chapter 1

Institutional Development of International Labor Law—An Overview of Institutions and Instruments

A The International Labor Organization

There are aspects of labor-related rights in all the major human rights instruments and systems. While the International Labor Organization (ILO) is the primary body in this field, labor-related rights are also dealt with by the United Nations, the major regional organizations such as the Organization of American States and the European Union, and the development banks (the World Bank and its regional counterparts). There are also provisions on labor rights in all the major international instruments, or they have been read to cover labor-related questions.

This volume will spend most attention on the ILO, which is the premiere organization in this field, both chronologically and substantively. However, one of the main lessons to be learned in this field of study is that a thorough and complete picture of human rights cannot be drawn without considering labor-related rights as an aspect of the broader human rights canon, so the rest of the international system will also be brought in.

The ILO is the intergovernmental organization with principal responsibility for the questions covered by Articles 23 and 24 of the Universal Declaration of Human Rights. If its character as a human rights organization is only recently being recognized by human rights activists, this is perhaps because it has usually avoided a “human rights” rhetoric in its long history. Since its establishment in 1919 together with the short-lived League of Nations, it has usually taken a more technical approach to rights in the workplace, and has preferred to express its aim as the pursuit of social justice rather than the promotion of human rights. Moreover, its conventions tend to be focused more on the responsibility of States than on the rights of individuals, though there are

exceptions. However, events since the end of the Cold War in the early 1990s have forced it “out of the closet”, so to speak, into becoming a more assertive party to human rights deliberations at the national and international levels, and to take more of a rights-based approach to the world of work.

1 **History of the ILO**

As the industrial revolution took hold, so did public awareness of harsh working conditions and of the need for their regulation. With time, as this social regulation evolved, industrialists and trade unions became concerned that exploitation of workers in other countries could undermine the profitability of international trade on the one hand, and the growth of the concept of workers’ rights on the other.

The first concerted action across borders took place in 1855 in Switzerland, when two cantons met to conclude an inter-cantonal agreement on night work and working hours. Germany convened the first international conference, in Berlin in 1890, where international labor legislation was first explored in an official forum. These efforts continued until the International Association for the Legal Protection of Workers was created in 1900, and an International Labor Office created as its secretariat, with its office in Basel, Switzerland. The first two international conferences of the Association, held in 1905 and 1906, adopted the first two international labor conventions (on the prohibition of white phosphorous in the making of matches, and on night work for women).

Efforts to convene another conference were thwarted by the outbreak of World War I. During the War, trade union organizations from both sides of the conflict agreed that a mechanism for international labor legislation should be created as part of the peace settlement. It is also relevant that all the parties understood that this first ‘industrial war’ had depended on the willingness of workers’ organizations to defer their own ambitions for better working conditions, in the interests of national defence. These influences led to the inclusion of workers’ representatives in the Peace Conference, and to proposals by a number of governments, especially Great Britain and France, for international labor questions to be included in the Conference. The establishment of the International Labor Organization was thus included in the Peace Treaty concluded in 1919, and its first Constitution was Part XIII of the Treaty of Versailles.

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