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LABOUR LAWS IN INDIA

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1. INTRODUCTION

Labour law also known as employment law is the body of laws, administrative rulings, and precedents which address the legal rights of, and restrictions on, working people and their organizations. As such, it mediates many aspects of the relationship between trade unions, employers and employees. In other words, Labour law defines the rights and obligations as workers, union members and employers in the workplace. Generally, 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 holidays, annual leave, working hours, unfair dismissals, minimum wage, layoff procedures and severance pay.

There are two broad categories of labour law. First, collective labour law relates to the tripartite relationship between employee, employer and union. Second, individual labour law concerns employees' rights at work and through the contract for work.

The labour movement has been instrumental in the enacting of laws protecting labour rights in the 19th and 20th centuries. Labour rights have been integral to the social and economic development since the industrial revolution.

1.1. History of Labour laws

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 low. Employers' costs can increase due to workers organizing to win higher wages, or by laws imposing costly requirements, such as health and safety or equal opportunities conditions. Workers' organizations, such as trade unions, can also transcend purely industrial disputes, and gain political power - which some employers may oppose. The state of labour law at any one time is therefore both the product of, and a component of, struggles between different interests in society.

International Labour Organisation (ILO) was one of the first organisations to deal with labour issues. The ILO was established as an agency of the League of Nations following the Treaty of Versailles, which ended World War I. Post-war reconstruction and the protection of labour unions occupied the attention of many nations during and immediately after World War I. In Great Britain, the Whitley

Commission, a subcommittee of the Reconstruction Commission, recommended in its July 1918 Final Report that "industrial councils" be established throughout the world. The British Labour Party had issued its own reconstruction programme in the document titled *Labour and the New Social Order*. In February 1918, the third Inter-Allied Labour and Socialist Conference (representing delegates from Great Britain, France, Belgium and Italy) issued its report, advocating an international labour rights body, an end to secret diplomacy, and other goals. And in December 1918, the American Federation of Labor (AFL) issued its own distinctively apolitical report, which called for the achievement of numerous incremental improvements via the collective bargaining process.

As the war drew to a close, two competing visions for the post-war world emerged. The first was offered by the International Federation of Trade Unions (IFTU), which called for a meeting in Berne in July 1919. The Berne meeting would consider both the future of the IFTU and the various proposals which had been made in the previous few years. The IFTU also proposed including delegates from the Central Powers as equals. Samuel Gompers, president of the AFL, boycotted the meeting, wanting the Central Powers delegates in a subservient role as an admission of guilt for their countries' role in the bringing about war. Instead, Gompers favored a meeting in Paris which would only consider President Woodrow Wilson's Fourteen Points as a platform. Despite the American boycott, the Berne meeting went ahead as scheduled. In its final report, the Berne Conference demanded an end to wage labour and the establishment of socialism. If these ends could not be immediately achieved, then an international body attached to the League of Nations should enact and enforce legislation to protect workers and trade unions.

The British proposed establishing an international parliament to enact labour laws which each member of the League would be required to implement. Each nation would have two delegates to the parliament, one each from labour and management. An international labour office would collect statistics on labour issues and enforce the new international laws. Philosophically opposed to the concept of an international parliament and convinced that international standards would lower the few protections achieved in the United States, Gompers proposed that the international labour body be authorized only to make recommendations, and that enforcement be left up to the League of Nations. Despite vigorous opposition from the British, the American proposal was adopted.

The Americans made 10 proposals. Three were adopted without change: That labour should not be treated as a commodity; that all workers had the right to a wage sufficient to live on; and that women should receive equal pay for equal work. A proposal protecting the freedom of speech, press, assembly, and association was amended to include only freedom of association. A proposed ban on the international shipment of goods made by children under the age of 16 was amended to

ban goods made by children under the age of 14. A proposal to require an eight-hour work day was amended to require the eight-hour work day *or* the 40-hour work week (an exception was made for countries where productivity was low). Four other American proposals were rejected. Meanwhile, international delegates proposed three additional clauses, which were adopted: One or more days for weekly rest; equality of laws for foreign workers; and regular and frequent inspection of factory conditions.

The Commission issued its final report on 4 March 1919, and the Peace Conference adopted it without amendment on 11 April. The report became Part XIII of the Treaty of Versailles. (The Treaty of Versailles was one of the peace treaties at the end of World War I. It ended the state of war between Germany and the Allied Powers. It was signed on 28 June 1919.)

