

## **EVOLUTION OF LAW AND POLICY RELATING TO LABOUR MANAGEMENT**

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### **ABSTRACT**

The origin and growth of labour law can be traced to the rise of modern factory system. Under the handicraft system, every production unit was small and there was direct personal contact between the employer and the craftsmen. After the industrial revolution, large scale industry came into being. In a modern industrial unit, a large number of workers are employed. As the workers had no bargaining capacity with capitalist employer, they had to work on nominal wages for long hours and under the unhealthiest conditions. Even women and children were employed under conditions which were detrimental to their health, safety and welfare. The workers were unable to protect themselves from exploitation by the Industrialist. As a welfare state, the government stepped into protect the interests of workers. It enacted labour laws to impose statutory obligations on employers to provide reasonably good working conditions and facilities to workers. On the recommendations of the Factory Commissions appointed in 1880 and 1890, the first Factories Act was passed in 1881 and amended in 1891. The Mines Act was passed in 1951 to ensure safe working conditions in mines. However, the labour laws enacted before First World War were designed mainly to protect the interest of Great Britain. Such protective legislation was of an elementary and haphazard nature.

**KEY WORDS :** Labour, Industries Etc

### **INTRODUCTION**

The term 'Industrial relations' or 'labour management relations' or 'employee relations' is difficult to define precisely because it is too complex. This is particularly so in a democratic society which allows freedom of action to the workers and their organisations and to the employers and their organisations and a series of laws are enacted to regulate their relations. In a totalitarian country trade unions are banned, as in Germany under Hitler or Italy under Mussolini. But even such a society has to enact laws to provide an acceptable relationship between the industrial employer and employees. In a Communist country where all persons employed are workers, industrial relations cannot result in any form of industrial action. But changes are taking place even in the so-called Communist countries; the upsurge of industrial workers in Poland and Yugoslavia are cases to point. Industrial relations as being synonymous with employer and employee relations may be defined as the relations between employers and employees in industry. According to Encyclopaedia Britannica, the industrial relations include individual relations and joint consultation between employers and work people at the place of work, collective relations between employers and the organisations and the trade unions and the part played by the State in regulating these relations.

### **APPROACHES TO INDUSTRIAL RELATIONS**

Industrial relations which refer to the formal process of consultation and negotiation are as old as industry and being inherent in industry, will always remain as a feature of industrial life. The participants in it are mainly three - the workers and their organisations, the employers and their associations and the agencies of the government. The participants should build up a stable, workable relationship among themselves and provide for the people a constant flow of consumption goods. The sectional groups in society sacrifice its broader interests to further their own ends and the conflict between the two assume the shape of industrial unrest. The agencies of Government which is the custodian of the interests of the community as a whole, play a significant role in shaping the pattern of relationships in the industrial setting. Industrial relations are collectively conducted between the workers and the employers through collective bargaining. In the pre-industrial society, productive work was mostly organized on a small scale. Workmen frequently owned the simple instruments which

they needed for their work. Hence, they either worked on their own or offered services to others with whom they would have direct and personal relations. With the advent of modern industrialisation, work organisations have undergone a basic transformation in terms of the scale of activity<sup>1</sup>.

### **EVOLUTION OF INDUSTRIAL RELATIONS**

In India when the doctrine of laissez-faire prevailed, workers were at a great disadvantage as they contracted themselves with their employers. They were exploited they received low wages and worked long hours in miserable physical conditions of work. The relationship between unequal's inevitably resulted in the exploitation of the weak by the strong. This exploitation sowed the seeds of dissatisfaction and bred protest. Therefore, workers got together and formed trade unions; they built up their organisations to mobilize their own power. In the sphere of collective relationship trade unions emerged for the protection and furtherance of the workers' interests for the worker individually could not take up his own cause effectively with the employer. As the industrial units grew large their ownership was increasingly divorced from management and a new managerial group was interposed between the owner's employers and the rank and file of workers. The other important aspect of industrialization is the formation of employers' associations to safeguard and promote the interest of their members through collective action.

