

PREFACE

The idea of this book was suggested by Y. Bhg. Datuk Shamsuddin Bardan, the Executive Director of Malaysian Employers Federation as there was a lack of a comprehensive publication on the subject of collective bargaining and collective agreements in the Malaysian context. Collective bargaining and the resultant collective agreement may appear to be a simple process but it is in fact a complex subject involving legal and social issues. In writing and composing this book extensive references were made to case laws both of local and foreign jurisdictions. The provisions of industrial law and the process of collective bargaining are generally complex but we have tried to explain them as much as possible with the help of case laws.

The writer relied on his own experiences during his tenure with the Department of Industrial Relations, Ministry of Human Resources and with the Malaysian Employers Federation in composing this book. The experiences and the knowledge gained during the process of interactions with employers and trade unions during the collective bargaining process have been helpful in writing this book.

We owe debt of gratitude to so many eminent personalities who in their own ways have left an indelible mark in the development of industrial law especially relating to collective bargaining and collective agreements. The greatest impetus to collective bargaining was given after the enactment of the Industrial Relations Act 1967. Those responsible for the Industrial Relations Act 1967 were the late Tuan Haji Mohamad Sidek, the former Commissioner for Industrial Relations, the late Mr. A.T. Rajah, Mr. Koh Thiam Swee, the late Mr. B. Nithianthan, all former Director Generals of Industrial Relations respectively. They were passionate in promoting collective bargaining and hence formulated the relevant laws with the assistance of the late Mr. Shiv Charan Singh from the Attorney General's Chambers.

We also owe debt of gratitude to past and present Presidents and Chairmen of the Industrial Court who through their judicial pronouncements gave effect to the law relating to collective bargaining and promoted collective bargaining as an effective instrument in determining wages and terms and conditions of employment in the unionized sector. The guidelines provided by them helped in the resolution of trade disputes relating to collective bargaining especially on wage fixation principles. Among them were the late Sir George Oehlers, the first President of the Industrial Court, His Lordship the late Justice Dato' Harun Hashim, the late Yang Arif Mr. Fong

Seng Yee, the late Yang Arif Mr. Tham Kam Weng and Yang Arif Tuan Haji Yusuf bin Ahmad.

It is also not possible to ignore the contributions of so many trade union leaders in the development of collective bargaining in Malaysia. They played a stellar role in promoting collective bargaining. We can only mention a few here: the late Mr. P.P. Narayanan, former Secretary General of National Union of Plantation Workers; the late Mr. V. David, former General Secretary of Transport Workers Union; Tan Sri Zainal Rampak, the current General Secretary of Transport Workers Union; Mr. G. Rajasekaran former Secretary General of Malayan Trade Union Congress (MTUC) and the current Executive Secretary of Metal Industry Employees Union; Mr. A. Navamukundan, Executive Secretary of National Union of Plantation Workers; Encik Mohd Khalid bin Atan the present President of MTUC and Mr. N. Gopal Kishnam, the present Secretary General of MTUC. To all of them we owe a debt of gratitude.

It would be remiss on our part if we omitted to mention the debt we owe to representatives of employers organization: the late Mr. Pereira, the late Mr. John Chelliah former Executive Directors of Malaysian Agricultural Producers (MAPA) respectively and to the current Executive Director of MAPA Encik Mohamad bin Audong who helped in promoting collective bargaining through their interactions with trade unions in the plantation sector. We are also immensely obliged to the numerous employers, managers, human resource practitioners for their involvement in collective bargaining thus contributing to the development of the subject, which is the theme of this book.

We also like to express our gratitude to the legal fraternity who helped to shape the laws with regard to industrial jurisprudence related to collective bargaining over the years. Of particular mention would be the late Justice K. P. Gangatharan and the late Mr. D.P. Xavier and the late Mr. A. Murugavel. We also like to express our gratitude to the present practitioners of industrial law, namely Dato' Dr. Cyrus V. Das, Mr. V.T. Nathan, Mr. A. Ramadass, Dato' Thavalingam Thavarajah, Mr. S. Sivabalah, Mr. B. Lobo and other eminent lawyers of whom there are too many to mention individually.

On a personal note the writer wishes to thank his colleagues at MEF and support staff who in one way or another contributed in shaping the law on collective bargaining and assisted in coming out with this book. The writer wishes to thank Y. Bhg. Datuk Hj. Shamsuddin Bardan, the Executive

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If there are factual errors or mistakes, the writer is solely responsible.

M. Vivekanandan
Adviser, Special Functions
Malaysian Employers Federation