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India's Labour Legislation and its Employment Relation for the Next Decade

Labour Legislation in India – A Historical Study

KEYWORDS
Labour Legislation, ILO, Employs.

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ABSTRACT *The Indian Labour Legislations owe its existence to the British Raj. Most of the labour legislations were enacted prior to India's independence. The post independence enactment of important legislations in the areas of employee security and welfare derive their origin partly from the vision of independent India's leaders and partly from the provisions in the Indian Constitution and international conventions like the International Labour Organization (ILO). The labour legislations were also enacted keeping in mind the international standards on Human Rights and United Nations Protocols.*

Introduction

Initial periods of imperialism were based on exploitation of the worker class. With the emergence of ILO at an international level and with the inhumane treatment meted out to workmen being replaced with an outlook of dignity of labour, the whole scenario of labour legislations began in pre independence India. After independence legislations related to worker welfare like Provident Fund Act, Employee State Insurance Act, Payment of Bonus Act and Payment of Gratuity Act were enacted with the intention of providing security and retirement benefits to workmen.

Over a period of time several amendments have been made to the existing labour legislations as per the needs of the industry. The case in point is the latest amendment to the Factory Act whereby women worker is allowed to work between 7pm and 6am. Such amendments have been done after industry associations like NASSCOM and ASSOCHAM recommendations to the labour ministry. Now BPO and IT sector which employs a large women workforce during its nightshifts benefits tremendously from this amendment to the Factory Act.

History of Labour laws:

Labour law arose due to the demands of workers for better conditions, the right to organize, and the simultaneous demands of employers to restrict the powers of workers in many organizations and to keep labour costs low. Employers' costs can increase due to workers organizing to win higher wages, or by laws imposing costly requirements, such as health and safety or equal opportunities conditions. Workers' organizations, such as trade unions, can also transcend purely industrial disputes, and gain political power - which some employers may oppose. The state of labour law at any one time is therefore both the product of, and a component of, struggles between different interests in society. International Labour Organisation (ILO) was one of the first organisations to deal with labour issues. The ILO was established as an agency of the League of Nations following the Treaty of Versailles, which ended World War I. Post-war reconstruction and the protection of labour unions occupied the attention of many nations during and immediately after World War I. in Great Britain, the Whitley.

Commission, a subcommittee of the Reconstruction Commission, recommended in its July 1918 Final Report that "industrial councils" be established throughout the world. The British Labour Party had issued its own reconstruction programme in the document titled Labour and the New Social Order. In February 1918, the third Inter-Allied Labour and Socialist Conference (representing delegates from Great Britain, France, Belgium and Italy) issued its report, advocating an international labour rights body, an end to secret diplomacy, and other goals. And in December 1918, the American Federation of Labor (AFL) issued its own distinctively apolitical report, which called for the achievement of numerous incremental improvements via the collective bargaining process. As the war drew to a close, two competing visions for the post-war world emerged. The first was offered by the International Federation of Trade Unions (IFTU), which called for a meeting in Berne in July 1919. The Berne meeting would consider both the future of the IFTU and the various proposals which had been made in the previous few years. The IFTU also proposed including delegates from the Central Powers as equals. Samuel Gompers, president of the AFL, boycotted the meeting, wanting the Central Powers delegates in a subservient role as an admission of guilt for their countries' role in the bringing about war. Instead, Gompers favored a meeting in Paris which would only consider President Woodrow Wilson's Fourteen Points as a platform. Despite the American boycott, the Berne meeting went ahead as scheduled. In its final report, the Berne Conference demanded an end to wage labour and the establishment of socialism. If these ends could not be immediately achieved, then an international body attached to the League of Nations should enact and enforce legislation to protect workers and trade unions. The British proposed establishing an international parliament to enact labour laws which each member of the League would be required to implement. Each nation would have two delegates to the parliament, one each from labour and management. An international labour office would collect statistics on labour issues and enforce the new international laws. Philosophically opposed to the concept of an international parliament and convinced that international standards would lower the few protections achieved in the United States, Gompers proposed that the international labour body be authorized only to make recommendations, and that enforcement be left up to the League of Nations. Despite vigorous opposition from the British, the American proposal was adopted. The Americans made 10 proposals. Three were adopted without change: That labour should not be treated as a commodity; that all workers had the right to a wage sufficient to live on; and that women should receive equal pay for equal work. A proposal protecting the freedom of speech, press, assembly, and association was amended to include only free-

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dom of association. A proposed ban on the international shipment of goods made by children under the age of 16 was amended to ban goods made by children under the age of 14. A proposal to require an eight-hour work day was amended to require the eight-hour work day or the 40-hour work week (an exception was made for countries where productivity was low). Four other American proposals were rejected. Meanwhile, international delegates proposed three additional clauses, which were adopted: One or more days for weekly rest; equality of laws for foreign workers; and regular and frequent inspection of factory conditions. The Commission issued its final report on 4 March 1919, and the Peace Conference adopted it without amendment on 11 April. The report became Part XIII of the Treaty of Versailles. (The Treaty of Versailles was one of the peace treaties at the end of World War I. It ended the state of war between Germany and the Allied Powers. It was signed on 28 June 1919.) The first annual conference (referred to as the International Labour Conference, or ILC) began on 29th October 1919 in Washington DC and adopted the first six International Labour Conventions, which dealt with hours of work in industry, unemployment, maternity protection, night work for women, minimum age and night work for young persons in industry. The prominent French socialist Albert Thomas became its first Director General. The ILO became a member of the United Nations system after the demise of the League in 1946.

