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Studies and Reports

Series I

No. 1

The International Protection of Women Workers

EARLY MEASURES OF PROTECTION

Attention is being directed to the work of women in industry, and the special protection which they receive, by the holding of the International Congress of Working Women at Geneva from 17 October 1921 onwards.

The protection of the weak, and therefore of women as well as of children and young persons, is one of the fundamental principles underlying the movement which led to the creation of the International Labour Organisation. The protection of children has been undertaken in the past at an earlier stage than that of women; for some time, indeed, most of those states which had the most advanced social legislation made no distinction between men and women workers.

It was in 1842 that the United Kingdom first prohibited the employment of women in underground work in mines, and in 1847 that the 10-hour day for women in the textile industry was instituted. About the same time, in 1841, a French Act was passed dealing with children only. The penalties provided in this Act being found insufficient, it was necessary to revise it. The new Bill embodied the principle of the limitation of the working day of girls to 12 hours. The memoranda which Daniel Legrand was at that time submitting to the various European governments in order to induce them to undertake the international protection of workers referred only to children and girls, and with some exceptions made no provision for the protection of women.

At the Berlin Conference of 1890 the question of the protection of women workers was definitely raised for the first time as an international matter. The Berlin Conference voted the following resolutions on this subject:

- (1) that it should not be allowed for women to be employed on underground work in mines;
- (2) that it should not be allowed for women and young girls to be employed at night in industrial work;
- (3) that women should not be employed for more than 11 hours per day with a rest period of at least 1½ hours;]

(4) that restrictions should be laid down for specially unhealthy or dangerous occupations ;

(5) that women should not be allowed to work during the four weeks following confinement.

The composition of the Berlin Conference and the powers it enjoyed did not, of course, permit it to do more than pass resolutions. It is, however, clear that the development of ideas to which it gave rise led most of the industrial states of western Europe to take some measure of action in the sense which it proposed.

At the time of the meeting of the Berne Conference of 1906, which was for the first time to give the force of an international agreement to regulations for the protection of workers, the British Government stated, in a report submitted to the House of Commons, that the measures taken in pursuance of the resolutions of the Berlin Conference had been the following. The employment of women on underground work in mines was prohibited in Great Britain, Austria, France, Germany, Italy, Sweden, and Norway. It was also prohibited in Belgium in the case of women under 21. No regulations existed in Denmark, the Netherlands, Hungary, Luxemburg, Portugal, and Switzerland, but it should be noted that in Holland and Switzerland women were not in practice employed on underground work. The night work of women in industry was prohibited in the same states, also in Holland, Luxemburg, and Switzerland; Belgium and Italy, however, allowed exceptions of considerable extent. Working hours for women were fixed at 10 per day in France, 11 in Austria, Germany, and Switzerland, and 12 in the United Kingdom and Italy. There was no legislation on this subject in Belgium, Denmark, the Netherlands, Hungary, Luxemburg, Portugal, Sweden, and Norway. The prohibition of employment for four weeks after confinement was fairly general except in Hungary, Luxemburg, and Portugal. Italy and Denmark allowed exceptions to this regulation, while Norway had increased the period to six weeks.

Such were the broad outlines of the legal protection allowed to women workers when the Conference of 1906 undertook to deal with the question of the prohibition of night work of women in industry. The International Association for Labour Legislation, in the memoranda submitted to the Swiss Federal Government on this occasion, estimated the number of women workers liable to be employed at night, in the states which had issued no prohibition of such employment, at one million. If America and Australia were included, a further 350,000 would have to be added. In practice, however, the night work of women did not nearly attain these proportions, and the number of women actually employed at night in the countries of western Europe, to which the proposed

prohibition was to apply, was probably very small and did not amount to more than a few thousands.

The report submitted to the Berne Conference by the commission which had to draft the principles of a Convention prohibiting night work for women shows that agreement was easily reached on the principle itself. There were, however, great differences of opinion as to the length of time to be included in the term "night". Most of the delegations, in agreement with the International Association for Labour Legislation, wished to fix this period at 12 hours, so that the actual working hours of women might in practice be reduced indirectly to a maximum of 10 or 11 per day. Seven of the delegations took this view, those of Germany, Austria-Hungary, Denmark, France, Luxemburg, and Switzerland. The representatives of Belgium, Sweden, and Norway, on the other hand, did not wish the night period to exceed 10 hours. The Commission finally compromised, on the proposal of the Italian delegation, on a period of 11 hours.

