

BACKGROUND TO INTERNATIONAL LABOUR ORGANISATION.

A study of the international labour standards cannot be complete without first getting to know the factors that motivated the formation of the International Labour Organisation. The function of such an organisation could better be understood if one bears in mind the causes that led to its formation. The International Labour Organisation has a distinctive structure of its own that serve to fulfil its functions.

Lastly it is essential that we evaluate the success of the Organisation by noting its impact and influence on member states. The formation, the structure, the functions and the impact of the International Labour Organisation shall form the subject matter of this chapter.

THE CONDITION OF LABOUR PRIOR TO 1919.

Before the First World War, labour in the industrialising countries of the West was organised on a small local scale. Certain historically significant events were to mark the turn of this century as a "golden era of labour." Labour was then transformed from a locally organised movement to an international force that received world wide importance and recognition. This change in status brought with it some remarkable changes in the concepts that people had about labour.

What were these events? As a result of the first industrial revolution social reformers and economists sought to reduce working hours, protect women workers and to stop the exploitation of children. The workers themselves also exerted pressure with the growth of trade unions. Many believed that reforms of this kind could only be carried out by international collaboration and agreed international standards. The result of all these agitations was that the western world in general and Switzerland in particular was beginning to experience a social consciousness of labour. It culminated in the formation of a body known as the International Association for Labour Legislation in 1900. Within six years, the Association adopted conventions prohibiting night work for women in industry and the use of white phosphorus in the manufacture of matches. (1) We can notice in this modest beginning at international labour legislation the first signs, pointing to the later growth of the International Labour Organisation.

While society at large was recognising the place of labour in society, labour itself had its reason for gathering together to formulate international standards of labour. This additional reason arose from a desire to refute the marxist theory of inevitability of class struggle which was gaining support among some sections of the

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(1) International Labour Standard, International Labour Organisation publication, p.3

labour class (2) Marx believed that the outcome of capitalism was class struggle between workers and capitalists. He claimed that capitalism contained within itself an inherent danger of collapse, or it is self-contradictory. The capitalists in their attempt to attain monopolistic power would engage in unfair competition against labour and in so doing push down the wages of labour. This exploitation of labour would ultimately create two camps of people - the proletariat and the employers. Eventually the proletariat would rise against capitalist exploitation which could only be overthrown by revolution and warfare. This, claimed Marx, would create a dictatorship of the proletariat. Today one no longer believes wholly on this interpretation of the course of capitalism. Time has proved Marx wrong. Capitalism today is no longer of the exploitative nature as it was during his lifetime for labour today is granted more privileges and rights than Marx could have imagined. This improvement in the social status of labour coupled with state legislations to curb amalgamation of firms with monopolistic motives has made a Marxist type of class struggle unnecessary. The first step towards this disproving of class struggle was taken by democratic labour around 1900 by creating a cordial and democratic relation with management and government and to negotiate with them in a peaceful manner on labour problems.

#### LABOUR AFTER THE FIRST WORLD WAR.

While the climate was thus ripe for the improvement of labour rights and privileges, the cessation of the first world war provided labour the long awaited time to press for its claims. Trade unions everywhere raised unanimous voice to be represented in the peace negotiations to ensure "the national and international rights of labour" (3) The claim of labour did not go unheeded. At the Paris Peace Conference of 1919 a commission on International Labour Legislation was formed. It composed of representatives of labour, management and government. Here we notice the tripartite structure which was to be followed later by the International Labour Organisation. This requirement of a tripartite structure of organisation to solve labour problems has always been felt as the most suitable type of organisation structure.

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- (1) - International Labour Standards, International Labour Organisation publication P.3
  - (2) - Spearheads of Democracy, P.54, George C. Lodge
  - (3) - International Labour Standards, International Labour Office publication, P.2

## FORMATION OF THE INTERNATIONAL LABOUR ORGANISATION.

The aim of this commission was to create a permanent machinery for the adoption and enforcement of international legislation. This body drafted out the structure of the would-be International Labour Organisation. Its constitution sets out the main ideology in the following terms:-

" Whereas universal and lasting peace can be established only if it is based on social justice.

And whereas conditions of labour exist only involving social injustice and hardship to a large number of people as to produce unrest so great that peace and harmony of the world is imperilled.

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way, of other nations which desire to improve the conditions in their own countries." (4)

That was in 1919 - several decades before the formation of the United Nations of which the International Labour Organisation is a specialised agency.

But the powers of this Organisation could not be easily determined. Was this Organisation to be an international labour legislation body whose labour standards were binding on all members or was it merely to be a labour advisory body?

