which countries are regularly led to undertake in the light of changing economic and demographic conditions, this principle ought to be retained as a necessary element of a fair sharing of burdens and resources, even if it has to be the subject of phased implementation.

The ILO's constitutional concern to protect the interests of workers employed outside their own country has led to the adoption of a series of standards aimed at the elimination of discrimination against foreign workers also in the field of social security. A comprehensive basis for such measures is now provided by the Equality of Treatment (Social Security) Convention, 1962 (No. 118), supplemented by the Convention (No. 157) and Recommendation (No. 167) adopted in 1982 and 1983 to provide for an international system for the maintenance of rights in social security.

The principles established by the ILO have contributed to the elimination of discrimination against foreigners in national social security legislation. The Organisation has also provided assistance in the conclusion of multilateral agreements in Europe, Africa and the Americas providing for equality of treatment. Both the necessary legislative action and the enlargement of the network of bilateral and multilateral agreements will need to be pursued with a view to eliminating the substantial inequalities which migrant workers still experience. In this process attention will need to be given to new trends in labour migration, such as the transfer of staff by multinational enterprises among different subsidiaries in Third World countries and the development of major new flows of labour migration between developing countries, particularly in Asia.

Both under the relevant ILO standards and under bilateral and multilateral agreements, equality of treatment in respect of social

security is generally granted to foreign nationals on a basis of reciprocity. One may ask whether such a limiting condition is still justified once the right to social security is recognised as a human right to which everyone is entitled. Should conditions of coverage, contributions and benefits not apply, irrespective of the nationality of those concerned, as is already the case for all other aspects of social legislation? If such an approach found acceptance, special agreements would serve essentially to secure the requisite co-ordination and administrative collaboration.

Reference has already been made to discrimination which older workers are liable to suffer as a result of policies aimed at accelerating retirement and thus reducing unemployment among younger workers. Such measures may cause severe prejudice to the workers concerned, both materially and psychologically, by increasing their vulnerability in the event of redundancies, minimising their chances to obtain employment, and exerting pressure to accept less than normal rates of old-age benefit. They also affect adversely the financial equilibrium of pension systems, which in many countries is already under strain as a result of the ageing of the population. The group of eminent experts considered it wrong to use old-age insurance as an instrument to alleviate the current crisis of unemployment. They recommended the abandonment of compulsory retirement practices and flexibility in permitting maximum choice to each individual as to the amount of paid work done at any age, according to health and personal preference. Similar principles are embodied in the Older Workers Recommendation, 1980 (No. 162), which emphasises the need to ensure that, in the framework allowing for a gradual transition from working life to freedom of activity, retirement is voluntary.

The realisation of the right to social security presupposes an extensive *solidarity* in financing the requisite protection. Originally operating within particular branches, it became a national solidarity with the development of social security systems in industrialised countries. Today, however, the feeling of solidarity is tending to weaken, as individualist values are gaining greater favour. In

particular, solidarity between successive generations, which is at the basis of old-age pension systems, is being called into question, as the burden of supporting an ageing population increases. Obviously, benefit schemes must take account of demographic trends and other factors influencing the relative proportions of the active and non-active members of society (thus emphasising once again the significance of reconsidering measures which lead to an undue shortening of active life). In approaching these questions the principle of solidarity should, however, continue to be accepted as one of the guiding considerations. A global, national solidarity is not the only form to bear in mind. There is also a proper place for arrangements at the occupational or the local level, for a chosen solidarity — and indeed for family and personal effort — as well as for an imposed solidarity. The appropriate balance between these different levels of protection is a complex question, which merits full discussion and which current ILO studies are seeking to clarify. We should in any event take care to avoid orientations liable to lead to the polarisation of society into those enjoying generous employment-based security and those receiving inferior protection under a residual responsibility of the community at large.

In developing countries the application of the principle of solidarity through social security has generally remained limited, in view of the poverty prevalent among the greater part of the population. Conditions are, however, not everywhere the same, and questions concerning the best use of available resources call for consideration. Beyond that, progress will largely depend on the operation of a wider international solidarity which would enable these countries to raise their standards of living.

