The history of slavery and forced labour is very old. It has remained established throughout the civilized history in one form or another. Isolated voices were raised against the evil of slavery across the centuries. Homer wrote, 'Men take away half a man's virtue - when the day of slavery comes upon him'. Plato concerned the right of a cheek to hold another cheek as a slave. The old chattel slavery was modified under the influence of Christianity and economic changes. However, the condemnation of slavery on moral grounds began in earnest only in the seventeenth century, when the true nature of slave trade in Negroes came to the knowledge of the public. The roots of this moral awakening may be traced to humanitarian traditions and the struggle for freedom and equality in all continents. Recent national developments viz., the English, American, French and Russian historic pronouncements of 'Rights of Man' of the seventeenth, eighteenth, nineteenth and twentieth centuries, reinforced this moral awakening. The spreading and strengthening of the humanitarian movement manifested itself on the international plane in terms of positive action against the slave-trade by the interaction of economic, social and a complex series of intellectual developments - philosophical, literary, and religious - isolated protests clare an organised anti-slavery movement.

1. Conviction of Sinful Abominations

Robert Carter, a Quaker in Georgeist, was the first
person to condemn slave hunters as 'the common enemies of mankind' in his Christian Directory 1673. In 1680 Morgan Godwin, an Anglican clergyman, exposed the brutal treatment of the slaves by the planters and described slave trade as a cruelty capable of no palliation. At about the same time Dr. Aphra Behn's novel ' Oroono' contrasted the savagery of the slave owner with the nobility of the slave. In 1689, Locke in his first treatise on civil government condemned slavery as a vile and miserable institution. During the next hundred years slave system was constantly decried by preachers, philosophers, poets and pamphleteers. This intellectual movement made the holding of fellow-men as chattels seem revolting.

By the late eighteenth century, sugar cultivation in British and French colonies became less profitable, because of stiff competition from the virgin soils of Cuba and Brazil. The change in the economic balance i.e., shifting of previous planters towards commerce and industry and the process of industrial revolution, proportionately weakened the vested interests in slavery. These intellectual and economic factors revolutionized the western attitude towards the slave system.

The most intellectual attack on slavery was taken in America. Also by Scottish enlightenment scholars. From them these ideas were transmitted to America and later these were adopted in England. The most important impulse...
towards the abolition of slavery in Britain came from the Quakers, who were influenced partly by the changing attitude of the colonial Friends with whom they had close contacts.

Montesquieu argued that slavery was contrary to law. Hutton, influenced by Montesquieu, tested the social institutions including slavery by humanitarian ethics based on 'benevolism'. He criticised the Aristotelian theory of natural slavery, while arguing that natural sense of justice abhors the thought of inequality. Following Hutton, Smith in his 'Wealth of Nations' condemned slavery and slave trade as economically inexpedient. From the writings of these two, the best drew its twin secular indictments of slavery. Its brutality outraged human benevolence and its unprofitability outraged the social principle of utility. The latter point became a stock-shot in abolitionists' propaganda. Some other Scottish writers such as Ferguson, John Millar, James Beattie and Wallace also influenced the international thought on slavery.

These rational arguments re-examined the stand of Christian fathers who rationalised slavery for centuries. It was found in contrast with the Christian assumption that all men are equal. The exposure of such contradictions strengthened the abolitionists' demand—a major step in the battle against sin. On the other hand, the philosophers'
concern with nature and natural man led to the feeling of pity towards the abused and corrupted Negroes. The interaction of the weakening of vested interests and the erosion of accepted philosophical and religious support led to the birth of a genuine anti-slavery movement.

By this time true abolitionists appeared on the scene. They devoted their whole lives to the service of the slaves. In England Granville Sharp, in America Anthony Benezet, and in France Jean-Pierre Brissot and Olympe de Gouges became instrumental in organizing agitation against slavery through the establishment of organizations in their respective states. These organizations got a spectacular success in a short period, with the weakening of the economic and political interests and being in possession of a big capital of the work of early pamphleteers, though they had little influence in their own time.

2.00 International Action for Abolition of Slave System

Thus till the end of the nineteenth century, slavery was abolished in Britain, France, America and the colonies of all important European powers through legislative action. However, the dream of universal emancipation could not be realised. The slave system continued to persist in many parts of Asia and Africa. In European Colonies and Latin American countries, the governments were facing post-emancipation difficulties. To solve all these problems international efforts
came to the forefront along with national efforts.

The international concern for the abolition of the slave system was expressed for the first time in the Congress of Vienna, held in 1815. At the Congress of Vienna, though the parties did not agree to abolish trade by force, they declared their willingness to denounce it. A similar desire was expressed in the Declaration of Verona signed in 1822. From 1830 to 1870, various international treaties to deal with slave trade were concluded. The important ones among them were the Quintuple Treaty, 1841 and the Treaty of Washington, 1862.

The Quintuple Treaty was signed by Austria, Britain, France, Prussia, and Russia. But France did not ratify it. This treaty provided for the reciprocal right of search and seizure of the ships suspected of conveying slaves on high-seas. The Treaty of Washington between the United States and Britain had identical provisions. Initially similar treaties were also concluded to curb the last African slave trade. However, the last African trade could not be abolished until the European powers occupied the African interior.

With the occupation of the African territories, the position was completely changed. To solve these newly arisen problems of Central Africa, the Berlin Congo Conference was convened in 1885. The conference adopted 'The General Act of Berlin', as a second important international step. The declared object of this Convention was the suppression of slavery, along with other matters of international
concern. In 1889 and 1890, two Conferences on African affairs were held in rapid succession. The 1889 conference resulted in a declaration 'to help in suppressing slavery and the slave-trade within the area covered by General Act of the Conference', i.e. the whole geographical region of Congo. The 1890 conference was more important. Its aim was 'to put an end to the crimes and devastations engendered by traffic in African slaves'. This Brussels Conference adopted a comprehensive Convention, as third major international step. This Convention has been called the 'Magna Carta of African Slave Trade'.

This magnificent instrument provided practical measures to control slave trade in the interior of Africa. To deal with legal and statistical matters and to circulate information on slave-trade, an International Bureau was established at Brussels. This bureau was attached to the Belgian foreign office. The censor's office was responsible for the collection and publication of documents and information. It was required to report annually to the Brussels Bureau. The Brussels Act was indeed a detailed international code against the slave-trade. Until the outbreak of the First World War, it resulted in greatly successful activities in the suppression of slave-trade. The action under this Act was suspended during the Great War.

In 1919, the principal allied powers signed and ratified the Convention of St. Germain-en-Laye. The signatory
powers agreed to endeavour to secure complete suppression of slavery in all its forms and of slave trade by land and sea. But they made no provision or suggestion about how this aim was to be achieved. It can be concluded that by the end of the First World War, international opinion against slave trade was sufficiently awakened. There was wide agreement that this vile and corrupt system should be abolished. But the problem was how to take practical and effective measures.

3.00 Establishment of the ILO

Intolerable and appalling conditions of labour after the Industrial Revolution gave rise to the international labour movement. This movement, apart from forcing the governments to enact social legislation, raised public opinion in favour of international action to regulate labour conditions. When the peace talks were in progress, one of the first tasks of the Peace Conference was to appoint a Commission for International Labour Legislation. On the basis of the report of this Commission the ILO was established as an autonomous part of the League system in 1919. It was a necessary complement to the League of Nations, as an important organisation to promote economic and social well-being of mankind. The international concern for the protection of human rights found expression in the Constitution of the ILO. The founders of the ILO were motivated by a genuine desire to secure peace by practical methods. They realized that to make peace a living reality, it had to be made positive and
dynamic and had to be translated into concrete social action for the upliftment of workers all over the world. Feeling the impulse of the time, the Constitution of the ILO stressed the need for reconciliation between civil liberties and social discipline in the interdependent and highly industrialised society characterised by unprecedented technological changes.

Thus, the Constitution of the ILO assigned an important place to human rights. The Preamble made it clear that an improvement in the conditions of labour was necessary to maintain peace and harmony in the world. This objective was further stressed by the Philadelphia Declaration in accordance with the changing social, economic and political scene of the world. So one of the main objectives of the ILO is to encourage the formal recognition of human rights lying within its field and the development of the conditions for their realisation. The ILO activities for deliberate promotion and defence of human dignity, human rights and fundamental freedoms were further encouraged by the birth of the United Nations. The Charter of the United Nations recognises the increasing concern of the international community for the rights and aspirations for dignity of all human beings everywhere.

