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Historical Development of Labour Law in India

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ABSTRACT

The paper examines the evolution of employment legislation across time, emphasising its significance for post-World War II industrialised and emerging nations alike. The role of labour law in welfare states is examined, as it plays a crucial role in establishing social foundations and organisational governance principles. After attaining independence in 1947, India deliberately implemented labour legislation with significant trade union participation, creating a distinct legal domain inside the Indian legal system. Understanding the evolution of labour laws requires a deep historical context since political and industrial battles frequently significantly reference earlier fights. India now has more than 150 state-specific labour laws and over 60 major federal labour laws that forbid discrimination, promote fair employer-employee interactions, and set minimum standards. Imagining a future where the rights of workers are a prerequisite for the growth of the economy and society is made possible by this historical trajectory. The data and material used in this study were sourced from a variety of books, law journals, statutes, and other sources using the doctrinal research approach.

Keywords: Labour Law, India, ILO (International Labour Organisation), Historical Development, Post- Independence.

I. INTRODUCTION

Notably in the wake of the Second World War, labour law has enjoyed a significant place in developed as well as developing economies. It is expected to work as an important instrument of welfare state. It has helped countries to lay down foundations of societies as well as some of the basic postulates of organizational governance.

After Independence from the colonial rule in 1947, the Indian state consciously chose the path of passing labour legislations on different spheres of work. A number of such laws were enacted with the active role of trade union leadership. This branch of law has come to be accepted as distinct from rest of the Indian legal system.

Labour law passed and present is explicable only within a firm historical framework which

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takes account of all these factors. Indeed, the memory of previous conflicts over the law is itself a salient feature of political and industrial struggles concerning labour legislation.

In India, Labour Law falls under the List III, which is Concurrent list where both Central and State Legislatures can enact the law. In all, the central legislature has enacted over 60 major central labour legislations. In same way the state legislature has enacted about over 150 labour legislations where each of these legislations are specific to the concerned state.

(A) What is labour law?

Labour law refers to a corpus of laws, regulations, and guidelines that govern the interaction between an employer, employee, trade union, and occasionally the government. 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 low².

The two primary areas of labour law are: (1) the rights of employees at work and through employment contracts, which are covered by individual labour law; and (2) the tripartite connection between the employer, employee, and union, which is covered by collective labour law.

II. HISTORY OF LABOUR LAW

The origins of labour law can be traced back to the remote past and the most varied parts of the world. While European writers often attach importance to the guilds and apprenticeship systems of the medieval world, some Asian scholars have identified labour standards as far back as the Babylonian Code of Hammurabi (18th century BCE) and the rules for labour-management relations in the Hindu *Laws of Manu* (*Manu-smriti*; c. 100 CE); Latin American authors point to the Laws of the Indies promulgated by Spain in the 17th century for its New World territories³. None of these can be regarded as more than anticipations, with only limited influence on subsequent developments. Labour law as it is known today is essentially the child of successive industrial revolutions from the 18th century onward⁴. It became necessary when customary restraints and the intimacy of employment relationships in small communities ceased to provide adequate protection against the abuse's incidental to new forms of mining and manufacture on a rapidly increasing scale at precisely the time when the 18th-century

² Yasir, S.I.A., Labour Legislation in India – A Historical Study, 6 Indian J. Applied Res. 34, 36 (n.d.), <https://doi.org/10.15373/2249555X>.

³ Labour law, Encyclopaedia Britannica (last visited Nov. 14, 2023), <https://www.britannica.com/topic/labour-law>.

⁴ Labour law, Encyclopaedia Britannica (last visited Nov. 14, 2023), <https://www.britannica.com/topic/labour-law>.

Enlightenment, the French Revolution, and the political forces that they set in motion were creating the elements of the modern social conscience. It developed rather slowly, chiefly in the more industrialized countries of western Europe, during the 19th century and attained its present importance, relative maturity, and worldwide acceptance only during the 20th century⁵.

III. INTERNATIONAL LABOUR ORGANISATION

International labour organisation was founded in 1919 and is one of the oldest organizations in this century. It was created in 1919, as part of the Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice⁶.

The labour commission was presided over by Samuel Gompers, the American Federation of Labor's (AFL) national chairman. It was made up of delegates from the following nine nations: the United States, Belgium, Cuba, Czechoslovakia, France, Italy, Japan, Poland, and the United Kingdom.

Security, humanitarian, political, and economic factors were the impetuses behind the creation of the ILO. The ILO's founders saw the value of social justice in maintaining peace in the face of worker exploitation in the industrialising countries of the day. The interconnection of the world's economies and the necessity of collaboration to achieve parity in working conditions across nations vying for market share were also becoming more widely recognised.

The fundamental principle on which the ILO IS based on the “Freedom of Expression and of association”⁷.

Reflecting these ideas, the Preamble of the ILO Constitution states:

- Whereas universal and lasting peace can be established only if it is based upon social justice.
- And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required.
- Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own

⁵ Labour law, Encyclopaedia Britannica (last visited Nov. 14, 2023), <https://www.britannica.com/topic/labour-law>.

