

PREVENTION AND SETTLEMENT OF TRADE DISPUTES
IN PRIVATE SECTORS IN MALAYSIA

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HISTORICAL DEVELOPMENT OF TRADE UNIONS AND THE INDUSTRIAL RELATIONS SYSTEM IN MALAYSIA.

Industrial law has been the subject of as a rapid transformation as can have happened to any legal subject in recent times, and is certainly one of the most difficult areas of law in which to keep up to date. In some ways it is a curious mixture of ancient and modern, for much old laws lie behind or at the base of new statutory law, and in some cases the old law continues to exist alongside the new.

Much of the industrial relations system is rooted in the past. A brief knowledge of its history and its development is indispensable for an understanding of the present situation.

It is not intended to go very far back and propose to start with the independence of Federation of Malaya in August 1957, in which the government declared as its policy the promotion strong, healthy free and democratic trade union movement. A new Department of Labour and Industrial Relations was created which took over some of the functions of the former Trade Union Adviser's department. In 1959, a new Trade Union Ordinance was promulgated which regulates the formation, registration and activities of trade unions. These provisions, though subsequently amended, are still in force today. Under this Ordinance, the Registrar of Trade Unions has the power within the limits laid down by the legislation to accord or refuse registration of trade unions. This power, and the way in which it has been exercised, has ever since been a major point of controversy between the government and the trade union movement, the latter claiming that the discretion given to the Registrar is too wide and that he has too often rejected trade

union demands for registration.

Since the mid-1950s there has been a remarkable expansion of the trade union movement, in terms both of numbers of trade unions and unions members. There are at present some 402 unions with an overall membership of nearly 604,215 members. The major spokesman for workers interest at the economy-wide level is the Malaysian Trade Union Congress, established in 1950.

On the employer's side the apex organisation is the Malaysian Council of Employers' Organisation (MCEO), was in 1978 superceded by the Malaysian Employers' Federation (MEF), which was among its members both individual employers and employers' organisation.

In 1960s, collective bargaining between employers and trade unions became a standing practice. It was therefore considered necessary to create a comprehensive statutory framework for the orderly conduct of labour relations. This was achieved under the Industrial Relations Act, 1967. This Act, together with the Employment Ordinance of 1955 and the Trade Union Ordinance of 1959 and subsequent amendments, is today the main basis for the Malaysian industrial relations system. It deals in detail with rights of workers and employers and their organisations, recognition of trade unions by employers, collective bargaining, the settlement of trade disputes as well as strikes and lock-outs. A central position is occupied by the Industrial Courts, which can issue binding awards for the settlement of industrial disputes.

Practice wages and conditions of employment are determined by collective bargaining either at the industry level or at the enterprise level. For industries in which workers are not sufficiently organised, wages councils of tripartite composition, first introduced in 1947, are empowered to lay down minimum wages and conditions of employment. A National Joint Labour Advisory Council (NJLAC) composed of an equal number of representatives of the government, the employers and the trade unions has been in existence since 1957, as a consultative body at the national level.

In the early 1970s, the government under the impact of the race riots in 1969, launched the New Economic Policy which had a double objectives: eradication of poverty and re-structuring of society in such a way that race could no longer be identified with economic function. In the pursuit of these objectives, the government endeavoured to bring about an understanding between employers' organisations and trade unions as constructive co-operation between the two parties in the interest of the country. The result of these efforts was the signing in February 1975 by the MTUC and the MCEO as well as the Minister of Labour and Manpower, of a 'Code of Conduct for Industrial Harmony', which establishes agreed rules for the practice of industrial relations.

Since the adoption of the Code, the Ministry and the above mentioned employers' and workers' organisations have been examining amendments to the existing labour relations legislation in the NJLAC. An event which occurred in 1979 and which added to the existing tension between the government and the trade unions was a