To fulfil its objectives, the ILO has adopted three major functions. The first is to establish international labour standards, the second is to collect and distribute information on labour and industrial conditions and the third is to provide technical assistance. International labour
standards take the form of conventions and recommendations. Conventions are the instruments intended to create international obligations for the ratifying states. On other hand, recommendations do not create obligations, but lay down standards to provide guidance to governments. The ILO has primarily relied on standard-setting, which has been its core activity. Upto December 31, 1991, the ILO had adopted 172 conventions and 179 recommendations and these conventions have received 5562 ratifications. These international labour standards cover a wide variety of subjects in the labour and social fields and make the bulk of international labour law. These standards have been codified into the ‘international labour code’, which has become for the labour lawyers throughout the world what ‘corpus Juris Civil’ is for the civilians or the work of authority of common law for common law lawyers.

Under the initial mandate, until it was widened in 1946, the ILO confined itself to standard setting, and information and research activities. But the Philadelphia Declaration 1944 recognised the obligation of the ILO to encourage, in the member states, programmes on a wide spectrum of issues. Thus, in 1946, constitutional sanction for providing technical assistance was formally granted. The

technical assistance enabled the Organisation to tackle the problems of post-war reconstruction coupled with the admission of new members. The governments sought advice from the ILO on the precise significance of the provisions of convention they proposed to ratify and on the legislative proposals they had on the anvil. Broadly, the technical activities of the ILO cover three main areas viz., human resources development, conditions of life and work, and the development of social institutions. The broad heads include vocational training, management development, workers' education, productivity, occupational safety and health, employment, labour market, migration, population and family welfare, women labour, children and youth, rural development, co-operation, social security, multinational enterprises, industrial relations, workers' and employers' organisations, human rights, freedom from forced labour, freedom of association etc. Through technical assistance, the ILO has evolved new means of promoting social justice along with international legislation. The expansion of the ILO's operational programmes, particularly the World Employment Programme, has been responsible for accelerating the efforts to decentralise responsibilities from Geneva Headquarters to various regions of the world. In fact expenditure on technical operations today represents about half of the total resources at the disposal of the ILO. In 1919, the ILO had only 45 members. In 1991, the membership was 140, which rose to 153 in 1992.

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5. Indian Worker, February 1982, p.4.

The years that have passed have confirmed a statement made almost seventy years ago that, "real significance of ILO is not to be the end of a sequence but the beginning of a new process." 7

4.00 Organisational Structure

In the ILO's efforts for promotion and protection of human rights and fundamental freedoms, its special structure works as a bulwark. At every level in the Organisation the governments are associated with their social partners viz., the employers and workers. This tripartite structure helps the ILO to fulfil its objectives of social justice in a more satisfactory manner. The ILO is a non-political permanent international organisation devoted to the problems of industrial workers and the conditions under which ordinary men throughout the world work and live. 8 The ILO is based on certain principles which provide a firm foundation to its functional building. What then is the ILO?

Basically, the ILO is a meeting ground with a permanent secretariat. Its meetings take many forms. The main among them are the annual sessions of the General Conference.

7. ILO International Social Progress, 1924, p. 36.
the sessions of the Governing Body, Industrial Committee sessions, Regional Conferences, Regional Advisory Committee sessions, the sessions of permanent bodies such as the Committee of Experts on the Application of Conventions and Recommendations, the meetings of the Conference Committee, and the meetings of Ad Hoc groups appointed to study particular problems e.g. forced labour, social policy. The ILO is composed of three principal organs viz., The International Labour Conference, the Governing Body and the International Labour Office. The organisation works through other bodies also, such as regional conferences, industrial committees, panels of experts, etc.

5.00 Special features of the ILO Machinery

In our complex society, international labour standards and human rights have become complementary to each other, historically, logically and in the context of the day-to-day political, economic and social problems. Virtually all of the ILO Conventions and Recommendations are in some measure a contribution to the promotion and protection of human rights, in the broader sense in which the term is used in the Charter of the United Nations, Universal Declaration of Human Rights and International Covenant on Economic, Social and Cultural Rights. For even, the most technical of them may be regarded as measures for the implementation of the right to just and favourable conditions of work. There
is, however, a limited group of Conventions which have come to be regarded as being in a special sense the human rights Conventions because they have a close bearing on personal freedom not only in the enlarged sense of freedom from want, but in the primary sense of freedom from arbitrary restraint upon the actions and opportunities of the individual. The machinery provided by the ILO Constitution for the fulfilment of its objectives has six distinctive features. These features were wholly new and unique in 1919 and are so to some extent even today.

First of these features is the tripartite composition of the ILO's General Conference and Governing Body. Both of these organs grant equal status to the representatives of the twin forces of production viz., employers and workers along with the representatives of the governments of the member states in their deliberations and councils. This tripartite principle has enabled the ILO to take decisive steps, which purely governmental bodies working for the political interests of their governments cannot take. By this principle, the concept of State Sovereignty has been moderated. International Labour Office also renders its secretarial services to these three groups impartially. Although the Council of Europe and European Community have also attacked the traditional concept of State Sovereignty by formation of their inter-parliamentary assemblies, those are not at par with the ILO's tripartism. Nowadays this doctrine
of partnership between the government, management and labour in pursuit of dynamic policies of economic growth and social development, for which the ILO serves as a model at international level, is getting more and more importance in all societies, with different social, economic and ideological backgrounds. This principle of tripartism provides a basis for two factors on which the peace of the world is dependent i.e. peaceful co-existence of nations, and bridging the gap between the affluence and scarcity.

The second novel feature is the importance attached to quasi-legislative functions of the International Labour Conference. The Conference has no direct legislative powers. But the Constitution requires the member states to place the ILO standards before their competent national authorities within the prescribed period. The ILO follows-up regularly and zealously the fulfilment of this requirement. In 1919, this whole idea of the adoption of conventions by a two-third majority rather than by the appending of signatures of the state plenipotentiaries was a radical innovation. Similarly, the concept of submission of those adopted conventions to national authorities for consideration was new. This system of adoption of instruments by the International Conference has been adopted by a number of the UN Specialised Agencies. But even then, the ILO's quasi-legislative power is distinct from them in two respects. First is the scale of its quasi-legislative action, and the other is the
practical effectiveness of the system of submission of international labour standards for the competent legislative authorities' consideration. These quasi-legislative functions and procedures of the ILO have come to play a considerable role in the development of human rights, fundamental freedoms and social justice and these will continue to do so until the creation of a world legislature.

The third and most remarkable feature of the ILO's constitutional framework is the system of supervision to implement the ILO standards. The supervision procedures include the reports by the member states on the fulfilment of the requirement to submit the ILO standards before the competent legislative authority for the consideration of proper action to be taken on them; the reports on ratified conventions after a prescribed period; the reports on unratified conventions together with the action taken in furtherance of those standards and on difficulties in the way of their ratification as and when required by the Governing Body, and the reports on the recommendations of the ILO. A further requirement in this direction is the submission of reports and information sent to the International Labour Office to the most representative of the national employers' and workers' organisations. The comments on that information, if any, are required to send to the office. The machinery provided for the enforcement of this consists of the Governing Body and the International Labour Conference, which work with the
help of the Committee of Experts and the Conference Committee. Both of these committees undertake the perusal of State reports, whereas the complaints by the other member states or the individual organisations about the non-compliance with the obligations under a Convention by a ratifying state are heard by the Commission of Inquiry. The Constitution recognises the compulsory jurisdiction of the International Court of Justice for the interpretation of the treaties and for the final judgement on the decisions and findings of the Commission of Inquiry, if a State party to the complaint does not accept those findings. A special supervisory machinery has been developed in co-operation with the United Nations for the protection of the Freedom of Association. The supervisory machinery as a whole is not in constant application. Whereas the reporting system is used continuously, the other organs of the machinery are used as and when required. Although some other supervisory bodies have also been invented on the international level e.g., the machinery provided by International Covenants on Human Rights, but the ILO's machinery is unique in its comprehensiveness and effectiveness. This machinery also provides a model for solving the fundamental structural problem of the absence of supervisory machinery for the world community.

