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Evaluation of Labour Legislations in India

At the beginning of the process of industrialization, the State was a silent observer: the society did not show any interest in social science as it showed in natural and physical sciences. Consequently, the economy was guided by the principle of laissez fair. However, industrial revolution brought certain harsh realities before the State. The society was now organized into capitalists and labourers, which gave birth to the concept of haves and have-nots. The State very soon realized that industrialization envelops the whole society and it would not be advisable to alienate its purpose from mass good or social interest. Since the time it was realized, that industrialization must be directed towards mass good and welfare (socialism), legislative process of intervention in industrial relations has become the norm world over. The secret behind state intervention in industrialization is the balance of forces on the industrial scene. The Indian labour scene is dominated by a variety of labour legislations. The enormous amount of labour law that we have is indicative of the labour and social system that we inherited at the dawn of independence¹

In order to ensure good relations between labour and management the government of India since independence has taken active interest to remedy injustice to labour. The government of India has taken both legislative and administrative action to further the aims and aspirations of labour².

India began its journey into industrial relations at a time when the country was semi-feudal in character and *lassie-faire* was the running engine of the economy. One of the first destinations in labour legislation ironically began by passing anti-labour legislation. The British govnt, of India enacted legislation such as Assam labour Act, Workmen's Breach of Contract Act of 1859 and the Employers and Workmen's (Disputes) Act of 1860, which rendered workmen liable to criminal penalties for breach of contract.³

The first of the Factories Act was enacted at the instance of British Cotton manufacturers. They were worried over the unfair advantage taken by the Bombay cotton mill owners because of the absence of any restriction on the employment of children and hours of work. The pressure applied by the British manufacturers on the Secretary of State in India resulted in the appointment of a Factory Commission to look into the conditions of workers in 1875⁴."

¹ Navin Chandra, "Rationalizing Indian Labour Law: A theoretical Perspective", Labour & Dev. Vol 2 No.2, Jan-June '97 p 3

² KN. Subramanian, Labour-Manpower Relations in India, (1967) D 216

³ Employment Security and Labour Market Flexibility: LO, www.ilo.org.

⁴ The historical aspect of the growth of labour legislations in India' summarized from. V.G Goswami, Labour and industrial laws,(1999)

Some of the social workers on the Indian side were opposed to the exploitation of children. These social workers supported the British manufacturers in their cry for restrictions on employing children in factories. The Government of India in the end had to enact the Factories Act of 1881. The Factories Act of 1881 was the first legislation directly affecting industrial labourers in the country. It applied to all manufacturing establishments using power driven machinery, employing 100 or more labourers and working for more than 120 days in a year.

It ruled that no children below the age of 7 could be employed in a factory and nobody before attaining the age of 12 could be made to work for more than 9 hours a day. There was provision of one-hour rest daily and 4 holidays per month. Fencing of dangerous machine was also made mandatory in order to reduce accidents. Accidents in factories had to be reported and in case it was required, factory inspectors could be appointed to look into the working of factories. The Factories Act, 1881, did not satisfy either British manufacturers or Indian social workers. The reports of Factory Inspectors also painted a grim picture of the conditions of workers. A fresh enquiry was held in the conditions of Bombay cotton mills and there was a memorandum submitted by N.M. Lokhanday, after being signed by more than 5000 people.⁵

In 1887, an English Inspector of factories visited Indian factories and wrote a report. In 1890 an international labour conference, held in Berlin adopted resolutions, asking for the regulations of working hours of women and children in member countries. The same year, there was another enquiry into the conditions in Indian factories⁶.

Consequently, legislation the Factories Act of 1891 was adopted. It was made applicable to establishment's using power and working with 50 or more people. It was however provided that the provisional government could extend it even to the establishments employing 20 persons. It revised up their age of employment of child labourers to 9 and reduced the working hours for children below 14 to 7 per day. In the case of female workers, the working hours were fixed at 11 with one 4 hours break in between. Both the children and female workers could not be made to work after 8 p.m. and before 5 a.m. A provision was made for one-day weekly rest and half an hour lunch per day. The legislation made it obligatory for the management to provide drinking water and make suitable arrangements for ventilation and sanitation. As a result of the recommendation of a committee headed by Sir H.P Frere Smith, the Factories Act of 1911 came into existence⁷."

