

INDUSTRIAL RELATIONS

AND


LABOUR LAWS

Chapter 16

Labour Laws : An Overview

Learning Objectives

After going through this session you will be able to understand :

-  The genesis of labour legislation in India.
-  The objectives and classification of labour laws.
-  The specific features of labour laws in our country.

Structure

16.1 Introduction

16.2 Genesis

16.3 Objectives

16.4 Classification

16.5 Special Features of Labour Laws

16.6 Statutory Returns

16.7 Summary

16.8 Self Assessment Questions

16.1 Introduction

Consistent with the constitutional mandate the parliament and the state legislatures have discharged their constitutional duty by enacting a large number of labour laws whose avowed purpose was to carry out the constitutional directives as indicated in the Directive Principles of State Policy in Chapter III.

Laws have been made, among other things, to ensure minimum wages, to guarantee just and humane conditions of work, to foster trade unions and collective bargaining.

16.1 Introduction

Further laws have been made to ensure terminal and retirement benefits, to control and, if necessary abolish contract labour and to adjudicate industrial disputes. The total number of labour / industrial laws on the statute book, both central and state, is about 160.

The rule-making power is conferred on the appropriate government, which may be a state or the central government. In other words, both the central and state governments have been empowered to make rules on the subjects which are within their jurisdiction.

16.1 Introduction

The labour ministry of the central government in fact, exercises the rule-making powers conferred on the central government. The rule making power of the appropriate government is subject to the condition of previous publication of such rules.

The rules are further required to be laid before the state legislature where the state government is the appropriate government and before both the houses of parliament where the central government is the appropriate government.

16.1 Introduction

The rules lay down detailed procedures for the implementation and enforcement of different provisions of the enactments.

All rules and regulations which are contrary or repugnant to the statute under which they are framed are ineffective, because the executive cannot, under the power of framing rules and regulations, clothe itself with powers which the statute itself does not confer and which are inconsistent with the interpretation.

16.1 Introduction

The central laws are applicable throughout India, while the state laws are applicable only within the respective states. However, many labour laws in our country are central laws applicable throughout India though the state governments are vested with responsibility for their administration.

16.2 Genesis

Earlier, the policy of the government was to protect the social system rather than to protect workers. Hence, some of the earliest pieces of labour legislation in India appear to have been enacted more with a view to protecting the interests of the employers than those of the workers.

The Workmen's Breach of Contract Act, 1859, and the Employers' and Workmen's (Disputes) Act, 1860, provided for penalties for workmen for interference with employers' right to carry on trade and business and for breach of contract.

16.2 Genesis

It was at the instance of British Industrialists and their efforts to safeguard their own economic interests against the growing competition of India's industries that the Government of India was moved to intervene in the field of factory legislation.

The Bombay Factory Commission was appointed by the British Government in 1875 to examine the need for factory legislation in India. This resulted in the passing of the first Factories Act of 1881 which was replaced by the second Factories Act of 1891. The third Factories Act was enacted in 1911 and first Mines Act was passed in 1901.

16.2 Genesis

Before the World War I (1914-1918), there was no legislation for the general class of industrial workers or for their welfare.

Even the regulations under the factories and mines legislation were an eyewash; they had no muscle or teeth because, at that time, the policy of the British Government in India was influenced by the capitalist theory of *laissez faire* – free economy and non-intervention by the government in labour and industrial matters.

16.2 Genesis

After the First World War, conditions changed. The experience of World War I influenced a great deal the attitude of the government and the employers to labour in India. The Russian Revolution of 1917, the growing discontent among the Indian working class as well as the increase in political unrest in the country, all contributed to the enactment of labour legislation.

Trade unions appeared on the Indian scene in the first half of the 20th century, which deepened and widened labour-management conflicts. The agitation of workers was a powerful factor in shaping legislation.

16.2 Genesis

The establishment of the ILO in 1919, of which India was a member since its inception, also gave a great fillip to labour legislation in India because it adopted many of its conventions and recommendations on international standards for improvement in labour conditions. Another significant event, as far as our country is concerned, was the formation of the All-India Trade Union Congress in 1920.

As a result of all these , after 1920, labour legislation took great strides in India.

16.2 Genesis

The new Factories Act and Mines Act were passed in 1922 and 1923 respectively to improve the working conditions of workers in factories and mines.

Many new and important laws were enacted e.g. the Workmen's Compensation Act, 1923; the Indian Merchant Shipping Act, 1923; the Indian Trade Unions Act, 1926; and the Trade Disputes Act, 1929.



Many existing labour laws were thoroughly amended and many new acts were enacted, e.g. Tea Districts Emigrant Labour Act, 1932; the Factories Act, 1934; the Trade Disputes (Amendment) Act, 1934 and 1938.

16.2 Genesis

Some more acts enacted include the Bombay Trade Disputes Conciliation Act, 1934; the Bombay Industrial Disputes Act, 1938; the Payment of Wages Act, 1936; the Workmen's Compensation (Amendment) Act, 1933; the Children's (Pledging of Labour) Act, 1933; the Indian Dock Labourers Act, 1934, the Maternity Benefit Acts in different provinces and the Mines Maternity Benefit Act, 1941, the Bombay Shops and Establishments Act, 1948.

