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## A STUDY ON LABOUR LAWS: CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

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**Mr. Alok Shankar Mudgal**

Research Scholar

Department of Law

J.S. University, Shikohabad (Firozabad), U.P.

**Dr. Jayendra Singh Rathore**

Dean

Department of Law

J.S. University, Shikohabad (Firozabad), U.P.

### ABSTRACT

Labor laws are one of the most important institutions in modern civilization. Its emergence and expansion may be defined as one of the key innovations in the organised industry, where a large number of men, children, and women are exploited in conditions that are typically adverse to their health, safety, and welfare and to which they may be powerless to object. The purpose of this study is to discuss essential characteristic features of the Acts concerning Industrial Relations. These can be termed as a 'Golden Trio of Industrial Relations' and even though each of their functions is vastly different their ultimate motive is to establish industrial peace and harmony. While the terms industry, workman, industrial dispute, employer have been defined under the Industrial Disputes Act, 1947, the Industrial Employment (Standing Orders) Act, 1946 defines the need for the employer to lay down conditions for services so that it becomes easier for a workman to acclimatise in an industrial environment and case an employer fails to do the same the trade unions established under the Trade Unions Act, 1926 shall always be ready to take up the matter before an adjudicatory authority or dispute resolutory body established under the Industrial Disputes Act, 1947.

*KEYWORDS: Labor law, Industrial relations, constitutional framework, legislative framework*

### INTRODUCTION

Labor laws are one of the most important institutions in modern civilization. Its emergence and expansion may be regarded as one of the key innovations in the organised industry, where a large number of men, children, and women are exploited in conditions that are typically adverse to their health, safety, and welfare and to which they may be powerless to protest. [1]

Labour legislation, like most other pieces of legislation, owes its existence to colonial control. The British political economy affected the early labour regulations.[2]

Thus, we may conclude that labour regulation evolved alongside the advent of industrialisation in the 18th century, when India was mostly an agrarian state and a tiny manufacturing centre utilising basic machinery.

However, India had an advantage over Asian and European markets in the textile business, which was discouraged due to England's widely dispersed textile plants. The British government's policy was to import raw materials from India while making textiles in England. The British Government's abuse of Indian labourers resulted in their ruin, and they were eventually forced to speak out against the Britishers' repressive tactics. The national movement that culminated in the Swadeshi movement, which resulted in a boycott of imported goods, altered the Indian industry's landscape. In Assam, the plantation industry was the organised business that was governed by legislation. Beginning in 1863, the Bengal and Central governments enacted different laws to restrict who was employed and prevent labourers from leaving the tea gardens. These individuals were hired by professional recruiters and caused significant difficulty for workers, prompting the government to enact legislation.

However, the majority of these laws were enacted not to safeguard the interests of employees, but to protect the interests of employers. In 1881 and 1901, the first Factories Act and Mines Act were passed. Legislation pertaining to the general welfare of all employees was first adopted after 1922.

In other words, most labour laws created before to India's independence are primarily concerned with the organised sector. After independence, parliamentarians under the Government of India Act, 1935, were enthusiastic about labour policy. The idea of ensuring employees' welfare and rights was given top priority in labour legislation and the Indian Constitution of 1950. [3]

Following independence, labour legislations intended to ensure adequate living standards for industrial employees. The term "decent living standard" is not exhaustive and encompasses a wide variety of living circumstances that may be referred to as the basics necessary for pleasant living, as well as the right to safeguard one's own interests. [4]

In 1942, the Government of India established a permanent tripartite labour organisation comprised of the Indian Labour Conference, Standing Committee, and Industrial Committee in order to harmonise labour regulations and eliminate all conflict between labour and capital. The following are the three primary goals of the mentioned machinery:

1. promotion of consistency in labour laws;
2. establishing methods and processes to resolve labour disputes; and
3. Consultations on all labour issues, particularly those of national importance.

## **RIGHTS AND OBLIGATIONS OF THE EMPLOYER AND WORKERSTOWARDS ONE ANOTHER**

### **1. Obligations of Employers**

- a) Form a Works Committee and provide the necessary resources for its operation.
- b) Implement all agreements and awards, and help with mediation and dispute resolution.
- c) Desist from declaring illegal lockouts;
- d) Pay layoff and retrenchment benefits and re-employ laid-off and retrenched workers;
- e) Avoid abrupt changes in service circumstances;
- f) Maintain the status quo and prevent disciplinary action against workers involved in conflicts and protected workers.