MINIMUM LABOUR STANDARDS

Over the years it has been repeatedly suggested, both in the ILO and in international bodies concerned with trade matters, that trade agreements should provide for the observance by the parties of fair or

minimum labour standards. The purposes underlying these suggestions have varied, from preventing unfair competition to ensuring that the benefits of trade liberalisation measures in favour of less developed countries were fairly distributed and thus facilitating the acceptance of such measures in industrialised countries.

The authors of the ILO Constitution considered that “the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own country”. The Charter of the International Trade Organisation drawn up in Havana in 1948 provided that the Members of that Organisation would recognise “that unfair labour conditions, particularly in production for export, create difficulties in international trade” and that accordingly “each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory”. Although that text never came into force, the parties to the General Agreement on Tariffs and Trade (GATT) have committed themselves to observance of certain of its principles, including the provision referred to. Several commodity agreements contain fair labour clauses aimed at the improvement of the living standards of the workers concerned.⁴² At the time of negotiation of the second Lomé Convention between the European Economic Community and African, Caribbean and Pacific countries, a proposal was made (but not retained) by the Commission of the European Communities that trade benefits under the Convention should be subject to the observance of certain international labour standards. In the ILO the question of fair labour standards in international trade was extensively — but inconclusively — discussed in the early 1970s.⁴³ The World Employment Conference stated that “the competitiveness of new imports from developing countries should not be achieved to the detriment of fair labour standards”. The Independent Commission on International Development Issues (the Brandt Commission) recommended that “fair labour standards should be internationally agreed in order to prevent unfair competition and to facilitate trade liberalisation”.⁴⁴ Suggestions for

further action on the question have continued to be made, both in the ILO⁴⁵ and recently in GATT.⁴⁶

A first point to note is that, while the ILO is not the only international agency concerned by the matter, it has the competence to act on it. Under the ILO Constitution it is the responsibility of the Organisation to consider all international economic and financial policies and measures in the light of the fundamental objective of ensuring the material well-being and spiritual development of all human beings.

It would also appear technically feasible to identify a set of standards whose observance might be regarded as corresponding to the concept of fair labour conditions. At the time of the discussions preceding the second Lomé Convention, the ILO, at the request of the Commission of the European Communities, provided a draft which might serve as a basis for discussion should the parties wish to include such provisions in the agreement. Recognising that difficulties were likely to arise if the observance of entire Conventions in all their detail was expected, this draft consisted of a series of basic principles drawn from a variety of sources: ILO Conventions and Recommendations, the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the Covenant on Economic, Social and Cultural Rights. These standards were chosen with due regard to their relevance to the production of commodities involved in international trade. They covered questions of non-discrimination, employment (including free choice of employment), working and living conditions, occupational health and safety, employment of children and young persons, maternity protection, social security, industrial relations and labour inspection. The proposal subsequently put forward by the Commission of the European Communities retained only four of the suggested principles.⁴⁷ It was also envisaged that, subject to agreement by the parties and to approval by the Governing Body, the ILO might have a role in verifying observance of any labour clauses.

The various discussions which have taken place, in the ILO and

elsewhere, have however revealed a number of difficulties, both of principle and of a practical nature.

While the founders of the ILO recognised the importance of concerted efforts by all nations to improve labour conditions, the method chosen for working towards that objective was the adoption of international instruments which would be subject to acceptance by the free decision of each State. That process has led to the creation of a broad body of international labour standards and a network of obligations flowing from over 5,300 ratifications. One may also bear in mind that the Human Rights Covenants, embodying a wide range of guarantees of civil, political, economic, social and cultural rights, are now binding on some 90 States.

These obligations are subject to supervision, which in the case of ILO Conventions is particularly developed. The ILO Constitution, in its original form, envisaged, as an ultimate means of securing compliance with ratified Conventions, the possibility of adopting "measures of an economic character" (i.e. sanctions). In its present form, this provision (article 33) mentions merely the possibility of "action . . . deemed wise and expedient to secure compliance . . .". Action of this kind has so far not been considered.⁴⁸ Reliance has been placed rather on various forms of persuasion and moral pressure, with emphasis also on the importance of assistance by the ILO in overcoming difficulties in the implementation of its standards. It has been observed that, in general, rather than resorting to sanctions, specialised international organisations have given preference to measures involving conciliation and a pragmatic approach to upholding the organisations' rules.⁴⁹

