

INTERNATIONAL LABOUR REVIEW

VOL. VII, Nos. 2-3

FEBRUARY-MARCH 1923

Labour Legislation and Economic Possibilities

by

Professor I. P. de Vooyo



The thesis of this article is that the ultimate justification for labour legislation lies in recognition of a certain permanent principle, namely, that the advancement of the claims of such legislation must always be within the limits set by economic laws; the advantages it offers depend on this condition. Where attempts are made to make labour legislation embody claims which exceed such limits, the result will not be permanent.

Labour legislation should properly be regarded as the preventive imposition by the community of minimum standard; its field lies somewhere between what social foresight demands and economic laws impose. Labour legislation advances as economic possibilities are enlarged; in other words, the lasting improvement of labour conditions can proceed only from a general increase of productivity obtained by normal means.

Labour legislation cannot be dispensed with, or replaced by a system of collective bargaining. While, on the one hand, it must not seek to impose an attempted uniformity of standards which will inevitably run counter to economic laws — for economic possibilities vary according to circumstances, in different countries, and over different periods — on the other hand, it can be a powerful agent of progress by making itself the controlling force in industrial action, regulating trade union activities, supporting the workers' reasonable demands or imposing necessary conditions.

LABOUR legislation during the last hundred years has been a beneficent influence in society. Experience has proved the opponents of such legislation in the wrong by showing that they were inspired by interests narrower than those of society as a whole. Its supporters, as the facts prove, were furthering a useful and necessary process of evolution, as well as serving the cause of humanity. This belief strengthened their position and provided them with unanswerable arguments.

There is, however, at the moment a growing opposition to legislation of this kind. It is not surprising that the supporters of such legislation regard this growing opposition as a reaction

or as the passing revival of a resistance which they once crushed. In order to meet it they resort to their old weapons of defence, but such an attitude may endanger the future of labour legislation. If this legislation is to be preserved, and its benefits maintained and extended, its supporters, learning from the history of human society, must seek new forms and new spheres through which and in which to apply it. The danger at present threatening this type of legislation arises from the fact that its adherents still defend its old and outworn forms. By basing their arguments on doctrinaire principles they fall into the same error as their former opponents.

In the first place they are wrong in clinging to the conception of labour legislation as the only or the most important means of improving the lot of the working classes. In the campaign for the reduction of hours of work, legal restriction of such hours represented a definite political aim which could be laid before the electors, just as universal suffrage was regarded by every democratic politician as a definite objective. But a political end of this type, when analysed and regarded from the economic standpoint, is seen to be merely a means to a more distant end. Its value as an economic means can only be determined after it has been attained as a political end, and will depend on how far it is in form capable of effective application.

Another theory, equally explicable and equally erroneous, advanced by supporters of this doctrinairism, is that labour legislation should always take the form of public prohibitions and public control. This theory, too, can be explained by the fact that in its early days this was the only form which such legislation could take. It does not therefore follow that this form was or is the most suited to the ultimate object towards which labour legislation has always tended, namely, the raising of the lot of the working classes. But working-class conditions can only be improved slowly and progressively, not at a single stroke; an increased actual production of foodstuffs, clothing, and housing facilities is required for the use of the workers, not merely a sudden inflation of the volume of currency and credit. Now actual production of goods can be increased but slowly, and the progress of labour legislation must therefore be equally slow.

The beginning of labour legislation was marked by the prohibition of the employment of young children. This was followed by limitation of the hours of work of women and young persons. The same period saw the rise of the idea of protecting the workers' health and life by accident prevention, by the campaign against industrial diseases and poisoning through the practice of industrial hygiene. Wages, which are the essential factor in the workers' standard of living, were not, it is true, touched upon by the laws of most countries. Legislation, however, affected the workers' income by extending social insurance. The worker was in a position of great insecurity through the fact that the moment he was unable to work, owing to accident, sickness, infirmity, old age, or unemployment, he lost his wages. Social insurance

is a scheme of organisation set up by law to protect the worker against the economic consequences of industrial accidents or diseases by providing an income in case of his death or disability. Eventually legislation began to deal with the limitation of hours of all workers, and before the war a 10-hour day appeared to be a possible achievement, though it had not yet been recognised as a general rule.

In all countries legislative progress ran parallel to the trade union movement, which was trying to improve wages and conditions of labour by industrial action. Comparison of these two movements shows that their object is the same, namely, the raising of the lot of the working classes. They differ in that the trade union movement attempts, especially in questions of wages and hours, to achieve the maximum that can be hoped for from compromise or negotiation, while the object of legislation has been to lay down a general minimum below which conditions of labour may not fall. Because the strength of the trade union movement varies from time to time, or even as between the different industries, the law was concerned to fix minima below which wages could not drop. These minimum standards served as a starting point for the trade unions in their negotiations for higher standards. These minima guaranteed mainly the health, and consequently the working capacity, of the present generation, and even more of future generations, of workers. This was the chief justification of such laws ; they helped to maintain and to increase progressively the producing capacity of the working classes.

