

## **UNIT - IV**

### **PRINCIPLES OF MODERN LABOUR LEGISLATION - TYPES OF LABOUR LEGISLATION**

#### **Learning Objectives:**

After studying this lesson, you should be able to understand the :

- labour policy and origin of Labour Legislation in India;
- Objectives and Types of Labour Legislation;
- Principles, Issues and Trends in Modern Labour Legislation;

#### **Content Structure :**

- 16.1 Introduction
- 16.2 Social Legislation and Labour Legislation
- 16.3 Concept and Origin of Labour Legislation
- 16.4 Labour Legislation in India
- 16.5 Types of Labour Legislation
  - 16.5.1 Regulative Labour Legislation
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- 16.6 Objectives of Labour Legislation
- 16.7 ILO and Indian Labour Legislation
- 16.8 Indian Constitution and Labour Legislation
- 16.9 Issues and Trends in Modern Labour Legislation
- 16.10 Summary
- 16.11 Key terms
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### **16.1 Introduction :**

Legislation is an instrument to control, restrain and guide the behaviour and courses of action of individuals and their groups living in a society. Labour legislation seeks to deal with the problems arising out of the occupational status of individual. Consequently, such problems, as hours of work, wages, working conditions, trade unionism, industrial relations, etc. come to be the main subject of labour legislation. Thus, regulation of the behaviour of the individuals or his groups is the function of labour legislation as of any other legislation.

Labour law seeks to regulate the relations between an employer or a class of employers and their employees. The access of this law is the widest, in that it touches the lives of far more people, indeed millions of men and women as compared to any other branch of law and this is the aspect which makes it the most fascinating of all branches of law and the study of this aspect is of enormous dimension and of ever changing facets.

Over the years labour laws have undergone a change with regard to the object and scope. Early labour legislation were enacted to safeguard the interest of employers. It was governed by the doctrine of 'laissez faire'. Modern labour legislation on the other hand aims at protecting workers against exploitation by employers. In order to evaluate various labour legislation, it is necessary to know the Philosophy of Labour Laws.

### **16.2 Social Legislation and Labour Legislation:**

Obviously, labour legislation is a form of social legislation but there are many points on which distinctions between the two can be made. Labour legislation regards the individual as a worker, whereas social legislation considers him primarily as a citizen.

In the realm of labour laws there has been in reality continuous legislation activity by the Supreme Court ever since the constitution was promulgated. The fundamental principle which was laid down by the Supreme Court in this respect was the principle of social justice. Social justice connotes the balance of adjustments of the various interests concerned in the social and economic structure of society. It aims at promoting harmony in industrial relations upon an ethical and social basis, and its ultimate objective of peace in industry. In fact, the principles of labour law emerges from and based on the principle of social justice. Thus, social justice is an application in the field of labour laws of the basic principle of sociological jurisprudence of harmonising conflicting interests.

### **16.3 Concept and Origin of Labour Legislations :**

Law is a dynamic concept. Life and laws have moved together in history and it must do in future. Law comes into existence to cater to the growing needs of society, which may be caused by technological, economic, political, social changes. The labour legislations are the products of Industrial Revolution and they have come into being to take care of the aberrations created by it. Society went for certain social devices to take care of the gaps, which are known as labour legislation. Labour legislation seeks to deal with problems arising out of occupational status of the individual. Consequently, such problems as hours of work, working conditions,

trade unions, industrial disputes etc., come to be the main subject of labour legislations.

Individuals have different roles to perform and different laws are designed for regulating the different roles. 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 effected directly by labour legislation.

The origin of labour legislation is the history of continuous and relentless struggle between two unequals. The social scientists interpreted this struggle in different ways. Numerous forces directly and indirectly, influenced the passing of labour legislation.

The factors influencing labour legislations includes: early industrialism, growth of trade unionism, growth of political freedom and exercise of franchise, rise of socialist and other revolutionary ideas, growth of social welfare and social justice and the establishment of International Labour Organisation.

