

## CONTEMPORARY ISSUES AND CHALLENGES IN LABOUR LAW REFORMS: AN OVERVIEW

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### Introduction

Labour Law means Employment Law, administrative rules and precedents which address in the legal rights of and restrictions on, working people and their organizations. Labour Law defines the rights and obligations as workers, union members and employers in the workplace. Labour law covers:

- Industrial relations – certification of unions, labour management relations, collective bargaining and unfair labour practices;
- Workplace health and safety;
- Employment standards, including general holiday, annual leave, working hours, unfair dismissals, minimum wage, layoff procedures and severance pay.

There are two broad categories of labour law as follows:

1. Collective labour law relates to the tripartite relationship between employee, employer and union.
2. Individual labour law concerns employees' rights at work

Labour rights have been integral to the social and economic development since the industrial revolution. Labour law arise due to the demand of workers for better conditions and demand of employers to restrict the conditions keep the labour cost low.

### Purpose of Labour Law in India

Labour Law is adapted to the economic and social challenges of the India.

- It establishes a legal system that facilitates productive individual and collective employment relationships and therefore a productive economy.
- By providing a framework within which employers, workers and their representatives can interact with regard to work related issues.
- It provides a clear and constant reminder and guarantee of fundamental principles and rights at work.

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## Evolution of Labour Law in India

The history of Labour law in India is interwoven with the history of British colonialism. It was enacted by the British were primarily intended to protect the interest of the British employers. The factories act was first introduced in 1883 because of the pressure brought on the British parliament by textile magnates.

Thus India received the first stipulation of eight hours of work, the abolition of child labour, and the restriction of women in night employment and the introduction of overtime wages for work beyond eight hours.

## Challenges to Labour Law

All employers, workers, workshop and production, induction, industrial services and agricultural institutes shall be obligated to observe the provisions of this Law.

For the purpose of this Law, a worker is one who works in any capacity against receipt of remuneration including wages, salary, share of profit, and other benefits at the request of employer.

All workers, employers, representatives thereof, and trainees and also the workshop shall be governed by provisions of Law.

An employer is a natural person on whose request a worker works against the receipt of remuneration.

### 1. Employment Agreement

#### A. Employment agreement and basic conditions governing its conclusion-

An employment agreement is a written or oral agreement under which a worker performs a job for the employer against of remuneration for a definite or indefinite period. Employment agreement must observe the following conditions –

- Legitimacy of the object of the agreement
- Specification of the object of the agreement
- Non prohibition under the law to perform the specific work

All employment agreements shall be legally binding and valid unless their nullification by competent authorities shall be established.

## **B. Suspension of employment agreement-**

In cases where performance of obligations of any one of the parties shall be temporarily halted due to the reasons stated in the following articles, the employment agreement shall be suspended. After removal of such cases, the employment agreement shall be revived with due calculations of the previous service record.

## **C. Termination of Employment Agreement-**

The employment agreement may be terminated in any of the following cases:

- Death of worker
- Retirement of worker
- Total disability of worker
- Expiry of duration of definite employment agreements
- Completion of work in the contracts
- Resignation of workers

## **2. Working Conditions**

### **A. Emoluments**

All official receipts collected by a worker by virtue of the employment agreement including the wages, salary, family allowances, and housing, food and transport expenses, bonus for productions increase are known as emoluments.

### **B. The duration of work**

Working hours constitute the period during which a worker places his energy or time at the disposal of an employer for the performance of work.

### **C. Holiday & vacations**

Job related to public services such as water, electricity, bus services, or in workshop where based on the type of work or mutual agreement of the parties, another day is regularly set as a holiday, such day shall be deemed as the weekly holiday.

Annual privilege vacations of the workers with full wages and including four Sundays. The period of sick leave shall be considered a part of the service records.

#### **D. Working conditions of Women**

The female workers 'maternity leave' totally comes to 90 days. The salary for the period of maternity leave shall be paid. The employer shall be obligated to allow half an hour to the mother for nursing the baby.

#### **E. Working conditions for the Youth**

- It is prohibited to employ individuals below 15 years of age.
- Medical examination of a young worker must be reviewed at least once in year.
- Daily working hours shall be half an hour less.

