

SOS POLITICAL SCIENCE AND PUBLIC ADMINISTRATION

MBA HRD – 204

SUBJECT NAME: INDUSTRIAL WELFARE

UNIT-V

TOPIC NAME- INTERNATIONAL LABOUR ORGANISATION AND THEIR INFLUENCE ON INDIAN LABOUR LEGISLATIONS

India being an original founder member of the I.L.O. has been taking an active part and interest in its activities. The I.L.O activities broadly include policy formulation, standard-setting, industrial relations, quasi-judicial responsibilities, informational and promotional activities, education and training, research, advisory services and operational projects etc. The three main functions of the I.L.O are:

- 1) To establish international labour standards;
- 2) To collect and distribute information on labour and industrial conditions, and
- 3) Provide technical assistance.

In order to achieve its main objectives, I.L.O. has relied on standard setting which is its core activity since its establishment in 1919. The International Labour Standards take the form of Conventions and Recommendations. A Convention is a treaty which, when ratified, creates binding international obligations for the country concerned whereas, a Recommendation creates no such obligations but is sensationally a guide to national action.

The Conventions are important, as they create international obligations, when ratified. According to Nicolas Valticos “If Conventions are to achieve their object, they must also be formally accepted and effectively applied on the widest possible scale.”

The member nations of the I.L.O. have been able to improve labour conditions in their respective nations by adopting the Conventions. If the I.L.O Conventions are seen in the general spectrum of labour conditions, one can imagine the great value and influence they have in moulding the course of social and economic philosophy of the World. The World, without their influence and continuance, may be a World of perpetual competition, exploitation, inequality and injustice resulting in wars and confrontations.

Establishment of ILO and Constitutional Structure before Independence

On 11th April, 1919 the I.L.O. was established with the aim to improve the living and working conditions of the labour class all over the World. Since 1919, only India was its member which after some time became one among the members of chief Industrial nations. In the same year as the International Labour Organisation was set up (1919), the country received its first Constitution under the Montagu-Chelmsford reforms. This Constitution conferred a modified degree of autonomy on the provinces. So far as labour was concerned the central legislature was

given powers to legislate on all labour matters with the exception of housing. The provincial legislatures could, for their part, legislate on housing and also, with the approval of the central Government and the overriding authority of the central legislature, on all other labour subjects except mining. There is evidence that in determining this division of powers the question of the ratification of international labour Conventions was among the factors that weighed with the Government of India.

The concurrent jurisdiction by the central and provincial legislatures on most of the labour subjects was continued under the constitutional provisions of the Government of India Act, 1935, which came into force in the British Indian Provinces in 1937. There was a demarcation between provincial and central functions regarding legislation as well as administration. While the regulation of labour and safety in mines and oilfields, on the federal railways and in the major ports, and inter-provincial migration were subjects for central or federal legislation, the following were subjects of concurrent legislative jurisdiction : factories, welfare of labour, conditions of labour, provident funds, employers' liability and workmen's compensation, health insurance and invalidity pensions, old-age pensions, unemployment insurance, trade unions and industrial disputes. The concurrent powers were subject to the overriding jurisdiction of the central legislature. On the other hand, it was also provided that if the central legislature desired to pass legislation on any of these subjects involving the "giving of directions to a province as to the carrying into execution" of such legislation, it must obtain the previous sanction of the Governor-General under the Act.

The Constitution of India, which came into force on 26 January 1950, retains the same division of powers between the Centre, now termed the Union, and the provinces, termed states. The impact of the I.L.O. standards in the form of Conventions and Recommendations on Indian Labour Legislation is direct as well as indirect. The I.L.O. has provided a platform to the representatives from India, and an opportunity to carry and spread the message of the I.L.O. to India. By 1929, India had ratified 11 of the 28 Conventions adopted at that date, but it has been suggested that the rapid pace of ratification reflected in part the interests of British industry, keen to limit competition from India. I.L.O. has adopted several Conventions and Recommendations related to subjects like employment of women, children, young persons holidays, weekly rest hours of work, night work, industrial safety, health, social security, wages and wage fixation, obligation and duty of the government of the member nations to reform the labour legislation¹⁶ and its result was the ratification of the I.L.O. standards as well as the formulation of the new Indian Labour Legislations.

Indian employer and worker representation in the ILO was to a greater degree rooted in India. The creation of the ILO, and the need for international representation, provided an important incentive for the creation of national organisations of employers and workers, which had not earlier existed. In the initial years, employer delegates to the International Labour Conference (ILC) came from the Associated Chambers of Commerce of India and Ceylon, formed in 1920. But this organization was European dominated, and in 1926, the Indian Federation of Chambers of Commerce and Industry was established, which also sent employer

delegates to the ILC. G D Birla, who was an employer delegate in 1927, was bitterly opposed to European representation in the Indian employers' delegation.

India had adopted the ILO's tripartite principle early on. In 1942, the Government of India set up a permanent Tripartite Labour Organisation, which included a committee on Conventions to examine ILO standards, and an Indian Labour Conference modelled on the ILC. The tripartite Indian Labour Conference continued to meet after independence, and has now held more than 42 meetings, which suggests that, even though it has only advisory status, it is a useful mechanism for social dialogue on labour matters. The tripartite approach has also been reflected in the role and influence of Indian employer and worker representatives in ILO debates.

