

THE ROLE OF INTERNATIONAL LABOUR ORGANISATION RELATING TO BASIC HUMAN RIGHTS

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Introduction:

International Labour Organisation (ILO) is an international body and the parliament of world labour. It adopts international labour standards in the form of conventions and recommendations which are collectively called as international labor standards. The international labour organisation is a tripartite body consisting of the representatives of the Governments of member countries, the unions of employees and workers who form the delegate groups of that country it is like a platform structured, on the pillars of equanimity permitting workers representatives to sit and discuss on the same table along with the representatives of the Government and the employers. The ILO facilitates equal importance in the role to be played by the three parties to the industrial relations and productive activities, namely Government, employers and workers.

ILO is an oldest international body functioning successfully and continuously. It symbolizes social justice, universal peace, human dignity and labour welfare throughout the world. ILO is the first international body working for the overall development of the workers of the world. The objective of the ILO is to assure overall development of working class of the world through standard setting and economic development of member countries to improve world economy.

ILO is an international corporate body, having its own common seal, perpetual existence with rights of a natural person, such as the right to sue and be sued within the frame work of its constitution.

ILO is the protector of the Basic Human Rights of the workers of the world and shows enforceable concern as and when any infringement thereon is reported or apprehended in any member country, and takes appropriate remedial measures to restore the deprived rights.

Prior to the establishment of the ILO in 1919, the position with regard to the working and living conditions of the workers through out the world was said to be pathetic and ruthless, exploitation of labour, slavery and bonded labour were most prevalent in a large number of countries. The philosophy of "Laissez faire", "hire and fire", "supply and demand" were the thoughts of the day. Social squalor and economic disparities, coupled with hunger for power were dominant factors in the human society. Wage rates were only at the starvation level and the working day consisted of as many as 16 hours. Labour was available at cheaper rates, no attention was paid to regulate the working conditions and wage rates. In many countries agriculture was predominant sector. Civilization was leaning towards industrialization of productive activities. In such a socio-economic and politico-cultural atmosphere the seed of improving the working and living conditions of the working class world over was planted simultaneously in England, Switzerland, Germany, France and Russia, as an international notion.

The history of the ILO depicts both the history of the growth and development of the working class as well as the economic and industrial growth of the world.

Establishment of the ILO:

The ILO was theoretically established on April 11, 1919, when the report submitted by the commission on International Labour Legislation consisting of the representatives of the then five great powers, namely USA, UK, France, Italy, and Japan was adopted partly, by the Paris Peace Conference held in Paris on 28th April, 1919 the remaining part of the said report was adopted by the Paris Peace Conference. The adopted report was engrafted as Part XIII of the Paris Peace Treaty of 1919. ILO first session was held in October, 1919 at Washington. *ALBERT THOMAS* of France, a cabinet Minister and a Journalist, was the first Director General heading the IL office. ILO has a history of 100 years prior to its inception in 1919, as recorded since 1818 when the renowned social thinker and philosopher, Robert Owen started the movement of bringing awareness amongst the employers and the Governments of international level for the improvement of the lot of the working class world over.

Aims and Objectives of ILO:

The aims and objectives of the ILO are already incorporated in the preamble to the constitution of the ILO which are based on the principles enunciated in the Part XIII of the Treaty of Versailles, as supplemented by Article 427 of this treaty and also as subsequently redefined in the declaration of Philadelphia in the year 1944.

Declaration of Philadelphia:

In the year of 1944, the activities of the ILO were reorganized after passing over a period of dormancy due to II World War. So a special conference was summoned at Philadelphia, on 10th May, 1944 and the following declaration was made.

1. Labour is not a commodity.
2. Freedom of association and expression is necessary to sustained progress.

3. Poverty anywhere constitutes a danger to prosperity everywhere and
4. War against want must be carried on.

Events leading to the establishment of ILO:

The entire historical events that took place for the establishment of the ILO can broadly be studied under the four heads:

1. Contribution of Social Reformists, Philanthropists, Philosophers, Humanists, Economist, States Men and Trade Union Leaders.
2. Contribution of secret Societies, Associations, Conferences.
3. Contribution of Governments, official and unofficial conferences.
4. Contribution of International Trade Unions and the workers conferences.

Some of the prominent people who have contributed for the establishment of the ILO:

- (1) Saint Simon, (2) Robert Owen, (3) Charles Fredrick Hindley, (4) Lowis Rene Vellerne, (5) Jerome Blonqui, (6) Colonel Frey.