The fourth remarkable feature of the ILO's constitutional framework is its flexibility. The constitutional arrangements have been supplemented and reinforced by a series
of developments not contemplated by the Constitution, but, evolved within the framework of constitutional obligations. The ILO's constitutional development provides guidance to the fundamental problem of international institutional development i.e. the problem of reconciliation of stability with change in the process of dynamic growth, without eroding and destroying the clear-cut obligations.

The fifth remarkable feature is the extent to which the policy-making, standard-setting, quasi-judicial responsibilities and functions, industrial relations, information, training, research, advisory services, promotional activities and operational programmes complement each other. In the world community, as in the state, the effectiveness of public policy depends upon the extent to which different activities complement and reinforce each other. The mutuality of the ILO functions has special importance in the field of human rights.

The last distinctive and most important feature for the purpose of this study is the responsibility of the ILO to work for the development and protection of human rights. From the very beginning the ILO has been intensely practical and positive in this respect. The mandate for the protection of human rights was broadened with the birth of the United Nations. Nowadays it covers various aspects of human life such as motherhood, childhood, widowhood, orphanage and old age. It provides for better working conditions, occupational
health and safety, security of wages, the right to rest and leisure, social security together with freedom from forced labour, and the freedom of association. It means it extends from cradle to pyre. The ILO has gradually built-up a series of conventions and recommendations which enhance human dignity, advance the economic security of the individual and afford greater opportunities for his spiritual, social and political development. These standards have created a common social consciousness, influenced the political structure and development, and have contributed to a new world order. In 1919, this mandate for protection of human rights to an international institution was a revolutionary departure. However, at present the Economic and Social Council and some specialised agencies notably UNICEF, ILO and WHO and some regional organisations have similar mandates, but the ILO's programme is still wider than theirs.

6.00 The ILO's Collaboration with other International Organisations in the Field of Human Rights

Actually, the ILO has played a vigorous and vital leading role in attaining the recognition of individual's worth at the international level. It has changed the image of the world community from a world of states to a world of people, as it has shifted the emphasis from power and prestige to freedom and welfare. The ILO is the oldest and first institution to protect the social and economic rights...
of the individual at the international level. After the birth of the United Nations, the ILO established relations with United Nations and resolved to co-operate with the world forum in protecting the fundamental freedoms. Since then both these organisations have been influencing each other's activities in the field of human rights. David A. Morse, the Director General of ILO, in his report to the 52nd Session of International Labour Conference observed,

The clear recognition in the Universal Declaration that economic and social rights are the corollary of civil freedoms is largely due to the existence of the Constitution of ILO which preceded it by nearly 30 years and of the Declaration of Philadelphia, which did so by nearly five years. 

On 20th June 1958, the International Labour Conference by a Resolution pledged to continue its co-operation with the United Nations in the promotion of universal respect for and observance of human rights and fundamental freedoms. The ILO activities had an immense effect on the provisions of the International Covenant on Economic, Social and Cultural Rights and the European Social Charter, as it helped in their drafting. On the other hand, the ILO's activities in the field of human rights are guided by the Universal Declaration of Human Rights, the International Covenants on Human Rights and by the past experience of the Organisation in the discharge of its functions. This fact was

recognised by a Resolution of the International Labour Conference in 1966. The Resolution stressed that for the fulfilment of the objectives of the ILO the protection and advancement of human rights proclaimed in the Universal Declaration of Human Rights are of fundamental importance. The Conference repeated its determination to work in concert with the United Nations in the field of human rights and it appealed to the member states to ratify and fully implement the International Labour Conventions relating to basic human rights. The 1968 Session of the International Labour Conference (i.e. in the International Year of Human Rights) urged the Governing Body to promote the observance of fundamental human rights in all member states, to review and assess the role, aims and activities of the Organisation in the field of human rights, including the possibility of promoting standard-setting activities in this field, to encourage technical co-operation projects and advisory missions designed to promote human rights objectives everywhere, and to consider the possibility of co-operation in research, publicity, technical projects, advisory missions and standard-setting activities.

The ILO has been co-operating with United Nations to promote the observance of human rights. Recently a Joint Working Group on Human Rights composed of the ILO's and the United Nations' representatives has been constituted. This working group aims to ensure closer co-operation between the
two Organisations in human rights matters. Since its inception, the Working Group has met regularly. The discussions in the Group have led to an increased exchange of information and collaboration on several projects in this area. The ILO resolves to continue its collaboration with the United Nations in the decade (1990-1999) as the Decade of International Law. Above all ILO’s Governing Body, at its 252nd session in March 1992, expressed support for the objectives of World Conference on Human Rights, which has been called by the United Nations General Assembly of 1993. The ILO is taking active part in discussions leading up to the World Conference on Human Rights. The Governing Body has also ensured ILO’s continued participation in such efforts. 10

Besides the United Nations, the ILO collaborates with other specialised Agencies and Non-Governmental Organisations which have entered into special arrangements with the Organisation for the promotion of human rights. Apart from taking part in discussions and special studies, the reports received by the ILO from member states under Article 22 of the Constitution are forwarded to these agencies, to ensure a better supervision of the application of international instruments relating to human rights. These Organisations are represented at the sittings of the Committee of Experts, at which the relevant Conventions are discussed. 11 In fact these efforts of the ILO are essential to the protection of human rights, the improvement of living

and working conditions and the promotion of full employment.

7.00 The ILO's Measures to Combat Forced Labour

In any conception of human rights, freedom from slavery, servitude or forced labour must hold a central place. A number of international instruments contain provisions for the abolition of slavery and slavery like practices. The Universal Declaration of Human Rights provides that no one shall be held in slavery or servitude and that slave trade shall be prohibited in all its forms, and that everyone has the right to free choice of employment. Although the Declaration does not specifically mention forced labour, but the record of discussions which preceded the adoption of Article 4 shows that the drafters regarded the systems of forced, compulsory or corrective labour as forms of slavery or servitude emerging in the modern society. Therefore, assumed these practices to be prohibited by this Article. The Slavery Convention signed at Geneva in 1926 and amended by the Protocol approved by the General Assembly in 1953, contains a preambular paragraph and one Article dealing with the question of forced labour. The European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, provides that no one shall be held in slavery or servitude and that no one shall be required to perform forced or compulsory labour. The Supplementary Convention

13. Article 23(1).
15. Article 4(1).
16. Article 4(2).
on the Abolition of slavery, the Slave Trade and the Institutions and practices similar to slavery, 1956 refers to forced labour in the preambular paragraph. The International Covenant on civil and political Rights, 1966 provides that no one shall be required to perform forced or compulsory labour. 17 The International Convention on the Suppression and Punishment of the Crime of Apartheid, 1973 provides that the 'crime of apartheid' shall include among others things the exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour. 18 However, the most important international standards dealing with the problem of forced labour are the Forced Labour Convention, 1930 and the Abolition of Forced Labour Convention, 1957 adopted under auspices of the ILO.

Of all the aspects of human freedom, freedom from forced labour was the first to catch the attention of the ILO. The ILO, being complementary to the League System, had always been associated with the activities relating to labour problems. When the League appointed the Permanent Mandate Commission, the International Labour Office was asked to appoint an expert on labour questions. In the early twenties, when slavery and forced labour became the centre of activities of the League, it, in collaboration with the ILO, undertook inquiries and studies concerning the position and extent of forced labour in the world as a whole. To make suggestions for dealing with the problem, the Temporary Slavery Commission was appointed in 1924. The ILO was also

17. Article 8(3)(a).
18. Article 11.
represented on this Commission. On the recommendations of this Commission, the League of Nations adopted the Slavery Convention, 1926. While adopting the Slavery Convention, the League Assembly recognised the work done by the ILC in the field of forced labour abolition. Thus, it requested the ILO to deal with the matter in detail.