There was also considerable discussion on the question of the exceptions to be allowed for certain industries and the period of grace to run before the Convention was applied. The Convention was finally signed by the plenipotentiaries of Germany, Austria-Hungary, Belgium, Denmark, Spain, France, the United Kingdom, Italy, Luxemburg, the Netherlands, Portugal, Sweden, and Switzerland. The Convention was subsequently ratified by all the states which had signed it except Denmark and Luxemburg.

The International Association for Labour Legislation, at its meeting at Geneva after the Berne Conference, passed a resolution in favour of the limitation by international agreement of the working day for all women workers included in the Berne Convention to a maximum of 10 hours per day. This resolution was several times repeated. In consequence of these resolutions of the International Association the Swiss Federal Council called an expert conference at Berne in 1913 to deal with the question of the limitation of working hours for women.

Although great progress had by this time been made in social legislation, Greece, Monaco, Montenegro, Turkey, and the greater part of Asia, Africa, and South America possessed no regulations fixing working hours. Even in Europe, Belgium, Denmark, Spain, Finland, Hungary, Luxemburg, Portugal, Sweden, and Norway had not in practice fixed a maximum working day for women, in spite of having done so in the case of young persons. The usual working hours of women in states which had issued regulations were 10 per day. The hours were rather less in the United Kingdom, Germany, and the Netherlands, owing to the regulations as regards Saturdays. The hours were 10 in France, Serbia, Bulgaria, and Roumania, 11 in Switzerland and Austria, 11½ in Russia, and 12 in Italy and Japan.



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The question of maximum working hours was the most hotly contested question at the Berne Conference. The Italian representative, Mr. Dragoni, proposed 11 hours per day and 63 per week, but this proposal was rejected by ten votes to two with one abstention, and a proposal for 10 hours was adopted by nine votes to one (the Netherlands), with four abstentions (Belgium, Italy, Norway, and Russia).

Once the principle of the 10-hour day had been adopted, the conference allowed considerable latitude in the methods of its application.

An interesting question of principle was raised by the Norwegian delegate to the Conference. Norway had meanwhile become independent and was taking part in a conference of this kind for the first time. The Norwegian delegate, Mr. Rygg, stated that in his country there was a strong trend of opinion in opposition to all special protection for women. He demanded equal legislation for men and women workers. This was the first appearance of this essentially feminist principle in an international labour conference. Up till that time the desirability of special protection for the weaker members of the working community had never been questioned. Since that time there has always been one section of opinion which lays particular stress on the equal competition of men and women, and which does not wish to destroy this equality by placing women in an inferior economic position merely in order to secure certain material advantages for them in the organisation of labour.

RESOLUTIONS AND RECOMMENDATIONS

The Commission which was entrusted with the preparation of the Labour Clauses of the Peace Treaty, at its meeting of 18 March 1919, heard the representatives of certain women's associations, who expressed the point of view of women workers.

The main principle for which this delegation stood was expressed by Mrs. Duchêne, who presented the following memorandum to the Commission.

Considering that special labour legislation concerning women only serves, most often, to limit their scope of work and to exclude them from certain industries, while leaving them free nevertheless to engage in work which is not prohibited but which is prejudicial to their health:

Considering that an insufficient or substantially different technical training lowers the value of a woman on the labour market:

Considering that the human community has imperative duties in regard to children, which demand their protection from the beginning:

Considering, finally, that maternity is a function of vital interest to the State:

We are resolved

(1) that all protective labour legislation should be established on a basis of absolute equality for all adult workers without distinction of sex;

(2) that no prohibition affecting the whole of an industry should be allowed and that restrictive measures should only bear on specific processes;

(3) that prohibition shall be strictly limited, after consultation with women's commissions consisting of delegates from the organisations of workers engaged in such work, women inspectors of work, physiologists, hygienists, women doctors, or other women competent in any other respect to deal with the matter;

(4) that before coming to a decision such commissions should consider whether the detriment to women is due to unhealthy processes or conditions capable of being changed and which should be changed as much in the interests of men as of women;

(5) that vocational education should be open to all and organised on a basis of equality between the two sexes;

(6) that the protection of maternity should be instituted on the same grounds as that of children;

(7) that it should be recognised that the state must, during the period of prohibition of work while a woman is pregnant or nursing, allow her, without distinction of category, a living compensatory indemnity in view of the forfeited salary.

It is clear that the idea of absolute equality between the sexes as regards the protection of labour, which had already been expressed at the Berne Conference of 1913 by the Norwegian Delegation, inspires the modern feminist movement. It was for this reason that the women's delegations did not confine their proposals exclusively to questions connected with women's work.

