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NATIONAL LABOUR COMMISSIONS REPORTS ON LABOUR MANAGEMENTRELATIONS - A REALISTIC STUDY

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ABSTRACT
The state having realized the importance of employer-employee relationship started controlling and balancing the relationship so as to enable the economy to survive. This era was marked by employee friendly labour legislations, popularly known as welfare legislations. The social welfare legislation is in tune with the objectives laid down in part IV of the Constitution. The rapid industrialization that took place after independence led the government to take steps for labour protection. Laws relating to minimum conditions of employment, wages and other monetary benefits, social security and industrial relations were enacted towards ensuring labour protection. The First National Labour Commission was set up in December 1966 to examine the ways and means of extending the labour welfare measures beyond the organized sector. The recommendations of the First National Labour Commission covered issues like recruitment agencies and practices, employment service administration, training and worker's education, working conditions, labour welfare, housing, social security, wages and earnings, wage policy, bonus to workers and employers and industrial relations machinery.
KEY WORDS: Labour Commission, Trade Etc

INTRODUCTION

The recommendations of the First National Labour Commission were sought to be implemented through amendments to existing labour laws as well as by identifying the areas where fresh legislation would be necessary. Examples of the former are amendments to labour laws like the Workmen's Compensation Act, 1923 (for removal of wage ceiling for coverage) and the Industrial Disputes Act, 1947 (mainly in respect of the unfair labour practices). The Employees State Insurance Act, 1948 (for enhancement in the wage limit for exemption from payment of employees' contribution), Factories Act, 1948 (for making penalties more stringent for violation of safely requirements and provision of welfare facilities) and the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (enhancement in the rate of contribution and making default of dues a cognizable offence).

New legislations that were enacted in the light of the recommendations made by the First Labour Commission, include the Contract Labour (Regulation Abolition) Act, 1970, Equal Remuneration Act, 1976 and Child Labour (Prohibition Regulation) Act, 1986. Market economics and pressure from world capitalists forced the governments including India to open up its economy to the benefit of private and global investors. And since then the cry for labour law reforms started in India. The pro reformers felt that the employee friendly labour laws are an obstacle in business. The Government of India meanwhile appointed the Second National Commission on Labour to investigate the whole question of rationalization of the existed labour laws in the organized sector so as to make them more relevant in the changing economic conditions under the impact of globalization. Though the report and the suggestions for labour law reform have been submitted to the government, it has not gone ahead with its implementation due to political compulsions. Suggestions for labour law reform by the commission have invited criticism from workers representatives. Welfare laws still exist. It is the economic scenario, which has undergone change. We are yet to change the laws to suit the needs of the changing economic scenario.

FIRST NATIONAL LABOUR COMMISSION 1969, REGARDING INDUSTRIAL RELATIONS

The Royal Commission on Labour was appointed as far back as 1931. The Labour Investigation Committee (Rege) reported in 1946. Since independence industrial landscape has undergone a thorough change. Necessity was felt for a fresh and comprehensive review of the labour situation in the, country. Consequently, the National Commission on Labour, headed by Dr. Gajendra Gadkar, was

appointed in December, 1966. The Commission submitted its report in August, 1969. The terms of reference of this Commission were:[1]
to review the change in the conditions of labour, since independence' and to report on existing conditions of labour,
(ii) to review the existing legislative and other provisions intended to protect the interests of labour, to assess their working and to advise' how far these provisions serve to implement the Directive Principles of State Policy in the Constitution on labour matters and the national objectives of establishing a socialist society and achieving planned economic development,
to study and 'report in particular on

