
UNIT 3 LABOUR LAWS - CONCEPT, ORIGIN, OBJECTIVES AND CLASSIFICATION

Objectives

After studying this chapter, you should be able to :

- have a clear concept of labour legislations
- know the origin and factors responsible for the growth of labour legislations
- understand the basic objectives of labour legislations
- comprehend the categorisation of different labour legislation

Structure

- 3.1 The Concept of Labour Legislations
 - 3.1.1 General Introduction
 - 3.1.2 Industrial Revolution and the need for Labour Legislations
 - 3.1.3 The Main Ingredients of Labour Legislations
 - 3.1.4 Principles of Social Justice, Social Equality, Social Security, National Economy and Labour Legislations
- 3.2 Origin of Labour Legislations
 - 3.2.1 Introduction
 - 3.2.2 Factors Influencing Labour Legislations
- 3.3 Objectives of the Labour Legislations
 - 3.3.1 Different Objectives
- 3.4 The Classification of Labour Legislations
 - 3.4.1 The Regulative Labour Legislations
 - 3.4.2 The Protective Labour Legislations
 - 3.4.3 Wage-Related Labour Legislations
 - 3.4.4 Social Security Labour Legislations
 - 3.4.5 Welfare Labour Legislations
 - 3.4.6 Miscellaneous
 - 3.4.7 General
- 3.5 Conclusion

3.1 THE CONCEPT OF LABOUR LEGISLATIONS

3.1.1 General Introduction

Law comes into existence to cater to the growing needs of society, which may be caused by technological, economic, political, social changes. Law is a dynamic concept. Law is like a citadel which requires regular repairs, revamping and replacement. "Life and Laws have moved together in history and it must do in future". It is in this perspective that the

Labour Legislations have to be studied.

3.1.2 Industrial Revolution and the need for Labour Legislations

Society evolves institutions to abhor vacuum created by changes. Industrial Revolution is a epoch-making event, which completely changes the lifestyles of society from agricultural and pastoral to industrial and materialistic one. The industrial society brought about, in its wake, excessive exploitation of the working classes by the employer who took advantage of the individual dispensability of the worker and wanted maximum profit on his investment. The golden rule of capitalism that "Risk and Right" go together provided them with prerogatives to "hire and fire". The other legal concepts which were then



available were those of Master and Servant and carrot and stick etc. The principle of common law was in operation. The law of contract used to govern the relation between worker and the employer in which individual contact was struck, the terms of contract were usually verbal and mostly used in cases of breaches, leading to prosecution and imprisonment of workers. Labour and Migration Act was another legislation which gave rise to the "Indentured labour system". Anti-Combination legislations were in vague treating 'combination' of workers as act of criminal conspiracy. Longer hours of work, abysmally low wages, no safety and welfare provisions, and no insurance - the exploitation at large. State was adopting the policy of Laissez-faire (let not interfere) and employers abused workers, taking advantage of the situation.

Every society on its onwards march revises, reviews, refurbishes and reinvents its legal concept and civilised ways of living. The changes brought about by the industrial revolution created some gaps and it became the responsibility of the society to fill-up those gaps. Society went for certain social devices to take care of the gaps, which are known as labour legislation.

The labour legislations are the products of Industrial Revolution and they have come into being to take care of the aberrations created by it. They are different from common legislations, because they come to alleviate special disorders created by specific circumstances. Therefore, they are specific and not general in orientation, philosophy and concept.

3.1.3 The Main Ingredients of Labour Legislations

Labour legislation regards individuals as workers, whereas the general legislation regards him a citizen. The principles governing labour legislations are more influenced by the postulates of social justice than general justice. Workers are the weaker class of industrial society and have suffered long at the hands of employers. Therefore, these sets of legislations go out of way in protecting workers and securing justice to them. The influences of 'discriminative justice' and 'distributive justice' can be clearly seen over them. All the labour legislations are heavily skewed towards labour and they are specifically designed like that.

Labour legislation seeks to deal with problems arising out of occupational status of the individual. Consequently, such problems as hours of work, wages, working conditions, trade unions, industrial disputes etc. come to be the main, subject matter of labour legislations. Thus, the behaviour of the individual or his groups is the function of labour legislation as of any other legislation. But under labour legislation, the individual is affected in the capacity of a worker or an employer. Therefore, the persons who are neither the employers nor the workers are least affected directly by labour legislation. To make the point clear, a few examples are necessary. A legislation regarding working conditions such as the factory legislation or laws regarding payment of wages or compensation for work injury or employment of women or children impinge upon the individuals as workers and the employers. On the contrary, a law regarding ownership of property or a law relating to the marriage or sales tax affects him as a citizen.