7.10. Forced Labour Convention 1930

The first discussion on forced labour system in the International Labour Conference was undertaken in 1929. The path ahead was full of difficulties. It was argued that the majority of the non-colonial members would give them a chance to dictate to the colonial powers how they should administer their dependent territories. Some delegates were of the opinion that the policy of restriction of forced labour would effect the economic and social development of the colonies. However, the ILO was firm on adopting a constructive policy of the abolition of the obsolete, uneconomic and anti-social system of forced labour. After a careful preparation, and consultation with the Committee on Native Labour, the ILO adopted a Convention and two Recommendations on forced labour in 1930.

The Forced Labour Convention, 1930 (No. 29) is the first instrument in which the ILO has endeavoured to lay down a set of standards for the protection of a fundamental human right i.e. the freedom of labour. The Convention envisages suppression of forced or compulsory labour in all its forms
within the shortest possible period. It defines 'forced or compulsory labour' as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". The definition of forced labour refers to 'work or service'. The exaction of work may be distinguished from the obligation to undergo education or training. The principle of compulsory education is recognised in various international standards and the ILO's instruments as a means of securing the right to education. The term 'work or service' is not identical even with the vocational training as is clear from a number of international labour standards. A compulsory scheme of vocational training analogous with compulsory general education does not constitute 'compulsory work or service' within the meaning of the forced

19. Article 1, Para 1.
20. Article 2, Para 1.
22. Provisions regarding the prescription of school-leaving age appear in the following instruments, Paras 1, 2, 4 of the Unemployment (Young Persons) Recommendation, 1935 (No. 45); Article 19, Para 2 of the Social Policy (Non-Metropolitan Territories) Convention, 1947 (No. 82); Article 15, Para 2 of the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117).
23. The Special Youth Schemes Employment Recommendation, 1970 (No. 136), Paras 7(1) and (2)(a) indicates that schemes of education and training involving obligatory enrolment of unemployed young people are compatible with the Conventions on Forced Labour. The Unemployment (Young Persons) Recommendation, 1935 (No. 45), Paras 8 and 9 provide for compulsory attendance by unemployed juveniles at continuation courses combining general and vocational training. Paras 19 and 20 of this Recommendation provide for the establishment of special employment centres with the principal object to provide work, however, the attendance should be strictly voluntary.
labour Convention. The 'penalty' mentioned in the definition need not be in the form of penal sanction, but might take the form of loss of rights or privileges also.

Generally, the word 'forced labour' is connected with the services rendered to the government when under the statutory provisions the workers are called upon to perform forced or compulsory labour for the purpose of production or service or as a sanction or punishment. In addition to these forms of statutory compulsion, the Convention covers forced labour exacted for private purposes. In many states of South-East Asia, people are forced to work under unlawful practices, such as debt bondage or forcible recruitment or retention of the workers. This Convention strictly prohibits forced labour for private purposes. In fact, the terms of Convention as regards the forced labour for the benefit of private persons, companies and associations are unequivocal. It also strikes at the root of forced labour as a punishment for crime, if it is applied to the entire community to which those who commit the crime belong.

On the other hand, the Convention embodies a policy

27. Article 20. According to the wording used and the preparatory work, this provision would seem to be applicable whether or not the punishment is imposed by judicial decision (I.C.O., Forced Labour, questionnaire) International Labour Conference, 14th Session, Geneva, 1930, pp. 35-37.)
of gradual elimination of forced labour for public purposes. Under certain conditions and subject to guarantees, only five kinds of public work or services have been exempted from the scope of the Convention. The first is compulsory military service. The Convention excludes compulsory military service only if used for work of a purely military character. This exception has been made in the interest of national defence. However, persons liable to military service but not incorporated in armed forces cannot be called up for public works. On similar considerations, a provision in the first draft of the Special Youth Schemes Recommendation, 1970 (No. 136) which permitted the obligatory participation by young people in special employment schemes for national development and undertaken within the framework of compulsory military service was omitted as being incompatible with the conventions on forced labour. The Convention also excludes from its scope certain forms of work and service which form part of 'normal civic obligations' of the citizens such as compulsory military service, work or service required in emergency, minor communal services, jury service or the duty to assist a person in danger. However, the Committee of Experts has always insisted that these exception must be interpreted in the light of the other provisions of the Convention to prevent their misuse.

The third exception relates to the 'work or service' exacted from prison labour. This exception has been supplemented by three important guarantees. The prison labour may be imposed only as a consequence of conviction in a court of law, and the person concerned should not be placed at the disposal of private individuals, companies and associations. It means that the detainees and person not found guilty by a court of law cannot be called up for compulsory labour. These are important guarantees against the administration of the penal system being diverted from its true course by coming to be considered as a means of meeting labour requirements.\(^\text{30}\)

The Convention also exempts from its provisions 'any work or service' exacted in cases of emergency. The concept of emergency - as indicated by the enumeration of examples in the Convention - involves a sudden unforeseen happening calling for instant countermeasures. However, the exception is limited only to genuine cases of emergency. The purpose, extent and duration of the 'service' should be limited by the exigencies of the situation.\(^\text{31}\) A similar approach is visible in Article 8 of the Covenant on Civil and Political Rights, which allows exemption from its provisions in time of emergency threatening the life of the nation to the extent strictly required by the exigencies of the situation.

Lastly the Convention exempts minor communal services.

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31. ibid., para 36.
However, the services required should be minor, in the direct interest of the community, and the members of the community or their direct representatives must have the right to be consulted in regard to the need for such services.\footnote{32}

To guide the policy of member states, to avoid indirect compulsion to labour, the Convention (No. 29) was supplemented by the Forced Labour (Indirect Compulsion) Recommendation (No. 35). To ensure the effective implementation of the Convention, rules and principles were enumerated in the Forced Labour (Regulation) Recommendation (No. 36). To regulate practices which may degenerate into forced labour, a number of other international labour standards supplement the 'Forced Labour Convention' 1930. Notable among these are: the Recruiting of Indigenous Workers Convention, 1936; the Contracts of Employment (Indigenous Workers) Convention, 1939 (which regulates long-term contracts); the Penal Sections (Indigenous Workers) Convention, 1939, the Contracts of Employment (Indigenous Workers) Convention, 1947 (which fixes the maximum length for long-term contracts); the Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 and a number of Recommendations ancillary to these various Conventions.\footnote{33}

Above all, this Convention is supplemented by the Abolition of Forced Labour Convention, 1957, the Employment Policy Convention and Recommendation, 1964 and the Special Youth Schemes Recommendation 1970.

\footnote{32}{General Survey, 1962, Para 66 and 1968, Para 40.}

\footnote{33}{C. Wilfred Jenks, op. cit., p. 31.}
7.20 **Abolition of Forced Labour Convention 1957**

The Forced Labour Convention, which was adopted primarily in the light of practices then current in colonial territories, has conspicuous gaps in respect of evils which would have been regarded as inconceivable in 1930. The Report of the Committee of Experts showed that exceptions in respect of such matters as personal services for chiefs and compulsory cultivation, and the temporary exceptions in respect of forced or compulsory labour exacted as a tax or employed for the execution of public works and compulsory porterings for the transport of public officials and stores, have gradually eliminated with economic growth and social development. The question whether the exceptions made and guarantees provided by the Convention have been reasonably followed or gravely abused causes great difficulties, as the answer depends upon the conception a particular state has of 'normal civic obligations' and 'due process'. Above all, with the widening of approach towards human rights issues, and economic and social progress the Convention cannot deal properly with the modern forms of forced labour. 35

The whole matter was exhaustively examined by the United Nations - International Labour Organisation Ad hoc Committee on Forced Labour. The Committee found the prevalence of the forced labour of a grave nature seriously threatening fundamental human rights of the workers in contravention of the provisions of the Charter of the United Nations and

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35. **[Link](#)**
the Universal Declaration of Human Rights. Therefore, it suggested that necessary international action should be taken to abolish the system of forced labour.\textsuperscript{36}

The report of the Ad Hoc Committee gave a powerful impetus to further action. In 1954, the Economic and Social Council requested the Secretary General of the United Nations and the Director General of the International Labour Organisation to prepare a further report on the subject including the new information. At the same time, the Council remitted the responsibility for further action to the ILO. The question of forced labour was taken up for discussion at the 127th session of the Governing Body in 1954. Unanimously, the question of forced labour was placed on the agenda of the 39th Session of the International Labour Conference for a two-fold discussion, with a view to adopting, in 1957, a new international instrument on forced labour, dealing with the practices specifically excluded from the scope of the 1930 Convention. Furthermore, in June 1955, at its 129th session, the Governing Body decided to set up the ILO's own Ad Hoc Committee on Forced Labour.\textsuperscript{37} The findings of the report on forced labour prepared by the Secretary General and Director General were confirmed by the ILO's Ad Hoc Committee on Forced Labour.\textsuperscript{38}


\textsuperscript{37} United Nations Action in the Field of Human Rights, United Nations, New York, 1974, p. 11.

