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LABOR LAW AND LEGISLATION IN THE NETHERLANDS INDIES*

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THE STATUS OF LABOR LAW TO 1926

AS IN the world at large, so in the Netherlands Indies, labor law as such is a relatively modern development. Within the last score of years the legislative arm of the Indies government has attempted to satisfy the labor demands of an ever-expanding agricultural, commercial and industrial economy, protecting at the same time the conflicting interests of the diverse elements of the population. The result has been a growth from simple contract law to a complexity of provisions respecting labor relations that were only beginning to be fashioned into a unified whole at the time of the Japanese invasion. The future labor law will undoubtedly be built upon this foundation. Hence an exposition of the recent past should prove the best approach to postwar needs in the field of labor.

The modest beginnings of Indies labor law may be traced back to 1879. In that year the three simple paragraphs of the Civil Code "on the hire of servants and workers," now known as 1601–03 old, designed to regulate agreements between European employer and employee,[1] were declared applicable to non-Europeans. The enactment was intended to give more security to the European employers of native workers, but the language was broad enough to make the sections of the Civil Code applicable to labor contracts between non-Europeans; in this respect it remained a dead letter. During the next half century special legislation was enacted to take care of the so-called contract coolie labor and to protect the position of European managers and assistants on large estates, but it was not until 1926 that a

* This article is an abbreviated version (largely by reason of the omission of comment on judicial decisions) of part of a mimeographed paper on *Legal and administrative problems of the Netherlands Indies*, submitted to the Ninth Conference of the Institute of Pacific Relations, Hot Springs, Virginia, January 1945 (mimeo. N. Y., I.P.R. 1945). Two recurrent abbreviations are employed: *S = Staatsblad van Nederlandsch-Indië*; *T = Tijdschrift van het recht.*

[1] The Civil Code (Burgerlijk Wetboek), along with the other Indies codes and the significant legislative enactments are to be found in Engelbrecht, *De Nederlandsch-Indische wetboeken . . . en de belangrijkste in Nederlandsch-Indië geldende algemeene verordeningen en besluiten* (1939 ed.) (Hereafter referred to as Engelbrecht.). Arts. 1601–03 old B. W., Engelbrecht, p. 392, provide (a) that services may be let for a particular time or job, (b) that the amount and time of payment of wages be promised by oath by the employer, (c) that servants and workers may not leave and may not be dismissed without good cause, and if they leave, they forfeit claim to money earned, and if dismissed are entitled to six weeks compensation.

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modern labor law of general application was promulgated. Utilizing the Netherlands law of 1907 as the foundation, eighty articles were added as title 7A of the Civil Code, forming a comprehensive compilation of the law governing labor contracts adapted to Indies conditions.[2] The legislative intention was that the new law should primarily be directed to labor agreements between Europeans, but eventually be extended to natives and foreign orientals.

Not all Europeans fall within the provisions of title 7A. Government employees are expressly excluded, and provision is made for the future enactment of special legislation regarding labor contracts "in agricultural or industrial enterprises, in rail or tram and in transport and other services." Up to 1941 special provisions had been enacted for maritime personnel, and to some extent in industrial enterprises, but the way remains open for particular legislation with respect to the other fields noted. In addition, provisions of the enacting law retained in force so much of an earlier statute upon plantation managers and assistants, as was not modified by the new law.

Conflicts Problems in Labor Law[3]

Although it was not directly concerned with non-Europeans, the new labor law contained an article providing (a) that a labor contract between an employer who falls within the scope of title 7A and an employee who does not, is nevertheless controlled by this title, without regard to the intention of the parties, if the work is such as is usually performed by workers falling within the scope of the title, i.e. Europeans, and (b) that a labor contract between an employer who is not and an employee who is within the terms of title 7A is always governed by this title. The first of these provisos has led to extensive litigation and the courts are hard put to draw a sharp line of demarcation between work that is normally performed by Europeans and what is not. The second provides an absolute rule of interracial law, offering no problems to the courts. In addition to these situations, it is possible that the parties may voluntarily submit to title 7A, even though the work be of a kind that is not usually performed by Europeans.