The basic inequalities of the contracting parties in the employment relationship have called forth intervention by a third party, i.e., the State, in favour of the weaker section to ensure fair treatment to all concerned. The major instrument with the Government is legislation whereby norms to regulate the relationship between the two parties are specified and enhanced through the apparatus created for the purpose. The Government is prompted to influence the relationship between the employer's management and the workers and their trade unions, for it has the responsibility of satisfying the economic needs of the community. Therefore, the major influence in the field of industrial relations are the workers, the management and the Government. They play their roles, act and interact and evolve a process to regulate employment relationship. Up to the late 20's of the 20 centuries, the employer-employee relationship in India was practically that of master and servant. The British Government followed a policy of laissez-faire and regarded the problem of industrial relations mainly from the point of view of law and order. Policy of the Government was to protect the social system from workers rather than to protect workers from the social system<sup>2</sup>.

### **LABOUR LAW FOR THE PROTECTION OF EMPLOYER AND WORKERS INTERESTS**

The term 'Labour Law' refers to that body of laws which are enacted to protect and promote the interests of the working class in the society. Labour Laws comprise all those laws by which relationships between employers and employees are governed. All Laws which have a bearing on labour are included in the category of Labour Laws. Labour laws deal with the employment, wages, working conditions. Industrial relations, social security, labour welfare etc.. Labour Law seeks to establish a harmonious relationship between the employers and the employees and to strike a right balance between capital and labour. The objective of labour laws is to ensure good working and living conditions for workers and to maintain industrial peace and cordial relations between employers and workers.

### **NEED FOR REFORM IN LABOUR LEGISLATION**

Employers have also criticized labour legislation on the ground that it leads to waste of time, money and energy on their part. The twin objectives of our labour policy; economic growth and social justice, could not be achieved by labour legislation. This, however, does not mean that labour legislation has made no contribution towards improving the lot of working class in India. Labour laws have been very helpful in protecting and promoting the interests of labour. But there have been several undesirable consequences and the desired objectives of labour legislation have not been realized to a satisfactory extent

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<sup>1</sup> Srikanthmisra, "Modern Labour Laws and Industrial Relations" Deep & Deep Publications, New Delhi (1992) .

<sup>2</sup> GJ.Bhatia "Human Rights and Labour" (2003) Journal Section LabJ.C 132.

## **CONSTITUTIONAL FRAMEWORK OF LABOUR LEGISLATION**

Employers and workers are partners in industry and in the process of national development. Both individual employers and the community as a whole are under an obligation to protect the well-being of labour. Workers must be given their due share in the gains of economic development. Labour legislation helps to maintain industrial peace which is essential for increasing productivity and prosperity. It is also designed to improve the service conditions of workers by providing for them ordinary amenities of life. It also seeks to ensure the workers, who cannot bargain on equal terms, a fair return for their labour. Indian Constitution serves as the most important basis for labour laws in our country. Labour legislation in India is designed to fulfil the pledge and ideology enshrined in the Indian Constitution. The Fundamental Rights and the Directive Principles of State policy enshrined in our Constitution provide guidelines for labour legislation in the country<sup>3</sup>.

## **THEORIES OF INDUSTRIAL RELATIONS**

### **UNITARY THEORY**

The essence of the unitary theory of industrial relations, held by Halford Reddish and others, is that every work organization is an integrated and harmonious whole existing for a common purpose. They assume that each employee identifies with the aims of the enterprise and with its methods of operating. By this view, there is no conflict of interest between those supplying financial capital to the enterprise and their managerial representatives, and those contributing their labour and job skills. By definition the owners of capital and labour are joint partners to the common aims of efficient production, high profits and good pay in which everyone in the organization has a stake. It follows that there cannot be two sides' in industry. Indeed managers and managed alike are merely parts of the same team'. This team, however, is expected to be provided with strong leadership from the top to keep it working and to ensure commitment to the tasks to be done and to its managerial office holders. One implication of unitarist is that factionalism within the enterprise, is seen as a pathological social condition. Subordinate employees are not expected to challenge managerial decisions or the right to manage, while trade unionism is viewed as an illegitimate intrusion into the unified and cooperative structure of the workplace. More than this, trade unionism competes almost malevolently with management for the loyalty and commitment of employees to their employer. In other words, unitary theory in its traditional or classical form denies the validity of conflict at work whether between management and employees, between management and unions, or even between the organization and its customers. The concepts of common purpose and harmony of interests further imply that apparent conflict is either

- (a) Merely frictional, e.g. due to incompatible personalities or things going wrong', or
- (b) Caused by faulty communication', e.g. misunderstanding' about aims or methods, or
- (c) The result of stupidity in the form of failure to grasp the communality of interest, or
- (d) The work of agitators inciting the supine majority who would otherwise be content.

