



**A BIG VISIONARY DR. BABASAHEB AMBEDKAR'S
CONSTITUTIONAL CONTRIBUTION FOR THE LABOUR CLASS
OF INDIA AND IT'S COMPARISON WITH THE CHINA AND U.S.
LABOUR LAW**

DR. DHARMAJI KHARAT

Sr. Faculty in English,
PVP, SNDT Women's University,
Juhu, Santacruz (West),
MUMBAI- 400 049 (MS) INDIA

ABSTRACT

Indian Labour Law refers to laws regulating labour in India. Traditionally Indian governments at federal and state level have sought to ensure a high degree of protection for workers, but in practice, legislative rights only cover a minority of workers. India is a federal form of government and because labour is a subject in the concurrent list of the Indian Constitution, labour matters are in the jurisdiction of both central and state governments. Both central and state governments have enacted laws on labour relations and employment issues. The state shall in particular direct its policy towards securing that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strengths.

Dr. Babasaheb Ambedkar was the greatest warrior of the world of 20th Century who single handed fought against the established system of discrimination. He was true leader of layman and labour class. He always wanted labour class to take breathe freely and every organization must give a supportive kind of atmosphere for their living and well-being. Dr. Ambedkar had given the charge of labour cabinet ministry in the Prime Minister Nehru's government. Babasaheb was the first law and labour minister of independent India. At different work places and in various organizations there is much discrimination between and among the employee on their position. Discrimination, exploitation and harassment of labours by their masters in private organizations and in government, semi government and public sector organization by their bosses is different. In Indian frame context, private and government organizations, the problems of labours belonging to upper class strata of society and the problems of labours belonging to backward class of society are also different.



The constitutional law covers all the areas and the aspects related to the life of labour that are right to education, prohibition of children's in factories, scope of protection, employment contracts, wage regulation, health and safety, pension and insurance, management participation, collective action, equality, sex discrimination, migrant workers, vulnerable groups, dismissal regulations, employment and training, social security, child and women labour, factory act 1948, industrial relations, industrial safety and health.

History of Indian Labour Law:

Indian labour law is closely connected to the Indian independence movement, and the campaigns of passive resistance leading up to independence. While India was under colonial rule by the British Raj, labour rights, trade unions, and freedom of association were all suppressed. Workers who sought better conditions and trade unions that campaigned through strike action were frequently and violently suppressed. After independence was won in 1947, the Constitution of India of 1950 embedded a series of fundamental labour rights in the constitution, particularly the right to join and take action in a trade union, the principle of equality at work, and the aspiration of creating a living wage with decent working conditions.

Constitutional Provision of Labour Law:

In the Constitution of India from 1950, articles 14-16, 19(1) (c), 23-24, 38, and 41-43A directly concern labour rights. Article 14 states everyone should be equal before the law, article 15 specifically says the state should not discriminate against citizens, and article 16 extends a right of "equality of opportunity" for employment or appointment under the state. Article 19(1)(c) gives everyone a specific right "to form associations or unions". Article 23 prohibits all trafficking and forced labour, while article 24 prohibits child labour under 14 years old in a factory, mine or "any other hazardous employment".

Articles 38-39, and 41-43A, however, like all rights listed in Part IV of the Constitution are not enforceable by courts, rather than creating an aspiration "duty of the State to apply these principles in making laws".[1] The original justification for leaving such principles unenforceable by the courts was that democratically accountable institutions ought to be left with discretion, given the demands they could create on the state for funding from general taxation, although such views have since become controversial. Article 38(1) says that in general the state should "strive to promote the welfare of the people" with a "social order in which justice, social, economic and political, shall inform all the institutions of national life. In article 38(2) it goes on to say the state should "minimise the inequalities in income" and based on all other statuses. Article 41 creates a "right to work", which the National Rural Employment Guarantee Act 2005 attempts to put into practice. Article 42 requires the state to



"make provision for securing just and human conditions of work and for maternity relief". Article 43 says workers should have the right to a living wage and "conditions of work ensuring a decent standard of life". Article 43A, inserted by the Forty-second Amendment of the Constitution of India in 1976,[2] creates a constitutional right to codetermination by requiring the state to legislate to "secure the participation of workers in the management of undertakings".