The first annual conference (referred to as the International Labour Conference, or ILC) began on 29th October 1919 in Washington DC and adopted the first six International Labour Conventions, which dealt with hours of work in industry, unemployment, maternity protection, night work for women, minimum age and night work for young persons in industry. The prominent French socialist Albert Thomas became its first Director General. The ILO became a member of the United Nations system after the demise of the League in 1946.

1.2. Purpose of labour legislation

Labour legislation that is adapted to the economic and social challenges of the modern world of work fulfils three crucial roles:

- 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 serves as an important vehicle for achieving harmonious industrial relations based on workplace democracy;
- it provides a clear and constant reminder and guarantee of fundamental principles and rights at work which have received broad social acceptance and establishes the processes through which these principles and rights can be implemented and enforced.

But experience shows that labour legislation can only fulfill these functions effectively if it is responsive to the conditions on the labour market and the needs of the parties involved. The most efficient way of ensuring that these conditions and needs are taken fully into account is if those concerned are closely involved in the formulation of the legislation through processes of social

dialogue. The involvement of stakeholders in this way is of great importance in developing a broad basis of support for labour legislation and in facilitating its application within and beyond the formal structured sectors of the economy.

1.3. Evolution of Labour law in India

The law relating to labour and employment is also known as Industrial law in India. The history of labour legislation in India is interwoven with the history of British colonialism. The industrial/labour legislations enacted by the British were primarily intended to protect the interests of the British employers. Considerations of British political economy were naturally paramount in shaping some of these early laws. Thus came the Factories Act. It is well known that Indian textile goods offered stiff competition to British textiles in the export market and hence in order to make India labour costlier the Factories Act was first introduced in 1883 because of the pressure brought on the British parliament by the textile magnates of Manchester and Lancashire. 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. While the impact of this measure was clearly welfarist the real motivation was undoubtedly protectionist.

The earliest Indian statute to regulate the relationship between employer and his workmen was the Trade Dispute Act, 1929 (Act 7 of 1929). Provisions were made in this Act for restraining the rights of strike and lock out but no machinery was provided to take care of disputes.

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 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 lockouts. Ultimately the Industrial Disputes Act (the Act) brought into force on 01.04.1947 repealing the Trade Disputes Act 1929 has since remained on statute book.

1.4. Constitutional provisions with regard to labour laws

The relevance of the dignity of human labour and the need for protecting and safeguarding the interest of labour as human beings has been enshrined in Chapter-III (Articles 16, 19, 23 & 24) and

Chapter IV (Articles 39, 41, 42, 43, 43A & 54) of the Constitution of India keeping in line with Fundamental Rights and Directive Principles of State Policy.

Labour is a concurrent subject in the Constitution of India implying that both the Union and the state governments are competent to legislate on labour matters and administer the same. The bulk of important legislative acts have been enacted by the Parliament.

Constitutional Status

Union List	Concurrent List
Entry No. 55 : Regulation of labour and safety in mines and oil fields	Entry No. 22: Trade Unions; industrial and labour disputes.
Entry No. 61: Industrial disputes concerning Union employees	Entry No.23: Social Security and insurance, employment and unemployment.
Entry No.65: Union agencies and institutions for "Vocational ...training..."	Entry No. 24: Welfare of about including conditions of work, provident funds, employers 'invalidity and old age pension and maternity benefit.

The legislations can be categorized as follows:

- 1) Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement.
- 2) Labour laws enacted by Central Government and enforced both by Central and State Governments.
- 3) Labour laws enacted by Central Government and enforced by the State Governments.
- 4) Labour laws enacted and enforced by the various State Governments which apply to respective States.

The Constitution of India provides detailed provisions for the rights of the citizens and also lays down the Directive Principles of State Policy which set an aim to which the activities of the state are to be guided. These Directive Principles provide:

- a. for securing the health and strength of employees, men and women;
- b. that the tender age of children are not abused;
- c. that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- d. just and humane conditions of work and maternity relief are provided; and
- e. that the Government shall take steps, by suitable legislation or in any other way, to secure the participation of employee in the management of undertakings, establishments or other organisations engaged in any industry.

1.5 Labour Policy of India

Labour policy in India has been evolving in response to specific needs of the situation to suit requirements of planned economic development and social justice and has two fold objectives, namely maintaining industrial peace and promoting the welfare of labour.