#### **16.4 Labour Legislation in India :**

In India, the labour policies and practices are influenced by a variety of considerations, based on social economic and political patterns that emerged at the time of independence. The labour policy of our country is influenced by Constitution of India, the instruments of ILO, the policies announced in successive five year plans and the report and recommendations of various major commissions like Royal Commission on Labour, the National Commission on Labour and Tripartite Committees like - Indian Labour Conference and Standing Labour Committee.

India has a law - heavy system in 67 central and 157 state legislations. Most of these laws are either outdated or irrelevant. We need an upto-date and simple labour law code. Attempts have been made in the past without much success. Labour laws reform are not easy. Some of the Acts have become irrelevant. Trade Union Act 1926, is an example. In Japan and Denmark, there is no trade union legislation but unionisation is very high. In many East Asian Countries, the right to form the trade union is limited to the private sector only.

In India the five year plans documents are only guidelines for action. Much therefore depends on the parties involved in the process, i.e., the government, the employers, the trade unions and the workers being involved with the recommendations in order to ensure their implementation. However, labour legislation being a concurrent subject, both the Central and States are involved and much therefore depends on the States and the rapport between the Central and States on these matters.

The setting up of the International Labour Organisation gave an impetus to the consideration of Welfare and working conditions of the working all over the world and also led to the growth of labour laws in all parts of the world including India.

#### **16.5 Types of Labour Legislations :**

The origin of labour legislation lies in the excesses of the early industrialism that followed Industrial

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

On the basis of specific concrete objectives which it has sought to achieve, labour legislations can be classified under four heads: Regulative, Protective, Wage-related, Labour Welfare and Social Security, which are briefly presented below.

### **16.5.1 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 manner 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.

In India, the Trade Unions Act, 1926, the Industrial Disputes Act, 1947, Industrial Employment (Standing Orders) Act, 1946 and the Industrial Relations Legislations enacted by the States of Maharashtra, Gujarat, U.P. and Madhya Pradesh are the examples of regulative legislation.

### **16.5.2 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 the Acts falling under this category are:

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

### **16.5.3 Wage - Related Labour Legislations :**

All the Acts laying down the methods and manner of Wage payment as well as the minimum wages come under this category. In India, the prominent legislations of this category are the following :

- K The Payment of Wages Act, 1936
- K The Minimum Wages Act, 1948

- K The Payment of Bonus Act, 1965
- K The Equal Remuneration Act, 1976

#### **16.5.4 Labour Welfare Legislations :**

Promoting the general welfare of the workers and improve their living conditions is the prime objective of the legislations coming under this category. Though, all labour laws aim at promoting and protecting the welfare of the workers and includes chapters on labour welfare, the Acts under this category have the specific aim of providing for the improvements in living conditions of workers. In India, they also carry the term "Welfare" in their titles. The significant Acts of this category are the following :

- K The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972.
- K The Mica Mines Welfare Fund Act, 1946
- K The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976.
- K The Cine Workers Welfare Fund Act, 1981
- K The Beedi Workers Welfare Fund Act, 1976
- K Legislations on Welfare funds by some State Governments.

#### **16.5.5 Social Security Labour Legislations :**

This category of Labour Legislations covers those labour laws which intend to provide to the workmen social security benefit under certain contingencies of life and work. In India, the important laws falling under this category are :

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

#### **16.5.6 Other kinds of Labour Laws :**

In addition to the different types of labour legislation stated above, there are several other very important labour laws. Some of these are :

- K The contract Labour (Regulation & Abolition) Act, 1970
- K Child Labour (Prohibition and Regulation) Act, 1986
- K Buildings and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996
- K Apprentices Act, 1961
- K Emigration Act, 1983
- K Employment Exchange (Compulsory Notification of Vacancies Act, 1959
- K Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- K Working Journalists and other Newspaper Employees (Condition of Service and Miscellaneous Provision) Act, 1955
- K The Industrial Disputes Act, 1947
- K The Sales Promotion Employees (Conditions of Service) Act, 1976
- K The Motor Transport Workers Act, 1961

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. The Oxford Dictionary defines jurisprudence as the science or philosophy of human law. Jurisprudence is one of the social sciences.