Scope of Protection:

Indian labour law makes a distinction between people who work in organized sectors and people working in unorganized sectors. India's labour laws underwent a major update in the Industrial Dispute Act of 1948. Since then, an additional 45 national laws expand with the 1948 act, and another 200 state laws control the relationships between the worker and the company.

Employment Contracts:

The Industrial Employment (Standing Orders Act 1946) requires that employers have terms including working hours, leave, productivity goals, dismissal procedures or worker classifications, approved by a government body. Women are now permitted to work night shifts too.

The Latin phrase 'dies none' is being widely used by disciplinary authorities in government and industries for denoting the unauthorised absence to the delinquent employees. Dies-non is a period which is neither counted in service nor considered as break in service. A person can be marked dies-non, if absent without prior permission, when on duty left without proper permission, while in office but refused to perform duties. Dies non-on the principle of no work no play where the contract of employment is not fulfilled or work is not done as prescribed, the principle of 'no work no pay' is brought into play.

Wage Regulation:

The payment of wages Act 1936 requires that employees receive wages, on time, and without any unauthorized deductions. State and central government have their own minimum wage schedules.

Health and Safety:



The workmen's compensation Act 1923 requires that compensation is paid if workers are injured in the course of employment for injuries, or benefits to dependants as per factories Act 1948.

Management Participation:

Labours had a much of a right to participate in management of firms as shareholders or other property owners Article 43A of the Constitution. The Industrial Disputes Act 1947 section 3 created a right of participation in joint work councils to "provide measures for securing amity and good relations between the employer and workmen and, to that end to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters".

Collective Action:

The Industrial Disputes Act 1947 regulates how employers may address industrial disputes such as lockouts, layoffs, retrenchment etc. It controls the lawful processes for reconciliation adjudication of labour disputes.

Equality:

Article 14 states everyone should be equal before the law; article 15 specifically says the state should not discriminate against citizens, and article 16 extends a right of "equality of opportunity" for employment or appointment under the state. Article 23 prohibits all trafficking and forced labour, while article 24 prohibits child labour under 14 years old in a factory, mine or "any other hazardous employment".

Article 39(d) of the Constitution provides that men and women should receive equal pay for equal work. In the Equal Remuneration Act 1976 implemented this principle in legislation.

Child Labour Prohibition:

Child labour in India is prohibited by the Constitution, article 24, in factories, mines and hazardous employment, and that under article 21 the state should provide free and compulsory education up to a child is aged 14. However in practice, the laws are not enforced.

Unfair Dismissal Regulation:



Some of India's most controversial labour laws concern the procedures for dismissal contained in the Industrial Disputes Act 1947. A workman who has been employed for over a year can only be dismissed if permission is sought from and granted by the appropriate government office. Additionally, before dismissal, valid reasons must be given, and there is a wait of at least two months for government permission, before a lawful termination can take effect. Redundancy pay must be given, set at 15 days' average pay for each complete year of continuous service. An employee, who has worked for 4 years in addition to various notices and due process, must be paid a minimum of the employee's wage equivalent to 60 days before retrenchment, if the government grants the employer a permission to lay off.

Scavengers Labour Job in India and Abroad:

Particular group/caste people are given the job of scavenger in India. The other class of society than SC/ST are not interested in the job of scavengers. They are not equally responsible and contributing to cleanliness. They feel that they are not born for the cleaning job and it is the job of a particular group and in the job of scavenger 100% reservation given for SC/ST. This mentality of upper class society people and government is unlawful and very much disturbing. It is pure exploitation of the people belonging to particular group of society. As per the Constitutional provision of equal opportunity, the people belonging to the highest social strata of the society are needed to accept the job of scavenger. There reservation in the service begins from the point of the job of scavenger. Just an act of holding broom in hand for photo session once in a year is restricted to the promotion of the political party. To make Swacha Bharat Mission (SBM) successful, socially upper class people should show their interest in the job of scavenger. They need to understand that it's not a day activity but it's a continuous job. In abroad, there is no caste system and equal opportunity is given to all in all kind of profession. The job allocation in India is mostly based on caste and in abroad it is allocated on merit and talent. And, Indian mentality is used to misinterpret the social reservation. Every Indian needs to understand that reservation is at the entry point and there is no compromise in the passing marks and no compromise with the quality of work. The word reservation stands for representation and the social group of people covering all seats in all sectors of life also demands for reservation is very funny from their part. As if they have not understood the concept of social reservation or they understood it thoroughly but misinterpreting it intentionally so as to come in news.