Labour Policy Highlights

- Creative measures to attract public and private investment.
- Creating new jobs
- New Social security schemes for workers in the unorganized sector.
- Social security cards for workers.
- Unified and beneficial management of funds of Welfare Boards.
- Reprioritization of allocation of funds to benefit vulnerable workers.
- Model employee-employer relationships.
- Long term settlements based on productivity.
- Vital industries and establishments declared as `public utilities`.
- Special conciliation mechanism for projects with investments of Rs.150 crores or more.
- Industrial Relations committees in more sectors.

- Labour Law reforms in tune with the times. Empowered body of experts to suggest required changes.
- Statutory amendments for expediting and streamlining the mechanism of Labour Judiciary.
- Amendments to Industrial Disputes Act in tune with the times.
- Efficient functioning of Labour Department.
- More labour sectors under Minimum Wages Act.
- Child labour act to be aggressively enforced.
- Modern medical facilities for workers.
- Rehabilitation packages for displaced workers.
- Restructuring in functioning of employment exchanges. Computerization and updating of data base.
- Revamping of curriculum and course content in industrial training.
- Joint cell of labour department and industries department to study changes in laws and rules.

2. LABOUR LAWS IN INDIA

The term 'labour' means productive work especially physical work done for wages. Labour law also known as employment law is the body of laws, administrative rulings, and precedents which address the legal rights of, and restrictions on, working people and their organizations. There are two broad categories of labour law. First, collective labour law relates to the tripartite relationship between employee, employer and union. Second, individual labour law concerns employees' rights at work and through the contract for work.

The law relating to labour and employment in India is primarily known under the broad category of "Industrial Law". The prevailing social and economic conditions have been largely influential in shaping the Indian labour legislation, which regulate various aspects of work such as the number of hours of work, wages, social security and facilities provided.

The labour laws of independent India derive their origin, inspiration and strength partly from the views expressed by important nationalist leaders during the days of national freedom struggle, partly from the debates of the Constituent Assembly and partly from the provisions of the Constitution and the International Conventions and Recommendations. The relevance of the dignity of human labour and the need for protecting and safeguarding the interest of labour as human beings has been enshrined in Chapter-III (Articles 16, 19, 23 & 24) and Chapter IV (Articles 39, 41, 42, 43, 43A & 54) of the Constitution of India keeping in line with Fundamental Rights and Directive Principles of State Policy. The Labour Laws were also influenced by important human rights and the conventions and standards that have emerged from the United Nations. These include right to work of one's choice, right against discrimination, prohibition of child labour, just and humane conditions of work, social security, protection of wages, redress of grievances, right to organize and form trade unions, collective bargaining and participation in management. The labour laws have also been significantly influenced by the deliberations of the various Sessions of the Indian Labour Conference and the International Labour Conference. Labour legislations have also been shaped and influenced by the recommendations of the various National Committees and Commissions such as First National Commission on Labour (1969) under the Chairmanship of Justice Gajendragadkar, National Commission on Rural Labour (1991), Second National Commission on Labour (2002) under the Chairmanship of Shri Ravindra Varma etc. and judicial pronouncements on labour related matters specifically pertaining to minimum wages, bonded labour, child labour, contract labour etc.

Under the Constitution of India, Labour is a subject in the concurrent list where both the Central and State Governments are competent to enact legislations. As a result , a large number of labour laws have been enacted catering to different aspects of labour namely, occupational health, safety, employment, training of apprentices, fixation, review and revision of minimum wages, mode of payment of wages, payment of compensation to workmen who suffer injuries as a result of accidents or causing death or disablement, bonded labour, contract labour, women labour and child labour, resolution and adjudication of industrial disputes, provision of social security such as provident fund, employees' state insurance, gratuity, provision for payment of bonus, regulating the working conditions of certain specific categories of workmen such as plantation labour, beedi workers etc.

The legislations can be categorized as follows:

- 1) Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement.
- 2) Labour laws enacted by Central Government and enforced both by Central and State Governments.
- 3) Labour laws enacted by Central Government and enforced by the State Governments.
- 4) Labour laws enacted and enforced by the various State Governments which apply to respective States.