This was a delicate and intricate question to be answered. Eventually an imaginative compromise was worked out by which a conference made up of government, management and labour representatives was to adopt labour conventions to be sent to the member states. The latter were required to submit these conventions to their respective national legislative bodies for ratification. The legislative bodies could reject, accept or modify them as they deem fit. It is not difficult to see that the founders of this Organisation placed the standard setting function on a realistic basis. This is because while it is compulsory for member states to submit the conventions to their legislative bodies, the latter had the freedom to reject or accept them.

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(4) Quoted in International Labour Organisation and Asia.

Thus began the International Labour Organisation in 1919 which has travelled far in the direction of safeguarding the interests and rights of labour and in creating a society based on social justice. For long it was associated with the League of Nations. In 1914 at Philadelphia, the International Labour Conference adopted the Declaration of Philadelphia consisting of the aims of the Organisation. It continued to function independently after the collapse of the League of Nations till in 1946 it became the first specialised agency of the United Nations. Having thus far outlined the events leading to the formation of the International Labour Organisation, we shall proceed to explain the aims of the Organisation.

#### AIMS OF THE INTERNATIONAL LABOUR ORGANISATION.

The International Labour Organisation is an international tripartite of labour, management and governments, as stated above. It, no doubt, represents a major victory for labour to have brought management and government to sit at the discussion table and to bargain and to speak out boldly and on equal terms. The very formation of this Organisation is a recognition of the need of a world-wide attempt to eliminate poverty and to raise the standard of living of people everywhere. The removal of poverty among men is thus one of the aims of the Organisation. As we can see, this is an extension of the idea of balanced growth. " Poverty anywhere constitutes a danger to prosperity everywhere " (5) Neither stability nor security of the world is assured when sections of the population live below subsistence level. The importance of this concept could be gauged from the fact that the above-mentioned quotation has been accepted as the motto of the Organisation.

Another objective of the Organisation is to promote social justice as a means of achieving universal peace. As long as there is wide inequality and social injustice, discontentment and revolution are inevitable. A situation of this nature is far from being conducive to a state of peace. As the preamble to the Organisation's Constitution states " Universal and lasting peace can be established only if it is based upon social justice " (6) It is not sufficient that some nations adopt humane legislation to achieve social justice. This could easily be offset by some other nations not subscribing to this view, hence the need for efforts on international level. " The failure of any nation to adopt humane conditions of labour is an obstacle in the way of the other nations which desire to improve the conditions of their own countries. " (7) But of course, in such " concerted international

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(5) Declaration of Philadelphia as quoted in The International Labour Organisation, a publication of the International Labour Office, P.3

(6) Preamble to the Organisation's Constitution quoted in The International Labour Organisation. International Labour Organisation publication, P.9

(7) Ibid, P.15

effort ..... representatives of workers and employers should enjoy equal status with those of government and join with them in free status and democratic decision with a view to the promotion of the common welfare " (3)

These noble aims of international peace and elimination of poverty are materialised by its two fold activities: the traditional standard setting work and the operational activities. Under the standard setting work of the Organisation come the collection and discrimination of information about labour and social conditions, formulation of international standard and supervision of their national application. Operational activities include the provision of technical assistance in carrying out social and economic development programmes (9) The procedure in which the international labour standards are adopted and the conditions attached to them will be elaborately discussed when the International Labour Conference which sets these standards are considered below.

We shall now enter into <sup>in</sup> detail the structure of the world Organisation.

#### THE STRUCTURE OF THE INTERNATIONAL LABOUR ORGANISATION.

The Organisation carries out its aims through three well devised instruments. They are the International Labour Conference, The Governing Body and the International Labour Office. We could call the first instrument the legislative body, the second, the executive body and the third the secretariat. Each of these three in their own way contribute to the success of the Organisation. Let us now look into each of the three.

#### THE INTERNATIONAL LABOUR CONFERENCE.

The International Labour Conference <sup>is</sup> often referred to as a " World Parliament of Labour " (10) for its discussion of social and labour problems of concern to government, employers and workers in all member countries. Out of this discussion evolves international labour standards in the form of Conventions and Recommendations. The Governing

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(8) Ibid P.31

(9) As stated earlier, this second function of the Organisation will not be treated in this study.

(10) Quoted in The International Labour Organisation, P.13, International Labour Organisation publication.