### **3. Safety & Labour hygiene-**

In order to preserve the workforce and financial resource of the country, observance, of the instructions formulated by the High Council of Technical Safety and the Ministry of Health and Medical Education shall be binding for all workshops, employers, workers and trainees.

### **4. Apprenticeship and employment**

To provide creative and continuous employment to job seekers as well as to upgrade the worker's technical knowledge, the Ministry of Labour and Social Affairs shall be obligated to provide the essential training facilities. Basic training centres for imparting training to unskilled workers and job seekers.

The Ministry of Labour and social Affairs shall be obligated to set up employment service centres through out the country. These service centres in the course of exploring the avenues for creation of jobs and planning employment opportunities, shall be required to register and introduce the jobless to the training centres and or refer them to the production, industrial, agricultural and services centres.

### **5. Collective labour negotiations and contracts-**

The goal of collective negotiations is to resolve the vocational or occupational problems of workers or to improve their

production conditions or welfare affairs. This goal shall be achieved through determining criteria for facing the problems, providing ground for the participation of the parties in resolving them or through determining or changing the conditions and their likes at workshops, vocations or industries with the mutual agreement of the parties. The demands set forth by the parties must be supported by necessary evidence and documents.

## **6. Welfare service to workers-**

The government shall be under the obligation to provide health and medical services for the workers and farmers, subject of this law and also for their families.

The government shall be obligated to forge necessary cooperation by utilizing the bank facilities and resources of the Ministry of housing and Town planning municipalities and other organizations concerned.

## **7. Dispute settlement forums**

Any dispute between an employer and a worker or an apprentice arising out of the enforcement of this Law and other Labour regulations training contract, workshop agreements or collective Labour agreements shall at the outset be settled through a direct compromise between the employer and worker.

The dispute probe team stipulated in this Law shall be composed.

## **Reforms- The Ultimate Challenge**

The requirement in the Industrial Disputes Act that no factory employing more than 100 workers can resort to lay-offs without "prior permission of the appropriate government" — which is seldom granted — leaves companies with no incentive to maintain anybody on regular muster rolls. Instead, they find it expedient to limit the permanent workforce to below 100 and meet any additional labour requirements by hiring through contractors depending on the ebb and flow of the business cycle. Those taken on contract are paid less for doing the same work, denied provident fund and other benefits, and can be fired without advance notice or compensation.

Rajasthan has drafted laws to make it simpler to fire up to 300 employees without government permission. (After all, informal

employment is caused by such inconsiderate labour laws). Such changes to the Industrial Disputes Act have been discussed for two decades now. But, it is interesting to note that these are employment friendly but not employee friendly, per se.

The Rajasthan Government's planned labour law amendments could embolden companies to hire workers more freely, without being constrained by the requirement of seeking official permission for retrenchments

Reforming hiring and firing laws and the Factories Act, which, for instance, limits the amount of overtime workers can do to all of 50 hours per quarter.

Labour laws are on the Concurrent List, which allows states like Rajasthan to pass the necessary laws and forward them to the president for approval. If the other states and the Centre follow, India could make a late start at competing for labour-intensive jobs in garments, shoes and toys. Some of the jobs in these industries are exiting China - as its factory wages rise at double-digit levels - for destinations like Bangladesh, Vietnam and Indonesia, deemed more investor-friendly than India.

The changes to the Factories Act could also include increasing the penalties for breaking the law. India, with just 300,000 apprentices, lags badly behind South Korea and China (with 20 million). It should be made easier to hire apprentices.

Social security coverage should be given to even the unorganized sector workers. Children should not be allowed to work in inhumane conditions and in dangerous places like mines, hand weaving etc. They should instead avail their right to education as in Art 21A of the Indian constitution.

While what has been done by Rajasthan is a step forward, it still falls well short of addressing the real issue. What India needs is a modern labour law framework that induces firms to keep all workers engaged in core operations on their direct rolls, entitling them to uniform work-linked wages, provident fund, annual leave and other benefits. But this can happen only if it is combined with the flexibility to undertake lay-offs, subject to reasonable notice and payment of minimum termination benefits based on length of employment.

It is for the Centre to introduce such genuinely pro-employment legislation; the new government has the required numbers to do this. There should be plans for a national multi-skill mission. We would then be poised to go from Scam India to Skill India. India's

advantages of demography demand and democracy must thus be reaped.

What reforms see the light of the day is yet to be seen.