The status of labor contracts where both parties are non-Europeans—or non-European work is performed by a non-European employee of a European employer—is quite complicated. The law enacting the legislation of 1926

[2] Arts. 1600–1603z B. W., Engelbrecht, pp. 394–411.

[3] *Cf.* generally, Klein, *Bijdrage tot de studie van het intergentiel privaatrecht* (1933), pp. 175 ff.; Kollewijn, 139 *T* (1934) 19–38; Buddingh de Voogt, 141 *T* (1935), pp. 555–79; Kollewijn, 151 *T* (1940) 551, at pp. 569 ff.; van Tetering, 154 *T* (1941), pp. 439–57

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provided that the Chinese racial group of Netherlands subjects were excluded from the operation of title 7A, unless it was decreed otherwise;[4] and further, in the absence of contrary ordinance, that articles 1601–03 old of the Civil Code, herewith repealed as respects Europeans, still remained in force for natives and foreign orientals. Accordingly, when non-Europeans entered into contracts to perform menial service, the courts regularly invoked the provisions of articles 1601–03 old.[5] Whether the court can also invoke general rules of the law of obligations is a perplexing question, usually answered in the affirmative. But this construction left open the question of what was to be done when the work performed was of a higher calibre. Legislative intention and interracial principles determine that the law to be applied if the parties be of different racial groups is that of the employee. Consequently, if a native enters into a contract to perform services of a higher type, since 1601–03 old do not apply and he is not otherwise subject to European law, the contract is governed by his *adat* law. But if the employee be a foreign oriental, since he is subject to European civil and commercial law save in certain spheres not concerned here, the courts were forced to resort to general principles in the law of obligations of the Civil Code. Still other possibilities were involved in the case of certain non-Europeans, due to special legislation, particularly the so-called Coolie Ordinance and the Chinese Labor Regulations for Bangka and for Billiton, described below.

A further differentiation in the labor contracts of non-Europeans was introduced just before the Japanese invasion.[6] Attention has been called to the group of non-Europeans whose labor contracts are governed by the old articles 1601–03 of the Civil Code. This group has now been divided into two, namely, those receiving wages of two gulden or less per day, and those receiving more. The law incorporating this new aspect of conflicts is concerned, among other things, with the renewal of existing labor contracts, with the period of notice to be given before termination of a labor contract, and with the indemnification due the other party to the contract in the event of termination without notice. All these matters reflect the most modern views of these topics prevalent in the Indies, and correspond to the amendments and supplements to title 7A of the Civil Code, discussed in the section following. These rules of labor law are applied by the new law to labor contracts of those non-Europeans not governed by title 7A or by the special seaman's law of the Commercial Code, or to non-Europeans who are govern-

[4] Art. VIA, paragraph 1, of *S.* 1926–335, Engelbrecht, p. 393.

[5] Tabulation of cases from 1932 to 1939 by v. Tetering, 154 *T* (1941) 439, at pp. 454 ff.; see also Kollewijn, 139 *T* (1934) 789, at 795 ff.

[6] Law of Sept. 26, 1941, effective Nov. 1, 1941, *S.* 1941–396.

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ment employees or those who are not performing menial service for two gulden or less per day.

To summarize the legal position of non-Europeans we may note: (a) labor contract under title 7A, (i) if European work and within the conflicts article, 1603x paragraph 1 B. W., (ii) if the expressed intention of the parties is to be under title 7A, (iii) if the employee has voluntarily submitted to European law generally, or for a particular transaction; (b) labor contract under the 1941 law (i) if European work but performed for an employer not within title 7A, (ii) if work is not European, but is still higher labor, (iii) if service is of lower type, but the compensation amounts to more than two gulden per day; and (c) labor contract under 1601–03 old and the general law of obligations, (i) if service is of lower type and is paid at the rate of two gulden or less per day.[7]

The criteria that have been employed in interracial labor law in the Indies have indeed been varied. Race, nationality, the place where the work is performed, the type of work done, the person of the employer, the land of the employer, and recently the amount of wages paid, have all been decisive of the law to be applied. This diversity has led more than one writer in the field to suggest corrective measures, and although considerable progress has been made in affording the non-European, whether employer or employee, the same protection in labor law that is given the European, further progress along the lines the government has recently followed can be expected in the postwar period.