(a) Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement

1. The Employees' State Insurance Act, 1948
2. The Employees' Provident Fund and Miscellaneous Provisions Act, 1952
3. The Dock Workers (Safety, Health and Welfare) Act, 1986
4. The Mines Act, 1952
5. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976
6. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labor Welfare Fund Act, 1976
7. The Mica Mines Labour Welfare Fund Act, 1946
8. The Beedi Workers Welfare Cess Act, 1976
9. The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
10. The Cine Workers Welfare (Cess) Act, 1981
11. The Beedi Workers Welfare Fund Act, 1976
12. The Cine Workers Welfare Fund Act, 1981

(b) Labour laws enacted by Central Government and enforced both by Central and State Governments

13. The Child Labour (Prohibition and Regulation) Act, 1986.
14. The Building and Other Constructions Workers' (Regulation of Employment and Conditions of Service) Act, 1996.
15. The Contract Labour (Regulation and Abolition) Act, 1970.
16. The Equal Remuneration Act, 1976.
17. The Industrial Disputes Act, 1947.

18. The Industrial Employment (Standing Orders) Act, 1946.
19. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
20. The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988
21. The Maternity Benefit Act, 1961
22. The Minimum Wages Act, 1948
23. The Payment of Bonus Act, 1965
24. The Payment of Gratuity Act, 1972
25. The Payment of Wages Act, 1936
26. The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
27. The Building and Other Construction Workers Cess Act, 1996
28. The Apprentices Act, 1961
29. Unorganized Workers Social Security Act, 2008
30. Working Journalists (Fixation of Rates of Wages Act, 1958
31. Merchant Shipping Act, 1958
32. Sales Promotion Employees Act, 1976
33. Dangerous Machines (Regulation) Act, 1983
34. Dock Workers (Regulation of Employment) Act, 1948
35. Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Act, 1997
36. Private Security Agencies (Regulation) Act, 2005

(c) Labour laws enacted by Central Government and enforced by the State Governments

37. The Employers' Liability Act, 1938
38. The Factories Act, 1948
39. The Motor Transport Workers Act, 1961
40. The Personal Injuries (Compensation Insurance) Act, 1963
41. The Personal Injuries (Emergency Provisions) Act, 1962
42. The Plantation Labour Act, 1951
43. The Sales Promotion Employees (Conditions of Service) Act, 1976
44. The Trade Unions Act, 1926
45. The Weekly Holidays Act, 1942

46. The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
47. The Workmen's Compensation Act, 1923
48. The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
49. The Children (Pledging of Labour) Act 1938
50. The Bonded Labour System (Abolition) Act, 1976
51. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

State Labour Laws

1. Maharashtra

Sl.No.	Name of the labour legislation	Central Rules	State Rules
1	Apprentices Act , 1961	Apprentices Rules, 1961	Nil
2	The Beedi and Cigar Workers (Conditions of Employment) Act, 1966		
3	<u>Beedi Workers Welfare Fund Act, 1976</u>		
4	The Beedi Workers Welfare Cess Act, 1976	The Beedi Worker's Welfare Cess Rules, 1977	
5	The Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996		
6	Bonded Labour System (Abolition) Act, 1976		
7	Contract Labour (Regulation & Abolition) Act , 1970		Maharashtra Contract Labour (Regulation and Abolition) Rules , 1971
8	The Child Labour (Prohibition		

	And Regulation) Act, 1986		
9	Children (Pledging of Labour) Act, 1933		
10	The Cinema Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981	The Cinema Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984	
11	The Cine Workers' Welfare Fund Act, 1981.		
12	The Cine Workers Welfare Cess Act, 1981		
13	The Dock Workers (Regulation of Employment) Act, 1948		
14	The Dock Workers (Safety, Health & Welfare) Act, 1986		
15	The Dock Workers (Regulation of Employment) (inapplicability to Major Ports) Act, 1997		
16	Employee State Insurance Act , 1948	Employees' State Insurance Rules, 1950 Employees' State Insurance (General) Regulations, 1950	
17	Employee's Provident Fund and Miscellaneous Provisions Act , 1952	Employees' Deposit Linked Insurance Scheme , 1976	
18	Employment Exchanges (Compulsory Notification of Vacancies) Act , 1959	Employment Exchanges (Compulsory Notification of Vacancies) Rules, 1960	