Consequently on June 25, 1957, the General Conference at its fortieth session adopted the Abolition of Forced Labour Convention (No. 105) by 240 votes against none, with one abstention. The Convention is one of the series of instruments emanating from the League of Nations, the United Nations and the ILO which give expression to the determination of these organisations to combat slavery and forced labour. Such practices are incompatible with the rights of man referred to in the Charter of the United Nations, the Constitution of the ILO and the Universal Declaration of Human Rights. The Convention in its preamble refers to a number of other instruments to which it may be regarded as complementary, viz., the Slavery Convention, 1926; the Forced Labour Convention, 1930; the Supplementary Convention on Slavery, 1956 and the Prevention of Cages Convention, 1949. In the 1930 Convention, the state parties had undertaken to bring about the abolition of forced labour 'progressively and as soon as possible. The 1957 Convention is a direct and pointed instrument. It urges the parties to take effective measures to secure 'the immediate and complete' abolition of forced or compulsory labour. Whereas the 1930 Convention aims at the suppression of forced labour generally, the 1957 Convention provides for the abolition of forced labour in five specific cases only.

The 1957 Convention supplements the earlier instruments in requiring the abolition of any form of compulsory

labour that would be imposed as punishment or a means of coercion or education on persons who have infringed labour discipline, participated in strike, or expressed certain political or ideological opinion. It also covers the forced labour exacted for the purpose of economic development. It prohibits the use of forced labour as a means of racial, social, national or religious discrimination. The scope of the Convention (No. 105) is subject to the limitations inherent in the very rights and freedoms whose exercise is to be protected against any coercion through compulsory labour. Those limitations include the rights of the other people. 40 Thus, the penalties involving compulsory labour imposed on those who endanger the life or health of other people do not come under the Convention. 41

This Convention is entirely independent of the 1930 Convention and the exceptions enumerated in the later instrument have no application to the 1957 Convention. However, a number of times difficulties have arisen in determining the extent to which the Convention of 1957 covers the instances of forced labour exempted by the 1930 Convention. Thus, the Committee of Experts has made it clear that the 1957

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40. Similarly, 29 of Universal Declaration of Human Rights provides that limitations may be imposed by law on the rights and freedoms enumerated in it, "for the purpose of securing due recognition and respect for the rights and freedom of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society". See also Articles 5,21 and 22 of the Covenant on Civil and Political Rights.

Convention covers compulsory labour in any form in so far as, it is exacted in the five cases specified by that convention.42

Following the suggestions made by the Committee of Experts in its General Survey of 1962 on forced labour, and the discussion about this survey by the Conference, the ILO undertook research into the relationship between the requirements of economic and social development and those of the conventions on forced labour. In view of the magnitude and urgency of the problems posed by the unemployment, and the consequent training and employment of young people, the Conference has supplemented the forced labour standards by employment policy standards.

While referring to Article 23 of the Universal Declaration of Human Rights, the Employment Policy Convention (No.122) requires every ratifying state to pursue an active policy of promoting fully protective and freely chosen employment. Employment should be provided to everyone ready to work without any distinction of race, creed, sex etc. The employment policy should be adopted in consultation with the representatives of the employers and workers. It should be appropriate to national conditions and practice. The supplementary Recommendation (No.122) sets forth a real and full programme of action required to guarantee the right to work. It lays emphasis on employment problems linked with economic underdevelopment. Both of these instruments represent

a steady progress in widening the concept of freedom of labour, by recognising the freedom of choice of employment.

Another step in this field was taken by the adoption of the Special Youth Schemes Recommendation 1970(No.136). This Recommendation applies to special schemes designed to enable young persons to take part in activities directed to the economic and social development of their country and to acquire education, skills and experiences facilitating their subsequent economic activity and promoting their participation in society. The Recommendation provides that such schemes should be framed in full compliance with the terms of forced labour and employment policy conventions. The spirit of these standards was reinforced in 1978 by a resolution of the General Conference concerning youth employment. It stated that the problem of youth unemployment should be dealt within the context of an overall development strategy made for the attainment of social priorities, including the principle that everyone has the right to education and to freely chosen employment. The Committee of Experts also has recognised the need for an overall employment policy which will seek to secure opportunities for productive, freely chosen employment for all.43

Today, the Conventions on 'forced or compulsory labour' are the ILO instruments by which most of the countries are bound. The 1930 Convention is in force for 128

43. General Survey, 1979, para 146.
countries, and the 1957 Convention for 111 countries.

It shows that the principles underlying these instruments now have almost universal recognition. In some countries that have ratified one of the instruments or other, legislation and practice seem to conform to international standards. All this has been insured through effective supervisory procedures of the ILO.

8.00 Implementation of the standards on Forced Labour

Ever since its inception in 1919, the ILO has established a comprehensive and reasonably effective machinery and procedures to secure the implementation, on the widest possible scale, of international labour standards. The procedures provided for in the Constitution have been reinforced by the techniques evolved to meet special needs and to inquire into alleged violations. The procedural developments have been activated by the following considerations to ensure the widest possible ratification of the Conventions, to ensure reviews of the implementation of Conventions, and Recommendations from time to time, both by the states and the ILO, and to supplement the general machinery by additional procedures to meet the varying situations.

6.10 General supervisory system

The implementation of forced labour standards is examined by the permanent automatic machinery based on the

44. Ibid. p.46.
45. Ibid. pp.136-137.
examination of reports provided by the governments. Under Article 19 every member, irrespective of its attitude towards the Convention at the time of its adoption by the Conference, has an obligation to refer it for consideration within 12 to 18 months after its adoption to the national competent authority. The states must communicate to the Director-General the information on the measures taken to submit the Convention to the competent authority and the decision taken thereby. On the approval of the Convention by the national competent authority the government is under an obligation to ratify the Convention.

After ratification, the member states have an obligation to take such action as may be necessary to give effect to the provisions of the Convention. In respect of the ratified Convention, the state has an obligation to make an annual report, in such form and containing such particulars as the Governing Body may request, on the measures which it has taken to give effect to the provisions of the Convention. Under arrangements adopted by Governing Body in 1971, detailed reports on the application of ratified Conventions are requested at yearly, two-yearly or four-yearly intervals, depending upon the importance of the subject covered, the recency of ratification and the existence of problems in its application.

Article 19 provides that the Governing Body may ask the member states to submit reports indicating the position.
of their laws and practices in regard to the matters dealt with in the conventions which they have not ratified or in Recommendations showing the extent to which effect had been given or is proposed to be given to their provisions. In case of the conventions, the states must mention the difficulties preventing or delaying the ratification. They must point out the modifications which have been found necessary in applying the recommendations. To apply the provisions of Article 19, the Governing Body chooses every year a limited number of conventions and Recommendations of current interest and requests the states to supply reports on them. The states are also required to send copies of the above reports to the representative organisations of employers and workers of the countries concerned.