International Comparison of Indian Labour Laws:

As per the survey of 2011, Minimum wages per month US\$ in India US\$91, China US\$182.5 and U.S. \$1242.4. The standard work day 8 hours in all the three countries, maximum overtime limit hours per year in India 200, China 432 and U.S. none. The premium pay for overtime in India is 100% and in China and U.S. 50%. The minimum rest while at work in



India 30 minutes per 6 hour and in China and U.S. none. Dismissal of one or more employee, due to redundancy, in India it is possible if government approves but in China and U.S. dismissal is possible without the approval of government and In India rarely government grants the approval of dismissal. In India and China dismissal priority rules are regulated and in U.S. none. The severances pay for redundancy dismissal of employee with one year tenure, in India 2.1 week salary, in China 4.3 week salary; with 5 year tenure in India 10.7 week salary, in China 21.7 week salary and in U.S. none. In all the set parameters, Indian labour law is much better in care taking of the labours than the labour law of developed country.

Conclusion:

Time to time amendments in labour law are there as per the need of modern time and society. A change in addition to the existing labour law is expected as the change is the rule of nature. No place, person and thing remains static. Any great creation of the world is always kept for criticism or to get people's view on it. Criticism is always to be considered as positive and one need to work on constructive way. In short, Constitution is the book where one can get solution to all the problems of the country. Labour class is not a slave class they deserve a kind of respect and they must get their rights to live freely in working organization.

Dr. Ambedkar was a great activist and true leader of labour class as a result of it he had formed the organization entitled, Independent Labour Party and Scheduled Caste Federation to protect the rights and freedom of the labour class. In nutshell, the Manu stands for inequality and the Constitution stands for equality. Freedom, equality and universal brotherhood all these human values are reflecting in Indian Constitution. Dr. Babasaheb's contribution to all the labour class and other exploited class is remarkable and unforgettable. All the trade unions in India are working in the frame of constitutional labour law. Dr. Babasaheb was all round gentlemen. Is there any single area of life left in which Babasaheb has not given his contribution? And definitely the answer will be 'no'. Dr. Babasaheb Ambedkar was true leader, great economist, known educationist, well-known politician, renowned socialist, eminent scholar, and an architect of Indian Constitution, eminent scholar, highly intellectual and good human being. He spent his whole life to fill the gap between the socially upper class and lower class and the employer and the labour class.



REFERENCES

Books

1. CK Johri, Labour law in India (2012) KNS1220 J71
2. S Routh, Enhancing Capabilities through Labour Law: Informal Workers in India (2014)
3. P. L. Malik's Industrial Law (Covering Labour Law in India) (2 Volumes with Free CD-ROM) (2015 ed.). Eastern Book Company. pp. 1–3656. ISBN 9789351451808.
4. Labour Laws - A Primer (2011 ed.). Eastern Book Company. pp. 1–224. ISBN 9789350281437.

Articles

5. PM Cawthorne, 'Of Networks and Markets: The Rise and Rise of a South Indian Town, the Example of Tiruppur's Cotton Knitwear Industry' (1994) 23(1) World Development 43
6. E Hill, 'The Indian Industrial Relations System: Struggling to Address the Dynamics of a Globalizing Economy' (2009) 51 Journal of Industrial Relations 395-410
7. S Routh, 'Forms of Solidarity for Informal Workers in India: Lessons for the Future?' (2013) LLRN Working Paper

Reports

8. Government of India Planning Commission, Report of the Working Group on Labour Laws and Other Labour Regulations (2007) Journals
9. "Supreme Court Cases (Labour & Services)". SCC (L&S). 2015 (Lucknow: EBC) (Monthly).
10. Supreme Court of India Digest containing Case Law - Labour & Services
11. Surendra Malik. Supreme Court Labour & Services Digest (Hardcover). India: EBC.

Webliography

12. https://en.wikipedia.org/wiki/Indian_labour_law
13. <http://labour.nic.in/content/innerpage/acts-details.php>
14. <http://labour.nic.in/content>