⁶ International Labour Organization, History of the ILO, <https://www.ilo.org/global/about-the-ilo/history/lang-en/index.htm>

⁷ H.K. Saharay, Textbook on Labour & Industrial Law 6 (6th ed., Universal Law Publishing 2014).

countries⁸.

The ILO has had a major influence on how international labour standards are shaped. Numerous topics have been covered by the agreements and recommendations, ranging from wages and working hours to more modern concerns like gender equality and workplace safety.

IV. HISTORY OF LABOUR LAW IN INDIA

Labour legislation in India has a history of over 125 years. Beginning with the Apprentices 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, etc⁹.

(A) Labour Law During British Raj

The background of India's Labour laws is deeply entwined with the legacy of British colonisation. The industrial/labour legislations enacted by the British were primarily intended to protect the interests of the British employers. Considerations of British political economy was naturally paramount in shaping some of these early laws¹⁰.

Thus, The Factories Act 1883 was enacted in 1883 in response to pressure from the Manchester and Lancashire textile magnates on the British parliament, as it is well known that Indian textile goods posed fierce competition to British textiles in the export market. This was done in an effort to make labour in India more expensive.

The British felt that a restricted legal model should be in place because the aforementioned act served as the model of punishment for the Indian industry, even if at the time it was the best legislation for India. India was thus the first nation to impose the eight-hour workday, forbid child labour, forbid women from working at night, and establish overtime compensation for work that surpasses the eight-hour threshold.

The original colonial legislation underwent substantial modifications in the post-colonial era because independent India called for a clear partnership between labour and capital. The content of this partnership was unanimously approved in a tripartite conference in December 1947 in

⁸ International Labour Organization, History of the ILO, <https://www.ilo.org/global/about-the-ilo/history/lang-en/index.htm>

⁹ Yasir, S.I.A., Labour Legislation in India – A Historical Study, 6 *Indian J. Applied Res.* 34, 36 (n.d.), <https://doi.org/10.15373/2249555X>.

¹⁰ Labour Law Act, National Crime Investigation Bureau, https://ncib.in/pdf/ncib_pdf/Labour%20Act.pdf (last visited Nov. 14, 2023).

which it was agreed that labour would be given a fair wage and fair working conditions and in return capital would receive the fullest co-operation of labour for uninterrupted production and higher productivity as part of the strategy for national economic development and that all concerned would observe a truce period of three years free from strikes and lockouts¹¹.

Secondly, to resolve labour conflicts, the Trade Dispute Act of 1929 was proposed. The primary goal of the Act was to establish procedures for the creation of Boards of Conciliation and Courts of Enquiry in order to look into and resolve trade disputes. The Trade Dispute Act of 1929 was the first Indian statute to govern the interaction between an employer and his employees.

"Experience of the working of the Trade Disputes Act, 1929, has revealed that its main defect is that while restraints have been imposed on the rights of strike and lock-out in public utility services no provision has been made to render the proceedings institutable under the Act for the settlement of an industrial dispute, either by reference to a Board of Conciliation or to a Court of Inquiry, conclusive and binding on the parties to the dispute¹².

(B) Labour Law After Independence

After the war, it was determined that the Indian Central Government would be in charge of labour laws and the advancement of workers' rights. This was in line with a five-year development plan that addressed "all phases of the worker's life, of housing, welfare, work, better working conditions, and fair wages." Numerous social principles were expressed in the 1950 Indian Constitution, including the Preamble's dedication to social, political, and economic justice as well as its overall egalitarian view of national development.

Following laws were enacted in India after Independence is as follows: -

a) The Industrial Dispute Act, 1947

The main industrial relations law in India, the Industrial Dispute Act, 1947 (IDA), addresses the mechanisms for resolving industrial disputes. This Act was created for a number of reasons, including the investigation and resolution of labour disputes. This Act focuses on any industry that is run by the Central Government, operates under its authority, is overseen by a railway, or is related to any other industry that the Central Government may deem to be managed for this purpose.

In order to promote measures for good working relations and understanding between the

¹¹ Labour Law Act, National Crime Investigation Bureau, https://ncib.in/pdf/ncib_pdf/Labour%20Act.pdf (last visited Nov. 14, 2023).

¹² The Industrial Disputes Act, Labour Commissioner Government of NCT of Delhi, <https://labour.delhi.gov.in/labour/industrial-disputes-act> (last visited Nov. 14, 2023).

workmen and the businesses in the future, this Act provides us with specific guidelines and guidelines regarding the works committee for both the businesses and all the workers. In addition, it promises to settle any significant differences in opinions regarding these matters.

b) The Factories Act, 1948

The Factories Act, 1948 regulates the work conditions of most workers employed in the organized manufacturing sector in India. The first legislation on factories in India dates back to 1881. Ten years later it was replaced by the Indian Factories Act, 1891. Soon after independence the Factories Act, 1948 was enacted to further humanize the conditions of work in factories¹³. The Factories Act of 1948, which regulated employment, working conditions, the working environment, and other welfare standards particular to a given industry, was passed in order to safeguard the welfare of workers in factories.