### **2. Rights of Employers**

- a) Retrench and lay off employees in accordance with the Act's requirements;
- b) Objections to the decisions of arbitrators and tribunals;
- c) Declare a lockout without warning while a strike is in effect;
- d) Request sensitive information.

### **3. Obligations of Workers**

- a) Follow settlements and agreements made through arbitration and conciliation;
- b) Desist from instigating illegal strikes;
- c) Cooperate with the authorities established by the Act in order to settle the matter peacefully and speedily.

### **4. Rights of Workers**

- a) To be notified of changes in working and service circumstances;
- b) To be compensated for layoffs and retrenchments;
- c) Right to be represented in actions under the Act by an officer of a registered trade union of which he is a member or is affiliated, or by any other worker engaged in the industry in which the worker is employed;
- d) Recover legal and other dues from the employer in accordance with an award or agreement. He has one year from the day the money becomes due from the employer to submit a claim for such dues.

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## BASIC PRINCIPLES OF LABOUR LEGISLATION

### SOCIAL SECURITY

‘Social Security is a blanket protection provided by society against unanticipated events in contemporary life such as disease, unemployment, old-age infirmity, and accident, against which the individual cannot be expected to defend himself and his family via his talent and foresight.’[5]

When members of a society or community are exposed to threats that cause difficulty to people who do not have adequate means to protect themselves, they are said to be protected by social security measures. As a result, it protects a person against certain hazards to which members of a community are likely to be exposed. The concept of social security is founded on the principles of human dignity and social fairness. The basics of social justice state that citizens who contribute to the country's progress and success, both socially and economically, should be protected in times of difficulty. The State does this through authorised agencies. [6]

Social security measures are vital because they are a key step toward the construction of a welfare state that provides employees with a sense of belonging and security, particularly in the face of economic anxiety. [7]

### SOCIAL EQUALITY

Legislation based on social justice principles adheres to a set of requirements for future implementation. These guidelines are established with the past and future in mind. If a standard is established by legislation, it remains in effect till modified. Any alteration to the current legislation is permitted only if there are compelling reasons, and only for the benefit of the general public. As a result, anytime the government amends laws to fit changing conditions and public expectations and needs. This type of legislation is believed to be founded on social equality.[8]

### SOCIAL JUSTICE

Social justice has two meanings: fair distribution of advantages and profit among all people, regardless of whether they are owners or employees, and providing workers with protection from adversities. In the words of Justice P. N. Bhagwati, ‘the idea of ‘social justice’ does not arise out of some fanciful notions ..... it must be based on a more solid foundation’.[9] Similarly, Justice P. B. Gajendragadkar says, ‘the concept of social and economic justice is a living concept. Because of it, the rule of law thrives and the idea of the welfare state is still significant’.[10]

## CLASSIFICATION OF LABOUR LEGISLATIONS

Labour legislation in India is now classified under the following headings, which may be further divided into the eight categories given below:

1. Laws on Industrial Relations
  - a) Trade Unions Act, 1926
  - b) Industrial Disputes Act, 1947
  - c) Industrial Employment (Standing Orders) Act, 1946
2. Wage Related Laws
  - a) Payment of Wages Act, 1936
  - b) Payment of Bonus Act, 1965
  - c) Minimum Wages Act, 1948
  - d) The Equal Remuneration Act, 1976
  - e) Working Journalist (Fixation of Rates of Wages) Act, 1958
3. Industry-Specific Laws
  - i. Factories Act, 1948
  - ii. Plantation Labour Act, 1951
  - iii. Mines Act, 1952
  - iv. Working Journalists and or Newspaper Employees' (Conditions of Service and Misc. Provisions) Act, 1955
  - v. Merchant Shipping Act, 1958
  - vi. Beedi & Cigar Workers (Conditions of Employment) Act, 1966
  - vii. Motor Transport Workers Act, 1961
  - viii. Sales Promotion Employees (Conditions of Service) Act, 1976
  - ix. Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
  - x. Cinema Workers and Cinema Workers (Regulation of Employment) Act,1981
  - xi. Cine Workers' Welfare Fund Act, 1981.
  - xii. Dock Workers (Safety, Health & Welfare) Act, 1986
  - xiii. Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996
  - xiv. Building & Other Construction Workers Cess Act, 1996
  - xv. Contract Labour (Regulation & Abolition) Act, 1970
  - xvi. Mica Mines Labour Welfare Fund Act, 1946
  - xvii. Limestone & Dolomite Mines Labour Welfare Fund Act, 1972
  - xviii. Beedi Workers Welfare Fund Act, 1976
  - xix. Beedi Workers Welfare Cess Act, 1976
  - xx. Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Fund Act, 1976