All legislative and government intervention was designed essentially to achieve two ends listed next.

16.2 Genesis

-  To provide for minimum protective legislation against abuses of the industrial environment and exploitation, and
-  To ensure that labour management frictions did not disturb the peace and security of the state.

Some other developments also influenced labour legislation during this period. With the advent of popular ministries in the provinces (states) and at centre since 1937 under the Government of India Act, 1935; various laws were enacted, both in the provincial and central spheres, for the welfare of labour and for maintenance of industrial peace.

16.2 Genesis

The popular ministries were sympathetic to labour and considerable progress was made in the field of protective legislation.

In 1942, the Indian Labour Conference, a tripartite consultative body, was established to co-ordinate labour policy, to consider proposals for labour legislation and to ensure uniformity in labour legislation. The years between 1942 and 1947 witnessed a remarkable extension in the scope and content of protective labour legislation.

16.2 Genesis

There was complete change in the very approach to labour legislation after the attainment of Independence in August 1947, and particularly after the Constitution of India came into effect on January 26, 1950.

The basic philosophy itself underwent a change and the concepts of social justice and welfare state influenced the formation of labour legislation in Independent India. Based on the recommendations of Rege Committee a comprehensive Factories Act 1948 was enacted by the Government of India.

16.2 Genesis

In accordance with declaration in the Constitution of India in its preamble to secure for its citizens justice – social, economical and political – the Parliament as well as the different state legislatures passed a number of acts relating to labor welfare and the settlement of industrial disputes.

In the central sphere, various acts were enacted for different categories of workers – including motor transport, mines and plantations.

Various social security laws were also enacted which established a new progressive trend in labour legislation.

16.2 Genesis

In pursuance of the recommendations of the National Commission on Labour (1966-69), certain changes were made in labour laws. However, some fundamental changes in the industrial relations machinery and trade union reforms, as recommended by the Commission could not be implemented till now. Two industrial relations bills were introduced in Parliament, one in 1978 by the Janata Government and second, in a modified form by in 1988, by Congress Government. But following strenuous opposition from both employers and workers, these bills were deferred. Finally, they lapsed.

16.2 Genesis

Labour legislation in India covers all aspects of labour more than labour legislation in any other country. Through a body of legal enactments and judicially acknowledged principles, it covers industrial employment, non-employment, wages, working conditions, industrial relations, social security and welfare of industrial employees.

Indeed, labour legislation is a result of the evolution of concept of social justice which aims at protecting those who cannot protect themselves.

16.3 Objectives

Objectives of labour legislation in India cover: -

- To protect and safeguard the interest and well being of the working class against arbitrary and unilateral actions of employers.
- To regulate and improve upon the working conditions of workers employed in various factories and establishments by stipulating measures to protect and promote their health, safety and welfare.

16.3 Objectives

Objectives of labour legislation in India cover: -

- To provide for statutory fixation, payment and periodic revision of need-based minimum wages to employees in the 'sweated' industries and unorganized sector.
- To ensure that the employees are paid their wages on fixed dates, at least once a month and that no arbitrary and unauthorized deductions are made from their wages.

16.3 Objectives

Objectives of labour legislation in India cover: -

- To ensure that service conditions are spelt out clearly and precisely by employers and made known to workmen and also to specify the mutual rights and obligations of employers and workmen
- To grant freedom of association to the working class to form trade unions and to have the right to organize by providing for the registration of trade unions, and to promote their welfare through collective bargaining and collective action.

16.3 Objectives

Objectives of labour legislation in India cover: -

- To promote industrial peace by providing for an elaborate machinery for the prevention and settlement of industrial disputes.
- To provide social security benefits to employees in the event of the loss of the earnings of the breadwinner due to such eventualities as sickness, maternity, disablement and death.
- To make statutory provision for the regular training of a certain number of apprentices in different trades.

16.3 Objectives

Objectives of labour legislation in India cover: -

- To make it obligatory for the employers to notify vacancies to the employment exchange so as to facilitate recruitment market.
- To provide for welfare facilities and social amenities to workers and their families outside their workplace by raising separate welfare funds.

16.3 Objectives

Objectives of labour legislation in India cover: -

- To regulate the employment and service conditions of contract labour and provide for the abolition of contract labour.
- To provide for regular and periodic furnishing of statistics by industrial or commercial organizations on specified labor matters.

16.3 Objectives

Objectives of labour legislation in India cover: -

- To regulate and control the working of those industrial units which are likely to become sick and to provide for the takeover of the management of sick or closed units with a view to making them economically viable.
- To make it obligatory for industries to take effective measures and install and maintain appropriate equipment for the prevention and control of pollution of air and water and protection of the environment.

16.3 Objectives

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. The advent of doctrine of welfare state is based on the notion of progressive social philosophy which has rendered the old doctrine of *laissez faire* obsolete.

16.3 Objectives

The theory of 'hire and fire' as well as the theory of 'supply and demand' which found free scope under the old doctrine of *laissez faire* no longer holds good.

