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INTRODUCTION TO LABOUR LEGISLATION

Law is an instrument to control, restrain and guide the behaviour and courses of action of individuals and their groups living in a society. Law is a dynamic concept. It changes with the growing needs of the society – developments in the field of technology, economy, and other spheres of society influence it. Law is also a universal phenomenon, having presence in all the societies of the world. Law is like the sun. The sun caters to the physical needs; law caters to the social and cultural needs. No walk of life, especially business and industry, can escape from law.

Judicial creativity and its expanding horizon have to be kept in view while studying labour laws. Our efforts should be understanding, appreciating, analysing than just traditional parroting of sections and sub-sections. We must assimilate the spirit of labour laws and not just follow it in letter.

Industrial Revolution and the Need for Labour Legislations

Industrial Revolution is an epoch-making event, which completely changed the lifestyles of society from agricultural and pastoral to industrial one.

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, which forced society to invent a special class of legislation, known as Labour Legislation.

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. The conditions of life and labour in the early periods of industrialization in India were extremely rigorous – hours of work were excessive, and the industrial labour drawn from the rural areas was severely exploited.

Naturally, such excesses could not have continued for long without protest and without demand for reforms. 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.
- c. The revolution in science, technology, the communication and telecommunication also

helped in bringing the world closer.

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.

Political Freedom End of Colonial Rule and Extension of Adult 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

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. They readily grasped labour legislations as antidote to the spread of revolutionary ideas.

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.

ILO, through Conventions and Recommendations, has 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 employment.

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 counterparts. 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 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. was 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.

Repressive Labour Laws were replaced by Progressive Labour Laws.

Approach to Labour Law and Labour Relations

Labour law seeks to regulate the relations between an employer or a class of employers and their employees. There has been a remarkable change in the approach to Labour Law and industrial relations since the World War II. Philadelphia Charter adopted in 1944 provided that "Labour is not a commodity" and that "poverty anywhere is a danger to prosperity everywhere"

The Nature of Labour Legislations

1. The labour legislations are the products of Industrial Revolution and they have come into being to take care of the aberrations created by it.
2. Labour legislation regards individuals as workers, whereas the general legislation regards him a citizen.
3. 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.

4. Individuals have different roles to perform and different laws are designed for regulating the different roles.
5. 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.
6. - Not only contractual obligations, but beyond it by creating new rights and obligations.
- Labour Law can operate along with General Law. A 'theft' can be dealt by Labour Law as well as IPC and No jurisdiction of civil courts

Principles of Modern Labour Legislation

In the British colonial rule in India, a few labour laws such as the Tea District Emigrant Labour Act, 1832 and Workmen's Breach of Contract Act, 1859 were enacted to serve the interests of the employers and were repressive in character. Similarly, the Assam Labour Emigration Acts 1863-1901 declared desertion of tea gardens in Assam without staying for the prescribed period and without permission, a punishable offence. Examples of repressive labour laws are available in other countries as well.

Principle of Protection

The principle of protection suggests enactment of labour legislation to protect those workers who are to protect their interests on their own and also workers, in particular industries against the hazards of industrial process.

Principle of Social Justice

The principle of social justice implies establishment of equality in social relationships. It aims at removing discrimination suffered by particular groups of labour. History is replete with examples where certain groups of society or labour have been subjected to various sorts of disabilities as compared to other groups or workers in general.

Principle of Regulation

The principle of regulation generally seeks to regulate the relationships between the employers and their associations, on the one hand, and workers and their organisations, on the other. As the relationships between the two groups have repercussions on the society.

Principle of Welfare

Although the protective and social security laws have the effect of promoting labour welfare, special labour welfare or labour welfare fund laws have also been enacted, with a view to providing certain welfare amenities to the workers, and often to their family members also.

Principle of Social Security

Generally speaking, the principles of social security may be considered to be a part of the principle of welfare, but in view of its special connotation, it is desirable to keep it under a separate category. In industrial societies, income insecurity resulting from various contingencies of life such as disablement, old age and death and others, has become a serious problem.

Principle of Economic Development

Labour laws have also been enacted keeping in view the need for economic and industrial development of particular countries. Improvement of physical working conditions, establishment of industrial peace,

provision of machineries for settlement of industrial disputes etc. These areas are covered under different pieces of labour laws.

Principle of International Obligation

This principle postulates enactment of labour laws with a view to giving effect to the provisions of resolutions, adopted by international organisations like ILO, UN and other similar bodies.

Objectives of the Labour Legislations

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 sections 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.

Ensure human rights and human dignity

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

The Regulative Labour Legislation

The main objective of the regulative legislation is to regulate the relations between employees and employers and to provide for methods and manners of settling industrial disputes.

- ❖ 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.

The Protective Labour Legislations

Under this category come those legislations whose primary purpose is to protect labour standards and to improve the working conditions. 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

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

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

Welfare Labour Legislations

Legislations coming under this category aim at promoting the general welfare of the workers and improving their living conditions. The laws coming under this category have the specific aim of providing for improvements in the 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

Miscellaneous

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

- ❖ The Contract Labour (Regulation and 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.