The Factory Act of 1911 provided the nucleus around which all subsequent Acts have been built. It extended the scope by encompassing within its purview the Factories that worked even less than 120 days in a year and reduced the working hours for children to 6 per day. Children and women could not be made to work between 7.p.m. and 5.30 a.m. For adult male workers in

⁵ Ibid,

⁶ V.G Goswami, *Labour and Industrial law* (1999) p 241

⁷ The Government of India in the year 1906 appointed a committee consisting of Commander Sir H.F. Frere-Smith and two medical officer for making an *enquiry*. into the questions of limiting adult workers working hours, allowing children to work in Factories on producing certificate of fitness etc.(Sodhganga.infilibnet.ac.in)

textile factories, the number of hours was fixed at 12 per day with half an hour break in between. Safety and health measures were made tighter. Full time factory inspectors were appointed to see whether the provisions were being enforced. The Factories Act of 1922 was adopted in the background of ending of the First World War, formation of the International Labour Organization and the formation of All India Trade Union Congress. The Act raised the lower age limit of children to 12. For adult workers the working hours were fixed at 11 per day or 60 per week. A weekly day of rest was provided and the lunch duration was raised to one hour. The standard of ventilation and sanitation was to be prescribed. Factory inspection was made more effective. The Government of India appointed the Royal Commission on Labour, headed by J.H. Whitley to look into the conditions of industrial workers and suggest steps to ameliorate them so that reforms could be carried out and the rising tide of labour unrest stemmed. The report of the Commission was submitted in **1931** and a series of legislation ensued during the 1930s. The Factories Act of 1931 was brought into existence. It distinguished between seasonal and perennial factories. In the former, working hours were fixed at 11 per day and 60 per week. In the latter they were limited to 10 per day and 54 per week. Children could not be made to work for more than 5 hours a day. Overtime work came to be regulated and higher payments were prescribed for it. In no case an adult worker could be made to work for more than 13 hours and child for more than seven% hours at a stretch. Employers were instructed to have suitable arrangements for first-aid and creches for the children of women workers. Ventilation and sanitation facilities were to be improved and safety regulations tightened. The powers of factory inspectors were increased. Another important development that took place in the year 1923 was the bringing of a law to compensate workers for their loss while being employed. The Workmen's Compensation Act of 1923 made the employers responsible for compensating workmen for all injuries sustained in the course of their work. The scales of compensation varied according to the wages of the workmen and the kind of disability suffered. A Commissioner was to be appointed in each province to administer this legislation. All accidents were to be compulsorily reported to him and he was responsible for settling all claims for compensation. The employers were also made liable to compensate the workmen for occupational diseases contracted by the latter. The law relating to trade unions was not easy to come by in India. Long after the trade union law in England was enacted, the courts in India still considered the activities of the trade union as illegal. The fact that the trade union activities in India lacked legal basis was discovered by the trade unionists when Messrs Binny & Co., a powerful employer, took in to court, The Madras Labour Union for Textile workers which was the first organised trade union in the country led by B.P. Wadia was charged for "interfering with the workpeople and dissuading them from working and thereby causing loss to the company", by Messrs. Binny & Co. The court granted an injunction against the trade union leaders, which made it impossible for the trade union leaders to continue their activities."⁸

It is difficult to point out the precise reasons for the growth of trade union movement in India. A Bill was introduced on **2nd** January 1925 in the Legislative Assembly. The passing of the Trade Unions Act in the year 1926 marked a significant development in the history of trade union movement in the country. Many of the provisions included in the Indian enactment had been lifted almost bodily from the corresponding British law. "The Trade Unions Act, 1926 is a permissive legislation wherein any seven or more members of a trade union may apply for registration of a trade union. Registration is not compulsory and unregistered trade unions would

⁸ *Supra*, n 2 at p.232

not in any way, be illegal. Benefits such as immunity from criminal and civil liability as are conferred by the law on registered unions will not be available to unregistered unions. In its essentials the Trade Unions Act, 1926, remains unchanged since its first enactment. The Government enacted the Tea Districts Emigrant Act of 1932 to protect the interest of garden workers who received very low wages and were treated badly by planters. Indian Mines Act was passed on the recommendation of Royal Commission in the year 1935 which banned the employment of children below 15 and put the maximum hours of work at 54 per week. The health and safety provision were made stricter.

Some major labour enactments during the period were as follows:

- (1) The Tea Districts Emigrants Labour Act, 1932 (to control migration into Assam for work on plantations)
- (ii) The Workmen's Compensation Act, 1923
- (iii) Indian Dock Labourers Act, 1934
- (iv) Factories Act, 1934