- xxi. Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Cess Act, 1976
  - xxii. Cine Workers Welfare Fund Act, 1981
  - xxiii. Cine Workers Welfare Cess Act, 1981
4. Women-Specific Laws
- a) The Maternity Benefit Act, 1961
  - b) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
5. Deprived and Disadvantaged Sections of Society specific Laws
- a) Child Labour (Prohibition & Regulation) Act, 1986
  - b) Bonded Labour System (Abolition) Act, 1976
6. Laws on Social Security
- i. Employee's Compensation Act, 1923
  - ii. Employees' State Insurance Act, 1948
  - iii. Employees' Provident Fund & Miscellaneous Provisions Act, 1952
  - iv. Payment of Gratuity Act, 1972
  - v. The Unorganized Workers' Social Security Act, 2008
7. Laws on Employment and Training
- a) Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
8. Others
- b) Weekly Holiday Act, 1942
  - c) Labour Laws (Exemption from Furnishing Returns and Maintaining Register by Certain Establishments) Act, 1988

## DISCUSSION

The framers of the Constitution recognised the importance to protect labour therefore they assimilated provisions regarding the protection of labour rights under various provisions. Part III and part IV of the Constitution relates to Fundamental Rights and Directive Principles respectively, both these consist of provisions concerning labour and elaborate their rights. Further, the scope of Articles 14 and 21, has been broadened through the judicial approach.

## FUNDAMENTAL RIGHTS

Part III of the Constitution of India, 1950 deals mainly with the Fundamental Rights guaranteed to all irrespective of any social dogmas. The Constitution of India, 1950, Article 14 'the

State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India'. [11] It says that all individuals shall be equal before the law whether a sovereign body or an ordinary individual; second that laws shall be made applicable equally to all persons. Thus, in totality establishing equality of status to all persons. [12]

This includes all employees in the organised and unorganised sectors, whether paid, contractual, or migratory. The Constitution of India, 1950, Article 15 sets restriction on "discrimination on five grounds i.e., religion, race, caste, class and place of birth or any of them". Clauses (1) and (2) of the Article deal with employees' rights (3).

Article 15 clause (1) of the Indian Constitution of 1950 states that the state must not discriminate on the aforementioned grounds. This implies that no worker shall be discriminated against on any of the aforementioned reasons, and that labour welfare legislation and social security measures shall apply to all categories and classes of employees. The Manual Scavengers and their Rehabilitation Act, 2013, for example, is an attempt to prohibit the occupation of manual scavenging while integrating them into the mainstream, and the Bonded Labour System (Abolition) Act, 1976, which takes steps to eliminate the threat of Bonded Labor.

In *Bandhua Mukti Morcha v. Union of India and Others* [13], it was held that in order to eradicate bonded labour, bonded labourers must be identified and appropriate measures must be taken to rehabilitate them, and any negligence on the part of the State Government in making the provisions applicable is a violation of Articles 21 and 23 of the Indian Constitution. [14]

The Constitution of India, 1950, Article 15 clause (3), State will not be prevented from making any special provision for children and women, there are many provisions made under labour legislation for the protection of women and children such as under the Factories Act, 1948 [15] that enshrines provisions for the protection of women and children working in factories which includes creche facilities for infants, medical care, rest hours, separate toilets, specific hours of working i.e. avoiding long hours of working etc. Other laws specifically for women and children are the Maternity Benefit Act, 1961; [16] The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; The Equal Remuneration Act, 1976; [17] Child Labour and Adolescent Labour (Prohibition & Regulation) Act, 1986.

Article 16 of the Indian Constitution of 1950 deals with equality of opportunity.

- Equality of opportunity for all people in terms of employment or appointment to any State post;
- No citizen should be denied or discriminated against solely on the basis of religion, race, caste, sex, descent, place of birth, or domicile, or any combination of these factors.

In the case of *Daily Rated Casual Labour v. Union of India*[18], the Court ruled that casual workers who were paid on a daily basis and performed work equivalent to that of regular employees had a right to a minimum wage equal to that of regular employees but without the benefit of raises. Also, when the main aim of employee classification is to pay salaries less than the minimum, it violates Articles 14 and 16 of the Indian Constitution of 1950, as well as the spirit of the International Covenant on Economic, Social, and Cultural Rights, Article 7. Finally, under Article 23 of the Indian Constitution of 1950, refusing to pay minimum wages amounts to worker exploitation, and the government cannot take advantage of its position in this regard.