Individuals have different roles to perform and different laws are designed for regulating the different roles. It is the role-relation that determines whether a particular legislation falls under the category of labour legislation, social legislation or general legislation. All these legislations try to meet the specific objectives of their respective target groups- that is (a) to provide subsistence, (b) to aim at abundance, (c) to encourage equality, and (d) to maintain security.

As labour legislations are to regulate the conditions of labour, in the industrial milieu, it is required to be adjusted as per the changing requirements of industry. This has to be done more frequently than the general legislation where changes are not that swift. Unless 'labour legislations are subjected to frequent revision and not left to continue as they are, they become obsolete and irrelevant. The Indian Labour Legislations are the best example. Most of them have become outdated as the required revisions have not been affected and gaps have been created between the expectation of industrial so(...! the institution of labour legislation.



3.1.4 Principles of Social Justice, Social Equality, Social Security, National Economy and Labour Legislations

Labour Legislations contain the principles of social justice, social equity, social security and national economy in their concept.

Social justice implies two things. First, equitable distribution of profits and other benefits of industry between owner and workers. Second, providing protection to workers against harmful effect to their health, safety and morality.

Social equality provides the flexibility in labour legislations to adjust to the need of the industrial society.

Social security envisages collective action against social risks which constitute the crux of the labour legislation.

National Economy provides the standards to be set for the labour legislations.

Human Rights principles and human dignity postulates provide the broader base for the concept of labour legislations.

Thus, these principles are the fundamentals for understanding the concept of Labour jurisprudence.

3.2 ORIGIN OF LABOUR LEGISLATIONS

3.2.1 Introduction

The origin of labour legislation is the history of continuous and relentless struggle for emancipation of working class from clutches of aggressive capitalism. The struggle was between two unequals. The contract between capital and labour could never be struck on equitable terms. The social scientists interpreted this struggle in different ways. The point, however, was to change it. The change contemplated was one of transforming a slave into partner and thereby bridle the power of capital to impose its own terms on the workmen.

Various factors helped this process to take place. The struggle was not easy. Numerous forces, directly and indirectly, hastened the pace facilitating the passing of labour friendly legislation.

3.2.2 Factors Influencing Labour Legislations

Early Exploitative Industrial Society

The origin of labour legislation lies in the excesses of the early industrialism that followed Industrial Revolution. The early phase of industrialisation in the capitalist countries of the world was an era of unbridled individualism, freedom of contract and the laissez-faire, and was characterised by excessive hours of work, employment of young children under very unhygienic and unhealthy conditions, payment of low-wages and other excesses. Naturally, such excesses could not have continued for long without protest and without demand for reforms. The early Factories Acts flowed from these excesses and manifested the desire of the community in general to protect its weaker section against exploitation. The workers had very little legal protection available. Therefore, it can be safely said that the labour legislations are the natural children of industrial revolution.

Impact of Contemporary Events

- a) Along with Industrial Revolution, Revolutionary thinking of Rousseau, J.S.Mill, the French Revolution, Hegel, Marx & Engels and Russian Revolution greatly influenced the thought processes and hastened the pace of labour jurisprudence.
- b) The world wars made it possible for the labourers to realise their importance that unless they produce, it will be difficult for warring nations to win. Therefore, they must stake their claims for better quality of work life.
- c) The revolution in science, technology, the communication and telecommunication also helped in bringing the world, closer. It became easier for the working classes of



the underdeveloped world to know the better conditions of service of their counterparts in the developed world.

The Growth of Trade Unionism

The Trade Union movement, which itself springs from industrial revolution has been another factor which has quickened the growth of labour legislations. On the one hand, their demands for protection of the interests of the working class led to legislations in the field of wages, hours of work, women's compensation, social security and other areas; on the other hand, their growth necessitated legislations for the regulation of industrial disputes, their prevention and settlement and trade union rights and privileges. Trade unions have been as much conditioned by labour legislations as they have conditioned them.

Growth of Political Freedom and Extension of Franchise

Gradual extension and adoption of universal adult suffrage placed in the hands of the working class, a powerful instrument to influence the cause of state policy. Their representatives started espousing the cause of labour and getting progressive legislations passed. The workers used their political powers for betterment and amelioration of their lots.

Rise of socialist and other revolutionary ideas

In his analysis of capitalism, Marx showed that the exploitation of labour was inherent in the capitalist economic system. Therefore, he advocated the overthrow of capitalist system. The echo of the slogan, "the workers of the world unite, you have nothing to lose but your chains", reverberating throughout the capitalist world, sent a shudder among the conservative and capitalist circles to which ameliorative and protective labour legislations came as safe alternatives. They readily grasped labour legislations as antidote to the spread of revolutionary ideas. The Fabian Society of England, the establishment of socialist and communist parties in many countries and first and second internationals strengthened the trend for progressive labour legislations.