The establishment of the I.L.O in 1919 has been a very potent factor in conditioning the course of labour legislation all over the world. The acceptance of the principle that "labour is not a commodity" and the slogan that "Poverty anywhere constitutes a danger to prosperity everywhere", have influenced the course of labour legislations in all the countries. The ILO, through persistent investigation of workers' living conditions has continually established the need for ameliorating labour legislation. It has initiated proposals for labour legislations, subjected them to elaborate discussions and reviews and has adopted Conventions and Recommendations. The ILO by trying to establish uniform labour standards in so far as the diverse conditions and uneven economic developments of the world permit, has done a singular service in the field of labour legislation. ILO, Through Conventions and Recommendations, have undertaken the task of creating - international minimum standards of labour which constitute the International Labour Code. They cover a wide range of subjects including wages, hours of work, annual holidays with pay, minimum age of employment, medical examination, maternity protection, industrial health, safety and welfare, social security, freedom of association, right to organize and bargain collectively, employment conditions of seamen and unemployment.⁹

The recommendations and conventions of International Labour Organization had its impact on labour legislation in India. There were series of amendment to Factories Act, the Industrial Employment (standing orders) Act, 1946, the Industrial disputes Act, 1947 were also passed, which laid down the path for governing of industrial relations In India. The independence from British rule and the new Constitution of India gave the Indian policy makers an opportunity to lay down the future road for labour reforms In India. The concept of social justice embossed in the Indian constitution empowered the post-independence labour laws to tackle the problems of

⁹ www.ilo.org.in

industrial relations. A glance at the existing labour laws reveal that it was enacted at varying economics viz., feudal, capitalistic, mixed, and socialistic ones actuated by varying motives and based on varying philosophies and jurisprudence have rolled into a co-mixture.

The principal labour laws in India the legislations can be categorized as follows:

- 1) Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement.
- 2) Labour laws enacted by Central Government and enforced both by Central and State Governments.
- 3) Labour laws enacted by Central Government and enforced by the State Governments.
- 4) Labour laws enacted and enforced by the various State Governments which apply to respective States.

(a) Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement

1. The Employees' State Insurance Act, 1948
2. The Employees' Provident Fund and Miscellaneous Provisions Act, 1952
3. The Dock Workers (Safety, Health and Welfare) Act, 1986
4. The Mines Act, 1952
5. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976
6. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labor Welfare Fund Act, 1976
7. The Mica Mines Labour Welfare Fund Act, 1946
8. The Beedi Workers Welfare Cess Act, 1976
9. The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
10. The Cine Workers Welfare (Cess) Act, 1981
11. The Beedi Workers Welfare Fund Act, 1976
12. The Cine Workers Welfare Fund Act, 1981

(b) Labour laws enacted by Central Government and enforced both by Central and State Governments

13. The Child Labour (Prohibition and Regulation) Act, 1986.
14. The Building and Other Constructions Workers' (Regulation of Employment and Conditions of Service) Act, 1996.
15. The Contract Labour (Regulation and Abolition) Act, 1970.
16. The Equal Remuneration Act, 1976.
17. The Industrial Disputes Act, 1947.
18. The Industrial Employment (Standing Orders) Act, 1946.
19. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
20. The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain

Establishments) Act, 1988

21. The Maternity Benefit Act, 1961
22. The Minimum Wages Act, 1948
23. The Payment of Bonus Act, 1965
24. The Payment of Gratuity Act, 1972
25. The Payment of Wages Act, 1936
26. The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
27. The Building and Other Construction Workers Cess Act, 1996
28. The Apprentices Act, 1961
29. Unorganized Workers Social Security Act, 2008
30. Working Journalists (Fixation of Rates of Wages Act, 1958
31. Merchant Shipping Act, 1958
32. Sales Promotion Employees Act, 1976
33. Dangerous Machines (Regulation) Act, 1983
34. Dock Workers (Regulation of Employment) Act, 1948
35. Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Act, 1997
36. Private Security Agencies (Regulation) Act, 2005

(c) Labour laws enacted by Central Government and enforced by the State Governments

37. The Employers' Liability Act, 1938
38. The Factories Act, 1948
39. The Motor Transport Workers Act, 1961
40. The Personal Injuries (Compensation Insurance) Act, 1963
41. The Personal Injuries (Emergency Provisions) Act, 1962
42. The Plantation Labour Act, 1951
43. The Sales Promotion Employees (Conditions of Service) Act, 1976
44. The Trade Unions Act, 1926
45. The Weekly Holidays Act, 1942
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46. The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
47. The Workmen's Compensation Act, 1923
48. The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
49. The Children (Pledging of Labour) Act 1938
50. The Bonded Labour System (Abolition) Act, 1976
51. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

Classification of LABOUR LAWS in India

Labour Laws may be classified under the following heads:

I. Laws related to Industrial Relations such as:

1. Trade Unions Act, 1926
2. Industrial Employment Standing Order Act, 1946.
3. Industrial Disputes Act, 1947.

II. Laws related to Wages such as:

4. Payment of Wages Act, 1936
5. Minimum Wages Act, 1948
6. Payment of Bonus Act, 1965.
7. Working Journalists (Fixation of Rates of Wages Act, 1958

