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## Origin and Advances in Social Legislation General Laws and Class Laws

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Such is the lofty ideal of the Christian Workers' Movement even when it is divided into separate and distinct unions of which some aim at the defence of their legitimate interests by labour contracts — the proper task of unions — while some aim at works of mutual assistance in economic matters, such as the consumer's co-operatives, others again have a religious and moral object such as the catholic workers' associations.

Do not let yourselves be drawn away from this end which is more important than any transitory form of union organization ».

The august words of our Sovereign Pontiff

have shown you your duty. Above all else be perfect christians. The most noble institutions will never succeed in having peace reign when men seek only for money and pleasure. It is those who are detached from the goods of this world who spread well-being around them. It is those who look to Heaven who do the most good on earth. « Seek ye first the Kingdom of Heaven and all these things will be added unto you ». (Mat. VI-33.) In order to bestow some peace and happiness to the world we live in, let us diffuse in the field of Labour the spirit of our Lord, Jesus Christ.

## ORIGIN AND ADVANCES IN SOCIAL LEGISLATION: GENERAL LAWS AND CLASS LAWS

RENÉ H. MANKIEWICZ

### *The Fallacy of the French Revolution: Equality retains Inequality*

The principal progress realized by European countries in the field of rights following the French Revolution consisted of the abolition of class privileges. Equality of men under the law was the essential innovation of the new liberal regime. It ensured the disappearance of corporative and feudal privileges. Henceforward, everybody would be treated on an equal footing legally. No longer would the rights and obligations of man vary according to his « social condition ». In the place of class privileges were installed laws common to all.

Now, the development of political liberalism combined with liberal economy demonstrated, in the course of the nineteenth and particularly at the beginning of the twentieth century, that this new general law was built on an illusion. Equality of legal treatment actually proved the most efficient means of securing inequality of social conditions. It perpetuated privileges which were thought to be abolished. It showed itself unable to assure the triumph of justice, especially of social justice.

As a matter of fact, men are not equally armed in the fight for daily bread. The possession of wealth and of the material means of production bestow a real superiority in relation to other people. So that neither equal laws nor social justice are any longer guaranteed.

### *The Remedy: Legal Protection of Workers*

As always in similar conditions, juridical order should then intervene to protect the man inadequately armed against the power of his fellows and to attenuate the effect of the force whether it be physical, military or, as here, economic. Consequently, the general law should be broken with and a return made to the traditional system where the legal norms were modelled on the social condition of those concerned. Legal inequality becomes again the standard of the law maker. But, this time, inequality operates to the profit of the disinherited and no longer, as under the old regime, to consolidate the possession of privileges.

### *Disciplinary Rules in Industrial Establishments*

This re-establishment has been long in coming. It needed more than a century of battling before there were union organizations capable of defending the interests of the working man against financial and economic authority. Meanwhile the governments had been unable to preside peacefully over the exploitation of the workers by often unscrupulous entrepreneurs nor to remain inactive at the time of strikes and revolts which, although often legitimate, were nonetheless prejudicial to the interests of the nation.

But, instead of regulating the rights of the workers, governments of the nineteenth century

contented themselves with enacting disciplinary regulations. These measures dealt chiefly with the working hours of women and children, with the payment of wages in legal tender, with industrial security for the prevention of accidents. They were taken above all in the interests of public peace and sometimes with a view of protecting the health of the workers destined to be transformed into valiant soldiers. They were inspired by demographic and military considerations. They concerned themselves very little with assuring the worker an existence worthy of man. And yet, it is the dignity of man and his life which are here in play as much and more than his health or his competence.

This utilitarian conception of labour laws prevailed for an extremely long time. It was encountered still recently in the social jurisprudence of the Supreme Court of the United States. When this latter finally abandoned in 1936 its traditional attitude, which had induced it to declare illegal all regulation of wages not directly justified by the public welfare or the national health, it made this adjustment to modern tendencies not because it had become enamoured of social equity but because, to quote, «The refusal of a living wage (for women) is detrimental not only to their health and their well-being, but it transfers directly to the community the cost of their maintenance... and it concerns women in whose protection there is a special interest».

*New Class Laws. New Ideas.  
New Aims*

It was only after a slow maturing of thought and social conscience that the public and governments have gradually understood the necessity of elaborating the protective regulations destined to assure labour working and living conditions more reasonable than the system of legal liberalism was able to procure for them. It was only from the moment when general law, equalizing all, was abandoned that legal protection, which re-established the inequality of law in order to ensure equality in fact, was created. Then only the social laws became class laws guaranteeing, though in a manner as yet imperfect, the dignity of the worker.