They achieved their object ; they encouraged, or, at any rate, in no way hindered the increase of the national income. At the same time they achieved two other objects : first, an increase in the amount of capital invested in technical means of production, thus steadily increasing output, and, secondly, by raising wages and reducing hours of work, an improvement in the conditions of the working classes. It should not be forgotten, however, that these laws never went beyond the bounds of economic possibility. In other words, the standards laid down did not restrict the producing power of the working classes, but, on the contrary, tended to increase it. This point is important, although it has rarely been advanced in discussion of the subject ; indeed, there was not until recently any occasion to discuss it. An economist who once ventured to oppose the restriction of the factory child's working day to 12 hours on the ground that it was 'against economic possibility' merely covered himself with ridicule. The fact is that social legislation formerly fixed no minimum conditions beyond what had already been generally won by trade union pressure and these conditions any branch of industry could accept without hampering itself.

The present revival of the general discussion of what should be the right relation between labour legislation and the limits imposed by economic conditions is due not so much to a

recrudescence of that reactionary spirit which once upon a time led the economist to oppose the cutting down of the factory child's hours of work, as to a complete change in the circumstances of human life. The war caused enormous injury to the producing power of the world by destruction of human life and capital and by a general demoralisation and upheaval of commercial relations. National income has been greatly reduced, in the immediate future as well as in the present, economic progress having been set back several decades and not yet having resumed its forward movement. The chances of improving the status of the workers by legislation have also been set back for the same reason and to the same extent.

At the same time, labour laws have greatly changed their character. Before the war working-class action was never able to achieve the enactment of such laws unaided, but always needed the assistance of other classes in the community. The balance of social power after the war was so far reversed that the workers' demands were granted immediately and one of the results of this has been that in many cases laws no longer embody minimum reforms already achieved by trade union pressure, but establish a maximum which is actually superior to existing conditions. This maximum programme, in addition to maintaining the health and producing power of the worker, aims at securing on his behalf reasonable and humane conditions of life by providing the time and resources required for leisure. The improvement in the lot of the working classes, which hitherto had always been achieved slowly and progressively in direct relation to increases in the national income, was to be effected suddenly and enforced by legislation. The power of labour imposed these laws regardless of the great decline in the national income.

The history and nature of labour legislation might define this as a revolution rather than evolution. The very foundations of legislation were other than they had been, the old forms to some extent repudiated. The only way to avoid an upheaval under such circumstances would have been to bring about a sudden increase of the producing power of the workers, or, alternatively, so great a change in their standard of living as would secure a counterbalance for decreased output in decreased needs. Conflict was inevitable, if neither the one nor the other were done, and the cause was not reaction on the part of other classes of the population, but simply the disturbance of the entire economic system.

Public authorities endeavoured to gloss over the difficulty by making changes and adjustments in currency and credit systems, which necessarily gave only momentary relief, and the storm broke. In all countries productive processes were upset. The inferior conditions to which the trade union movement is today compelled to submit is nothing but the result of a maladjustment between labour legislation and economic possibilities. Moral or political criteria must not be applied in criticising present wage

reductions. We must confine ourselves to obtaining a clear idea of causes and to letting experience teach its own lesson. Workers will thus realise in what directions they can and cannot use their power and influence.

Such remarks may perhaps suggest that labour legislation has failed, and that its old ideal of the 8-hour day is a mere Utopia. Supporters of the movement cannot and must not accept such a conclusion. Indeed, they must prevent such an outcome. For the situation can be saved if the adherents of labour legislation will effect a strategic retreat to their original position and adopt new forms and methods to fit new circumstances. First, however, they must accept the following principles.

(1) In view of the process by which consumable goods are produced, working-class conditions can only be raised gradually and within the practical limits of economic laws. These limits could only be exceeded by the sudden and violent exercise of force, and this would immediately provoke a reaction upsetting national credit and disturbing the economic system, and would bring in its train unemployment and high costs of living; in other words, there would be retrogression or a dead stop.

(2) The limit set by economic laws can only be enlarged by greater productivity obtained by normal means (notably by technical improvements), in other words, by the accumulation of new capital, and by increased efficiency and intensity of work organised on an economic basis.

These principles involve no reaction and no concession to reactionary tendencies. They are a simple recognition of certain facts, which are not themselves in conflict with previous practice in labour legislation. Doubtless there exist new forces of reaction which are entering the present conflict and preparing for a struggle. The best tactics are to abandon any doctrinaire adherence to outworn theories, and to prepare the way for new ideas.