The broader conflicts problems, those of interregional and (private) international law, do not present the variations that have been noted in interracial law. For the courts of the Indies uniformly hold that, no matter where the contract was executed, the place where the service is to be performed is decisive, and if that be the Indies, the Indies judge is competent to apply that phase of Indies law he deems pertinent. This rule received legislative approbation in 1931.[8]

The General Labor Law of Title 7A of Book III of the Civil Code and the Supplements Thereto

An article in the Administrative Act of the Netherlands Indies declares that the civil and commercial law of the European group shall correspond to Netherlands law, with such discrepancies as the peculiar conditions of the Indies territory warrant. Yet it was twenty years before the Indies govern-

[7] The most recent and comprehensive treatment of the position of non-European workers is by van Tetering, 154 *T* (1941), pp. 439 ff.

[8] *S.* 1931–367, Engelbrecht, p. 100.

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ment enacted a modern labor law upon the model of that of Holland, almost an exact copy. It is obviously impossible to do more than touch at random upon those provisions of title 7A of the Indies Civil Code that may be of interest to the general reader, and devote slightly more space to a few problems that have attracted the greatest attention in the courts and among Dutch legal scholars. For the rest, reference is made to several excellent studies on Indies labor law, unfortunately all in Dutch.[9]

The crucial element in the labor contract is "in the service of the other party" and so is to be distinguished from the related "undertaking of work," which corresponds to the agreement of the independent contractor of the Anglo-American law.[10] A labor contract may, but need not be, in writing, and may be concluded by the offer and acceptance of earnest-money; or so the law lays down, but there is no evidence that "hand-penny" or "God's penny" would have any meaning in the Indies. This is but one of many instances of slavish imitation of the Netherlands law that the Indies legislator would have done well to omit. A married woman who enters into a labor contract is presumed to have the consent of her husband, but a minor can become an employee only with the consent of his statutory guardian. If the employer wishes to hold the employee to certain conditions of work, the regulation thereof must be agreed to in writing by the employee, posted in a conspicuous place, and a copy deposited with the proper government official. A declaration by an employee of his willingness to accept a work-regulation in the future is of no effect.

The wages of a labor contract may be paid in money, board and lodging, clothing, a percentage of the product, the use of land for domestic animals, services to the employee, the use of a residence, medical service, and pay during furlough. If payment is to be made other than as provided, five times the value in money thereof is owing. It is unlawful for an employee to promise to spend his wages or part thereof in any given way, and if such be done there is no valid obligation; yet if there has been performance, the judge can award the employee damages. The employer may exact penalties if a written contract so provides, but cannot collect damages and the penal sum for the same act. And, closing the second division of the title, is a provision

[9] Vreede, *De Indische regeling van de arbeidsovereenkomst* (1927–33), 2 vols.; Hart, *Het koninklijk besluit tot wettelijke regeling van het arbeidscontract in Nederlandsch-Indië* (1927); Buddingh de Voogt, 142 *T* (1935), pp. 553–96.

[10] The two are defined in arts. 1601a and 1601b B. W., Engelbrecht, p. 394. The guaranty of a musician to take part in the furnishing of musical performances by the orchestra leader for a hotel constitutes a labor contract between the musician and the orchestra leader, 149 *T* 815; but an agreement whereby an orchestra leader agrees to furnish dance music for the owner of a dance hall is not a labor contract, 150 *T* 410.

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that an agreement by the employee not to serve in a particular way after the termination of his employment is only valid if in writing; the judge may declare it null notwithstanding, on the ground that it is inequitable to the employee. None of the above provisions have been the subject of much litigation, nor discussed to any extent by the writers.