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.

### **16.6 Objectives of Labour Legislation :**

Labour Legislation has great impact on the industrial relations system. Labour Legislation had been instrumental in shaping the course of industrial relations in India. Establishment of social justice has been the principle which has guided the origin and development of labour legislation in India.

The objectives of labour legislation are to:

- 1) protect workers from exploitation
- 2) strengthen industrial relations
- 3) provide machinery for setting industrial disputes and welfare of workers.

- 4) establishment of justice - social, political and economic
- 5) provision of opportunities to all workers, irrespective of caste, creed, religion, beliefs, for the development of their personality
- 6) creation of conditions for economic growth
- 7) protection and improvement of labour standards
- 8) guarantee right of workmen to combine and form association or unions
- 9) make state interfere as protector of social well being than to remain an onlooker
- 10) ensure human rights and human dignity.

Thus, proper regulation of employee - employer relationship is a prerequisite 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.

### **16.7 International Labour Organisation (ILO) and Indian Labour Legislation :**

The setting up of the International Labour Organisation gave an impetus to the consideration of Welfare and Working conditions of the workers all over the world, including India. The ILO, one of the principal international organisations established under the treaty of Versailles was created in 1919. Since then, it has been working for the establishment of universal peace through social justice. India was one of the founder members of ILO. The ILO has been attempting to promote world-wide respect for the freedom and dignity of the working men and to create the conditions in which that freedom and dignity can be more fully and effectively enjoyed.

In April 1944, a conference was convened at Philadelphia, during the Second World War. As a result of the deliberations, the aims of the ILOs were redefined. The conference reaffirmed the principles of ILO, namely:

- i) Labour is not a commodity
- ii) freedom of expression and of association are essential to sustained progress
- iii) poverty anywhere constitutes a danger to prosperity everywhere
- iv) the war against want requires to be carried on within each nation, and by continuous and concerted international effort in which the representatives of workers and employers enjoying equal status with those of government join with them in free discussion and democratic decision with a view to the promotion of common welfare.

The ILO is organised around 3 sub-systems: 1) An International Labour Conference (ILC), 2) A Governing Body and 3) An International Labour Office. The Conference is the supreme policy making and legislative body. The Governing body is the executive council and the International Labour Office is the Secretariat, Operational head quarters and information centre.

The ILO standards are analogous to treaties requiring ratification by a competent national authority within a period of one year to 18 months at the latest from the closing session of I.L.C.

In India, the treaty making power is within the competence of the Government of India. The Tripartite Committee, set up to draw the programme of ratification of the ILO conventions, makes a detailed survey. It is on the recommendation of this Committee that India ratifies conventions. In case where the committee does not recommend ratification of a particular instrument, it focuses the reasons for such actions.

### **International Labour Standards and Indian Labour Legislations :**

The influence of International Labour Conventions and Recommendations on Legislations in India is direct in some cases while in others the relationship is not so obvious. The ILO's Conventions and Recommendations have had influence on 1) Factories and Mines Legislations, 2) Wage Legislations, 3) Social Security.

Thus, the ILO Standards have influenced Indian Labour Legislation, directly and indirectly. In fact, the blue print of our labour policy is based on ILO's Standards. The influence of ILO can be seen in our Directive Principles of State Policy (Articles 39, 41, 42, 43, 43A) which lay down policy objectives in field of labour. The Indian Labour Conference and Standing Labour Committee resemble the two main structures of ILO.