(1) Contribution of Saint Simon:- (1760-1825)

Saint Simon was a soldier, a famous writer and a socialist thinker. He was a strong propagator of the welfare of the working class.

As an early socialist St. Simon contributed to the social doctrines mainly aimed at the ameliorations of the working conditions and development of the working class, his contribution was regarded as a Utopian social theory but was opposed by the dominant class of the society. However, his works could yield considerable impact on the organization of the class struggle by the working class against their exploiting masters.

(2) *Contribution of Robert Owen :- (1771-1858)*

Robert Owen, a British national and an industrialist, was one of the first and foremost social reformists in propounding and propagating the idea of minimizing the hardships of the workers by means of international economic humanists who worked for the cause of regulating and ameliorating labour conditions. Sometime during 1799, Robert Owen had established his own industrial township at "New Lanark", in Scotland, for the workers of his cotton mill. He made provisions for shorter working hours, improved working conditions, entertainment, and education for the children of the workers, establishments of co-operative societies and marketing facilities.

Thus, the idea of regulating and protecting the working and living conditions of the workers is not the contribution of any one individual but a collective effort of many eminent persons who could evolve a great deal of ideas for the formulation of the concept of International Labour Organisation.

Although the ILO conventions and recommendations relate to variety of subjects, it is proposed to discuss some of the most important conventions and recommendations, dealing with basic and fundamental aspects of the working class having a direct bearing on the cause of social justice and everlasting universal peace which is one of the most focused objectives of the establishments of the ILO.

ILO Conventions and Recommendations deal with relating to basic human rights. In fact many ILO Conventions/Recommendations deal with similar rights that are recognized under other International covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.

The C.No.87 concerning Freedom of Association and protection of the Right to

organize was adopted by the ILO on the request of the United Nations Organisations, to adopt such conventions endorsing various principles contemplating in the International covenants.

The Conventions and Recommendations relating to Human Rights are:-

A) Freedom of Association:

The ILO consists of the representatives of Governments, employers, and workers organization of its member countries and therefore the freedom of association is an essential pre-requisite for the very existence and functioning of the ILO itself. If freedom of association is not ensured then there would be no associations of the workers and of employers who constituted essential component of the Tripartite Composition of ILO.

ILO is based; furthermore, the preamble to the ILO's constitution declared and recognized the principle of freedom of association. As an essential means of improving conditions of labour and of establishing everlasting peace. The declaration or Philadelphia too reaffirms this faith of the ILO and declared that a freedom of expression and association are essential to sustained progress.

(1) Convention No.11 – Right to Association (Agriculture) 1921:

The ILO in its Third Session adopted C.No.11 concerning the Right of Association and combination of agricultural workers. It consist of 9 Articles and lays down that "each member of the ILO which ratifies this convention undertakes to secure to all those engaged in agriculture, the same rights of association and combination as to industrial workers" it is also obligations on part of the ratifying member countries to repeal any statutory or other provisions restricting such rights of the agricultural workers (Art.1). This convention having

come into force on 1st May 1923, has received ratification from 121 member – countries.

(2) Convention No.87- Freedom of Association and Protection of the Right to Organise, 1948-

The ILO adopted C.No.87 on 9th July, 1948 in its 31st session held at San Francisco relating to freedom of Association and Protection of the right to organize. It consists of 21 Articles divided into four parts and in the opening para of this convention itself, the ILO observed that this convention is being adopted in accordance with and considering the preamble to the constitution of the IO that “recognition of the principle of freedom of labour and of establishing peace”.

The convention contemplates that workers and employers, without any distinction, shall have the right to establish and to join organizations of their own choice without any previous authorization, the workers and the employers to elect their representatives in full freedom to administer their activities and formulate programmes.

(3) Convention No.98- Right to Organize and Collective Bargaining, 1949:

The ILO in its 32nd Session held at Geneva on 8th June, 1949 adopted this crucial convention dealing with the Right to Organize and Collective Bargaining.

It consists of 16 Articles and provides for the protection to the workers and employers organization against any acts calculated to interfere with the right of workers to join or relinquished membership of any trade union and against any discrimination on account of their trade union activities. The convention provides protection in respect of all such acts designed to make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership or cause the dismissal of the employee or prejudice a worker by reason of his

participation in trade union activities outside the working hours or, with the consent of the employer, within the working hours. It also contemplates that workers, and employers organizations shall enjoy adequate protection against any act of interference by each other or other agent or members in their establishment, functioning or administration.