The third division of the title deals with obligations of the employer, primarily as regards wages. Wages are due even in case of illness, but the amount may be reduced by the payments made from a sick-benefit fund; so also are wages due if the employer prevents the employee from working. Several other provisions are devoted to wages, of which it need only be noted that the amount owed is increased in the event of delay in payment, and that compromise of the amount owed, when in dispute, may be made in specified cases only. The Indies employer was obliged, according to the law as first enacted, to grant Sundays off and such days as locally were equated with Sundays, with the understanding that the number of free days be not less than fifty-two per year. The corresponding Netherlands provision freed the employee from work on Sundays, *if* the work permitted. The Indies provision was mandatory upon the employer, the employee need make no request, but the courts liberally construed the article to permit the employer to bunch the days off rather than the four per month the legislator undoubtedly intended. Finally, the courts were not in accord as to the measure of damages to be awarded if the law was not complied with. To clear up the confusion, the article was completely reframed in 1936, and amended in 1938, to permit the employer to limit the free days to two per month, and even to omit these —with the permission of the Director of Justice—provided fifty-two days per year were allotted; the damages for violation thereof was fixed at twice the amount of the day's wages. A war measure of June 10, 1940, suspended this article for military work, war work, or other services connected with the war effort.[11]

The employee, on his part, is bound to perform the work himself to the best of his ability, in accord with the law and any work-regulation to which he has agreed, and in general to act as a good employee in like circumstances would behave.

The division of title 7A that has been the leading topic of commentators upon labor relations, that has given rise to the greatest amount of litigation, and that has resulted in the continued attention of the legislative arm of the government is that dealing with the various ways in which service under labor contracts may be terminated. Three topics come to the fore: notice of

[11] S. 1940–240.

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termination, termination without notice, and furlough problems. A brief survey of each of these follows.

In the normal labor contract for a given period the contract ends at the expiration of that time, without the requirement of any notice of termination, unless the contract itself so stipulates or the law or local practice so requires. If, however, no period of time is specified, either party has the right to terminate upon giving notice. The period required after notice before the contract may end has seen considerable change since the law was first enacted.[12] Now, one month is normally required, with provision for extra months depending upon the years of continuous service at the time that notice of termination is given.

There is a right to terminate a contract without notice, but this is illegal unless the other party agrees thereto, save in one of two circumstances: that the party terminating indemnify the other, or that the termination is for good cause. Valid reasons are given in the law which give the employer the right to dismiss the employee without notice, and likewise to enable the employee to quit; the courts have construed many of these provisions. The indemnification, in the case of a contract for an unspecified time, is at present equal to the wages owed to the first following day upon which the contract would end if notice of termination had been given on the day of dismissal. If the contract be for a fixed period, the indemnification must be the sum owed for the remaining period of the contract. The parties may agree upon a larger indemnification, and the judge may decree a smaller amount than provided by the statute or agreement, if he believes that sum excessive.

The Indies legislature recognized the necessity of providing furloughs to Europe for the European employee after some years of service and made provision therefor in the earliest version of title 7A. In 1931 a more elaborate article was enacted: (a) If the employer seeks to terminate the contract in order to escape his obligation with respect to a furlough agreed upon, the employee has a right, in addition to any other damages, to seek a sum equal to the amount he would have received during the time of the furlough, plus the passage to the place from which he came, or to the place of furlough, if free passage had been agreed upon; (b) if half the period of service has elapsed and the employer terminates the contract without valid cause, the employee, in addition to other damages, is entitled to an amount which is in the same ratio to the sum mentioned in (a) as the period of service performed towards the obtaining of a furlough at the date of the termination of the contract bears to the period of service needed before being entitled to the fur-

[12] Art. 1603i B. W., *S.* 1926–337, was superseded by the emergency law *S.* 1932–98, which was annually renewed, until in 1939, the article itself was amended by *S.* 1939–546.

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lough; (c) the same applies even if the employee, after half the period of service has passed, terminates the contract because of valid cause therefor on the part of the employer, or if a judge declares the contract dissolved; if the judge dissolved the contract for other than valid causes, the sum mentioned in (b) may be diminished as much as seems equitable to him. An elaborate enactment, but the commentaries clearly reveal that a host of unsolved questions still remain. Is the furlough a matter of right, or of favor? Does the dismissed employee have to request the furlough in order to be entitled to indemnification? The subject is far too complex to present here, and the author can but refer to the excellent studies which have been noted.