The Growth of Humanitarian Ideas and the Concept of Social Welfare and Social Justice

The humanitarian ideas and role of humanitarians, the philanthropic and social reformers influenced the shape of labour legislation. Early Factories Acts were made possible because of the efforts of the humanitarians like Hume, Place, Shaftesbury and others.

Researches in Social Sciences like Sociology, Psychology and Anthropology exploded the myth of the natural elite and gave a powerful push to the movement of social reforms, social change, social justice and labour legislations.

Establishment of I.L.O.

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 continuously established the need for ameliorative 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 organise and bargain collectively, employment conditions of seamen and unemployment.

The ILO standards have influenced Indian Labour Legislations to a great extent. ILO standards have formed the sheet-anchor of Indian Labour Legislations, especially after



1946 when Indian National Government assumed office. The Directive Principles of State Policy in Articles 39, 41, 42, 43 and 43A of the constitution, lay down policy objectives in the field of labour having close resemblance and influence to the ILO Constitution and the Philadelphia Charter of 1944. Thus, the ILO both directly and indirectly has had a great influence on the Indian Labour Scene and Labour Legislation.

Factors Specific to India

The factors discussed above are the general factors influencing the shape of labour legislation. There are specific factors, peculiar to India which have influenced labour legislations.

a) Influence of colonial rule

Most of the early labour legislation came into being because of the pressure from the manufacturers of Lancashire and Birmingham; because labour employed in factories and mills in India were proving very cheap in comparison to their British counterpart. No doubt, these legislations were beneficial to Indian labour but this benefit was incidental to the main purpose i.e. the protection of the interests of British Capitalists.

The British Civil Servants carried with them the British tradition of democracy and pragmatism. The Workman Compensation Act, 1923, the Indian Trade Unions Act, 1926, the Payment of Wages Act, 1936 etc. followed British pattern

b) The struggle for national emancipation and adoption of Indian Constitution

The Industrial Workers got support from the freedom struggle and nationalist leaders who made tireless efforts to get protective labour legislations enacted. The Indian Trade Unions Act, the appointment of Royal Commission on Labour etc. were because of pressure from freedom struggle.

The leaders of the national movement had promised the establishment of a better and just social order after independence; which was ultimately embodied in the Preamble, Fundamental Rights and Directive Principles of State Policy of the Indian Constitution.

We have plethora of labour legislations immediately after independence -

- The Factories Act, 1948
- The E.S.I. Act, 1948
- The Minimum Wages Act, 1948
- Mines Act, 1952
- Employees P.F. & Miscellaneous Provisions Act, 1952
- Plantation Labour Act, 1951
- Payment of Bonus Act, 1965

3.3 OBJECTIVES OF THE LABOUR LEGISLATIONS

3.3.1 Different Objectives

Labour legislation in India has sought to achieve the following objectives:

- (1) Establishment of justice- Social, Political and Economic
- (2) Provision of opportunities to all workers, irrespective of caste, creed, religion, beliefs, for the development of their personality.
- (3) Protection of weaker section in the community.
- (4) Maintenance of Industrial Peace.
- (5) Creation of conditions for economic growth.
- (6) Protection and improvement of labour standards.
- (7) Protect workers from exploitation:
- (8) Guarantee right of workmen to combine and form association or unions.
- (9) Ensure right of workmen to bargain collectively for the betterment of their service conditions.



- (10) Make state interfere as protector of social well being than to remain an onlooker.
 (11) Ensure human rights and human dignity.

Proper regulation of employee-employer relationship is a condition precedent for planned, progressive and purposeful development of any society. The objectives of labour legislation is a developing concept and require ceaseless efforts to achieve them on continuous basis.

In its landmark judgement in **Hindustan Antibiotics v. The Workmen (A.I.R. 1967, S.C. 948; (1967) 1, Lab.L.J.114)** the Supreme Court of India made a significant observation. The object of the Industrial law, said the Court, was to bring in improvements in the service conditions of industrial labour by providing them the normal amenities of life which would lead to industrial peace. This would accelerate the productive activities of the nation, bringing prosperity to all and further improving the conditions of labour.