The convention made the most crucial provisions to ensure free exercise of the right to organize by the workers and employers and to prevent any mutual interference by their organizations or agents with the legitimate trade union activities. It also attempted to promote collective bargaining by requiring the setting up of appropriate machinery to encourage and promote the voluntary negotiation through collective bargaining.

(4) Convention No.135–Concerning Protection of workers, Representatives in the undertakings:-

In continuation to the C.No.98 relating to Right to Organize and Collective Bargaining, 1948, the ILO adopted one more convention to supplement this convention by ensuring protection to the workers representatives against any act prejudicial to them including dismissal on account of their activities or participation in union activities in conformity with existing laws or collective agreements.

C.No.135 is adopted to provide protection and facilities to be afforded to workers representatives in the undertaking. Further the convention also requires that such facilities in the undertaking shall be afforded to workers representatives as may be necessary to enable them to carry out their functions promptly and efficiently.

(5) Convention No.141 – Concerning Rural Workers Organisations, 1975:

In the field of Basic Human Rights, the most important and dynamic contribution is made by the ILO in adopting the C.No.141

in its 60th Session held at Geneva, concerning the most neglected and unorganized sector or workers working in rural areas. In fact, the ILO has recognized the significance of the role of the rural workers in economic and social development of the world, particularly in developing countries. The ratifying member-countries are also required to take steps to promote employment opportunities and general working conditions of rural workers and their lives as well as to increase the national income and achieving a better distribution of such income.

(B) Conventions/Recommendations Relating to Forced Labour:-

Forced labour is a negation to a free labour and therefore, in contravention to freedom of association also. The ILO adopted the conventions and recommendations concerning forced labour.

(1) Convention No.29 of 1930 :-Concerning forced or Compulsory Labour:-

The ILO adopted this convention which is a very comprehensive international document touching upon various aspects of forced or compulsory labour.

Article 1 of the convention calls upon those members which ratify this convention to suppress the use of forced or compulsory labour in all its forms within the shortest possible period only for public purposes as an external measure, subject to various conditions and guarantees provided for in this convention. The convention also provides that it is expiration of a period of 5 years after coming into force of this convention. The ILO may consider the possibility of total suppression of forced labour on the basis of the report submitting by the governing body.

Article 2 defined the term, forced or compulsory labour as meaning all work or

service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. However the term “force or compulsory labour” does not include services in military or compulsory military service law or work of a purely military character.

The term forced or compulsory labour also does not include services extracted in cases of emergency like war, calamity, fire, flood or famine, earthquake, violent epidemic, invasion of animals, insects or vegetables and in general any circumstances that would endanger the existence of the well being of the population. It also covers minor communal services being performed by the members of any community as a normal civic obligation.

Articles 3 to 9 deal with the powers of the competent authority, administrative officers and various chiefs who might be responsible to extract forced labour within the permissible parameters prescribed by this convention. It enumerates various conditions subject to which such authorities can have recognized to the forced or compulsory labour in emergency circumstances contemplated in the convention.

In this Article 10 stipulates the conditions regarding which the competent authority has to satisfy itself that:-

- (a) The work to be done or service rendered is of important direct interest for the community called upon to do the work,
- (b) The work or services is of imminent necessity.
- (c) The work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake such work.

- (d) Work or service will not entail the removal of the workers from their habitual residence.
- (e) The execution of the work or rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

(2) Recommendation No.35-Concerning indirect compulsion to labour:-

The ILO, in continuation or and as a supplement to the C No.29, adopted the Recommendation No.35 to prevent the indirect recourse to forced or compulsory labour. The recommendation is in a nature of stating the principles which appear best fitted to guide the policy of the member-countries to avoid any indirect compulsion to labour which would lay too heavy a burden upon the population of the respective territories of the countries. The part I of the Recommendation contemplates various factors relating to labour available, capacities of labour of the population and evil effects which the sudden changes in the habits of life and labour may have on the social conditions of the population.

In Part II of the Recommendation, the desirability's of avoiding indirect means of artificially increasing economic pressure upon the population to seek wage earning employment and the means for such efforts are contemplated.

Part III, desires to avoid any restrictions on the voluntary flow of labour from one form of employment to another compelling workers to take employment in industries in districts other than their own population.