This concludes the survey of the significant provisions of title 7A of the Civil Code, but there are three other enactments that are supplementary to the above. The first of these is a law, promulgated during the economic crisis as a companion act to the emergency act extending the period of termination-notice referred to above.[13] The law provided that an employer who terminated the service of an employee who was hired or recruited outside the Indies was required to furnish the employee with the cost of passage home for himself and his family; and the employer was even liable if the termination was for valid cause, and he had not fulfilled his obligation thereunder. It is apparent that the provisions of this act resemble in effect the furlough provisions just discussed, so the legislature attempted to exclude recovery herein if compensation had been received under the furlough provisions. Nevertheless, a leading case held that an employee was entitled to recover under the emergency law even though he had received damages under the furlough provision, if the latter did not cover the cost of passage. The emergency law was annually extended, and finally replaced by the definitive act of Sept. 11, 1939, which for the most part repeats the older law.[14]

Some years later, "to reserve a reasonable portion of the labor opportunities in the country to Netherlands subjects," i.e., natives, foreign orientals and Europeans born or who have established residence in the Indies, a law was passed requiring foreigners to possess a licence in order to be employed in the Indies.[15] Occasioned by the economic crisis, the law proved of some value in the years preceding the present conflagration, for it enabled the government to control to some extent the movements of the foreigners considered to be hostile. The law as framed would have expired on Jan. 1, 1941, but it was extended.

Reference has already been made to a recent enactment that may be de-

[13] S. 1932–97, Engelbrecht, pp. 1789 ff.
[14] S. 1939–545.
[15] S. 1937–681, Engelbrecht, pp. 1792 ff.

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scribed as the counterpart of title 7A of the Civil Code, rather than a supplement thereto. It bears the title "Regulation of the termination (of labor contracts) for certain types of non-European workers," but in content it is much broader.[16] Indeed, it is the last statement of some of the most significant aspects of the modern labor law of the Indies. It is unnecessary, however, to detail the provisions of this law, since, with the exception of the article defining the classes of persons who fall within its scope, it is a rephrased copy of the latest versions of the pertinent provisions of title 7A of the Civil Code.

The last decade and a half before the Japanese invasion saw the introduction of a modern system of labor law, primarily for Europeans at the start, supplemented by further legislation when experience indicated that to be necessary, and culminating with the first step in the application of this law to non-Europeans. But this is not the whole picture. For shadows of the past continue to darken the present. I refer to the labor law regulations for certain groups of Europeans and non-Europeans, special legislation it may be termed, the subject of the following two sections.

Special Legislation for Europeans

It was the murder of an assistant manager on a Sumatran plantation by a coolie that led to the first comprehensive labor legislation in the Indies. Labor on these plantations was the so-called "contract" labor. It was bound to serve by reason of a criminal sanction, and had no opportunity of wreaking vengeance for real or supposedly real intolerable labor conditions on its employer (a corporation or an individual living off the plantation), and so constituted a dangerous threat to the lives of the European personnel that managed the estates. What started out to be protective measures for a group placed in a middle position between an absent employer and hostile employees came out of the legislative halls in 1921 as a brief code of labor law, establishing an equitable bond between the employer and his European employees, "assistants."[17] At first limited to East Coast Sumatra, it was in the years following extended to the assistants of agricultural enterprises throughout most of Sumatra.

There exists a cardinal difference between the Assistants' Regulation and the labor contract provisions of title 7A of the Civil Code. The latter set forth the rights and obligations of both parties, but leaves the conditions of the contract to the will of the parties. The Assistants' Regulation, on the other hand, was a sort of model contract, stating precisely what were to be

[16] S. 1941–396.

[17] S. 1921–334; *cf.* De Meyere, "De assistentenregeling," in *Juri sacrum* (1933), pp. 118–51.

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the minimum requirements for such agreements in all particulars save wages. Where the Civil Code permits labor contracts for unspecified periods, the Assistants' Regulation placed a minimum of one year's service. The assistant's contract had to be in writing, and noted specifically how many free days were to be given each month, the furlough required, the nature of the medical and hospital services to be granted to the employee, and provided criminal sanctions against an employer who violated its provisions.

In spite of a strong desire on the part of Employers' Associations to repeal the Assistants' Regulation, the government, when it enacted the general labor law title of the Civil Code, retained this special labor legislation alongside the general European labor law. A few years later, to bring about greater uniformity, the Assistants' Regulation was amended in several particulars, and extended throughout Sumatra, but it still was not made general legislation even for this limited class of employees. Even after the reforms of 1931, just mentioned, there existed conflicting rules, particularly in the provisions regarding furloughs and the monthly days off from work. In addition, the penal clauses of the Assistants' Regulation, even after the reform of 1931, were out of line with the general principles of the criminal law, showing a tendency to make of labor law a criminal law, with the penalties exclusively imposed upon the employer.