III. Laws Related to Working Hours, Conditions of Service And Employment Such As:

8. Factories Act, 1948.
9. Plantation Labour Act, 1951.
10. Mines Act, 1952.
11. Working Journalists and other Newspaper Employees' (Conditions of Service and Misc. Provisions) Act, 1955.
12. Merchant Shipping Act, 1958.
13. Motor Transport Workers Act, 1961.
14. Beedi & Cigar Workers (Conditions of Employment) Act, 1966.
15. Contract Labour (Regulation & Abolition) Act, 1970.
16. Sales Promotion Employees Act, 1976.
17. Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
18. Dock Workers (Safety, Health & Welfare) Act, 1986.
19. Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996.
20. Building and Other Construction Workers Welfare Cess Act, 1996
21. Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
22. Dangerous Machines (Regulation) Act, 1983
23. Dock Workers (Regulation of Employment) Act, 1948
24. Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Act, 1997
25. Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993
26. Industrial Employment (Standing Orders) Act, 1946
27. Mines and Mineral (Development and Regulation Act, 1957
28. Plantation Labour Act, 1951
29. Private Security Agencies (Regulation) Act, 2005

IV. Laws related to Equality and Empowerment of Women such as:

30. Maternity Benefit Act, 1961
31. Equal Remuneration Act, 1976.

V. Laws related to deprived and Disadvantaged Sections of the Society such as:

32. Bonded Labour System (Abolition) Act, 1976
33. Child Labour (Prohibition & Regulation) Act, 1986
34. Children (Pledging of Labour) Act, 1933

VI. Laws related to Social Security such as:

35. Workmen's Compensation Act, 1923.
36. Employees' State Insurance Act, 1948.
37. Employees' Provident Fund & Miscellaneous Provisions Act, 1952.
38. Payment of Gratuity Act, 1972.

39. Employers' Liability Act, 1938
40. Beedi Workers Welfare Cess Act, 1976
41. Beedi Workers Welfare Fund Act, 1976
42. Cine workers Welfare Cess Act, 1981
43. Cine Workers Welfare Fund Act, 1981
44. Fatal Accidents Act, 1855
45. Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976
46. Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
47. Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
48. Mica Mines Labour Welfare Fund Act, 1946
49. Personal Injuries (Compensation Insurance) Act, 1963
50. Personal Injuries (Emergency Provisions) Act, 1962
51. Unorganised Workers' Social Security Act, 2008

State intervention in labour relations is marked with variety and bulk of labour laws. It is very natural for anyone to cry for the simplification and consolidation of labour laws to reduce proliferating variety. Some of the labour laws like Trade Unions Act 1926, Industrial Disputes Act, 1947, Industrial employment (Standing Orders) Act, 1946, Payment of Wages Act, 1936, Workmen's Compensation Act, 1923 are pre-independence legislations and have been continued even after the adoption of the Constitution of India. The labour laws, which have been continued enacted in the post independence era, find their roots in Part IV of the Constitution, i.e., Directive Principles of the State Policies. Legislations like Employees State Insurance Act, 1948, Minimum Wages Act, 1948, Employees Provident Fund & Miscellaneous Provisions Act, 1952, Factories Act, 1948, Payment of Wages Act, 1972, Contract Labour (Regulation & Abolition) Act, 1970, Mines Act, 1952, Maternity Benefit Act, 1961, Plantation Labour Act, Beedi Cigar Workers (Conditions of Employment) Act, 1966 are some of those post-independence labour laws which have been enacted in pursuance of the Constitutional mandate and goals. These legislations have to be seen as an inevitable outcome of the historical necessities of a period, dominated by unscrupulous economic exploitation of labour. Weak and unorganised labour was pitted against mighty and organized employers. Therefore, labour had to fight for legislations to protect their interest. Each labour law was enacted to serve a particular object in a particular context.¹⁰

Therefore we find host of labour laws in this country. Despite some of these laws being existent for more than 60-years, it appears that they have not succeeded in providing a satisfactory basis for the regulation of industrial relations and that a total new look ought to be given to these laws. So, the scope of labour law is wide extensive and comprehensive. It explains the law multi-dimensional aspects. It deals with employment, remuneration, conditions of work, trade unions, and labour management relations. While the law of contract and tort or property is homogenous in nature, labour law is less homogenous. It refers to the rules governing the particular legal relationship. Traditional employment gives birth to individual contractual relationship. Labour

¹⁰ Sodhganga.infilibnet.ac.in

laws deal with the statutory requirements and collective relationship between organized economic interest and the state. Labour has been recognized as a different branch of law.

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