ILO Conventions are international labour instruments or treaties, which on ratification create legally binding obligations upon the States. As on July 2015, ILO has adopted 189 conventions and 204 recommendations. Out of 189 ILO Conventions, India has so far ratified 43 ILO Conventions and 1 protocol which includes four core or fundamental human rights Conventions like Forced Labour Convention (C-29), Equal remuneration Convention (C-100), Abolition of Forced labour Convention (C-105) and Discrimination (Employment & Occupation) Convention (C-111) and three priority/governance conventions such as Labour Inspection Convention (No.81), Employment and Social Policy Convention (No.122) and Tripartite Consultations (International Labour Standards) (No.144). During 104th session of ILC, India supported the adoption of recommendation (R-204) on "Transition from Informal to Formal Economy" by ILO. The following are the list of ILO conventions and protocols ratified by India.

Impact of I.L.O's Conventions on Labour Legislations in India

A study of the labour laws passed in India since 1919 would certainly reveal what a considerable impact the I.L.O's Conventions had in the field of Indian Labour Legislation. The impact on Indian Labour Legislation before 1932 was direct and tangible as they have played a significant role in initiating Indian Labour Legislations.

1. Factories and Mines Legislations with regards to aspects like hours of work, weekly rest, holiday with pay and wages

a) Employment of children and young persons

b) Employment of women at night

c) Industrial health, safety and welfare.

2. Wage-legislations - India ratified Convention 26 on minimum wages fixing machinery in 1955 and amended Minimum Wages Act to constitute an advisory Committee to advise on this matter.

3. Social Security - A number of Conventions and Recommendations dealing with workmen compensation, sickness insurance, invalidity, old age and survivors' insurance, unemployment

provisions, maternity protection and general aspects of social security have been adopted by the ILO. India has directly or indirectly adopted some of them in its laws

An illustrative list of the enactments undertaken as a direct result of I.L.O. convention is given below:

1. The influence of Conventions can also be seen in the various amendments made to the Factories Act, 1934, during the period 1934 to 1948. An enactment having a bearing on the provisions of the Minimum Age (Industry) Convention (Revised), 1937, was adopted in 1940. The Factories (Amendment) Act, 1940, was designed to prevent the exposure of children to the risk of exploitation and employment in unhealthy and dangerous conditions. By the amendments the provisions of the Factories Act concerning health, safety, children and registration were extended to factories using power and employing ten to 19 persons, defined as small factories. It further empowered the provincial governments to declare any premises employing children to be a "small factory" even though less than ten workers were employed therein. The Factories Act was again amended in 1945 to provide for workers in non-seasonal factories covered by the Factories Act, 1934, ten consecutive days of annual holidays with pay for adults and 14 for children, after a qualifying service of one year. The "Statement of Objects and Reasons" claimed that the measure covered "not an unimportant part" of the Holidays with Pay Convention, 1936. The Factories Act, 1934, was consolidated and amended in 1948. Speaking on the Bill in Parliament on 30 January 1948, the Labour Minister pointed out that the Government had tried to implement as many of the provisions elaborated by the I.L.O. in the field of industrial hygiene as were practicable under Indian conditions and that the provisions relating to the periodical medical examination of young persons and the submission of plans of factory buildings had also been taken from international labour Conventions. More recently the Factories Act, 1948, was amended in 1954 to give effect to the Night Work (Women) Convention (Revised), 1948, and the Night Work of Young Persons (Industry) Convention (Revised), 1948, ratified by India in 1950. The discrepancies eliminated in this way related to the duration of the night interval in cases where a change of shift affected the rest period of women on the one hand, and where the young persons had not attained the age of 17 years, on the other.
2. Implementation of the Night Work (Women) Convention (Revised), 1948, also led to the insertion in the Mines Act of 1952 of a provision prohibiting the employment of women in mines during the night on work above ground, in addition to the prohibition covering work underground.
3. The Indian Ports Act, 1908, was amended in 1922 to implement the Minimum Age (Industry) Convention, 1919. The amendments laid on the local governments the obligation of making rules prohibiting the employment of children under 12 years of age in the handling of goods at quays, docks, etc.
4. When the Minimum Age (Industry) Convention, 1919, was revised in 1937 a Bill was introduced in the central legislature on 15 August 1938 expressly designed to give effect

to the Convention. Some of the provisions of the Employment of Children Act, 1938, adopted as a result of this initiative, were even in advance of the specific provisions of the Convention relating to India ; for example for India the Convention fixed 13 years as the minimum age in " the transport of passengers or goods, or mails, by rail, or in the handling of goods at docks, quays or wharves, but excluding transport by hand " (Article 7 (3)), while the Act fixed the minimum age at 15 years for the handling of goods at docks, wharves or quays. The Act was further amended in 1951 to give effect to the provisions of the Night Work of Young Persons (Industry) Convention (Revised), 1948. When the Mines Act was being consolidated in 1952 a specific provision prohibiting the employment of women during night in mines was inserted in order to implement the provisions of the Night work (Women) Convention (Revised), 1948.

5. The Indian Railways (Amendment) Act, 1930 was passed to secure a statutory obligation to apply the provisions of the Hours of Work (Industry) Convention, 1919 and the Weekly Rest (Industry) Convention, 1921.
6. The Indian Dock Laborers' Act, 1934, sought specifically to give effect to the provisions of the Protection against Accidents (Dockers) Convention (Revised), 1932, and contained provisions to ensure the safety of workers employed in loading and unloading ships.
7. The Woman's Compensation Act, 1932 was amended in 1926 to bring it in line with the provisions of the Workmen's compensation (Occupational diseases) Convention, 1925.