As already noted, increasing attention has been given to ways of making ILO standard-setting and operational activities mutually supporting. The consequences of failure in compliance with ILO Conventions for the provision of assistance has been considered at various times. The basic policy on the question was defined by the Governing Body in 1968, namely "to take decisions concerning requests or proposals for aid to or co-operation with any member State

on the basis of the extent to which the request or proposal will further the aims and purposes of the ILO ...".⁵⁰ It may happen that, on account of the unsettled conditions in a country, projects, either generally or in a given field, are not undertaken because they would not enjoy sufficient prospects of viability. The general approach in deciding upon technical co-operation continues, however, to be that laid down in 1968, namely: will the project further the ILO's objectives?

Shortcomings in the implementation of international labour standards can be very diverse in nature and gravity. They are attributable to varied causes. Adverse economic conditions may also make it more difficult for governments to correct deficiencies in the observance of ratified Conventions. For example, in the inquiry concerning work on sugar plantations in the Dominican Republic the authorities stressed that the catastrophic fall in the price of sugar on world markets — due in part to the policies and practices of certain industrialised countries — constituted a serious obstacle in bringing about desired improvements in conditions of employment. The imposition of restrictions on the already limited possibilities of disposing of the country's main export commodity would have exacerbated those difficulties. In the case of India, ILO supervisory bodies have noted problems in securing the observance of laws for the abolition of bonded labour and concerning child labour; in both instances what is at stake is not the absence of legislative standards or the pursuit of policies at variance with the relevant Conventions, but difficulties in implementation stemming from deeply rooted social and economic causes. Moreover, problems in the observance of particular standards may occur primarily outside export-producing sectors or affect only some of those sectors.

It is thus apparent that the mere existence of divergence even from basic labour standards may not in itself justify a modification in trade relations. That conclusion has all the more force where — as is frequently the case — the trading partners have themselves not ratified the Conventions concerned.⁵¹

There may however be situations where, even allowing for local conditions or difficulties, employment practices in export industries are considered exploitative or policies are pursued by governments to depress labour standards and to restrict trade union action with a view to gaining competitive advantage, and where intervention by the ILO appears desirable. In such circumstances, various means of action already exist. If the observance of ratified Conventions is at stake, the matter may be raised within the framework of routine supervision⁵² or by recourse to the constitutional procedures of representation and complaint. If trade union rights are affected, whether or not the relevant Conventions have been ratified, the matter can be brought before the Committee on Freedom of Association. If the issue concerns the policies or practices of multinational enterprises, it may be the subject of a request for interpretation of the Tripartite Declaration of 1977. There may, in addition, be scope for a more general function of fact-finding and conciliation by the ILO with a view to clarifying disputed situations and seeking generally acceptable solutions. On several occasions such action by the Organisation has led to the settlement of cases in which the constitutional complaints procedure had already been initiated.⁵³ There have also been instances in which the ILO has been invited to investigate labour conditions with a view to resolving disputes and in which ILO Conventions, whether ratified or not, have served as standards of comparison and a source of guidance to remedial measures.⁵⁴

The idea that a similar role might be played by the ILO in disputes concerning labour standards in relation to trade is not new. In his Report to the Conference in 1973, my predecessor, Wilfred Jenks, observed that “while it may be difficult to make fair labour standards specific conditions of trade agreements, the impartial examination of controversies concerning fair labour standards may greatly facilitate trade negotiations”. After referring to the availability of established ILO supervision procedures, he pointed out that one might also make use of “procedures of conciliation rather than complaint designed to enable potentially conflicting parties to reach common ground as to

what the facts are and seek agreement on remedial action to resolve or at least narrow their differences".⁵⁵

The capacity for the ILO to undertake fact-finding and conciliation of the kind mentioned above already exists. Its application to questions concerning labour standards in relation to trade would require the creation of no new mechanisms. This kind of approach would also have the advantage of not tying the outcome to a purely mechanistic evaluation of compliance with stated standards, but would open the way to a global consideration of conditions and the search for reasonable and fair solutions. The advantages of such a flexible approach were pointed out by Wilfred Jenks:

A procedure based on the inherent rights of any international organisation to inquire into and establish the facts in matters of concern to it, and issue such findings and recommendations as it may deem appropriate, is applicable to its whole membership and, without binding them in law, can be as influential in practice as a procedure based on more formal obligations. A procedure based on principles which are widely accepted as principles but are susceptible of growth and adaptation in the light of changing circumstances, can grapple more effectively with the unforeseen case than a procedure applying rules which are either precise, and therefore in some measure preconceived, or so general in character as to be of limited value as either rules or obligations . . .⁵⁶

Further involvement of the ILO in the question of fair labour standards in relation to trade may, in sum, depend on making governments, employers and workers aware of an existing capacity for action rather than on the adoption of any new substantive rules or mechanisms. Should a particular case be submitted to the Organisation, it would be for the Governing Body to determine the precise manner in which it could be examined.

Finally, this complex problem points to the need for a strong link between standards and technical co-operation and for the ILO to respond to requests for assistance from developing countries.

CONCLUDING REMARKS

The Universal Declaration of Human Rights was proclaimed as a common standard of achievement for all peoples and all nations. It recognised that the realisation of this objective depended on both national and international action. While expressing a universal morality of respect for human dignity, it also sought to safeguard the individual's physical and moral integrity through a series of legal standards. A discussion of the ILO's contribution to the realisation of human rights must likewise start from a consideration of relevant principles and standards. The Organisation's standard-setting activities have been, and must continue to be, an essential part of its endeavours to secure respect for human rights.

At the present juncture, under the impact of an adverse economic environment, ILO standard setting is under strain. The rate of ratifications has slackened. Compliance with ratified standards continues to encounter difficulties in all regions. As part of a current of thought which would subordinate the demands of social protection to considerations of maximising competitive advantage, previously accepted labour standards are being called into question, with inevitable repercussions also on the acceptability and observance of international labour standards.

Obviously, the standards embodied in ILO Conventions and Recommendations are not immutable. The need for continuing review and updating of these standards has been recognised in all discussions on the subject and has indeed found reflection in an intensive programme of revision. For instance, of the 67 Conventions adopted in the first 20 years of the ILO's existence, only 21 remain unaffected by later standards (and for seven of them, on account of their obsolescence, detailed reports are no longer requested). While this process of review will have to go on, it is important that it should proceed on the basis of an orderly discussion and a maximum measure of agreement, rather than erosion from unilateral action. There are, moreover, certain standards aimed at guaranteeing fundamental freedoms which the ILO must resolutely continue to uphold. As is

clear from the conclusions of the Governing Body Working Party on International Labour Standards, there are also many new topics which merit consideration with a view to standard setting in the years ahead.

The credibility of the ILO's standard-setting activities depends on an effective system of supervision. As I showed in my Report to the Conference in 1984, the Organisation has managed, by patient and persistent efforts, to build up over the years a varied range of dynamic supervisory procedures. They have undoubtedly left their impact in improved working and living conditions and greater respect for human rights. The continuing effectiveness of these mechanisms depends on a genuine willingness by member States to collaborate in a common endeavour to secure the observance of freely assumed obligations. Expressions of support for international supervision must be borne out by actual performance, in the realisation that all nations stand to gain from greater respect for human rights and enhanced social well-being. In this process due consideration must also be given to the views of those affected by decisions taken.

Efforts to secure the enjoyment of human rights involve the entire international community. The action of the ILO must therefore be harmonised with the efforts of other components of the United Nations system. That has been especially evident in the field of employment promotion, which involves questions within the field of action of other agencies, such as international financial institutions and organisations concerned with trade, and also requires consideration of the relationship between employment and the satisfaction of basic needs in fields for which other specialised agencies have primary responsibility. Not only must we strive for consistency in the policies and action pursued by the various organisations. We must also, through appropriate co-ordination, seek to ensure the rational use of necessarily limited resources.