3.4 THE CLASSIFICATION OF LABOUR LEGISLATIONS

On the basis of specific objectives which it has sought to achieve, the labour legislations can be classified into following categories-

- (1) Regulative
- (2) Protective
- (3) Wage-Related
- (4) Social Security
- (5) Welfare both inside and outside the workplace

3.4.1 The Regulative Labour Legislations

The main objective of the regulative legislations is to regulate the relations between employees and employers and to provide for methods and manners of settling industrial disputes. Such laws also regulate the relationship between the workers and their trade unions, the rights and obligations of the organisations of employers and workers as well as their mutual relationships.

- The Trade Unions Act, 1926
- The Industrial Disputes Act, 1947
- Industrial Relations Legislations enacted by states of Maharashtra, MP, Gujarat, UP etc.
- Industrial Employment (Standing Orders) Act, 1946.

3.4.2 The Protective Labour Legislations

Under this category come those legislations whose primary purpose is to protect labour standards and improve the working conditions. Laws laying down the minimum labour standards in the areas of hours of work, supply, employment of children and women etc. in the factories, mines, plantations, transport, shops and other establishments are included in this category. Some of these are the following :

- Factories Act, 1948
- The Mines Act, 1952
- The Plantations Labour Act, 1951
- The Motor Transport Workers Act, 1961
- The Shops and Establishments Acts
- Beedi and Cigar Workers Act 1966

3.4.3 Wage-Related Labour Legislations

Legislations laying down the methods and manner of wage payment as well as the minimum wages come under this category:



- The Payment of Wages Act, 1936
- The Minimum Wages Act, 1948
- The Payment of Bonus Act, 1965
- The Equal Remuneration Act, 1976

3.4.4 Social Security Labour Legislations

They cover those legislations which intend to provide to the workmen social security benefits under certain contingencies of life and work.

- The Workmen's Compensation Act, 1923
- The Employees' State Insurance Act, 1948
- The Coal Mines PF Act, 1948
- The Employees PF and Miscellaneous Provisions Act, 1952
- The Maternity Benefit Act, 1961
- Payment of Gratuity Act, 1972

Chapter V A of the Industrial Disputes Act 1947 is also, in a manner of speaking, of the character of social security in so far as it provides for payment or lay-off, retrenchment and closure compensation.

3.4.5 Welfare Labour Legislations

Legislations coming under this category aim at promoting the general welfare of the workers and improve their living conditions. Though, in a sense all labour-laws can be said to be promoting the welfare of the workers and improving their living conditions and though many of the protective labour laws also contain chapters on labour welfare, the laws coming under this category have the specific aim of providing for the improvements in living conditions of workers. They also carry the term "Welfare" in their titles.

- Limestone and Dolomite Mines Labour Welfare Fund Act, 1972.
- The Mica Mines Welfare Fund Act, 1946
- The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
- The Cine Workers Welfare Fund Act, 1981.
- In addition, some state governments have also enacted legislations for welfare funds.
- Beedi Workers Welfare Fund Act, 1976

3.4.6 Miscellaneous

Besides the above there are other kinds of labour laws which are very important. Some of these are :

- The Contract Labour (Regulation & Abolition) Act, 1970
- Child Labour (Prohibition and Regulation) Act 1986
- Building and other construction workers (Regulation of Employment and Conditions of Service) Act 1996
- Apprentices Act 1961
- Emigration Act, 1983
- Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
- Inter State Migrant Workmen (Regulation of Employment and Condition of Service) Act, 1979
- Sales Promotion Employees (Condition of Service) Act 1976
- Working Journalists and other Newspapers Employees (Condition of Service and Miscellaneous Provision) Act, 1955.



3.4.7 General

An important feature of almost all labour laws is the existence of employer-employee nexus. Besides, each labour law has its provisions in terms of coverage, based mainly on the number of employees, salary levels and so on. The definition of expressions used in different labour laws are not necessarily uniform. All these have resulted in considerable amount of litigation leading to a vast amount of industrial jurisprudence.

Another important point to note is that while all the labour laws, excepting Shops and Establishment Acts, are enacted by Parliament, quite a few of them are implemented both by the Central Government and the State Governments (including Union Territories) the jurisdiction being determined by the definition of the term 'appropriate government' in the relevant statute. It is also relevant to point out that some of the Parliamentary laws are implemented exclusively by the State Governments, as for example Trade Unions Act 1926, Workmen's compensation Act 1923, Plantation Labour Act 1951, Working Journalists Act 1955, Factories Act 1948 and so on.

3.5 CONCLUSION

The evolution of labour jurisprudence is the culmination of the incessant struggle waged by the workers', all over the world for just and better conditions of work as well as security of their job. Labour legislations have now acquired the status of a separate branch of jurisprudence because of its special features and changing juristic ideas. Therefore, an idea about its concept, origin, development, objectives and classification etc. will be of immense help to comprehend its principles.