Indian labour laws have both positive and negative sides. The positive side provides basic rights and facilities for human existence and human dignity – the right to combine, the right to expression, the right to a minimum standard of living, health and safety, and so on.

The negative side of it is over protective, over negative, over reactive, fragmented, ad hoc, outdated and irrelevant.

16.4 Classification

Some of the important labour enactments in India may be broadly classified the following six groups:

a) Laws on Working Conditions

- i. The Factories Act, 1948.
- ii. The Plantations Act, 1951.
- iii. The Mines Act, 1952.
- iv. The Motor Transport Workers Act, 1961.
- v. The Contract Labour (Regulation & Abolition) Act, 1970.
- vi. The Shops & Establishments Acts enacted by States
- vii. The Child Labour (Regulation & Abolition) Act, 1986.

16.4 Classification

b) Laws on Wages

- i. The Payment of Wages Act, 1936.
- ii. The Minimum Wages Act, 1948.
- iii. The Payment of Bonus Act, 1955.
- iv. The Equal Remuneration Act, 1961.

c) Laws on Employment & Training

- i. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959
- ii. The Apprentices Act, 1961.

16.4 Classification

d) Laws on Social Security

- i. The Workmen's Compensation Act, 1923.
- ii. The Employees' State Insurance Act, 1948.
- iii. The Employees' Provident Funds & Miscellaneous Provisions Act, 1952.
- iv. The Maternity Benefit Act, 1961.
- v. The Payment of Gratuity Act, 1972.

16.4 Classification

e) Laws on Labour Welfare Funds

- i. The Mica Mines Labour Welfare Fund Act, 1946.
- ii. The Iron Ore, Manganese Ore & Chrome Ore Mines Labour Welfare Fund Act, 1976.
- iii. The Limestone & Dolomite Labour Welfare Fund Act, 1972.
- iv. The Beedi Workers Welfare Fund Act, 1976

16.4 Classification

f) Laws on Industrial Relations

- i. The Trade Unions Act, 1926.
- ii. The Industrial Employment (Standing Orders) Act, 1946.
- iii. The Industrial Disputes Act, 1947.
- iv. The Bombay Industrial Relations Act, 1946
- v. The Maharashtra Recognition of Trade Unions and Prevention Unfair Labour Practices Act, 1971.

16.5 Special Features of Labour Laws

A significant feature of our labour law system is that they do not take into account the industrial sector in which they operate, i.e. whether public, private, joint or cooperative sector.

All sectors are treated equally in the matter of operation of labour laws. Another important feature of our labour legislation is that they also do not take into consideration the size of the industries to which they apply, i.e. whether tiny, small, medium or large scale industry. Here again all sizes or scales of industries are treated on par.

16.5 Special Features of Labour Laws

A third material feature of our labour statutes is that both the manufacturing and service sectors of the industry are treated alike, despite the tremendous difference in the 'work cultures' obtaining in these two sectors. And finally, the bulk of our labour laws have been enacted to meet the exigencies of a situation and hence we find a lot of 'ad hocism' in these labour laws.

Generally labour laws are made applicable to industries in India on the basis of two fold criteria.

- 1] employment-limit within the unit in the industry, &
- 2] wage-limit of the employees in that unit.

16.5 Special Features of Labour Laws

But there are also quite a few labour laws of general application, where neither of these two criteria govern their applicability, e.g. the Bombay Shops & Establishments Act, 1948.

Besides giving a 'go bye' to the aforesaid criteria, occasionally some special laws are enacted by the Central or State Governments, as the case may be, to meet the requirements of employees employed in industries having peculiar features, to protect them from the adverse effects thereof.

16.5 Special Features of Labour Laws

The Working Journalists (Conditions of Service) Act, 1956; The Beedi and Cigar Workers (Conditions of Service) Act, 1966; the Motor Transport Workers' Act, 1961; and the Maharashtra Mathadi, Hamal & Other Manual Workers (regulation of Employment & Welfare) Act, 1969 may be cited here, as instances in point

16.6 Statutory Returns

As labour is in concurrent list under the Indian Constitution, both State Governments and Central Government have their roles in labour administration.

All returns, except those relating to industrial disputes, closures, lay-off and retrenchment, are furnished by the concerned authorities on statutory basis.

Returns relating to industrial relations except trade unions are received on a voluntary basis.

16.7 Summary

Industrial jurisprudence in India is based on three sources – the Constitution, the legislative enactments and judge-made law or judicial decisions.

The Constitution of India embodies a number of fundamental rights and directive principles of state policy.

The parliament and state legislatures have discharged their constitutional obligation by enacting a large number of labour laws.

16.7 Summary

The central laws are applicable throughout India, while the state laws are applicable only within the respective states.

There are certain labour laws which are administered by the central government only; and some others both by the central and state governments.

Various judicial decisions are the richest source of industrial jurisprudence.

16.8 Self Assessment Questions

1. Trace the genesis of labour laws in India.
2. What are the specific objectives of different labour laws in our country?

With this we come to an end of this session on

Labour Laws : An Overview

Chapter 16



Good Luck !