PRINCIPLES OF LABOUR LEGISLATION
SOCIAL JUSTICE
Our constitution enshrines the concept of social justice as the basic object of State policy and action. The tune of social justice is most vibrant in industrial jurisprudence. In industry social justice implies an equitable distribution of the benefits of industry among employer and employees. It also means protection of the health, safety and welfare of workers. The Workmen's Compensation Act, 1923, the Minimum Wages Act 1948, the Factories Act, 1948 are attempts at securing social justice to labour.
SOCIAL EQUITY
Social justice provides definite standards to be adopted in labour legislation. But as the conditions change there arises need to change the standards and the law. The Government has acquired the power of changing g the law. It can make rules regarding certain specified matter to enforce the law. The Government may modify or amend the law to suit the changing circumstances. Such legislation is based on the principle of social equity.
NATIONAL ECONOMY
The general economic situation of the country is another principle on which labour legislation is based. The purpose of the law may be defeated if this is not considered while enacting labour legislation. For example, the quantum of minimum wages, the level of compensation, the standards of safety, etc. are all influenced by the state of the national economy.
INTERNATIONAL UNIFORMITY
The International Labour Organization (l.L.O) has done commendable work to develop uniform standards of labour legislation among the member countries. It has formulated several conventions and recommendations for the welfare of labour. Member countries who ratify these conventions are required to implement them through appropriate legislation. The l.L.O. conventions have served as the guide to most of the labour laws in India. Despite most comprehensive Labour legislation, India has not been able to maintain peaceful employer-employee relations. There has been a spurt in industrial disputes and work stoppages which have hampered faster industrial development of the country. More than 100 labour laws have not succeeded in checking growing militancy in industrial relations, embezzlement of provident fund money and other undesirable trends in industrial relations.
Too many labour laws have been enacted due to emphasis on high ideals. But faulty implementation has, instead of protecting labour, deprived them of their due benefits. Too much and defective legislation has made the task of employers and labour administrators and workers too complex. They have started sinking under the ever, increasing workload of labour laws. The mushroom growth of labour legislation in India is the result of the mania of bringing forth new pieces of legislative measures every year without bothering for their implementation and proper execution. According to B.K. Tandon, "we have been pursuing a labour policy which has resulted in so much legislation that it was neither warranted nor it could be implemented with any degree of success." It is emphasized that the labour laws should have to be made comprehensively and should solve the problems related to the Labour and Industry amicably and effectively without making any further dispute. It must have a proper economic gain to be made within the new labour laws. A complete overhaul the labour policy

[1] C.S. Venkata Ratnam "Globalization and Labour - Management Relations" Sage Publications hidia Pvt. Ltd., New Delhi, 2001.

is needed for self-reliance and substantial surpluses have to be done. Social justice cannot remain an abstraction of volatile slogans and worlds but should be severely conditioned by economic logic of affordability. The India should be able to develop a force of efficient and committed employees.[2]

THE ROLE OF THE LAW IN LABOUR MANAGEMENT RELATIONS

Labour Management Relations systems are founded on a framework of labour law, which exerts an influence on the nature of the industrial relations system. However, recourse to the law and its potential to influence the resulting industrial relations system may sometimes be over-emphasized. It is useful, therefore, to examine, from three points of view, the role of the law in influencing an industrial relations system what it objectives should be and the areas it should cover, as well as what the law cannot achieve. In any working situation people need to cooperate with each other if there is to be maximum gain to themselves, to management and to society as a whole. Cooperation, however, is not easily obtained as people working together have conflicting interests. Employees are primarily concerned with the security of their jobs and what they can earn, and the employer with what he can produce as cheaply as possible to obtain the maximum profit. When these conflicting interests have taken definite form and shape, the State has often stepped into protect some of these interests through legal control. Labour law has amply demonstrated the sociological theory that Law is social institution which seeks to balance conflicting interests and to satisfy as many claims as possible with the minimum of friction'. Since the law must necessarily determine those interests which most urgently require protection over and above other interests, those of labour, where they lack self-reliance, have invariably formed a significant class of interests which the law protects. Hence, especially in some developing countries, the legal rules of an industrial relations system have been judged to some extent by the degree to which they further this end[3].

LABOUR IN PUBLIC SECTOR

Suitability of the candidate and his availability for at least 5 years should be the criteria for selection for a senior position in a public undertaking. At the supervisory level, recruitment has to be on an all India basis since the quality of personnel is a crucial factor. The claim for preferential treatment to 'sons of the soil' in appointments in regional establishments has been described as plainly inconsistent with the philosophy of one citizenship'. We thought', the Chairman qualified that it would be unwise to shut our eyes to the hard facts and realties of life'. In his view the Commission has formulated recommendations that may be reasonable and fairly worked out within limits. For example, in certain unskilled categories of employees, it would be convenient to the employer for several reasons to employ local labour. Where there is a choice between two persons who are equally qualified, the local person will get the preference.[4]

LAWS ON INDUSTRIAL DISPUTES AND TRADE UNIONS OUT LINES OF SUGGESTED CHANGES.