(3) Convention No.105 - Concerning Abolition of Forced Labour, 1957:-

In its efforts to protect the works and to ensure social justice to them, the ILO has taken multi-dimensional steps and

therefore, it was necessary that the workers should first be set free to exist and then enjoy the fruits of the socio-economic development around the world. Towards this goal, the ILO first took note through the Slavery Convention, 1926 which provide that all necessary measures should be taken to prevent all forms of compulsory and forced labour from developing countries and eradicated such conditions which are analogous or prone to slavery. The slave trade and institutions and practices similar to Slavery, 1956, provided for the complete abolition of debt, bondage and serfdom. The Protection of Wages Convention, 1949 envisaged that all wages should be paid regularly and other mode of payment which tantamount to deprive the workers of their legitimate wages or lead to termination of the workers, was prohibited. The universal declaration of Human Rights Proclaimed by the U.N. Charter also referred to various rights of man which shall not be allowed to be violated by forced labour.

The ILO adopted another C.No.107 which included a specific article a concerning the protection and integration of indigenous and other Tribal and Semi-Tribal populations in independent countries, which stipulates thus "except in cases prescribed by law for all citizens, the exaction from the members of the population concerned of compulsory personal services in any form, whether paid or unpaid, shall be prohibited, and punishable by law".

(C) Convention and Recommendation concerning equality of opportunity and treatment:

Equality in the matters of employment opportunities and treatment and in particular prevention of any discrimination on the grounds of sex, race, religion or place of birth, forms a golden rule of social justice. Discrimination on the grounds of sex in the matter of payment of wages to the women

worker was prevalent in almost all parts of the world. In developing countries such discrimination is in vogue and different wages for women workers were prescribed.

For the purpose of this convention the term “Remuneration” is defined to mean ordinary basic minimum wage or salary and included any additional emoluments whatsoever payable, directly or indirectly. Whether in cash or kind, by the employer to the worker. Equal remuneration to men or women workers for work of equal value, in fact refers to rates of wages determined without any discrimination based on sex.

The ILO in its 67th Session held at Geneva, 1981 adopted C.No.156 concerning equal opportunities and equal treatment for men and women workers. Workers with family responsibilities.

The Recommendation also suggests various measures for providing training and employment, childcare and family services and facilities, social security and in particular, extending helps in the exercise of the family responsibilities. The social security measures suggested include tax relief and protection for the period of leave and absence.

Convention and Recommendation concerning Employment of Women:-

In the history of mankind woman has been subject to various constraints and compulsions in the man dominated society. The problem of her suppression has not been confined to any particular region, religion or any socio-cultural relationship and it has travelled beyond all the boundaries. Basically, it appears that sex discrimination has been a root-cause of her subordinate position. This discrimination is also prevalent in the field of industrial workers ever since the world became industrialized. Thus it attracted the attention of the ILO to discharge its commitment to the cause of social justice.

Convention No.3 of 1919 – Concerning Maternity Protection:-

The ILO, 1919 adopted the C.No.3 cited as the Maternity Protection Convention 1919, it contains 12 Articles to provide protection to the women workers who are on their family way to stay at home with appropriate health care, away from the work place. They are conferred right to certain maternity benefits before, during and after the child birth.

Health Protection:

Each member after consulting representative organizations of employers and workers shall adopt measure to ensure that pregnant or breast feeding women are not obliged to perform work which has been determined by the competent authority to be pre-judicial to the health of mother and child or which constitutes significant risk to the health of the mother and the child.

Maternity leave:

On production of the Medical Certificate or the appropriate certification as determined by the National Law and practice, stating presumed date of the child birth, a woman to whom this convention applies, shall be entitled to a maternity leave of not less than 14 weeks.

Breast feeding mothers:

The breast feeding mother is given a right to one or more daily breaks or reduction of hours of work to breastfeed her child. Such breaks and duration shall be determined by the national law.

Conventions and Recommendations concerning to Social Security:

The idea of social security is based on the ideals of humanity and social justice to which every civilized society is committed. In a civilized society, every one is concerned

with the welfare-well being of his fellow countrymen and has some social obligation to discharge. The justification for social security measures to protect the fellow citizen is that the latter, who has contributed or is likely to contribute to the welfare of the society, should be given protection against the most common and imminent hazards of his life to which he is exposed and suffers injury arising out of and in the course of his employment.

The ILO has been committed to the cause of social justice being one of its most trusted aims to be achieved. In the first session itself held in the year, 1919 the ILO has adopted conventions relating to social security concerning Maternity Protection subsequently in the following years, the ILO contributed very effectively through its conventions relating to employment injury benefit, unemployment benefits, old age, invalidity and survivors benefits, protection in the various social security branches and also setting comprehensive standards concerning social security.