19	The Employment of Manual Scavengers and Construction of Dry latrines Prohibition Act, 1993		
20	Equal Remuneration Act , 1976	Equal Remuneration Rules, 1976	
21	Factories Act, 1948		Maharashtra Factories Rules, 1963
22	The Fatal Accidents Act, 1855		
23	Industrial Disputes Act, 1947		Industrial disputes (Bombay) rules , 1957
24			The Bombay Industrial Relations Act, 1946
25	Industrial Employment and Standing Orders Act , 1946		Bombay Industrial Employment [Standing Orders] Rules, 1959
26	The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979	The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Rules, 1983	
27	The Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Fund Act, 1976		
28	The Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Cess Act, 1976		
29	Labour Laws (Exemption from Furnishing Returns & Maintaining Registers by Certain		

	Establishments) Act, 1988		
30			The Bombay Labour Welfare Fund Act, 1953
31	Maternity Benefit Act , 1961		Maharashtra Maternity Benefit Rules, 1965
32	Minimum Wages Act , 1948		Maharashtra Minimum Wages Rules 1963
33			Maharashtra Workmen's Minimum House Rent Allowance Act, 1986,
34			The Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969
35	The Mica Mines Labour Welfare Fund Act, 1946		
36	The Limestone & Dolomite Mines Labour Welfare Fund Act, 1972		
37	The Motor Transport Workers Act, 1961		
38	Payment of Bonus Act , 1965	Payment of Bonus Rules, 1975	
39	Payment of Gratuity Act , 1972		Payment of Gratuity (Maharashtra) Rules, 1972
40	Payment of Wages Act , 1936		Maharashtra Payment of wages Rules, 1963
41			Bombay Shops & Establishment Act, 1948

42	The Plantation Labour Act, 1951		
43	The Public Liability Insurance Act, 1991		
44	The Sales Promotion Employees (Conditions of Service) Act, 1976	The Sales Promotion Employees (Conditions of Service) Rules, 1976	
45	Trade Unions Act , 1926		Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971
46			Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971
47	The Unorganized Workers' Social Security Act, 2008	The Unorganized Workers' Social Security Rules, 2008	
48	The War Injuries Ordinance Act, 1943		
49	The War Injuries (Compensation Insurance) Act, 1943		
50	The Weekly Holidays Act, 1942		Repealed in Maharashtra by Mah. Act 26 of 1961
51	Workmen's Compensation Act, 1923		Bombay Workmen's Compensation Rules, 1934
52	The Working Journalist (Fixation of Rates of Wages) Act, 1958		
53	The Working Journalists and other Newspaper Employees'	The Working Journalists and other Newspaper	

	(Conditions of Service and Misc. Provisions) Act, 1955	Employees' (Conditions of Service and Misc. Provisions) Rules, 1957	
54	Labour Courts (Practice and Procedure) Rules, 1975		

2. Gujarat

Sl.No.	Name of the labour legislation	Central Rules	State Rules
1	Apprentices Act , 1961	Apprentices Rules, 1961	
2	The Beedi and Cigar Workers (Conditions of Employment) Act, 1966		
3	<u>Beedi Workers Welfare Fund Act, 1976</u>		
4	The Beedi Workers Welfare Cess Act, 1976	The Beedi Worker's Welfare Cess Rules, 1977	
5	The Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996		
6	Bonded Labour System (Abolition) Act, 1976		
7	Contract Labour (Regulation & Abolition) Act , 1970		Contract Labour (Regulation and Abolition) Gujarat Rules , 1972
8	The Child Labour (Prohibition And Regulation) Act, 1986		

9	Children (Pledging of Labour) Act, 1933		
10	The Cinema Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981	The Cinema Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984	
11	The Cine Workers' Welfare Fund Act, 1981.		
12	The Cine Workers Welfare Cess Act, 1981		
13	The Dock Workers (Regulation of Employment) Act, 1948		
14	The Dock Workers (Safety, Health & Welfare) Act, 1986		
15	The Dock Workers (Regulation of Employment) (inapplicability to Major Ports) Act, 1997		
16	Employee State Insurance Act , 1948	Employees' State Insurance Rules, 1950 Employees' State Insurance (General) Regulations, 1950	
17	Employee's Provident Fund and Miscellaneous Provisions Act , 1952	Employees' Deposit Linked Insurance Scheme , 1976	
18	Employment Exchanges (Compulsory Notification of Vacancies) Act , 1959	Employment Exchanges (Compulsory Notification of Vacancies) Rules, 1960	
19	The Employment of Manual Scavengers and Construction of		