The fulfilment of the obligation relating to the submission of conventions to the competent authorities is supervised by the Committee of Experts on the Application of Conventions and Recommendations and by the Conference Committee. The Committee of Experts, which consists of persons of recognised technical competence, independence, objectivity and impartiality, examines government reports from a legal and technical point of view. While assessing the situation of the states, this Committee also studies the official journals and compilation of legislation etc. It also refers to any available information on application and comments submitted by the employers' or workers'
organisations. The comments made by the Committee on the
ratified Conventions may take the form of 'observations'
or 'direct requests', whereas the observations are set
out in the Committee's published reports, the direct
requests are communicated to the governments concerned. In

the case of reports requested on unratified Conventions and on
recommendations the Committee makes a general survey indicat- ing, in regard to the Conventions and recommendations
selected for reporting, the prevailing situation in various
member states, whether or not they have ratified the Con-
ventions in question. Since the adoption of the Abolition
of Forced Labour Convention (No. 105), the Committee has
conducted three general surveys concerning forced labour. The
first was carried out in 1962, shortly after Convention No.
105 came into force; the second in 1968, on the occasion
of the International Year of Human Rights, and the third
in 1979 on the fiftieth anniversary of the first discussion
in 1929 about forced labour by the International Labour
Conference. In addition, the Committee presented a special
survey in 1969 based on the reports submitted under Article
19. The governments were asked to indicate the extent to which
they proposed to give effect to the terms of the Forced Lab-
our Conventions and the difficulties which prevented or de-
layed ratification.

The Conference Committee examines the question of
the application of Conventions on the basis of the reports

47. The Ratification Outlook after 50 Years: 17 Selected
of the governments and the report of the Committee of Experts. The governments concerned are invited to participate in the Committee's work and to provide additional information on the discrepancies noted by the Committee of Experts. At these discussions, employers' and workers' representatives can express their views. The Conference Committee submits its report to the General Conference. Its reports draw the attention of the Conference to the cases in which the governments appear to encounter serious difficulties in fulfilling obligations under the Constitution of the ILO or under the ratified conventions.

8.20 Contentious Procedure

The Constitution of the ILO provides for more a formal procedure for the examination of representations and complaints alleging failure to give effect to the ratified Conventions. Under Articles 24 and 25, the employers' and workers' organisations are authorised to make representations to the ILO about the fact that any member state has failed to observe the provisions of any Convention. Such a representation is first considered by the Governing Body and is then communicated to the government concerned to make statement. If the state fails to comply with the request, then the Governing Body may publish the...
representation. The complaints made by the state parties regarding the non-observance of a Convention ratified by both parties are entertained under Article 26. After the receipt of the complaint, it is referred to the government concerned for comments. If no satisfactory reply is received within reasonable time, the Governing Body may appoint a Commission of Inquiry to make a thorough examination of the complaint. The Commission prepares a report consisting of its findings on all relevant facts, and recommendations as to the steps to be taken and the time within which these should be taken. In case the governments concerned do not accept the report of the Commission, the complaint may be referred to the International Court of Justice. The decision of the Court is final. If any member fails to carry out the recommendations of the Commission of Inquiry or the Court as the case may be, then the General Conference may take such action as it may be deemed wise and expedient to secure compliance therewith. Such Commissions have been set-up only six times and the cases relating to forced labour have been referred to the Commission in 1931-1933 and 1931-1932. The first case referred to the Commission of Inquiry was related to forced labour Convention, 1930.

The trouble with the Forced Labour Convention was that it was adopted at a time when most of the world was undergoing the drive for economic development, with the result that there came about a growing conflict between economic development and the preservation and guarantee of human rights.

These reasons, according to Seaver and Alcock, were mainly responsible for the invocation of the complaint procedure in 1961, which until then had remained unused.53

For the first time, a complaint under Article 26 was made by the Government of Ghana that Portugal was not observing Convention No. 105 in her African territories. The Ghana Government sent particulars of the alleged violations and Portugal sent its observations on them to the Governing Body. In consequence, the Governing Body established a Commission of three - Paul Bucher (Switzerland) Chairman, Enrique Aramb - Ugon (Uruguay) and Isaac Forster (Senegal) - which was an important development in the practice of international relations.54

The Commission held three sessions in Geneva. It held on the spot inquiries during its visit of Portuguese African territories. It received written statements from governmental and non-governmental organisations, and heard witnesses. The Commission found that far-reaching changes had occurred in Portugal's policy, legislation and practice after the ratification of the Forced Labour Convention. The Commission was fully satisfied with Portuguese good-faith, but it was not satisfied with the implementation of Convention No. 105. The Commission identified the special problems in the application of laws concerning any international labour Convention in developing Africa. The Commission emphasised the key role of the labour inspection service and drew

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attention to the importance of the grievance procedure. The findings of the commission were accepted by both the Ghanaian and Portuguese governments.55

It is significant to note that the establishment of the Commission of Inquiry led to a number of important legislative and other reforms even during the pendency of the proceedings. In the above-mentioned case, new administrative machinery for the enforcement of labour legislation was established, 'special native' status was abolished, and provisions concerning the cultivation of various crops which were alleged to involve forced labour were either modified or abolished. The system of recruiting workers through administrative authorities was terminated. All these developments have been mentioned by the Commission of Inquiry in its report.56

When the ILO was still investigating the Ghanaian complaint, the Portuguese Government filed a complaint in August 1961 against the way the Government of Liberia was observing the 1930 convention. In March 1962, the Governing Body established a Commission of three under the Chairmanship of Armand-Uyon. The other members were Judge T. Cochetilleke (Ceylon) and J. Castren (Finland). Three sessions were held between July 1962 and January 1963, but the Commission did not visit Liberia. The Commission noted discrepancies between the Liberian practice and obligations under

the Convention. But the Commission accepted the Liberian contention that until 1940 its economic problems and the absence of any substantial help from the outside world inhibited far-reaching social progress. But through the recent aid programmes, new perspectives had become possible. The Commission also noted the repeal of a series of provisions relating in particular to the exaction of labour for public works, porterage, supply of labour to persons engaged in prospecting, mining, farming and compulsory cultivation. Once again the findings were accepted by both the governments. The recommendations of the Commission were not mandatory, but were to be implemented through persuasion. The Committee of Experts was entrusted with the task of following up the action taken by the state parties for the implementation of these recommendations.

6.30 Special Procedures relating to Forced Labour

The question of forced labour was raised in the first instance after the Second World War in a proposal by the American Federation of Labour. The proposal requested the Economic and Social Council to ask the ILO to undertake a survey of forced labour in all member states of the United Nations and suggest the means of eliminating it. In March 1949, the Council requested the Secretary General to co-operate closely with the ILO in its work on

forced labour questions, to approach all governments to inquire in what manner and to what extent they would co-operate in an impartial inquiry into the extent of forced labour in their countries, and to keep the ILO informed of the United Nations' action. The ILO was requested to consider the problem further. Only twenty-three states replied that they were willing in some manner to face an inquiry. In 1949, the Governing Body studied the problem and concluded that there should be an impartial inquiry into the nature and extent of forced labour.

It asked the Director General to discuss with the Secretary General the possibility of establishing a Joint Commission. In 1951, the Economic and Social Council, after considering the replies furnished by the governments and taking note of the communications from the ILO, decided to establish, in co-operation with the ILO, the Ad Hoc Committee on Forced Labour. The Committee was composed of three independent persons, qualified by their competence and impartiality, viz., Sir Ramaswami Mudaliar of India (the Chairman), Paul Berg of Norway and Enrique Sayan of Peru.

The first question before the Committee was whether its mandate should be limited to forced labour as a means of political coercion or it should also deal with forced labour for economic purposes. After a detailed study of the proceedings in the Economic and Social Council and the Governing Body, the Committee decided to study both the
political and non-political aspects of forced labour. The Committee was requested to study the problem of forced labour by examining the texts of laws and regulations, and their application in light of the principles laid down in the ILO Convention No. 29, the Charter of the United Nations and Universal Declaration of Human Rights. The Committee sought to obtain relevant information by three principal means: a questionnaire to governments, documents and evidence brought to the knowledge of the Economic and Social Council and information and documents from non-governmental organisations and individuals. Fortyeight governments replied to the questionnaire and the Committee heard 15 non-governmental organisations, six of which had consultative status and four were individuals. The Committee met four times and submitted its report to the Economic and Social Council and the Governing Body in 1953.