Conclusions :

Before the establishment of ILO the workers were deprived of all the basic human rights and put to work under abnormal and inhuman conditions, especially, in underdeveloped countries like India. Establishment of ILO in 1919 had, no doubt, brought about a ray of hope amongst the working class in improving their lot and relieving them from the clutches of their masters. The Tripartite structure of the ILO enabled it to establish the required methodology to meet the changing needs of the labour world. This flexible nature of the ILO is the root cause for its over increasing strength.

Most of the conventions like those on social security, general conditions of employment, industrial safety, health and welfare, seafarers, could not be implemented

to the extent required and aspired, especially in underdeveloped countries like India owing to the prevalence of unemployment and unexploited natural resources. Any reduction in the working hours and clamouring for unchecked freedom of association by the workers is drastically curtailing the economic growth and industrial development of the country.

In the field of Basic Human Rights, the ILO no doubt attempted to do a worthy job. It had adopted many important conventions on this subject like the Right of Association (No.11), Freedom of Association and Right to Organisation (No.87), Forced Labour, Equal Remuneration (No.100) and Discrimination (No.111) and also Right to Organization and Collective Bargaining (No.105). The efforts of the ILO to protect the employment of women and children had been praiseworthy, out of the first quota of its 6 conventions adopted in 1919, 4 (Maternity Protection, Night work (women) Convention, Minimum Age (Industries) and night work of young persons (Industry) were dealing with the protection of employment of women, children and young persons.

In the field of social security, the ILO had so far adopted 22 conventions covering *inter-alia*, Provisions for women's compensation, equality of Treatment (accident compensation), sickness insurance, social security (minimum standards), social policy (Basic aims and standards) and unemployment provisions covering mostly both the industrial and agricultural workers.

In its attempt to improve the lot of the agricultural workers, the ILO had so far adopted as many as 10 conventions such as Minimum age (agriculture) (No.10) of 1921, Invalidity Insurance (No.38 of 1933, Survivors Insurance (Agriculture No.40 of 1933), Minimum wage fixing, Machinery (agriculture) (No.99) of 1951, Holidays with pay (Agriculture) (No.101) of 1952. But it

appears that very little has been done for the betterment of the agricultural labour in India. Although the country is predominantly agricultural the same is also the case in respect of workers or other unorganized sectors, such as the Small Scale Industries and rural artisans.

It is suggested that the appropriate Government should take necessary steps for improvement of the conditions of the workers of all sectors on par with the industrial workers as a step towards its goal in building an egalitarian society.

GLOBALISATION IMPACT: ON TRIBAL IDENTITY AND CULTURE IN INDIA

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Introduction:

Globalisation describes an ongoing process by which regional economies, societies, and cultures have become integrated through a globe-spanning network of communication and execution. The term is sometimes used to refer specifically to economic Globalisation: the integration of national economies into the international economy through trade, foreign direct investment, capital flows, migration, and the spread of technology (Bhagawati, 2004). However, Globalisation is usually recognized as being driven by a combination of economic, technological, socio-cultural, political, and biological factors. The term can also refer to the transnational circulation of ideas, languages, or popular culture through acculturation. *Andre Gunder Frank*, an economist associated with dependency theory argued that a form of Globalisation has been in existence since the rise of trade links between Sumer and the Indus Valley Civilization in the third millennium B.C. (Frank, 1998). Impact of Globalisation, both LSCAC 2010 Proceedings 150 theoretically and practically, can be observed in different economic, social, cultural, political, finance, and technological dimensions of the world. Globalisation is the process of rapid integration of countries

and happenings through greater network of connections and interconnections *via* trade. It also refers to increased possibilities for action between and among people in situations where latitudinal and longitudinal location seems immaterial to the social activity at hand as per the definition of social theorists. Globalisation is a three dimensional term, encompassing political, economical and cultural aspects.

Identity and Culture:

Globalisation can be defined as the increasing “interconnectedness of the world through new systems of communication” (Sacks, 2003, p. 26), and affects all areas of life. This ever increasing capacity to communicate worldwide has resulted in the increasing domination of American and European cultures, whose economics, and political institutions are most affluent and powerful. This process has had profound effects on less powerful cultures. Development planners seem uncomfortable with ethnic diversity because it challenges the homogenizing tendency of economists to reduce populations to quantifiable groups. Globalisation is more than just about economics. It is not only about the ratio of exports to Gross Domestic Product (GDP)