In 1938 the Supplementary Planters' Regulation replaced the Assistants' Regulation.[18] The chief reason for the new law was the legislative intent to extend the rules of the older law to employees of agricultural enterprises throughout the whole of the Indies. The new law declares its provisions applicable to labor contracts between employer, the owner of the agricultural enterprise, and the employee, the manager of the enterprise and those charged with the expert direction and supervision of the work, without regard to the racial group or intention of the parties, or the place where the contract was executed. The provisions of title 7A of the Civil Code are applicable insofar as not derogating from the Supplementary Planters' Regulation. There is greater recognition of the labor law of the Civil Code in the new statute than in the Assistants' Regulation, for example, with respect to notice of termination, wages, and a right to a percentage of the profits, but for the most part the new law repeats the old. The contract must still be in writing, the minimum term of employment is one year, the specific terms of the contract must be set forth, medical and hospital expenses are borne by the employer, and he is still subject to criminal sanctions for violation of the law. The employee's right to four days off per month takes account of the new

[18] *S.* 1938–98, Engelbrecht, pp. 1782 ff. *Cf.* van Tetering, 148 *T* (1938), pp. 575–89; Haisma Rahder, 148 *T* (1938), pp. 921–26.

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version of the provision upon this subject in the Civil Code, while there have been some changes in the rules respecting furloughs. The recent definitive act treating of the return of employees to their homeland after the term of service and the new provisions regarding notice of termination have been extended to the Supplementary Planters' Regulation, as well as title 7A of the Civil Code, previously referred to.

Special Legislation for Natives and Foreign Orientals

Were this study of the labor law and legislation of the Netherlands Indies written twenty years ago the chief topic of concern would have been the so-called "contract" coolie legislation. From the early years of the nineteenth century the government more and more intervened in the regulation of the mutual rights and obligations of the great occidental enterprises of the east coast of Sumatra employing coolie labor, and finally, with the encouragement of private enterprise to exploit the resources of the Indies, there was enacted, in 1880, the first of the coolie ordinances.[19] It peremptorily prescribed that the model contracts drawn up by the government were henceforth to be used in the case of workmen arriving from elsewhere and taken on for manual labor in the large agricultural and industrial enterprises of the Outer Territories. All rules and regulations deemed necessary were stated and the parties were ordered to respect them under penalty of a fine or imprisonment. It was this "penal sanction" that brought such notoriety to the indentured labor agreements of the Netherlands Indies.

It is not necessary to treat here the course of the labor policy of the government with respect to the contract coolies in the years before or after the enactment of the first Coolie Ordinance; excellent studies are available to the English reading public.[20] In 1930, two events brought about a drastic change: (a) the International Labor Office called a conference looking to the eventual abolition of labor contracts with penal sanction, and (b) the tariff law of the United States was amended to prohibit the import of products of convict, forced or indentured labor, unless such products could not be produced in the United States. The result in the Indies was that many of the large enterprises began to shift from contract to free coolie labor, i.e. serving under normal labor contracts without penal sanction, which had been encouraged by a statute affording careful supervision of the rights of the em-

[19] *S.* 1880–133.

[20] Among others, A. D. A. de Kat Angelino, *Colonial policy* (Chicago: University of Chicago Press, 1931), vol. 2, pp. 492–578; Furnivall, *Netherlands India* (1939), pp. 348–56; Vandenbosch, *The Dutch East Indies* (3rd ed., 2nd printing, 1944), pp. 284–92. Extensive bibliography in the Dutch edition of de Kat Angelino, *Staatkundig beleid en bestuurszorg in Nederlandsch-Indië* (1930) deel 2, pp. 656–60.

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ployee, some twenty years earlier;[21] and that the government completely revised the existent Coolie Ordinance, with a view to limiting and eventually abolishing the institution.