The report of the Ad-Hoc Committee stated that two principal systems of forced labour — as a means of political coercion and for economic purposes — were widely prevalent. These systems seriously threatened fundamental human rights and jeopardized the freedom and status of the workers. The Committee felt that forced labour should be abolished by international action. In 1954, the Economic and Social Council and the General Assembly considered the Report of the Ad-Hoc Committee. Among other things, the ILO was invited

to continue its efforts for the abolition of forced labour. For continuation of part of the work of the Ad-Hoc Committee, the Secretary General and the Director General were requested to prepare jointly an additional report for consideration by the Council. 59

The Office Note to 127th Governing Body raised two points. The first was whether a new convention should be adopted to deal with the malady of forced labour, as the Convention No29 dealt primarily with forced labour in non-metropolitan territories, and the Ad-hoc Committee had found systems of forced labour for economic purposes to exist even in fully independent or self-governing countries. Secondly was the lack of clear policy guidelines from governments on which the ILO could rely for the development of a co-ordinated effort to suppress forced labour. In the debates at the Governing Body, although the government members were hesitant, the employers and workers wanted a new Convention. The item of forced labour was placed on the agenda of the Thirty-ninth Annual Conference.

The same pattern of difference appeared in the discussion about the machinery for investigating forced labour. The Office note to the 128th Governing Body pointed out that forced labour was on the agenda of the 1956 Annual Conference. The Governing Body must decide whether the ordinary procedures of supervision were adequate to ensure the

59 For this report cf documents C/2815 and Add.1-6.
application of forced labour standards or whether they should be supplemented. Alternatively, it might decide whether the mandate of the Pudalal Committee should be renewed or the ILO's own-committee should be established to review the situation from time to time at the request of the Governing Body. Whereas, the workers' members found the two alternatives of ordinary procedures, and the reference to the United Nations inadequate, and supported the establishment of the ILO's own committee, the governments opposed the idea. Thus, the Director General was requested to submit a paper after consideration of the views expressed by the three groups. In the 129th Governing Body, the matter was referred to a working Group for solution. The Group favoured the establishment of an independent Ad-hoc Committee to deal with forced labour.

The ILO Committee on Forced Labour, consisted of three persons, Paul Hugger (Switzerland) Chairman, Cesar Charlone (Uruguay) and T. Gunatilleke (Ceylon). This Committee analysed the material submitted to the ILO and presented its provisional report in March 1956. This report merely confirmed the general conclusions of the Pudalal Committee.

Then the Office started the drafting of the new Convention on forced labour, it found that many forced labour practices in existence could be justified under the

60. 128th Session of Governing Body, pp. 129-36.
exceptions to the 1930 Convention. There was a remarkable agreement among the governments on the need for a new Convention, but with one important difference of opinion concerning what kinds of forced labour should be included in the Convention. During this session of the General Conference, the Governing Body held its sessions. It was proposed in these sessions that the ILO Committee on Forced Labour set-up to prepare materials for the thirty-ninth and fortieth Annual Conferences should remain in existence with the same terms of reference, and the Director General should continue to submit its conclusions to the Conference. Although some government members were not in favour of the creation of extra-constitutional machinery, but as the majority realised the need to keep the matter in spotlight, the Governing Body decided to establish a new independent committee on forced labour to continue the fact-finding activities of the previous Ad-Hoc Committee. The new committee met in 1959, and its report was noted by the Governing Body at its 142nd session.

9.00 The ILO and India

India has been associated with the ILO since the very inception of the Organisation, even before India had achieved independence. The relationship between India and the ILO has been of mutual advantage and has greatly influenced their activities. This has been illustrated by Mr. Robert Gove in an

64. 136th Session of Governing Body, p. 16.
65. 137th Session of Governing Body, pp. 54-61.
article on "India and ILO" with these words:

India needs the ILO as the one world organisation through which she can discuss, in concrete terms, her preoccupations with their social and labour problems which transcend frontiers and which can only be solved by the world in co-operation and with the active support of employers and workers...She needs the ILO as a support and encouragement to collective thinking about and an collective approach towards these social and labour problems.

Equally, the ILO needs India as the great crucible in which basic principles meet their severest test, unless they can be proved to be viable in practice in this great sub-continent, unless they can so illumine the hearts and minds of men that they will continue to struggle for them, convinced that through them poverty and ignorance can be overcome and India moves towards a society in which peace with social justice prevails, then the future of the ILO itself and all it stands for will be in jeopardy. 67

The ILO has exercised a great influence on the course of events in the labour fields in India. The labour force in India had to go through many decades of privation since the early days of the factory system. A worker was considered a commodity, which could be easily procured and readily replaced. Low wages, long hours of work, insecurity of employment, insanitary working and living conditions, persecution of trade unions, and grave social and economic injustice brought untold miseries to the working class both in the organised and unorganised sectors. Industrial relations were badly strained and industrial unrest assumed serious

proportions. With the birth of the ILO, the labour policy of the Indian Government was also affected. This led to saying good-bye to the policy of laissez-faire which was replaced by active governmental interference in labour matters. A study of the labour laws passed since 1919 would reveal a remarkable impact of the ILO activities on those laws. The impact of the ILO standards on the Indian labour legislation was pointed out in the 1946 report of the Labour Investigation Committee as follows:

The experience of World War-I influenced in great deal the attitude of the Government and the employers towards labour. The principle of state intervention in industrial matters was extended and there was broader realisation of the value of contented labour force and of the advantage of collective action on the part of the employers and workers respectively. In 1919, participation by the Government of India, employees, and employers at the Annual Conference of the ILO has given a greater fillip to labour legislation in India.68

After independence, India adopted a welfare-oriented constitution. The common features of the Constitution of the ILO including the Philadelphia Declaration, and the Constitution of India are the similarity of objectives and a common approach to the problems of mankind. These objectives are described in the preamble to the Constitution of India as justice, liberty, equality and fraternity. These aims have been given content and shape in Part III relating to the Fundamental Rights and Part IV relating to the Directive

68. Labour Investigation Committee, Main Report, 1946.
Principles of State Policy. By far the most abiding influence of the ILO’s Constitution is reflected in the tripartite consultative machinery set-up in the labour field. On the model of the ILO, the Government of India has set-up tripartite bodies like the Indian Labour Conference, the Standing Labour Committee and Industrial Committees. The labour policy followed by the Government is largely the handiwork of these tripartite bodies. All legislative and other measures in the labour field are brought up before these bodies for consideration. Besides, the Central and State Governments have adopted the tripartite principle in all areas of labour policy and labour administration.

The ILO standards have greatly influenced the evolution of legislative, administrative and judicial measures for the protection and advancement of the interests of labour in India. Out of the 172 Conventions adopted till December 1991, India has so far ratified 35 Conventions. The Union Ministry has pointed out that the main difficulty in ratifying Conventions has been either their advanced nature or their financial implications. India has also found it difficult to create extensive enforcement machinery to implement the labour legislation. 69 Thus, it is now considered that the better course of action would be to proceed with a progressive implementation of the standards embodied in the ILO instruments without attaching too much significance to formal ratification of Conventions. This approach is even supported

by the Committee of Experts. The Supreme Court of India
has also had occasions to refer to the ILO instruments and
related documents while dealing with the labour cases. Thus
the influence of the ILO instruments as standards for
reference for labour legislation and labour practices in
India, has been significant.

Apart from this, the ILO and India have provided
technical co-operation to each other in many wide-ranging
areas, particularly in the fields of man-power, social and
rural development. The Report of the ILO's Advisory Com-
mittee on Rural Development related to the socio-economic
impact of technical co-operation projects in the rural
sector has stated that the ILO projects have proved that the
rural poor can make effective use of the resources and
opportunities provided by the development projects.70 Besides,
India and the ILO are working on various projects relating
to health, occupational safety, development of skills, and
enhancement of employment potential of rural workers. The
ILO has agreed to give assistance to India in upgrading
crafts and vocational skills, and in raising the living and
working conditions of the people below the poverty line, mainly
in the rural and informal sectors.71 The ILO also offered
assistance to India for the abolition of bonded labour. How-
ever, the Government of India did not consider it proper to
receive help on such a delicate issue.

70. Indian Worker, November 5, 1991, p.9.
71. Indian Worker, October 1, 8 and 15, 1990, p.35.
The ILO itself has not remained unaffected by India's influence. A growing shift of emphasis discernible in the work of the Organisation, from standard setting to operational activities after the fifties is primarily due to the efforts of developing countries like India. The trend towards regionalisation for the uplifting the quality of life and emancipation of the workers in various regions of the world is another example of the influence of non-European nations. The Indian influence is clearly reflected in the establishment of the Asian Regional Conference and the Asian Advisory Committee. When the ILO decided to locate regional offices in appropriate places all over the world, India was fortunate enough to have one established in Delhi. Recent examples of such an influence are the decentralisation of the ILO's operational activities and their concentration on developing countries and rural development. Thus the Asian Manpower plan was launched as part of the world Employment Programme of the Organisation.