International collaboration in promoting the enjoyment of human rights has an additional dimension, namely collaboration among nations. As I have been led to emphasise repeatedly in discussing

particular problems in the present Report, solidarity, among nations as well as within nations, is an essential aspect of human rights. It involves both a far-sighted self-interest in bolstering the chances for a more stable community of nations enjoying reasonable prospects of sustainable well-being, and an element of generosity towards the weak and vulnerable. I should like to recall remarks by the Director of the United Nations Division of Human Rights at the General Assembly in 1981: "If a human rights programme has any relevance to people, it must be concerned with the vulnerable, the weak, the oppressed, the exploited . . . any society which is incapable of demonstrating the will and the solidarity that is necessary to provide and guarantee human rights for the weak is a society which is far removed from the realisation of human rights."⁵⁷

Is there a sufficient sense of foresight and generosity in the world today? Should the 40th anniversary of the Universal Declaration of Human Rights not be an occasion for renewed dedication to the vision, proclaimed by the authors of the Declaration, of "a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want", and to the objectives through which the ILO seeks to contribute to the attainment of such conditions? Is there not room for reconsideration of our policies and actions in the light of those values?

In pondering on those questions, it may be well to bear in mind the following words written by Pope Paul VI in his message on the celebration of the International Day of Peace in 1969:

The world cannot renounce its vision of peace. It is precisely because peace always remains to be attained, because it is always incomplete, always fragile, always threatened and always difficult that We proclaim it, as an ineluctable duty. It is a duty for those who bear responsibility for the destiny of peoples. It is a duty for every citizen of the world, because all must cherish peace, all must contribute to forming the public mentality, the common conscience which renders peace desirable and possible. Peace must first reside in minds, so that it may then find expression in events.

Those profound and moving words, though written about peace, are just as true of human rights.

The ILO, as a tripartite organisation, has a privileged position and also a special responsibility to play its part in the continuing struggle for human rights.

Notes

¹ ILO: *The ILO and human rights*, Report of the Director-General (Part I) to the International Labour Conference, 52nd Session, Geneva, 1968.

² Académie de droit international de la Haye: *Recueil des cours*, 1951-II, Vol. 79 (Paris, Librairie du Recueil Sirey), p. 296.

³ See, for example, resolution 32/130 of 16 December 1977, formulating concepts to be taken into account in future work on human rights questions within the United Nations system, and resolution 41/128 of 4 December 1986 proclaiming the Declaration on the right to development.

⁴ ILO: *Draft programme and budget 1970-71 and other financial questions*, Report II, International Labour Conference, 53rd Session, Geneva, 1969, paras. 114-136.

⁵ These measures were reviewed in Part I of the Director-General's Report to the International Labour Conference at its 70th Session, Geneva, 1984, pp. 47-54.

⁶ See, in this connection, the resolution concerning the role of the ILO in technical co-operation, adopted by the International Labour Conference at its 73rd Session, 1987, particularly paras. 18 to 25, and the indications provided to the Governing Body at its 238th Session (November 1987) — doc. GB.238/14/24, para. 49.

⁷ See ILO: *Freedom of association*, Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, 3rd edition (Geneva, 1985), Ch. II.

⁸ Employment Policy Convention, 1964 (No. 122).

⁹ Rural Workers' Organisations Convention, 1975 (No. 141).

¹⁰ This point is being given special emphasis in current discussions concerning the revision of the Indigenous and Tribal Populations Convention, 1957 (No. 107).

¹¹ United Nations: doc. E/CN.4/1488, 31 Dec. 1981, para. 13.

¹² The Conference has sought, in several resolutions adopted in the last few years, to address certain aspects of the situation — see the resolution concerning the strengthening of action for the least developed countries, 1984; the resolution concerning the most urgent problems of Africa, and particularly food security, 1985; the resolution concerning development, foreign debt and the social objectives of the ILO, 1986; and the resolution concerning the role of the ILO in technical co-operation, 1987.

¹³ ILO: *Record of Proceedings*, Conference of the ILO, Washington, 1941, p. 158.

¹⁴ By way of example, reference may be made to the collaboration which the ILO has established with the United Nations Human Rights Committee — see doc. GB.225/IO/3/3, paras. 97 to 106.

¹⁵ See ILO: *Freedom of association*, Digest of decisions and principles of the Freedom of Association Committee of the Governing Body, op. cit., paras. 360 to 448, and Jane Hodges-Aeberhard and Alberto Otero de Dios: "Principles of the Committee on Freedom of Association concerning strikes", in *International Labour Review* (Geneva, ILO), Vol. 126, No. 5, 1987, p. 543.