### **16.8 Indian Constitution and Labour Legislation :**

India adopted a Constitution on 26th April, 1949. Indian constitution is an unique basic national document. Besides providing basic principles of governance, it presents the aspirations of the weaker sections of Society, specially the working classes. It has to be noted that national freedom struggle and struggle of working class coincided and our leaders fought for both the betterment of worker's lots and India's freedom. Constitution is the supreme law of a nation and all legislations draw their inspiration from it. The constitution assures its citizens to provide "Socialistic pattern of Society" and create "Welfare State" and all legislations, specially the Labour legislations, are deeply influenced by them.

The influence of Indian constitution on Labour legislations is mainly stem from preamble, fundamental rights, directive principles of state policy and judicial wisdom of the courts.

The Constitution of India has gone out of way to protect rights and privileges of workers, ensuring a decent and dignified life. But a lot is required to be done for the workers of unorganised sector - bounded labour, child labour, women workers, and agricultural labour.

### **16.9 Issues and Trends in Modern Labour Legislation :**



Labour policy means setting trends, evolving course of actions, following principles and practices to govern labour matters. The labour policy and the role of state in a democratic country will be different from that with different philosophy for the governance of the people. Labour policies are also influenced by the stages of development of an economy and industrialisation strategies. In India, the labour policies and practices are influenced by a variety of considerations based on social, economic and political patterns that emerged at the time of independence.

There is complete change in economic environment, therefore, there is a need for paradigm shift in labour policy : Paradigm shift in fundamentals, Align Labour policy with Economic policy, go for immediate labour law reform and competitive labour policies in State.

### **Labour Law Reform :**

Labour legislation in India has a history of over 125 years. The labour laws regulate not only the conditions of work of industrial establishments, but also industrial relations, payment of wages, trade unions. In addition, they provide social security measures for workers.

India has a heavy system in central and state legislations. Most of these laws are either outdated or irrelevant. We need an upto-date and simple labour law code. Labour law reforms are not easy. Some of the Acts have become irrelevant, for example Trade Union Act, 1926. In order to avoid confusion, it is better to have one labour code in place of many labour laws. Get over the confusion over some basic concept by eliminating multiple definitions in different legislation. Thus efficient use of labour is an important factor in market economy today and that is possible only through dynamic, pragmatic and broader labour policy.

### **16.10 Summary :**

The labour laws have received new dimensions with the advent of the doctrine of welfare state. Labour laws should be instruments to facilitate strategic IR and HRD system and practices. 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. The blue print of Indian Labour Policy is based on ILO's standards. In India, even after six decades of Independence, labourers are exploited, despite best intentions of the Constitution. Since we have already undertaken reforms in most of other areas of economy, the reform and progressive policies in labour area is overdue to make our economy really competitive.

### **16.11 Key terms :**

**Labour Law :** seeks to regulate the relations between an employer or a class of employers and their employees.

**ILO :** the international Labour Organisation established under the treaty of Versailles was created in 1919 has been working ceaselessly for the establishment of universal peace through social justice.

**Industrial Relations :** means relationship that emerges out of day-to-day working and association of labour and management.

**Labour Welfare :** is the process of making a worker to fit in economic and social conditions within and outside the industry.

**Legislation :** refers to the declaration of principles of law by an authority competent to do so.

### 16.12 Model questions

1. Explain the role and relevance of Labour Legislation.
2. What are the constitutional limitations on labour laws ?
3. Explain the influence of ILO on Labour Legislation.
4. What are the objectives of Labour Legislation ?
5. Explain in brief the various types of Labour Legislation.

### 16.13 Reference Books

1. P.R.N. Sinha, Indu Bala Sinha - Industrial Relations Trade Unions and  
Seema Priyadarshini Shekhar Labour Legislation
2. Arun Monappa - Industrial Relations
3. IGNOU - MS-28 Labour Laws
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5. I.A. Saiyed - Labour Law
6. Monal Arora - Industrial Relations
7. S.C. Srivastava - Industrial Relations and Labour Laws