c) Child Labour (Abolition And Regulation) Act, 1985

Child Labour (Abolition and Regulation) Act 1985 was passed by the Indian Parliament. This Act banned the employment of children below the age of 14 years in hazardous occupations, which among others, include glass and glassware, fireworks and matchmaking, and carpet weaving. The Act regulates the work of children where they are permitted to work. It fixes the number of hours for child work. It is provided that the total spread over of child's work shall not exceed 6 hours. There is a provision of weekly holiday. There are provisions for health and safety of children employed or permitted to work in any establishment. It lists 24 areas in which governments are expected to frame rules for the protection of child labour¹⁴.

d) The Minimum Wages Act, 1948

India has a statutory labour regulation known as the Minimum wages Act, 1948 that sets minimum salaries for both skilled and unskilled labour. In order to give both skilled and unskilled labourers a respectable standard of living, the Act establishes minimum pay rates and fixes them. The Act gives the federal and state governments the authority to control, monitor, and amend the minimum wage rates that are paid to workers who are employed in scheduled jobs under their respective purviews. The Act compensates all employees equally for performing the same task, regardless of gender.

Supreme Court in the case of *People's Union for Democratic Rights v. Union of India*

¹³ D. S. SAINI, LABOUR LAW IN INDIA: STRUCTURE AND WORKING, IN THE CHANGING FACE OF PEOPLE MANAGEMENT IN INDIA 60-94 (P. BUDHAWAR & J. BHATNAGAR EDS., ROUTLEDGE 2009).

¹⁴ D. S. Saini, Labour Law in India: Structure and Working, in The Changing Face of People Management in India 60-94 (P. Budhwar & J. Bhatnagar eds., Routledge 2009).

(1982)3SCC 235¹⁵ ruled that taking jobs from employees for less than the minimum wage violates Article 23 of the Constitution and amounts to forced labour.

In the case of *Sanjit Roy v. State of Rajasthan AIR 1938 SC 328*¹⁶ Supreme Court held that the state may not use public utility services as an excuse to extract employment by paying less than the minimum wage, as this would be considered forced labour and violate Article 23 of the constitution.

Post-independence, therefore, India attempted to put into practise the welfare state idea that was envisioned in the Indian Constitution's Preamble and in the chapter on the Directive Principles of State Policy. Several labour legislations had been enacted.

V. WHY IS THERE A NEED FOR LABOUR LAWS?

Labour Laws are important to establish fair and square framework within which the relationship between employers, employees, trade unions and sometimes government can function. These laws serve as a foundation for maintaining a balance of power in the work area, protecting right and well-being of workers as well as fostering a stable and productive economy.

Labour laws set Minimum standards for working conditions, unsafe environments, inadequate compensation or ensure that the employees are not subject to any exploitation through working for long working hours. These set of rules and regulations also play crucial role in promoting social justice by forbidding discrimination based on gender, race, and religion etc.

Additionally, these laws also provide a mechanism to resolve disputes between Employees and Employers which can contribute to a better work environment. Hence, these laws create a sustainable, ethical and better work environment which upholds the rights of the workforce while contributing to Economy.

VI. RECENT TREND AND AMENDMENT

The Central Government of India, during the presentation of the union budget 2021 created four new codes by combining a total of 29 labour laws. Where one of them was The New Wage Code which is discussed below.

New Wages Code, 2022

The new Indian wage law, which went into effect in 2022, would affect working hours, salary structures, and PF (Provident Fund) contributions, among other important aspects of life. What

¹⁵ People's Union for Democratic Rights v. Union of India (1982) 3SCC 235

¹⁶ Sanjit Ray v. State of Rajasthan (1938) AIR 1938 SC 328

constitutes the new wage code's core:

- a. The private working class's pay structure saw substantial changes as a result of the introduction of this code, which had an effect on how much money employees took home.
- b. The code specifies that the basic salary shall not be less than fifty percent of the gross compensation.
- c. The code has raised the amount that employees contribute to PF.
- d. Depending on the employee's working hours, the code may result in longer working hours, but it may also result in more weekly off days.
- e. This code was therefore implemented to simplify wage-related laws and has an impact on workers' take-home pay, working hours, and PF contributions.

VII. CONCLUSION

In conclusion, the historical development of Labour Law reflects the ongoing effort to strike a balance between the interests of employers and employees. Over the time, Labour Laws have evolved, mostly to meet the demands of worker for improved working conditions and the need for employers to manage labour efficiently. The ILO, was established in 1919, has been a significant aspect of global governance and workers' rights.

Its over more than 125 years of history that the labour law in India has undergone significant major turning points, from the legislation of colonial era influenced by Britishers to post independence reforms that are align with the idea of state welfare. The relevance of Labour Law lies in their role in establishing a fair framework for the relationships between Employer and Employee. These laws for labour set minimum standards for working conditions, provide mechanism for dispute resolution and prevent discrimination. The historical road of labour law serves as a stepping stone for shaping a future where workers' rights are integral to societal and economic progress.

In the way towards modernization, the recent amendments of labour laws through the introduction of the New Wage code in 2022 represents a significant shift in not only redefining salary structures and working hours but also reinforcing the governments commitment to enhance the overall welfare of the workforce.

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