In spite of their enthusiasm for equality, however, the women's associations could not refrain from emphasising certain questions of particular interest to women. The memorandum submitted to the Peace Conference on behalf of the International Women's Council by Mrs. Avril de Ste. Croix read as follows:

(1) Considering that it is impossible at the present time, when the industrialisation of female labour has transformed the conditions of life of the majority of women, to permit the continuance of inequality of treatment between the workers of the two sexes, and in order to prevent the interests of women being separated from or set up against the interests of men:

(2) Considering the absolute necessity of preventing the too early exploitation of juvenile labour and the right of a child to general and technical education:

(3) Considering the importance of allowing a woman worker time for rest and intellectual development outside the hours passed in the factory or the workshop:

(4) Considering that night work is injurious and detrimental to family life:

(5) Considering the injustice that has too long attached to female labour in respect of salary:

(6) Considering the impossibility of suppressing home work, which is often the moral safeguard of a family as well as a material necessity:

(7) Considering the right of women to be in a position to defend their interests in every respect and discuss exceptional measures proposed concerning them, as, for example, those pertaining to maternity:

The International Women's Council adopts the following resolution:

(1) that wherever work is open to women, those equally qualified should have the opportunity of attaining to the same positions as men;

(2) that for apprentices the age of leaving school should be fixed at

15 years, and that from 15 to 18 years they should continue their vocational education and follow technical and supplementary courses ;

(3) that the working week should be limited to 44 hours ;

(4) that, whenever it may be possible without creating a situation unfavourable to women, night work should be suppressed ;

(5) that the principle of equal pay for equal work should be conceded both as regards men and women ;

(6) (a) that severe measures should be taken for the regulation of home work ;

(b) that a minimum wage should be established for such work ;

(7) (a) that women should be invited to participate on the same footing as men in the deliberation of all international commissions created with a view to labour organisation ;

(b) that women's labour commissions should be set up in every country consisting of representatives of governments, trade unions, scientific women, etc., to whom should be submitted all exceptional legislative measures.

A similar demand was presented by Mrs. Brunschvig, who represented the Conference of Allied Women Suffragists, as follows :

That a female labour committee should be set up in every country, consisting of women alone (representatives of governments, trade unions, associations, scientific women, women doctors, etc.), to whom should be submitted for advice all exceptional legislative measures proposed concerning women.

Miss Van den Plas, speaking in the name of the same organisation, asked that the question of half-time work for married women should be placed on the agenda of the first International Labour Conference, on the ground that

under such an arrangement a married woman would be able to work without abandoning her household and her children, and without, on the other hand, being subjected to the low wages which were given to her on the pretext that she only needed a nominal wage.

In connection with the special protection of motherhood. Mrs. Brunschvig submitted the following proposal to the Peace Conference :

Women shall not be employed in work known to be really dangerous for them in the event of maternity. Such prohibitions shall be strictly limited, after consultation with women's commissions consisting of delegates from the organisations of workers engaged in such work, women inspectors of work, physiologists, hygienists, women doctors, or other women competent in any other respect to deal with the matter.

Before coming to a decision such commissions shall consider whether the detriment to women is due to unhealthy processes or to conditions capable of being changed.

Prohibition may be justified in individual cases on pathological grounds.

During the period of pregnancy, work which has to be done standing shall be prohibited, work requiring considerable physical effort shall be suppressed, and the hours of work reduced optionally according to the system of half-time work.

Every woman, whether a wage-earner or not, shall have a right to an indemnity during the six weeks before and after childbirth. This maternity indemnity shall not be less than the minimum living wage fixed in that region.

Every pregnant women being able to prove by medical certificate that her state of health prevents her from carrying on her duties shall have a right from that moment—and for as long as may be necessary—to a maternity indemnity which shall be equal to the minimum living wage fixed for the region.

Every women whose working capacity shall be diminished owing to her having to nurse her child herself shall continue to receive the maternity indemnity during the three months following childbirth ; during the next six months she shall receive half such indemnity.

The maternity indemnity allowed for by the state is independent of any social insurance effected by those concerned with or without the participation of the employers.

The proposals submitted by the women's delegation were studied exhaustively by the Commission. Undoubtedly they influenced the drafting of Part XIII of the Peace Treaty, which includes the protection of children, young persons, and women among the duties of the International Labour Organisation.

Article 427 includes amongst the general principles upon which the social work of the League of Nations is to be based "the principle that men and women should receive equal remuneration for work of equal value". The same Article also provides that "each state should make provision for a system of inspection, in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed".