Body chooses a question which may be ripe for conference action through wishes expressed inside and outside of International Labour Organisation. It is helped in its decision by surveys of the law and practice in the different countries. This fact finding is followed by a detailed questionnaire to the governments to seek their views. The proposed Convention is then discussed at the International Labour Conference normally through what is called "double discussion procedure" which means that the question is considered at two successive annual conferences, the first reading covering general principles and the second adopting the final text. When any proposed international standard is being studied and discussed, the representatives of labour, managements and governments participate independently and on equal terms. A Convention or a Recommendation does not come into being till the Conference votes in its favour by a two-third majority, the combined labour and management votes equalling those of the government. Since an accepted Convention or Recommendation represent the majority agreement, these labour standards represent general agreement of informed world opinions. Both the Conventions and Recommendations are required to be submitted by the member countries to their respective national legislatives within twelve to eighteen months which can accept or reject them. If they are accepted they become what is called "ratified Conventions or Recommendations" and as such create an obligation on the part of the government to impliment the standards in their countries. There exists a distinct difference between a Convention and a Recommendation. "Conventions" are standards which if ratified create an obligation to impliment in the countries concerned while "Recommendations" are merely guides to national action. The decision of the national legislation are to be reported to the Director General (whether Conventions and Recommendations have been ratified or otherwise). If rejected the International Labour Organisation requires member countries to review the situation periodically to study the possibility of introducing the international standards. If ratified, the government ought to send out reports annually of the progress made and the difficulties encountered in the implimentation of the Convention and Recommendation.

When two member countries report to the Director General of their ratification of a particular Convention, the latter becomes operative. At the end of ten years following the acceptance of a Convention, it is renewed for improvement or alteration. A member country which has ratified a convention or Recommendation may not denounce it before the lapse of ten years after its ratification.

While discussing the formulation of international standards to be adopted by member states, one fundamental question is bound to arise in our minds. Nations differ from each other in several ways. Economically they may be at different levels of development; cultural and social patterns of life may vary; and difference in climate and natural endowments

may be very marked. These differences, one will agree, would make it almost impossible to apply a uniform international standard to all nations of diversified nature. To have overlooked the need for a flexible pattern of implementation of these standards would have struck the death knell of the Organisation early in its life. Appreciating this need, the Declaration of Philadelphia in 1944 thus worded the flexible approach: "the principle set forth in this Declaration are fully applicable to all people everywhere and that the manner of their application must be determined with due regard to the stage of social and economic development reached by the people". The need for this flexible approach cannot be over-emphasised for one quarter of the world enjoys a high standard of social and economic development while the rest of the world is struggling to lift themselves up socially and economically. In this effort, their success is of varying degree and to apply a uniform standard to all these nations, one would agree, would be unrealistic. The social status of labour would depend on their stages of development and hence the Conventions and Recommendations permit certain allowances in their application. A lower age limit is allowed for the less developed nations. Provision is also made to apply certain conventions in stages.

Whatever success or difficulties the member states have reached should be annually communicated to the Director General. The Director General is required under the constitution to lay before the Annual Conference Session a summary of the data he has received on the submission of Conventions and Recommendations to the national legislative authorities on the application of ratified Conventions and on the effect given to selected unratified conventions. This brings us to the obligation of each member as expressed by Article 2 that "each of the members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provision of the Convention to which it is a party."

The annual report received from the member countries are technically examined by the Committee of Experts on the application of Conventions and Recommendations. The Committee made up of competent men in international labour law and administration study the reports and compile its observation in a report despatched to member states. Queries and remarks about conventions are directly sent to the member states which could deal with them in their annual reports.

The official comments together with the Experts' findings and the summary of annual reports prepared by the International Labour Office provide a basis for the Conferences. The result of this examination are then considered by a committee of government's workers and employers' representatives, known as the Conference Committee. It is a tripartite committee which provides a focal point for the successive stages of reporting, expert evaluation and government clarifications. The essence

of this Committee's conclusions is set out in its report to the Plenary Conference.

These official comments and explanations together with the Expert's findings and the summary of reports prepared by the International Labour Office, provide a basis for the Conference's annual review of the progress made, the difficulties encountered in the implementation of the labour standards.

We have dealt with the International Labour Conference and the procedure it adopts to carry out its standard setting function at length above. While at it, it would not be irrelevant to note the impact of these international labour standards of the Organisation before taking up the other two instruments of the Organisation, namely the Governing Body and the International Labour Office.

#### THE IMPACT AND INFLUENCE OF THE INTERNATIONAL LABOUR ORGANISATION STANDARDS.

When so much of thought and time are spent on the formulation of the International Labour Standards it is only natural to inquire into the importance of these standards. A glance at the total number of ratified Conventions of each member state would be a reliable yardstick of the respect paid and the value placed on these standards. But it must be borne in mind it is not a complete yardstick.

In 1961 a total of 115 Conventions existed. By the end of June of that year ratification figure of these Conventions by the 97 member states totalled up to 2299. Malaya had ratified only 9 of these Conventions. Total number of ratification for Asia stood at 183.

At least two factors have to be considered when reviewing the ratifications of Conventions. Firstly, the effect of ratification of the International Labour Organisation Convention upon the national law and practise of a given country depends upon its economic structure and on the degree and timing of its social development and other related factors.