The social law of to-day is no longer, as was that of the eighteenth century, a simple disciplinary regulating of establishments ordered in the public interest or protecting the national well-

being. It embraces to-day, a much greater body of regulations visualizing the material and moral welfare of an entire social class. Indeed, labour laws are being extended gradually to all the manifestations of the life of the worker. They accompany him in his private as in his public life. Further, the circle of people to whom they afford protection is being enlarged constantly, because they are as interested in the employee, the day labourer, the engineer in the service of an enterprise as in simple labour working at the factory or in the home. Its field of application covers now the members of a family as well as dependent persons. Briefly, it applies to all those who on any grounds participate in «the world of labour». And these it protects even outside labour connections in their relations with public services, government administrations and private persons.

Under the influence of those who understood and were able to make use of it the general law, based on the principle of legal equality, was changed into a kind of class law for the privileged layers of society. This situation contrary to modern principles is on the way out. General law is being dissolved by the action of the new class laws which are being substituted for it. So, finally, social justice and the balance of private interests with public welfare, which social and economic forces had prevented, are being realized.

*The Advances and Tendencies of Modern Social Laws. The International Labour Organization*

Actually, it was only on the morrow of the War of 1914-1918 that social law took, in a world of progress, all the strides which we know to-day. This it partially owes, if not to the activity, at least to the existence of the I.L.O. Indeed, in the reports which they must submit annually to this organization, the member states are careful to show that their social legislation has made sensible progress. Each government intends to be at the head of the social movement. One cannot over-estimate the influence, hidden but constant, which the studies and publications of the International Labour Office have exercised on national legislatures. (These studies and publications analyse the political measures adopted and experimented with all across the world.)

But for the years so decisive for social progress, which have separated the two world wars, the new evolution of labour laws has been characterized by four strongly marked tendencies.

### *State Legislation*

It was a question first of all of improving the general conditions of labour. Almost all the industrialized states have enacted imperative regulations on maximum working hours and the weekly day of rest. In addition, they have promulgated laws fixing minimum wages and decreeing the inviolability of the living wage. Again, Labour security, the fight against accidents and occupational diseases, the organization of labour representation on management have been the object of numerous laws and ordinances assuring notable improvement in working conditions.

Between the wars, again, was the period in the course of which all industrial states, one after the other, definitely recognized the professional organizations of workers and enterprises as the official go-betweens of labour and capital. After a century of warfare the labour world had at last realized the positive and negative freedom of union. Everywhere their organizations have been invested with the right to conclude collective agreements having the force of law. To facilitate the solution of collective labour conflicts certain countries have tried out different methods of conciliation and arbitration. The parity labour boards charged with the solution of conflicts, collective as well as individual, have, in many countries, marked the consolidation of the new class laws adapted to modern conditions of economic and social life.

### *Collective Laws*

This collection of new legislation has provoked in its turn a considerable development of collective rights recorded in collective agreements. These latter are destined essentially to complete the legislative provisions and thus perfect the protection of workers with respect to their employers. Many regulations, solidly established in the national laws and jurisprudence, were tried out for the first time through the collective agreements which have thus played the part of nursery and laboratory to the new social laws.

### *Special benefits*

The novel character of class laws is indicated particularly by the multiplication of government

measures which accord to workers, or to certain groups amongst them, special privileges with a view of improving living standards and increasing social security. It is apropos to mention in this regard, the governmental or semi-governmental projects of cheap housing, the compensation benefits to crippled workmen or the fathers of large families, the preferential tariffs imposed on certain public services for the benefit of workers and their families, birth subsidies, reduced school fees, provision of day nurseries, as well as the countless improvements in social services.

### *Regulation in the joint interest against the misery born from the liberty of individual contracts*

This necessarily general and schematic survey of the modern advance of social law nevertheless makes clear that it is the expression of a juridical and social revolution of far reaching consequence. Everywhere, regulation — governmental or corporate — triumphs over the contracts negotiated individually and separately by workers. One observes, as well, a strong tendency to extend continually the object of these regulations which proposes to create a class law regulating all the relations which the worker can have whether with the State, with individuals, or with groups.

The disciplinary rules imposed formerly on enterprises to safeguard workers from the more flagrant abuses, constitute, to-day, only an infinitesimal part of social law. Modern social law is much more ambitious and consequently more comprehensive. It intends to secure by means of social security, stability of employment and a high standard of living. Workers are a distinct class to-day not only from a social and economic point of view but also from a legal point of view. To improve their economic situation and their legal status they should renounce their individual freedom either for the benefit of the State or for the benefit of professional organizations. They obtain in return a statute which permits them to lead a life worthy of man and to become an active member of society. At least, this is the aim of those democratic societies most representative of social progress.