Finally the Commission appointed to draw up the agenda of the First International Labour Conference at Washington included therein : "Women's employment (a) before and after childbirth, including the question of maternity benefit ; (b) during the night ; (c) in unhealthy processes".

During the International Labour Conference at Washington the First International Congress of Working Women also met, convened by the organisations of American women workers. This congress was held at Washington from 28 October to 6 November 1919. It was composed of women delegates from Germany, Belgium, Canada, Czecho-Slovakia, France, Great Britain, India, Italy, Norway, Poland, Sweden, and the United States. Cuba, Denmark, Japan, the Netherlands, Serbia, Spain, and Switzerland were unofficially represented.

The congress discussed the whole agenda of the International Labour Conference, and passed a series of recommendations, which were submitted to the Conference. Certain of them undoubtedly influenced the discussions of the Conference.

The women's congress requested that at the International Labour Conference each state should be represented by six delegates instead of four, two at least of whom should be women.

The congress adopted the following recommendations on the maternity question :

(1) No woman shall be employed for six weeks before or six weeks after childbirth.

(2) (a) Every woman shall be entitled during maternity to free medical, surgical, and nursing care, either in a hospital or at home, and also to a monetary allowance.

(b) Every wage-earning woman or the wife of a wage-earner shall be entitled during maternity to free medical, surgical, and nursing care, either in a hospital or at home, and also to a maternity allowance.

(3) The monetary allowance given to mothers shall be adequate for the full and healthy maintenance of mother and child during the aforesaid period.

(4) In each country government commissions shall be created to study the best methods of maternity and infant care, and to devise and put in operation effective methods of securing such care.

(5) A bureau shall be established in the Labour Office of the League of Nations to collect information on the best methods of maternity and infant care, the said information to be furnished to countries represented in the Labour Conference.

There was a minority vote for the following resolution:

The indemnity given to mothers shall be based on the living wage in the district.

The Congress asked for the general adoption of the Berne Convention on night work, and urged that night work for men should also be prohibited as far as possible. The congress further voted a series of recommendations relative to the 8-hour day, the employment of children, unemployment, emigration, unhealthy occupations, and the distribution of raw material. Finally, it decided that a permanent bureau should be formed to serve as a centre for the women's labour movement.

In the meantime the official Conference met at Washington on 22 October 1919. Among the Technical Advisers attached to the various delegations and entitled to represent their countries on commissions and to take part in the discussion were 21 women. Twelve belonged to the government delegations from Denmark, Spain, France, Great Britain, Italy, Norway, the Netherlands, Poland, Jugo-Slavia, and Sweden. The workers' delegations from Belgium, Canada, France, Great Britain, and Czecho-Slovakia included altogether eight women. The British was the only employers' delegation to which a woman was attached as Technical Adviser.

The Organising Committee submitted to the Conference introductory memoranda on the various items on the agenda to serve as a basis for its work. The Conference referred questions relative to the protection of women to a special commission. The Commission unanimously resolved to recommend to the Conference that the Berne Convention of 1906 on night work for women in industry should be extended to all countries. In spite of the war, in spite of the fact that several countries had been obliged for the time being to abandon the application of this Convention, the members of the Commission were agreed on the necessity of re-establishing it in practice. To allow for the evolution of ideas and

fresh conditions, however, the Commission proposed a general amendment which consisted in extending the application of the Convention to all industrial enterprises, not merely to factories employing more than ten labourers, as had been provided in the Berne Convention.

The Italian delegation further proposed the extension of the term "night work". It will be remembered that at the Berne Conference the Italian delegates opposed the legal definition of "night" as a period of 12 hours; at the Washington Conference, on the other hand, they proposed to return to the period of 12 hours. This was supported by Norway, but the majority of members thought better not to alter the Convention on so essential a point. The importance of the question has greatly decreased since the length of the working day was fixed at 8 hours both for women and for men. The importance of the discussion at Berne was that, by extending the interpretation of night hours, an indirect attempt was made to regulate working hours in the day. That reason no longer existed at Washington, and the Conference preferred to keep to the actual terms of the Berne Convention.

The Commission, which included several women delegates, endorsed the conclusions of the women's congress regarding the protection of maternity. The congress, as was noted above, demanded that the protection of women in childbirth should be extended to the six weeks preceding and following their confinement. The Organising Committee proposed that the Conference adhere to the period of four weeks already provided for in most systems of legislation. The Commission, however, did not feel impelled completely to prohibit the employment of women during the period preceding childbirth, but only to authorise pregnant women to stop work upon the production of a medical certificate. The Commission also included in the Convention the idea of free treatment by a doctor or a midwife, and the idea of a benefit sufficient for the maintenance of the mother and child under healthy conditions.