We could evaluate the influence of the Conventions on national laws by looking at the number of conventions of certain basic standards ratified by the nations of the world.



**TABLE I - EXTENT OF RATIFICATION OF CERTAIN BASIC STANDARDS.**

	<u>Subjects.</u>	<u>No. of States who have ratified by 1961</u>	<u>Percentage of Members who have ratified</u>
1.	Hours of Work	35	32
2.	Maternity Protection	22	21
3.	Discrimination	17	16
4.	Equal Remuneration	34	32
5.	Forced Labour	85	83
6.	Minimum Age in Industry	58	57
7.	Freedom of Association	63	61

SOURCE - INTERNATIONAL LABOUR STANDARDS - pp 20-21

The table above indicates the number of states that have ratified conventions on certain basic areas of labour rights and privileges. Five of the basic standards mentioned above were ratified by more than thirty percent of the ninety-seven members. The seven areas mentioned above form some of the most essential and basic sections of labour rights and privileges and a high percentage of ratification of conventions in these sections reflect the usefulness of these conventions and the trust that nations have on them.

Let us get a little closer and look at ratification figures of Asian countries.

**TABLE II - ASIAN RATIFICATION OF CONVENTIONS (1961)**

<u>Countries</u>	<u>No. of Conventions Ratified</u>
Afghanistan	6
Burma	21
Ceylon	19
China	16

c/over

<u>Countries</u>	b/f.	<u>No. of Conventions Ratified</u>
		62
India		27
Indonesia		6
Japan		24
Federation of Malaya		9
Pakistan		28
Philippines		17
Thailand		1
Vietnam		11
	Total =	<u>135</u>

A glance at the above table giving the number of Conventions ratified by Asian countries reveal that Thailand, Afghanistan, Indonesia and Malaya have ratified the least number of conventions. Malaya's figure of 9 comes as a surprise to us. Comparatively, our stage of economic development and therefore the social status of labour is high and one would, therefore, have naturally expected a bigger number of ratified conventions. Yet this figure is no indication of the extent of labour legislation in Malaya. Though Malaya has ratified only nine conventions, her labour laws cover a wide area encompassing most of the basic areas of labour rights and priveleges.

It must not be thought that conventions are less relevant to the countries where a long tradition in the field of social policy exists. The northern industrial countries of Europe are making a concerted effort to set up a joint machinery to promote, through wider ratification of the Convention, a greater measure of uniformity in their labour legislation.

Another factor to be borne in mind is that the influence of Convention depends also on the subject with which they deal. Certain minor standards set by the Convention are not exactly transferable to all nations. Realising this disparity, provision or exceptions are often provided for either to reduce the minimum requirements or to implément them in stages.

Besides the ratification of Conventions, their actual implimentation is also of importance. Member states, as mentioned earlier are required to submit reports on the effort and steps taken to implément the ratified

Conventions. It may be encouraging to note that some countries have often gone to the extent of altering national laws to facilitate the implementation of the Convention.

Often machineries exist at national level to study and give recommendations to give effect to International Labour Organisation Conventions. In Malaya the National Joint Labour Council performs this function. Thus the tripartite principle which underlies the definition of standards at international level also operate in deciding on their implementation at the national level.

The influence of the International Labour Organisation is not only felt by countries that have ratified the Convention. There are cases where a nation's labour laws are in conformity with the International Labour Organisation standards if not of better terms though these nations have not formally ratified the Conventions due to minor technical hitches.

#### THE GOVERNING BODY.

The second important instrument of the International Labour Organisation is the Governing Body. It functions as the executive body of the Organisation. It meets every quarterly and reviews the work of the International Labour Office and decides on the question of policy and programme. Again in this body, as elsewhere in the Organisation equal number of government workers' and employers' representatives are present.

#### THE INTERNATIONAL LABOUR OFFICE.

This is the third instrument of the Organisation. International Labour Office, situated at Geneva is the permanent secretariat of the International Labour Office. It performs several important functions. It is a publishing home issuing periodicals, labour statistics and reports. It is a research centre conducting research necessary to study international situation for purposes of formulation of international standards. It guides the work of international experts on technical assistance mission.

The diagram below summarises the structure of the Organisation and the functions performed by each of the instruments of the Organisation.



The Organisation carries out its function through the International Labour Conference, the Governing Body and the International Labour Office. The Organisation's impact is growing steadily and its standards of labour serve the developing nations most usefully.

Besides this background knowledge to the International Labour Organisation, it is necessary that we get a closer look at the nature and characteristics of conventions of the Organisation. Conventions are the source of our reference and therefore it may serve a useful purpose to look at them in detail. This will be the subject of Chapter III.