Article 19 is concerned with Fundamental Freedoms. Article 19 (1)(c) of the Indian Constitution of 1950 gives the freedom not only to form but also to be a member of unions or organisations. Article 19 clause (4) imposes various limits to prevent misuse of the provision; nonetheless, the restrictions must be fair in the eyes of the law and should promote public order, morality, national integrity, and sovereignty. The right to form and join trade unions and associations was reaffirmed in the case of *Kameshwar Prasad and others v. the State of Bihar and others*[19], wherein the Court also held that workers, in addition to joining and forming associations, had the right to participate in peaceful demonstrations, with the court clarifying that Article 19 (1) clauses (a) and (b) do not give an exclusive right to collective bargaining and strike. [20]

The Constitution of India, 1950, Article 21, "No individual shall be deprived of his life or personal liberty unless pursuant to procedure provided by law". The court has enlarged the reach of the stated Article by judicial interpretations, and rights such as livelihood, labour dignity, freedom from bonded labour, and so on have been included within its scope. In *Peoples Union for Democratic Rights v. Union of India*[21], the Supreme Court ruled that lowering minimum salaries for workers at Asiad Projects in Delhi violated Article 21 since it violated their right to survive. According to Justice Bhagwati, the right to salaries and a reasonable level of life is a basic right of every human being, and this includes drinking water, housing crèches, maximum earnings, medical help, and safety.

The Supreme Court ruled in *Bandhua Mukti Morcha v. Union of India and others*[22] that the main purpose of the Bonded Labour System (Abolition) Act, 1976 is to rehabilitate bonded labourers so that they are saved from destitution and are not compelled to return to the shackles of bondage. Previously, the right to livelihood was not given much weight; however, in *Olga Tellis v. Bombay Municipal Corporation*[23], the Supreme Court defined the right to livelihood to be a component of the right to live under Article 21.

Articles 23 and 24 of the Indian Constitution of 1950 guarantee freedom from exploitation. Article 23 outlaws all sorts of forced labour, including beggar. It protects residents not just against the state, but also from private persons. It expressly requires the state to safeguard against forced



labour, trafficking, and other types of compelled labour. The term 'force' in the Article is very important and has a broad meaning.

According to this Article, forced labour also includes being compelled to work in a position that needs less qualification. The article delves into the numerous reasons of forced labour. Any deviation from this Article is deemed a violation of human rights and dignity. Contractual agreements created without the permission of a person are also considered forced labour. Furthermore, the scope of compelled labour can be expanded, therefore the Article is broad rather than thorough in its extent. The only exemption to the Article is in clause (2), which states that required services for public benefit are enforced by the state without regard to race, religion, caste, creed, or gender; hence, hiring someone for less than the minimum wage is considered forced labour under Article 23.

Article 24 of the Indian Constitution of 1950 can be described as a provision in the interest of children's safety and public health. It states that "no kid under the age of fourteen years shall be employed to work in any industry or mine or in any other dangerous occupation." Its provisions should be read in conjunction with Article 39 clauses (e) and (f), which also allude to the preservation of health and the safety of children under the age of 14. In *Peoples Union for Democratic Rights v. Union of India*, [24], the Supreme Court restated the requirements of Article 24 specifying that minors under the age of 14 should not be employed in construction labour by both public and private companies.

In *M.C. Mehta v. State of Tamil Nadu* [25], the Supreme Court, taking a harsh view of children being engaged in hazardous industries, outlined specific criteria and urged the Government to adopt policies and programmes to eliminate child labour. It was laid down:

- obligatory education for children of all ages, regardless of their location of employment, as well as vocational training, regular health check-ups, and nutritional meals;
- Assign responsibility for putting these concepts into action.