## **CONFLICT THEORY**

Conflict theory is based on two interrelated views of society and of industrial relations between employers and employees. The first is that although Western industrialized societies are still class based, they are essentially 'post-capitalist' in the sense that political and industrial conflict or increasingly institutionally separated within them and that industrial conflict has been less violent because its existence has been accepted and its manifestations have been socially regulated through agreed constitutional arrangements. The second view is that work organizations are microcosms of society. Since society comprises a variety of individuals and of social groups, each having their own social values and each pursuing their own self-interests and objectives, those controlling and managing work enterprises similarly have to accommodate the differing values and competing interests within them. It is only by doing this that private or public enterprises can function effectively. Industrial relations between employers and unions and between managers and trade unionists, are an expression of the conflict and the power relations between organized groups in society generally. As such,

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<sup>3</sup> Infra note. 18

industrial conflict between managers and their subordinates has to be recognized as an endemic feature of work relationship and managed accordingly. A major element in post-capitalist theories of contemporary society and industrial relations is the proposition that the nature of class conflict has substantially changed from that suggested by Marx in his nineteenth-century analysis. In Marxist theory class conflict is perceived as being synonymous with industrial conflict and political conflict. Under market capitalism, Marxists argue, the capitalists or the owners of the means of production are identical with the ruling class in industry and politics, while wage-earners, owning only their labour-resources, are relatively powerless in industrial relations and in politics. Capitalists are the social elite and the proletariat are the socially weak<sup>4</sup>.

### **SOCIAL ACTION THEORY**

Social action theory in industrial relations emphasizes the individual responses of the social actors, such as managers, employees and union representatives, to given situations. It contrasts with systems theory which suggests that behaviour in an industrial relations system is explicable in terms of its structural features. Social action theory is pre-eminently associated with the studies of Max Weber. According to Weber, action is social by virtue of the subjective meaning attached to it by the acting individual it takes account of the behaviour of others and is thereby oriented in its course'. He insists that in order for social actions to be explained theory must be interpreted in terms of their subjectively intended meanings, not their objectively valid ones. If only observable behaviour is examined, the significance and value which individual actors place upon their behaviour are likely to be misinterpreted. Social action theory also has its critics. Marxists argues, that those supporting the action frame of reference neglect the 'structural influences of which the actors themselves may be unconscious'. Whilst the consciousness of individual actors in the industrial relations system towards its politico-economic structures can be to some extent autonomous, it is limited in practice. This is because 'Definitions of reality are themselves socially generated and sustained, and the ability of men to achieve their goals is constrained by the objective characteristics of their situation'. Perhaps the most useful features of social action theory in industrial relations is the Shay in which is stresses that the individual retains at least some freedom of action and ability to influence events'. Although the structures of the industrial relations system may influence the action of its actors, these in turn also influence the system as a whole including its outputs<sup>5</sup>.

### **S. MAITDST THEORY**

Marxist interpretations of industrial relations are not strictly theories of industrial relations per se. Marxism is rather a general theory of society and of social change with implication for the analysis of industrial relations within capitalist societies. In other words, Marxist analysis is essentially a method of social enquiry into the power relationships of society and a way of interpreting social reality. To understand the relevance of Marxist theory to industrial relations it is necessary to separate out those main features of general Marxist analysis which contribute to its special character as a means of interpreting relations between the capitalist and wage-earning classes. Moreover, Marx himself wrote comparatively little about trade unionism and collective bargaining because neither of these institutions was firmly established in Britain when he was studying 19th century capitalise development. Thus, the application of Marxian theory as it relates to industrial relations derives indirectly from later Marxist scholars rather than directly from the works of Marx himself. The starting point for the Marxian analysis of society is class conflict. Class conflict is synonymous with industrial conflict since the capitalist structure of industry and of wage-labour is closely connected with the pattern of class division in society. Thus, the conflict taking place in industrial relations between those who buy labour and those who sell it is seen as a permanent feature of capitalism, merely reflecting the power base of the bourgeoisie and the class relations of capitalist society generally. Marxist model exemplifies the structuralist (technological, economic and political forces) explanation of industrial

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<sup>4</sup> Ved P. Nanda "The Global Challenge of Protecting Human Rights: Promising New Developments" (2005) Den.V.J. Vol.34 No. 1