¹⁶ Similar surveys have been made in recent years in regard to instruments on equal pay and on migrant workers.

¹⁷ Such action might be by way of protocol to the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), so as to maintain intact the large number of ratifications of that Convention, leaving States free to choose between the original, more limited coverage and the suggested enlarged scope.

¹⁸ This question is the subject of a recent issue of the *Conditions of Work Digest*, Vol. 6, No. 2 (Geneva, ILO), 1987.

¹⁹ Reference may also be made to article 7 of the Covenant on Economic, Social and Cultural rights, which provides for "equal remuneration for work of equal value without distinction of any kind". Both the Universal Declaration and the Covenant state the equal remuneration principle in general terms, without limitation to any particular ground of distinction.

²⁰ See, in particular, the Study on Human Rights and Massive Exoduses by Sadruddin Aga Khan, presented to the Commission on Human Rights in 1982 — United Nations: doc. E/CN.4/1503.

²¹ See, e.g., Tiziano Treu et al.: *Public service labour relations — Recent trends and future prospects* (Geneva, ILO, 1987).

²² Resolution concerning the follow-up of the World Employment Conference.

²³ For further details, see "The concept of the right to work in international law", note prepared by the International Labour Office, July 1985; and Jean Mayer: "The concept of the right to work in international standards and the legislation of ILO member States", in *International Labour Review* (Geneva, ILO), Vol. 124, No. 2, 1985, p. 225. At its present session the Conference will be undertaking a second discussion of further standards on employment promotion and protection against unemployment.

²⁴ This was pointed out by the Committee of Experts on the Application of Conventions and Recommendations in its first report on progress in achieving observance of the provisions of the International Covenant on Economic, Social and Cultural Rights — see United Nations: doc. E/1978/27, para. 18.

²⁵ See also, to similar effect, the preamble to the proposed Convention on employment promotion and protection against unemployment, submitted to the present session of the Conference.

²⁶ See, in particular, the General Survey on the abolition of forced labour, Report III (Part 4 B), International Labour Conference, 65th Session (Geneva, 1979).

²⁷ Jean Mayer, *op. cit.*, pp. 228-236.

²⁸ General Survey on the abolition of forced labour, *op. cit.*, para. 45.

²⁹ Doc. GB.238/CE/1/1, para. 16; doc. GB.238/17/16, paras. 6 and 10.

³⁰ Report III (4 A), International Labour Conference, 73rd Session, Geneva, 1987, Part One, para. 100.

³¹ High-Level Meeting on Employment and Structural Adjustment, Geneva, November 1987, *Report of the Meeting*, Conclusions, para. 13.

³² *Report of the Director-General*, International Labour Conference, 71st Session, Geneva, 1985, pp. 60-63.

³³ ILO: *World Labour Report*, Vol. 3, Ch. 6.

³⁴ High-Level Meeting . . . , *Report of the Meeting*, *op. cit.*, Conclusions, para. 1.

³⁵ For a recent survey by the Committee of Experts on the Application of Conventions and Recommendations of legislation and practice with regard to hours of work, weekly rest

and holidays with pay, see *Working time*, Report III (4 B), International Labour Conference, 70th Session, Geneva, 1984.

³⁶ See, for example, Rolande Cuvillier: *The reduction of working time* (Geneva, ILO, 1984); Michael White: *Working hours: Assessing the potential for reduction* (Geneva, ILO, 1987).

³⁷ For a review of trends in the development of national legislation, see L. Parmeggiani: "State of the art: Recent legislation on workers' health and safety", in *International Labour Review* (Geneva, ILO), Vol. 121, No. 3, 1982, p. 271. See also the general survey by the Committee of Experts on the Application of Conventions and Recommendations concerning the state of implementation of ILO standards on the guarding of machinery and the protection of workers against air pollution, noise and vibrations, *Safety in the working environment*, Report III (4 B), International Labour Conference, 73rd Session, Geneva, 1987.

³⁸ Annex to resolution 1984/12 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, United Nations — doc. E/CN.4/1984/43.

³⁹ Chantal Euzéby: "A minimum guaranteed income: Experiments and proposals", in *International Labour Review* (Geneva, ILO), Vol. 126, No. 3, 1987, p. 253.