One question, however, must be answered; it has been raised by many enquirers. Has social legislation ceased to be necessary? Has the labour movement ceased to need the assistance of the law? Is it not strong enough to undertake alone the improvement of the worker's condition in so far as the limits set by economic law allow? Is not labour legislation merely characteristic of a transition period which ended when the power of the workers rivalled that of the employers and it became possible to regulate labour conditions by simple agreement? Personally, I return a categorical negative to all these questions. Labour legislation will be a valuable and beneficent influence in the future, whatever the variations in the relative power of employers and workers; for the maintenance and increase of the workers' labour power is of as great and general importance now as formerly.

Labour laws, with their minimum requirements, should continue in the more definite form of precautionary measures for imposing standard conditions, a form which they had already

begun to assume before the war. They should represent the minimum standards of the community for the preservation of the physical and mental labour power of the working classes. They will thus continue to be a check on any reaction or falling away and a support to all attempts at progress.

Labour laws should impose a minimum only. Their purpose is not to indicate the living conditions which a man deserves independently of the possibility of his obtaining them; everyone would be glad if the evolution of society made it possible gradually to raise this minimum and bring it nearer to an ideal.

Labour legislation, regarded as the preventive imposition of standard conditions, can be much extended and improved, but this idea is not in itself enough to provide a new formula of future development. Yet such a new formula must be sought if the original purpose of labour legislation is to be attained. That original purpose will in no way be furthered by the enactment of regulations which aim beyond and above it, although it is true that the setting at nought of economic limits by the passage of recent legislation is itself a revelation of how strong is the workers' desire not to tie down their existence to the mechanical performance of a daily task in the complex machinery of production. While promises going beyond what circumstances will admit must not be made, every possible effort must be undertaken to increase the worker's well-being. Much might be said on this topic. In the first place, there was the lowering in comfort resulting from the war and its economic after-effects. If this process is to be stopped and standards of well-being once more raised, the physical and mental conditions of the worker must be made such that he can repel the repressive influences affecting him and set to work with energy. Reaction must not be allowed to thrust him below the level of minimum subsistence. Secondly, the working classes are too powerful to be excluded from the democratic government of the state without making them hostile to society and social unity. The great task of today is to initiate them into the art of administration, to teach them to govern, and to foster their sense of responsibility, so that they may become a powerful agent of progress. The co-operation of the workers in government must be based on the conviction that they receive the full share of the national income to which they are entitled, and nothing less.

These suggestions may serve to outline the scope of labour legislation in the future. It covers all that lies between the minimum required by social foresight and the limits imposed by economic laws when it is a question of raising the status of the workers in respect of wages and hours. This has always been the battleground of the labour movement, and for good reasons. The minimum standards of community foresight may be embodied in general legislation, but the limits imposed by economic laws vary according to circumstances. They vary with occupation, country, and period, and cannot be made uniform for a long time

to come. Perhaps the day will come when conditions can be made the same for all, but in the midst of the present social crisis it would be folly to try to impose such uniformity, especially as it hampers and weakens producing power. This power may some day become so great that it could perhaps be slightly decreased without affecting the general prosperity. Then, but only then, the possibility of rendering labour conditions uniform might be considered — a very complex process.

The new sphere for labour laws must thus be sought within the trade union movement. These laws must necessarily deal with trade union organisation and trade union methods of raising the status of the workers. This alone shows how far they will differ from legislation on minimum standards. They must control the right of association, labour disputes, strikes and lock-outs, collective labour agreements and negotiations for this purpose — in short, anything affecting wages and the regulation of hours of work. This will be done partly by supporting the trade unions, partly by imposing conditions. The law will admit the justice of trade union action and support it, but when necessary will condemn it as unreasonable and impose restrictions. Labour laws should be the controlling force in industrial action and endeavour to make secure for the workers such conditions as are within reach, but should also serve the permanent interests of society by maintaining and increasing productive capacity.

At the opening of a period such as the present it is impossible to indicate the standards which should be embodied in new laws. But it is undoubtedly of urgent and primary necessity to determine in each case what are the economic limits beyond which for the moment in will be impossible to proceed. This determination can be left neither to employers alone nor to trade unions alone. Both will gain from being relieved of the sole onus of this task. They should together take the responsibility of fixing these limits in loyal co-operation on the basis of facts. The first subject for labour laws, if they are to secure this co-operation, is what is loosely termed "workers' control", the first step towards which is represented by works councils. Along these lines it will be possible to explore the bounds set by economic laws to the improvement of the conditions of the workers on the basis of social legislation stripped of high-sounding phrases and pompous formulae.