One of the items included for consideration at the National Labour conference held on 17 and 18 September 1982 related important industrial relation issues Further amendments to the I.D. Act, 1947 and T.U. Act, 1926. The conference referred this item for detailed examination to a committee under the chairmanship of Shri Sanat Mehta, Minister of finance and Labour, Gujarat, in which State Governments, central workers and employers' organisations, who participated at the conference were represented. The committee gave certain recommendations on the issues referred to it and these were unanimously adopted at the conference. The committee convened a second meeting of this committee on the 1811 September 1982 to consider the various suggestions in item of the Agenda, which are not covered by the recommendations of the committee. It was decided at that meeting that the convener of the committee would prepare a note indicating a draft outline of the manner in which the recommendations already made by the committee could be translated in the form of legislation. The

[2] Deepak Nayyar "Trade and Industrialization" Oxford University Press, Canada, 1997.

[3] Giri V.V. "Labour Problem in Indian Industry" Asia Publishing House Pvt. Ltd., Bombay, 1965.

[4] H.L. Kumar "Labour Problems & Remedies" Universal Law Publishing Co. Pvt. Ltd., New Delhi, 2007.

note was prepared by the convener at the request of the committee which is not to be taken as the views of the ministry of labour on the various issues. It also covered the left-over items of the relevant memorandum of NLC. This was considered at the subsequent meeting of the committee held on the 10 December and 20 December, 1982. In the light of the outcome of the discussions on the various items covered in the note the committee agreed to recast the outline of the suggested changes on the lines indicated below.

METHOD OF DETERMINING THE REPRESENTATIVE CHARACTER OF TRADE UNIONS

The verification of membership of every registered trade union industry would be carried out by the certificating wing of the IRC and for this purpose the IRC will rely on the check-off particulars available with the employer. Initially for a period of 6 months from a specified date every registered trade union in the unit industry would have the facility of check-off. After the results of verification are known only the recognized union unions will continue to have that facility. Every union unions certified as collective bargaining agent members of the collective bargaining council will continue to have the status still it is successfully challenged, after an initial period of 3 years[5].

RIGHTS OF COLLECTIVE BARGAINING AGENT AND OTHER UNIONS

A recognized unions, including members of the council, should alone have, among other things, the right to sole representation for entering into collective agreements on wages and other terms of employment and conditions of service of workmen, right to call for a strike in accordance with the procedure prescribed, right for continued availability of check-off, right for representation in all bipartite and tripartite committees councils, right to discuss all matters with the employer and to inspect by prior agreement the place of work of any of its member and the right to seek and receive information relevant for collective bargaining purposes. All registered trade unions will have the right to represent the cause of their workers on all matters connected with individual disputes.

WORKERS' PARTICIPATION IN MANAGEMENT

Planners in India were quite aware about the utmost necessity of establishing industrial democracy as prerequisite for industrial growth. The formal expression of that awareness was embodied in Second Five Year Plan document and since then a number of measures were taken to provide and institutional base for the emergence and growth of industrial democracy in the country. Some of these measures were regulatory in nature in the form of legislations on industrial relations and related issues. In contrast, the ambitious scheme of workers' Participation in Management was a promotive measure which aimed at transforming the attitude of both employers and workers for establishing a cooperative culture which may help in building strong self-confident and self-reliant country with a stable industrial base'. As the concept was new, its operational character had to be evolved over some stages of experimentation, since its beginning in late fifties as a non-statutory schemed. However, up to the mid-seventies, the scheme was generally treated with difference by both the workers and employers. Thereafter, some of the enterprises have made efforts to run the scheme and, during the eighties, several economists have tried to evaluate its functioning and suggest ways to improve it. One of the most persistent suggestions arising out of such evaluative exercises is to lend further strength to this scheme by incorporating employee ownership as part of Workers' Participation in Management and Professor D. N. Najundappa (1990) argues for the same strategy after making an exhaustive analysis of the scheme, considering its legislative base and working, experience, particularly since mid-seventies. Although specific details about working of the scheme relate to a single case study, the overall working experience suggests that employee-ownership has generally been resorted to when the companies were in red, perhaps to minimize the loss of the private owners, and to evoke sympathy by advancing the case of labour who would be thrown out of employment if the company closes its doors. But even under such trading circumstances, when the labour opts for owing the industry, they do so with a full sense of responsibility and are prepared to make temporary sacrifices in wages in return for expected higher benefits later on. Obviously, such display of sense of responsibility by the workers is more related to their joint ownership than to the fact that it is a crisis situation and it thus strongly

[5] James Avery Joyee "World Labour rights and their Protection" St. Martin's Press, New York, 1980.

indicates the positive results that both employers and workers can obtain if employee-ownership is allowed under normal circumstances[6].