⁴⁰ ILO: *Into the twenty-first century: The development of social security* (Geneva, 1984), para. 60.

⁴¹ Anne-Marie Brocas, Anne-Marie Cailloux and Virginie Oget: *Les femmes et la sécurité sociale: les progrès de l'égalité de traitement* (Geneva, ILO), 1988.

⁴² Such clauses are to be found in agreements on tin (1980), sugar (1984), cocoa (1986) and natural rubber (1987).

⁴³ For a summary of the discussions, see doc. GB.191/6/3.

⁴⁴ *North-South: A programme for survival*, Report of the Independent Commission on International Development Issues (Cambridge, Mass., The MIT Press, 1980), pp. 182-183 and 186.

⁴⁵ See the statement made at the Conference in 1980 by the United States Secretary of Labor, in *Record of Proceedings*, International Labour Conference, 66th Session, Geneva, 1980, pp. 14/7-8. See also Gus Edgren: "Fair labour standards and trade liberalisation", in *International Labour Review* (Geneva, ILO), Vol. 118, No. 5, 1979, p. 523; Steve Charnovitz: "The influence of international labour standards on the world trading regime", *ibid.*, Vol. 126, No. 5, 1987, p. 565; and John Mainwaring: *The International Labour Organisation — A Canadian view* (Ministry of Labour, Government of Canada, 1986), pp. 187-190.

⁴⁶ In November 1986, in a statement on the projected round of multilateral trade negotiations in GATT, the Executive Committee of the International Confederation of Free Trade Unions expressed its support for the inclusion of a social clause to ensure the observance of minimum labour standards specified by an advisory committee to be established by GATT and the ILO. In October 1987 the United States Government requested the GATT Council to establish a working party to examine the possible relationship of internationally recognised labour standards to international trade and to the attainment of the objectives of GATT.

⁴⁷ For criticism of the EEC proposal on account, inter alia, of its fragmentary and inadequate character, see Philip Alston: "Linking trade and human rights", in *German Yearbook of International Law*, Vol. 23 (Berlin, Duncker & Humblot, 1980), p. 126.

⁴⁸ As far as is known, action has not been initiated with a view to enforcement of the fair labour clauses in commodity agreements previously mentioned. In April 1982 the Executive

Director of the International Sugar Organisation, in a communication to the Commission of Inquiry then examining the observance of various ILO Conventions with respect to workers employed on sugar plantations in the Dominican Republic, stated that his Organisation had not undertaken any specific activities pursuant to the relevant provision in the International Sugar Agreement, nor, so far as he was aware, had any member country suggested such action.

⁴⁹ Charles Leben: *Les sanctions privatives de droits ou de qualité dans les organisations internationales spécialisées* (Brussels, Emile Bruylant, 1979), p. 326.

⁵⁰ ILO: *Minutes of the 173rd Session of the Governing Body* (Geneva, November 1968), p. 124. See also the 193rd Report of the Committee on Freedom of Association, 1979, paras. 33 to 39.

⁵¹ This point was noted in the discussions between the European Economic Community and the African, Caribbean and Pacific countries in connection with the second Lomé Convention.

⁵² The Committee of Experts on the Application of Conventions and Recommendations has, for example, given close attention in recent years to the observance of ratified Conventions in relation to employment in export-processing zones.

⁵³ This occurred, for example, in connection with several complaints by France against Panama concerning maritime labour conditions and more recently to obtain the settlement of a dispute between Tunisia and the Libyan Arab Jamahiriya.

⁵⁴ For example, the mission to Venezuela in 1949 to examine the situation with regard to freedom of association and conditions of work, the inquiry in 1949-50 into conditions in ships flying the Panamanian flag, and the study of the labour and trade union situation in Spain in 1969.

⁵⁵ *Prosperity for welfare: Social purpose in economic growth and change — The ILO contribution*, Report of the Director-General, Part I, International Labour Conference, 58th Session, Geneva, 1973, p. 39.

⁵⁶ C. Willfred Jenks: "The international protection of trade union rights", in E. Luard: *The international protection of human rights* (London, Thames and Hudson, 1967), pp. 236-237.

⁵⁷ Theo van Boven: *People matter — Views on international human rights policy* (Amsterdam, Meulenhoff, 1982), p. 33.