<sup>5</sup> A.M. Sarma "Aspects of labour welfare and Social Security" Himalaya Publishing House, Mumbai, 2004

relations. Industrial relations occur within a dynamic conflict situation which is permanent and unalterable so long as the structure of society remains unchanged. The conflict situation is viewed as a product of the labour market in which on the one hand there are workers who have to sell labour power in order to subsist, while on the other hand there are buyers of labour who own the means of production and purchase labour power. These two interests are irreconcilable. They are engaged in a perpetual conflict over the distribution of revenue. The two interests have a common purpose in increasing total revenue and so they have. But the conflict over distribution is in no sense lessened by this for the actual distribution of additional increments of revenue is determined by the power situation. Workers with no power may get nothing. There is no automatic distribution based on a sense of equity. Shares have to be fought for sometimes bitterly.<sup>6</sup>

### **WORKERS AND INDUSTRIAL CULTURE**

Democracy and democratic values are not merely some techniques of a political system, these are certain basic attitudes to the life process. The Indian interpretation of democratic values has made an impact on laissez-faire as understood in the nineteenth and early twentieth century. In India, political democracy adopts and approach of 'cooperative' life process which can be called a 'social' approach that has added a new dimension to the political idea of democratic living, though the experiment was started elsewhere. The possibility of 'public effort' co-existing with 'private effort' with 'determined priority areas and also with monopoly authority, has now been established beyond question. Therefore, in a democracy the 'state sector' or the 'public sector' can coexist with equal and more power without jeopardizing the basis democratic values. There is no apparent contradiction between the emphasis on 'public enterprises' in our industrial culture and our democratic pattern of living. In this understanding of democracy perhaps society has an active role in bringing equality in all aspects of life-economic, social and cultural. Equality among unequal's only perpetuates inequality and thus it is ultimately an antithesis to democratic values. Democratic values do not, therefore, have a unidimensional or restricted and ascertainable definite formula irrespective of time, social structure or other considerations. In other words, the Indian experiment has established that such democratic values and norms are to be determined in consonance with the type and nature of the society, its basic need, its historical and anthropological cultural values etc. The Indian experiment of industrial culture is bound to fertilize that of the other South Asian countries, in particular. The Indian experiment in the democratic process reform may be said to be involved in synthesizing two opposite pulls viz., the intrinsic multicultural conflict that is inherent in the working of the Indian society and the attempt at establishing a co-operative living process between multi-cultural societal structures through mutual understanding and adjustment. We find these causative phenomena in all walks of Indian democracy, in its political, social and economic milieu.<sup>7</sup>

### **CONCLUSION**

In India labour legislation was undertaken in advance of the emergence of labour organizations. The incentive to labour legislation was furnished not by the humanitarian considerations of enlightened manufactures but by the discovery of certain Manchester Cotton manufacturers in 1870 that a cotton textile industry was developing in Bombay. At that time industrialists in India could use their labour in any manner they liked as there was no factory laws. The result was the exploitation of labour, especially of children and women labour by employers. Thus, industrialists in India had the advantage of cheap labour in comparison with the British industrialists where labour laws existed and the Manchester Cotton manufacturers became jealous of the Indian Cotton mill and wanted to curb its development. The Manchester Chamber of Commerce sent in 1874 a deputation to the Secretary of State for India to apply the same factory laws to the Indian mills as were applicable to the British factories so as to neutralize the unfair advantages which the Indian manufacturers were enjoying due to long hours of work and large-scale employment of child and women labour. A factory Commission

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<sup>6</sup> Bilgrami, S.J.R. "International Organization" Vikas Publishing House Pvt. Ltd., New Delhi, 1977.

<sup>7</sup> Bowelt, D.W., "The Law of International Institutions" Steven and Sons, London, 1963

was appointed in 1875, to investigate the need of the required legislation. The Commission revealed the fact that the mills worked from sun-set to sun-rise, there was no fixed weekly holiday and even children of were engaged in the factory. The Bombay Government shelved the Commission's Report as the majority did not favour the idea of regulating working hours in the factories, through legal measures. But the Manchester interests, however, continued to carry on their agitation for factory legislation. It was in 1875 when some social workers of Bombay under the leadership of Mr. Sorabjee Shapoorji Bengalese started an agitation to draw the attention of the Government to the miserable conditions of the workers and to the need for some factory legislation. As a result of the agitation the first Factories Act was passed in 1881.

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