NEED TO ESTABLISH INDUSTRIAL RELATIONS COMMISSION
INDUSTRIAL RELATIONS COMMISSION

The present arrangement for appointment adhere industrial tribunals should be discontinued. An Industrial Relations Commission (IRC) on a permanent basis should be setup at the centre and one each state for settling Interest' disputes. The IRC will be an authority independent of the executive.

The National Industrial Relations Commission should be appointed by the Central Government for Industries for which that Government is the appropriate authority. The NIRC would deal with such disputes which involve questions of national importance or which are likely to • affect or interest establishment situated in more than one state. Its scope should be broadly the same as that of Nationed Tribungils under the I.D. Act, 1947.

The commission should be constituted with a person having prescribed judicial qualifications and experience as its president and an equal number of judicial and non-judicial members : the nonjudicial members need not have qualifications to hold judicial posts, but should be otherwise eminent in field of industry, labour or management judicial members of the National Industrial Relations commission, including its president should be appointed from among persons who are eligible for appointment as judges of a High Court.

The conciliation wing of the commission will consist of conciliation officers with the prescribed qualifications and status. There will be persons with or without judicial qualifications in the cadre of conciliations. Those who have judicial qualifications would be eligible for appointment as judicial members of the commission after they acquire the necessary experience and expertise others could aspire for membership in the non-judicial wing

In case of non-essential industries services following the failure of negotiations and refusal by the parties to avail of voluntary arbitration, the IRC after the receipt of notice of direct action (but during the notice period) may offer to the parties its good offices for settlement. After expiry of the notice period, if no settlement is reached the parties will be free to resort the direct action. If direct action continues for 30 days it will be incumbent on the IRC to intervene and arrange for settlement of the dispute.[7]

WOMEN & CHILD LABOUR

The commission also made the following recommendations on women and child labour. It is felt that the childcare is major investment in the protection and development of human resources. The mechanism of childcare should be multi-dimensional. Labour legislation should include provision for creches where there are or more workers irrespective of the gender of the worker. It is found that individual enterprises are not in a position financially to run their own creches; enterprises may jointly establish and operate them. Another possibility is that panchayats or local bodies or local tripartite groups run creches, and employing units are asked to make a proportionate contribution to the costs. The Commission endorsed the approach of the study group on women and child labour and said that the child, the child's welfare and the child's future should be central to our programmes, and to our laws. Children are the future of our society, find our economy. Every child should have the opportunity to develop his or her skills and potential, to participate both as a citizen and as a worker.

1. The only way to prevent child labour is to recognize that the rightful place of children is in school, not in the workplace or in the house, so, the first step is to ensure compulsory primary education for all children.

2. The implementation of the present Act to prevent child labour depends entirely on the State's bureaucratic machinery. It assumes that the bureaucratic, poorly staffed and ill-equipped as it is today,

[6] Lakshmi Dhar Mishra, "Laws for the Labour" in Social Action through law edited by P.K. Gandhi, New Delhi, 1985.

[7] N.G. Alexandrov "Soviet Labour Law" University Book House, New Delhi, 1961.

will be able to ensure that children do not work in hazardous processes and occupations, and conditions of work in non-hazardous settings will be upgraded.[8]

CONCLUSION

In the early days the policy of the Government was to protect the social system from workers rather than to protect workers from the social system. Moreover, whatever labour legislation was undertaken, was also with reference to specific industries and not for the general class of industrial workers. The defects of labour legislation in India have been due to the lack of proper development of a National labour policy. Prior to World War II, there was practically no social attitude of public opinion on the labour question and no demand was made for an adequate solution of any outstanding labour problem. Most of the measures were, therefore, forced upon Government by extraneous circumstances. Plantation legislation was, for instance, enacted for granting planters a security over their labourers; factory legislation owes its origin to the rivalry of Manchester interests and even in the recent past labour legislation was undertaken for the fulfilment of international obligation, which, however important in itself, cannot take the place of a National Labour Policy. It has been rightly criticized that many of the labour laws are Tailback and hastily devised'. Close at the heels of an Act come amendments and then more amendments to amend the amendments. Employers complain, not without reason, that government's labour legislation programme is quite unrelated to the needs of the present situation in India. They contend that the obligations imposed on employers under various labour laws contribute to raise the cost of production and weaken India's competitive position in the world market. India, by 1980 had a spate of labour legislations not to be found in any country at India's level of economic development. The standards laid down by the ILO have been accepted and measures are undertaken to come into closer conformity with the provisions of the International Labour Code. Although satisfactory progress has been achieved in the directions of labour legislation, nevertheless we have yet to travel a long way on the road to social justice.

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