There was enacted, then, what is known as the Coolie Ordinance 1931–36,[22] which sets forth the full particulars for the contract that was to bind the native or foreign oriental man or woman of Java and Madura, not a foreman or member of the higher personnel, to work for agricultural or industrial enterprises in the Outer Territories for not more than two years, with possible re-engagement for another year. It set forth the duties and obligations of the employer regarding wages, the granting of days off, the hours of labor, the provision of living quarters, medical and hospital services, and the return of the laborer to the place of his origin. The new Coolie Ordinance still contained the disciplinary and penal provisions for violations of work regulations and absence from work. But there is added a chapter on the gradual abrogation and eventual disappearance of the penal sanction. For enterprises established in 1921 or earlier, it is provided that after Nov. 1, 1936, there have to be fifty non-contract coolies (*i.e.*, serving under normal labor contracts without penal sanction) for every fifty contract coolies, to increase to seventy-five non-contract laborers after Jan. 1, 1940. For undertakings begun in the years after 1921 similar rules are laid down, culminating with those for enterprises set up between 1931 and 1941, which after Jan. 1, 1942, should have fifty per cent non-contract labor. In order to control the abuses in the recruiting of coolie labor both of the contract as well as the non-contract type, the government supervises the recruiting thereof in Java and Madura, while in 1936 the extent of recruiting for contract coolies was considerably restricted.

Excluded from the operation of the Coolie Ordinances were the Chinese coolies, coming from the outside, and working under Chinese mine foremen at the government tin mines of Bangka or at the private tin mines of Billiton. Separate Regulations of Chinese Work controlling the penal sanction labor contracts of these areas have step by step curtailed the contract coolie type of labor and favored the employment of free labor.

The final step was taken in 1941. In November of that year the required revision of the coolie ordinances resulted in the repeal, as of Jan. 1, 1942, of the Coolie Ordinance 1931–36,[23] with the declaration that contract labor agreements existing at that date remain in force for the period stated, but

[21] *S.* 1911–540, Engelbrecht, pp. 1807 ff.

[22] *S.* 1931–94, Engelbrecht, pp. 1795 ff.

[23] *S.* 1941–514; the enactments charging officials of the Labor Office with the investigation of criminal acts of contract coolies were also repealed.

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fall within the provisions of the act of 1911 respecting free labor agreements. The end of the Regulations on Chinese Work in Bangka and Billiton came a month later, also effective Jan. 1, 1942.

The last years, therefore, have seen the end of special legislation for natives and foreign orientals that constituted the final vestiges of a colonial policy long past. The progressive attitude of the government, especially in the promotion of the smaller agricultural and industrial enterprises, is reflected in a legislative enactment of 1941 that deals with the conditions of work of the native and foreign oriental employees of certain industrial enterprises, who do not fall within the conflict provisions of the Civil Code, to which references has been made. The provisions of the law are concerned with hours of labor, safety measures and other matters partaking of the nature of social legislation, but there are articles more directly concerned with the relationship of employer and employee. Unfortunately, no information is available as to whether the particular industrial enterprises to be regulated were announced before the Japanese invasion.

Labor Law of the Future

The reader who is familiar with Anglo-American or European labor law is by now perplexed by the omission of at least two phases of labor law, if not more, which are ever present in modern studies of these fields. I have reference to legislation (a) concerning hours of labor, night work, safety measures, the work of women and children, and the like, and (b) the law of labor unions. The former, by the nature of the development of this field in the Indies, more properly is dealt with in a study on social legislation. For the latter, the only excuse that can be offered is that it seems to be almost completely absent in the Indies up to the present time. Trade unionism has existed in the Indies from the first decade of this century, has played a significant part in the political life of the country, and is even provided for in the article of the Civil Code that is copied from one that formed the basis of the law of the trade unions in the Netherlands. Yet there is a perplexing absence of secondary discussion of the topic as well as woefully few court decisions upon unions.[24] In this particular field of labor law we must look to the future for its solution. The relation of employer and employee seemed, at the time of the Japanese invasion, well advanced and capable of progressing along new lines as rapidly as required by the economy of postwar Netherlands Indies.

[24] *Cf.* the comment of the reviewer of recent Netherlands works on trade union contracts. F. W. W(ertheim), 151 *T* (1940), pp. 95 ff. A brief search through the leading works on the Netherlands "collective" labor contracts revealed no discussion of Indies problems.

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