The Commission also dealt with the regulation of unhealthy industries, but as it had no adequate medical statistics at its disposal as to the relative susceptibility of women and men in the majority of unhealthy industries, it confined itself to a Recommendation.

Up to the present, the Draft Convention on night work for women in industry has been ratified by Great Britain, Greece, India, Roumania, and Czecho-Slovakia. In Germany, Argentine, Belgium, Spain, France, Italy, and the Netherlands the draft ratification has been laid before Parliament. Austria, Belgium, British Columbia, and Great Britain have enacted laws for the application of the Convention; in Chili, Denmark, Poland, Portugal, and Switzerland laws are being drafted for this purpose.

The Convention relative to maternity has only been

ratified by Greece and Roumania, but steps are being taken with a view to ratification by the parliaments of Germany, Argentine, Belgium, Spain, Italy, France, and Poland. Austria, British Columbia, Chili, Denmark, Italy, Portugal, and Roumania have passed, or are about to pass, laws for its application. Finally, a large number of countries have declared their intention of putting into effect the Recommendations relating to unhealthy industries.

The Second International Labour Conference, which met at Genoa in July 1920, did not deal with women's employment, as its agenda was confined to questions of the employment of seamen.

FUTURE DEVELOPMENTS

The Third International Labour Conference, which is to be held at Geneva, has to deal with several questions very closely affecting women's employment. These are the question of the adaptation to agriculture of the Washington decisions, especially those concerning the protection of women and children; the consideration of special protective measures for agricultural labourers in connection with technical education, housing, and sleeping accommodation, and the guarantee of the right of association and combination; and protection against accident, sickness, invalidity, and old age.

The Conference will also deal with weekly rest-days in trade and commerce, a question which touches a large number of women workers very closely, as well as with various questions affecting the general health of the workers.

As regard questions relating directly to women's employment, i.e. the protection of women before and after childbirth, and night work of women in agriculture, questionnaires have been sent to the governments to enable them to make their observations. As a result of these, grave difficulties have appeared over the practical application to agriculture of maternity legislation. The majority of the countries seem to recoil before the very heavy financial burdens which such an extension would involve. Of the sixteen governments which have so far sent their replies, only two — France and Spain — have declared themselves unreservedly in favour of this extension. The other governments are opposed to it, or make considerable reservations. Finland and Poland have suggested that the period before childbirth for which a woman is kept away from work should be reduced to four weeks, and Poland proposes the same period after childbirth. In view of this, the International Labour Office felt unable to submit to the Conference a Draft Convention, which, even had it been adopted, would probably have met with such passive resistance as to make it of no effect.

The International Labour Office, however, considered it necessary to draw the attention of the governments to the

importance of this question for agricultural women workers, and proposes to submit to the Conference the following Draft Recommendation :

The General Conference recommends that each Member of the International Labour Organisation take measures to ensure to women wage-earners employed in agricultural undertakings protection before and after childbirth similar to that provided by the International Draft Convention adopted by the International Labour Conference at Washington for women employed in industry and commerce, and that such measures should include the right to a period of absence from work before and after childbirth and to a grant of benefit during the said period, provided either out of public funds or by means of a system of insurance.

The replies of the governments to the questionnaire on night work have shown that night work for women is practically non-existent in agriculture, and, when it is required, it is only for exceptional reasons, which in any case should be allowed for in any Convention.

The majority of the governments have, therefore, expressed themselves as not in favour of the application to agriculture of the Washington Convention concerning night work.

On the other hand, several governments have recognised that it would be expedient to provide adequate consecutive hours of rest for women, so that they need not be called upon to tend cattle in the small hours of the morning after doing house-work late at night. With this idea the International Labour Office proposes to submit the following Draft Recommendation to the Conference :

The General Conference recommends that the Members of the International Labour Organisation take steps to regulate the employment of women wage-earners in agricultural undertakings during the night in such a way as to ensure to them a period of rest compatible with their physical necessities and consisting of not less than nine consecutive hours.

The principal importance of the Conference which is about to be held lies, as has been shown, not in the special measures that it may adopt for the protection of women workers, so much as in the proposal to put men and women on a footing of almost complete equality in all protective measures contemplated. It is in this direction that women desire to see the development of protection for women workers. They no longer ask for privileges—they demand absolute equality.

Most of the Draft Conventions submitted to the Conference ought, in the view of the Governing Body of the International Labour Organisation, to apply equally to women and to men. They are a step towards the complete unification of social legislation which is the real object of the whole movement of working women.

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