

CHAPTER VII.

CONCLUSION

One may not realize how much of our labour laws conform to, and are influenced by, the Conventions of the International Labour Organisation till one takes a close look at both these standards that is what is precisely done in this exercise. Malaya has closely followed the international standards of labour conditions in the enactment of her labour laws. Even though Malaya has not ratified more than a dozen Conventions out of over 100 Conventions, a brief survey of her labour laws has showed us that she has incorporated into her laws most of the fundamental rights and privileges of labour.

The beginning of this century witnessed a world-wide recognition of the need to protect, maintain and improve the wages and working conditions of labour. It culminated in the formation of the International Labour Organisation. The Organisation was built on the twin pillars of world peace and elimination of poverty. To achieve these two aims, the Organisation formulates international standards known as Conventions and Recommendations. We found that although Conventions created obligation on the part of member states to submit them to national legislatures, violation of such a condition has not met with any penalty by the Organisation. We pointed out earlier that the merit of Conventions and Recommendations lies in the brevity of their presentation which fulfil their objective of flexibility of international standards.

The basic freedom of association of trade unions has been well borne in mind both at national and international level. Malaya has ratified the most number of Conventions in this area of labour rights. Eight of the eleven Conventions ratified by Malaya are in the field of industrial relations. However, complete freedom to form trade unions has resulted in a multitude of tiny trade unions which are unable to exert any influence owing to their smallness. Moreover, the Trade Union Ordinance prohibits the formation of trade unions for workers belonging to different occupation, trade or profession. This has been regarded as a denial of freedom of association. As required by the Conventions (1), Malayan labour laws prohibit the use of forced labour. The Trade Disputes Ordinance was found to place some restrictions on the freedom of trade unions in public services to take industrial action. This freedom has been further curtailed by the Essential Regulations 1965 which grants the Government the power to refer

(1) Forced Labour Convention 1929 and the Abolition of Forced Labour Convention 1957

certain disputes to arbitration. Ironically the same Trade Disputes Ordinance provides for the freedom of industrial action without any prejudice or discrimination against the workers. The Government has evolved an effectively workable system of industrial relation known as voluntary system of negotiation. The Department of Labour encourages labour and management to settle their disputes in the manner they jointly agree and never refers any dispute to compulsory arbitration. The Department also was found to provide Industrial Courts to settle disputes for which labour and management have failed to reach agreement. However, the Government retains the right to refer any dispute to a Court of Inquiry when it feels necessary.

But where the voluntary joint negotiation fails to settle any disputes regarding minimum rates of wages, the Wages Councils Ordinance empowers the Minister to order a Commission of Inquiry and eventually make a Wages Regulation Order to establish statutory minimum remuneration. The area of application of the Wages Council Ordinance is limited (2) as preference is always given to the voluntary system of negotiation to settle wage claims.

Another privilege of labour is granted by the Weekly Holidays Ordinance which guarantees a day of rest in week and annual holiday of 5 days with pay. Failure to follow the provisions of the Ordinance has been found to be punished with fines.

Under industrial security, the workers' old-age pensions are assured under the Employees' Provident Fund which creates an obligation on both employees and employers to contribute to the Fund 5% of the workers' wages. But this system has certain defects. The monthly contribution appears very small. Moreover, it excludes certain categories of workers from receiving the benefits of the system. While it includes domestic servants, in practice employers of domestic servants do not contribute to the Fund on behalf of and for the latter.

The Employment Ordinance prohibits the employment of children and women in underground work and at night. The Ordinance, however, provides for 60 days of maternity leave while the corresponding Convention (3) stipulates 12 weeks of such leave.

(2) Thus far only two Wages Councils have been established.

(3) Maternity Protection Convention 1919

With growth in the use of machinery, the safety of workers against industrial accidents becomes imperative. The Machinery Ordinance provides for sufficient precautionary measures. But in practice it has been found that accidents have occurred (some of which were fatal) inspite of these safety measures.

Where such industrial accidents occur, the workers ^{have} to be compensated. The Workmen's Compensation Ordinance provides for compensation for industrial accidents. This is another area that has received great attention in Malaya. In this area alone, the Government has ratified three Conventions.(4). In case of insolvency of the employer, compensation payment is to be given priority over all other debts.

The International Labour Organisation has drafted Conventions and Recommendations that form guides to the formulation of our national labour laws. We found our labour laws safeguarding most of the labour rights and priveleges. This would result in the growth of a healthy, contented labour class which together with a voluntary and democratic industrial relation would create industrial peace and promote industrial development.

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(4) Workmen's Compensation (Accident) Convention 1925, Equality of Treatment (Accident Compensation) Convention 1925 and Workmen's Compensation (Agriculture) Convention 1921