Purpose of labour legislation:

Labour legislation that is adapted to the economic and social challenges of the modern world of work fulfils three crucial roles it establishes a legal system that facilitates productive individual and collective employment relationships, and therefore a productive economy; by providing a framework within which employers, workers and their representatives can interact with regard to work-related issues, it serves as an important vehicle for achieving harmonious industrial relations based on workplace democracy; it provides a clear and constant reminder and guarantee of fundamental principles and rights at work which have received broad social acceptance and establishes the processes through which these principles and rights can be implemented and enforced. But experience shows that labour legislation can only fulfills these functions effectively if it is responsive to the conditions on the labour market and the needs of the parties involved. The most efficient way of ensuring that these conditions and needs are taken fully into account is if those concerned are closely involved in the formulation of the legislation through processes of social dialogues. The involvement of stakeholders in this way is of great importance in developing a broad basis of support for labour legislation and in facilitating its application within and beyond the formal structured sectors of the economy.

Evolution of Labour legislation in India:

Labour legislation in India has a history of over 125 years. Beginning with the Apprentice Act, passed in 1850, to enable children brought up in orphanages to find employment when they come of age, several labour laws covering all aspects of industrial employment have been passed. The labour laws regulate not only the conditions of work of industrial establishments, but also industrial relations, payment of wages, registration of trade unions, certification of standing orders, etc. In addition, they provide social security measures for workers. They define legal rights and obligations of employees and employers and also provide guidelines for their relationship. In India, all laws emanate from the Constitution of India. Under the Constitution, labour is a concurrent subject, i.e., both the Central and State governments can enact labour legislation, with the clause that the State legislature cannot enact a law which is repugnant to the Central law. A rough estimate places the total number of enactments in India to be around 160.

The Apprentice Act of 1850 was followed by the Factories Act of 1881 and the first State act was the Bombay Trade Disputes (and Conciliation) Act, 1934, followed by the Bombay Industrial Disputes Act, 1938, which was amended during the war years. This was replaced by the BIR Act, 1946. The Central Government at this time introduced the Industrial Employment (Standing Orders) Act, 1946. In 1947, the government replaced the Trade Disputes Act with the Industrial Disputes Act, which was later modified. This law is the main instrument for government intervention in industrial disputes. After Independence, many laws concerning social security and regulation of labour employment were enacted, such as the ESI Act, 1948, EPF and Miscellaneous Provisions Act, 1952, Payment of Gratuity Act, 1972, Equal Remuneration Act, 1976. Etc.

Types of Labour Legislation in India:

1) Protective and employment legislation
2) Social security legislation
3) Regulatory legislation.

A list of Labour Legislation in India:

Legislation Related to Industrial Relations:

The Trade Union Act, 1926 and the Trade Union Amendment Act, 2011

The Industrial Employment (Standing Orders) Act, 1946
The Industrial Disputes Act, 1947.
Legislation Pertaining to Wages:
The Payment of Wages Act, 1936 and The Payment of Wages (Amendment) Act, 2005
The Minimum Wages Act, 1948
The Payment of Bonus Act, 1965
The Equal Remuneration Act, 1976

Legislation Pertaining to Women and Children:

The Maternity Benefit Act, 1961
The Child Labour (Prohibition and Regulation) Act, 1986

Legislation Pertaining to Social Security:

The Workmen's Compensation Act, 1923 and The Workmen's Compensation (Amendment) Act, 2000.The Employees State Insurance Act, 1948

The Employees" provident Fund and Miscellaneous Provisions Act, 1952 and The Employees" Provident Fund and Miscellaneous Provisions (Amendment) Act, 1996

The Payment of Gratuity Act, 1972
The Unorganised Workers Social Security Act, 2008.

Conclusion

Thinking about labour law in India requires us to think not merely about the application of asset of legal or regulatory conventions governing labour in a particular society. It also requires thinking about what 'labour law' might mean in varying economic and social contexts. In certain respects Indian labour law is much like the labour law of developed industrial societies. It has extensive legislation providing for minimum standards of employment, social security, occupational health and safety and so on. Its labour law legalises trade unions and their activities, and provides a framework for the settlement of industrial disputes. It legalizes industrial action in pursuit of collective interests. Yet, as we have seen, formally the labour law of India covers only a very small percentage of the Indian workforce, and even among that cohort the law's application in practice is lax to say the least. Neither of the two principal objects of the labour law system identified in this paper appears to have been met in practice. To all intents and purposes then, this is a non-functioning system.

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