Although India has emerged as a major power among the nations of the world with recognised authority in the industrial and labour fields, Indian labour force still faces some uneconomic and obsolete labour practices, which have been clearly prohibited by the ILO standards. The most distressing fact about India is the enormous growth in its population. The greatest misfortune of India is that the gap between its population and material wealth has been gradually widening.
resulting in the extreme poverty of its people. This has led to serious social tensions, acute problems of industrial relations, law and order problems and all that goes with hungry stomachs and parched tongues. A vast majority of India's population is dependent on agriculture, which is unable to support the increasing numbers. With a gradual decline of Indian handicrafts and a galloping increase in its population, the small scale industries could not provide adequate and regular employment and sustain the growing landless classes. All these factors aggravated the problems of unemployment, poverty and debt bondage in the Indian rural society.

At the advent of freedom, the immediate task of the national government was to bring the disturbed economy back on an even keel, to stabilise the prices and to rejuvenate the tottering economy. The task was undeniably stupendous. With the dawn of the planning era, labour received attention in the various Five-Year Plans. In a society troubled with caste prejudices, illiteracy and sectarian outlooks, social legislation can be introduced only by stages. Century-old customs, however primitive they may look to moderns, cannot be thrown out overnight. To mould the Indian society consisting of several religious faiths, linguistic and ethnic groups, and sub-cultures into one compact unit is a herculean task by any standard. One can reform society either through welfare measures, which must be provided in abundance, or
through persuasion by creating a strong public opinion against the age-old prejudices, or lastly by legislation. The first two of these measures failed to make any appreciable dent in the problem of debt bondage. They failed to touch the down-trodden millions who needed the most. The social workers, sarvodaya workers and others engaged in persuasive methods could reach only a small segment of our vast and variegated population. Besides, persuasion had only a temporary effect. Enlightened public opinion may indeed only prepare the ground for a piece of welfare legislation, and force the government to enact it.

Slavery was abolished in British India by an Act in 1843, which was subsequently extended to the native states also. But this enactment virtually made no difference in the position of the slaves, because the system under which they were obliged to become slaves was not changed or improved. Thus practices such as debt bondage, indentured labour emerged powerfully. The relics of those feudal or colonial systems of bondage are found even in the contemporary Indian scene, under different names and forms. The problems of the bonded labourers are exploitatively low wages, forced labour, long hours of work, exploitation of women and children, false records of indebtedness, intimidation, lack or inadequacy of machinery for implementing legislation for their protection, lack of awareness among the public at large, apathy of political institutions, and the vested interests working for the
perpetuation of bondage. In brief, the system of bonded labour is barbarous and implies a violation of basic human rights and the destruction of the dignity of human labour.

The problem has attained greater importance in modern social and economic thought. The ILO has adopted various measures such as Conventions, Recommendations, Declarations and operational activities to curb this evil. These efforts of the ILO have also influenced the Indian labour policy since the adoption of Forced Labour Convention, 1930. In 1931, the Legislative Assembly and the Council of States adopted Resolutions recommending the Government of India to take action on all the provisions contained in the Draft Convention, as soon as possible. After Independence, a committee was appointed to hold inquiries into the practice of forced labour. Ultimately the Convention was ratified by India in 1954. The Abolition of Forced Labour Convention, 1957 has not been ratified by India. India is proposing to ratify it in the near future.  

Since Independence the Government has been trying to contain and regulate the practice of bonded labour in India in accordance with the principles contained in the ILO instruments related to forced labour. Special provisions have been made in the Constitution for the abolition of forced labour. Besides, the State Governments have enacted various laws to fight the malady. But the institution of bonded labour has continued to flourish. The ILO has continued to

In the pursuance of the ILO Conventions, the first decisive legislative step to abolish the evil practice of bonded labour and to rehabilitate the bonded labourers was taken by the adoption of the Bonded Labour System (Abolition) Act 1976. Various administrative, judicial and voluntary efforts have been made to make the above said Act effective. While framing policies and programmes to eradicate debt bondage, guidance is sought from the policies and programmes of the ILO. The ILO itself is following keenly the implementation of the measures for the abolition of debt-bondage. Although the Committee of Experts in its report has all along been pointing out the persistence of forced and bonded labour in India, in its 1991 report, for the first time, the Committee of Experts has presented a comprehensive picture of the bonded labour problem, along with the measures and suggestions to tackle the menace. The Committee has taken note of the discussions in various international human rights organisations, the approach of the Supreme Court of India to the bonded labour issue, the reports of the Fact-Finding Commissions appointed by the Supreme Court and the seminars held on bonded labour issue. The Committee, while referring in detail to the legislative, administrative and judicial efforts, has requested the Government of India to provide detailed information on the results achieved by such measures.

73. Cf. for example, World Labour Report 2, 1985, p. 70.
The report of the Committee for 1992 has also focused attention on the bonded labour system in India. The Government of India, again, has been requested to provide detailed information on the results achieved by governmental and voluntary efforts. Such detailed comments of the Committee of Experts have often persuaded the Government to take effective steps to abolish the problem of debt bondage. Thus, the State Governments have been directed time and again to take effective measures to abolish the obsolete practice of debt bondage.

Recently, through a project entitled, 'International Programme On Elimination of Child Labour', (IPEC), the ILO has decided to go in for 'direct intervention' in six developing countries including India to wage a war on child slavery. The programme is an innovation for the ILO, says Mr. Habenicht, the Manager of the IPEC. Through the IPEC, the ILO is moving to develop national level demonstration activities worldwide, having a direct bearing on prevention, protection or rehabilitation of child labour. The programme mainly seeks to complement the resources and efforts made by participating countries in order to enable them, within the context of their national policies to promote conditions for progressive regulation of child labour, with the view of its ultimate elimination. It

75. ECL 1992, II, 114-120.
aims at forging alliances between inter-governmental agencies, governmental institutions and non-governmental institutions to implement action-oriented programmes at the field level. The programme also envisages bringing about an increased awareness in the international community for the purpose, as there is a growing realisation that headway can be made only at the global level with nations pooling in their expertise and financial aid. The IPEC will operate in full collaboration with other United Nations' agencies, particularly UNICEF, UNESCO, WHO and UNFPA. It will also include the establishment of an international network of non-governmental organisations and a task group, to help coordinate international efforts against child labour. The ILO and its member states will establish a global database containing qualitative and quantitative information on national situations and responses to child labour as a resource for long-term programme design.  

The programme was launched in India on 20.1.1993 through the signing of a memorandum between the ILO and The Indian Government. To implement the IPEC, a National Steering Committee comprising representatives of Government, employers, workers and non-governmental organisations, has been constituted for selection of the action programme proposals received from non-governmental organisations for inclusion in the IPEC.  

A total of 33 action-programme proposals from 31 non-governmental organisations involving an amount of £868,000 have been approved by the IPEC funding and contracts between the IPEC and non-governmental organisations have been signed in the case of 30 these action programmes. Besides, the ILO has recommended that the concerned countries should set up child labour units in their labour ministries and the labour inspectors should be trained to identify child labourers. The programme aims at hitting the most serious forms of child labour through developing a wide range of activities like awareness raising, policy making, institutional development and direct work with and for children. The problem of child labour is serious, so its immediate abolition has been ruled out by the IPEC. But it has been decided to take up the programme in phases, starting with the elimination of bonded labour.

India is the only country in the ILO family to recognise the persistence of debt bondage in its territory. The ILO has been constantly helping India in this field through activities and projects conforming to the priorities and needs of India. Recently, the thrust of the ILO activities has been on the development of co-operation in social and economic spheres. For this, the ILO has adopted an unique strategy to demonstrate what appears to work and where, and what does not and why. The ILO is actively co-operating with the Government of India through the development of action models that allow replication and thus have a broad impact.