A STUDY OF SOME OF THE CAUSES OF TRADE DISPUTE IN MALAYSIA

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ABSTRACT

In approaching this study, Chapter 1 deals with, firstly, an introduction whereby the respective roles of the tripartite system is noted. Chapter 2 is a study of the definition of what is a trade dispute with certain commentaries being made where appropriate, although it may not be exhaustively so. Chapter 3 deals with the nature of trade disputes which arise mainly from matters connected with the employment or non-employment, terms of employment and condition of work. It is important to note that some of the causes are mentioned and discussed, where appropriate and proper to do so.

Chapter 4 is on the general causes of trade disputes. Apart from the already mentioned causes touched upon in the nature of trade disputes, an overall study is made by stating and commenting on the roles, sttitudes and problems of the three sectors, namely, the employer, workmen and the government. A general study of the other causes such as communication problems, non-disclosure of information, want of consultation and expansion of trade union activities are discussed. The causes of trade disputes are viewed from the social, economic, legal and management aspects. Finally the effects of trade disputes are briefly dealt with.

Chapter 5 deals with the proposals towards better industrial harmony. Although not entirely innovative but its application may help minimise the causes of trade disputes. The proposals basically deals with the changing of attitudes towards work, working towards efficiency and its rewards and better management style. The study of this paper is concluded by summarising the causes of trade disputes.

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CHAPTER I : INTRODUCTION

The goal of every developing country is the creation of wealth at an accelerated pace in order to catch up for lost time so as to improve the quality of life of its people. In order to do this, rapid industrial growth becomes a pre-requisite which can be achieved by the harmonious utilisation of human resources and capital. This harmony in industry in most developing countries is sought to be regulated by legislation, and in Malaysia by the Industrial Relations Act, 1967. The preamble states as follows:

> "An Act to provide for the regulation of the relations between employers and workmen and their trade unions and the prevention and settlement of any differences or disputes arising from their relationship and generalty to deal with trade disputes and matters arising therefrom."
>
> (emphasis are mine)

The law and practice which presently regulate the existing employment infrastructure is popularly described by the expression 'industrial relations'. It represents, in fact, a new and still developing body of labour laws, founded on contract precepts but relaxed in application by theoretical doctrines of voluntaryism, good will, mutual respect and inter-dependence. The passage of time brings social changes which also influence the law, and with the development of trade unions and employers' organisations as well as the increasing intervention of the state via legislation, it is now more accurate to say that the totality of labour law deals with the three-sided relationship of employer and employer associations, employee and trade union, and the state.

Labour disputes are one of the distrinctive feature of modern industrial society. Disputes and agreements easily arise in daily life but they are clearly seen in conflicting interests

of labour and management in industry when it occurs. They naturally arise between capital and labour over questions in respect of the division of industrial proceeds and the regulation of working conditions. Where disputes lead to public disorder and violence or constitute a threat to the security and health of the population, most governments would intervene as part of its function to maintain law and order. The state has long intervened in industrial relations and this takes many forms and is directed towards the solution of different problems and this takes place on the assumption that peace in industry is as vital as peace in society.

In any clash of interest, the ultimate sanction of the workers and their unions in a trial of strength is that of the strike, a concerted withdrawl of labour by them, thus stopping production. The employers can resort to lockout, a refusal on their part to continue employing workers. Industrial conflict, necessarily inflicts hardship on both groups and has considerable undesirable effects on the parties on both the human and economic factors. The resort to the ultimate industrial sanctions is usually taken at the last stage in collective bargaining where deadlock has been reached and either party feels that there is no other way to impress on the other justice of its claims. Generally, in so far as the government intervenes in collective industrial disputes, its intervention would take the form of a suspension of industrial action and an insistence of the use of the statutory machinery provided for dealing with breakdown in industrial negotiations.

Prevention of disputes as much as settlement, is the objective of the Act, as stated in its preamble. Human frailties render the noble objective 'prevention is better than cure' as not practicable, so that the cure or 'settlement' of disputes is the order of the day. As seen above, disputes are bound to arise between those who manage and control and those who work to produce goods and services, because of eternal conflict between them, where the management wants to have the workmens' services for least possible return while the workmen wants