Because of the gravity of the situation, the Court further ordered that monthly reports be filed to the Supreme Court's registry. In response to the requirement imposed by Article 24, Parliament enacted the Child Labour (Prohibition and Regulation Act), 1986; the Indian Factories Act, 1948; the Mines Act, 1952; the Apprentice Act, 1961, and other laws. [26]

Aside from all of these constitutional requirements, if any of these rights are infringed, the aggrieved worker may file a complaint with the Supreme Court or the High Court under Articles 32 and 226, respectively. As a result, enforcement of Fundamental Rights is a Fundamental Right as well. The rights under the aforementioned Articles are regarded as "heart and soul" of the

Constitution [27] and the "Supreme Court has been designated as guarantee and guardian of basic rights". [28]

## DIRECTIVE PRINCIPLES OF THE STATE POLICY

The Directive Principles of State Policy (DPSP) are specified in Part IV of the Indian Constitution of 1950 to develop a Social Welfare State in contrast to a police State, with the goal of achieving the welfare of citizens by ensuring social and economic fairness. [29] Even if they are unenforceable, the Directive Ideals in Part IV are significant because they compel the government to make legislation while keeping the principles established in the same in mind. The directives contain principles that must be followed in both executive and legislative activity. These must be regarded as the objectives of national activity and it must be the endeavour of every State as well as the Union, to give effect to them. [30]

In *UPSC Board v. Hari Shankar* [31], it was determined that while states are not required to apply the Directive Principles, it is their responsibility not to obstruct the Directive Principles' aims.

Article 38 of the Indian Constitution of 1950 states, "The state shall ensure a social order for the promotion of the welfare of the people: (1) The State must endeavour to promote the welfare of the people by guaranteeing and safeguarding a social order in which social, economic, and political fairness shall guide all institutions of national life; (2) The State must, in particular, aim to reduce economic disparities and to eradicate inequalities in status, facilities, and opportunities not only among individuals but also among groups of persons living in various places or engaged in different occupations. It establishes the fundamental basis for the directive principles.

This Article is incorporated to ensure social fairness and the well-being of citizens. Social justice must encompass the concepts required for the orderly development and maturation of people's personalities, making it inherent to the idea of justice. [32]

Article 39 provides the groundwork for the formation of a Socialist State by enumerating some principles critical to the advancement of a socially equitable society. Article 39 of the Indian Constitution of 1950 establishes some policy guidelines to be observed by the state. The State should specifically direct its strategy toward ensuring:

- that all people, men and women alike, have the right to an adequate means of subsistence;
- that ownership and control of the community's material resources are dispersed in such a way that they best serve the common benefit;
- that the functioning of the economic system does not result in the concentration of wealth

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and production means to the detriment of the general good;

- that men and women get paid equally for equal effort;
- that workers' and men's and women's health and strength, as well as children's young age, are not misused, and that people are not coerced by economic necessity to choose occupations inappropriate to their age or strength;
- that children are provided opportunity and facilities to develop in a healthy, free, and dignified manner, and that childhood and youth are safeguarded from exploitation and moral and material abandonment.

The current Article addresses employees' livelihood, health, and dignity, stating that compensation should be equitable for identical labour and provided equally. When we speak about workers' rights, it is an essential instruction to the state since the concepts expressed in the Article are directly or indirectly related with health, wellness, social and economic justice for all, with a specific emphasis on workers' rights. In the case of *Gadigappa Mahadevappa v. Ranganatha Reddy*[33], it was determined that the Directive Principles under Articles 39(a) and 41 are equal to basic rights. As previously explained in the case of *Olga Tellis*, the Supreme Court recognised livelihood as a basic right under Article 21.

These are specific Articles that entrust the State with the obligation to defend since they are primarily concerned with the interests of the working class. Though the State has established several comparable legislations aimed at protecting workers' interests, both centrally and at the state level, their successful implementation remains a challenge.

## CONCLUSION

A framework has been developed to integrate the provisions of these Acts for better enforcement of Industrial Relations especially in today's era of globalization and liberalization, where contract employments are replacing permanent employment, the bargaining power of unions are decreasing, there is an absence of ease of business doing and the pressure is not only the workmen but also the employers in the ongoing competitive era. The Code is an attempt to mitigate the flaws and unnecessary legislative repetitions and has streamlined the entire framework of industrial relation laws. This can be especially seen in the context of the Industrial Disputes Act, 1947. The State needs to make necessary statutory changes for better industrial relations in the coming days. The pros and cons of the Code can be seen and experienced in the times to come. Therefore, we can say that the idea of social justice is important to labour laws. The basic idea behind the principle of social justice is social-economic equality and the removal of socio-economic disparities. In the case of labour law, the goal of social security is to eliminate the disparities between workman and the employer and to

give them fair negotiating grounds so that human relations of the highest order are achieved and there is peace, cooperation and amity which would ultimately materialise in growth and development of a nation.

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