

THE PROBLEM OF INDUSTRIAL SAFETY AND THE ROLE OF ILO

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This article attempts to evaluate the role of International Labour Organization (ILO) in regard to matters of industrial safety. "The Concept of Industrial Safety" is concerned with that part of the Labour Law of our country which aims at securing safety for the workmen and all those who come in contact with the workmen. There are a number of statutes passed by the Union Legislature as well as the State Legislatures of our country. At the international level the International Labour Organisation (ILO) also has passed regulations time and again specifying the standards which Industries have to maintain. In spite of the regulations coming from the International Labour Organisation and the statutory laws in the country there are cases of accidents involving the life of hundreds and thousands of persons. The problem of Industrial Safety and the Role of ILO is therefore of considerable significance in the present day Labour Law.¹

I The Genesis of ILO:

The idea of regulating the working and the living conditions of labour had been gaining ground in many minds long before the creation of the ILO. From the end of the 19th Century onwards under the influence of social theorist, efforts had been made by the Trade Unions and also by some industrialists wishing to improve the lot of the proletariat without distorting competition between countries with a view to promote social progress by means of international agreements.

An International Association for the Legal Protection of workers, the forerunner of the International Labour Organisation was established in 1890 which enabled two International Labour Conventions to be passed by diplomatic conference. At the end of the First World War at the instance of trade unions the Versailles Peace Conference was to bring the International Labour Organisation officially into being. An autonomous organ of the League of Nations until the Second World War the International Labour Organisation became in 1946 the first specialized agency to be associated with the United Nations².

The principles on which this Organization has commenced its work are:

- (a) Labour is not a commodity;
- (b) Freedom of expression and of associations are essential to sustained progress;
- (c) Poverty anywhere constitutes a danger to prosperity everywhere; and
- (d) War against want requires to be carried on with unrelenting vigour within each nation.

The objectives of the Organisation are to promote programmes to achieve, *inter alia*, full employment and the raising of standards of living, just share of the fruits of progress to all and a minimum living wage to all employed and in need of such protection, recognition of the right of

1. William Hardy : Industrial Safety Handbook.
2005-Journal—F-3

2. Year Book of the International Labour Organisation.
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collective bargaining, extension of social security measures, *etc.*

II Safety and Health Activities:

The tasks assigned to the International Labour Organisation under its Constitution are that it is the duty of the International Labour Organisation to promote among all the Nations of the World the forms of action that will ensure:

- (i) Full employment and improvement of standards of living with workers' skills used to the fullest possible measures;
- (i) Wage policies that provide a just share of the fruits of progress to all;
- (ii) Extension of social security and medical care;
- (iii) Child Welfare and maternity protection;
- (iv) The provision of adequate nutrition, decent housing and facilities for leisure;
- (v) The right to negotiate collective agreements;
- (vi) Equal opportunity for all in the pursuit of improved education and vocational training;
- (vii) Essential action is the filed of occupational safety and health³.

The International Labour Organisation is the only international Organisation which is concerned with all the biological and technical aspects involved in the protection and promotion of workers' health. The multidisciplinary approach to occupational health problems has already proved its worth and its' contribution to the greater involvement of occupational health in safety. The level of employment accidents and occupational diseases through out the world has reached alarming proportion; each year

3. Encyclopedia of Occupational Health and Safety, Vol.1

there are over 1,00,000 deaths and more than 1.5 million cases of permanent disability. In other words, many countries are hit harder by occupational hazards than by consequences of war. The incidents of occupational diseases is much lower than that of occupational accidents and as a result industrial hygiene, is gradually declining. Nevertheless thousands of workers still suffer disablement from occupational diseases in particular the pneumoconiosis.

During the first half-century of its existence, the International Labour Organisation diversified its activities in order to assist countries in their own safety and health programmes and the range of this action is shown below:

The activities of the International Labour Organization have been designed to back up national action in occupational safety and health, thus:⁴

National Action	ILO Action
1. Legislation	Conventions, Recommendations and advice on the drafting of legislation.
2. Regulations	Model Codes, codes of practice, Technical advice.
3. Technical and Medical Inspection	Manuals, guides, technical publications, the CIS Services.
4. Activities by safety and health institutes training and information of specialists.	Fellowships, courses, symposia, Congresses, technical advice and Co-operation, the CIS Services.
5. Information for employees	Seminars, Publications, the CIS Services.

At the present time, the International Labour Organization's safety and health activities present two principal facets: (1) contribution

4. The International Occupational Safety and Health Information Centre. (Encyclopedia of Safety and Health, Vol.1 p.1139).

to in-plant prevention of occupational accidents and diseases and (2) Contribution to the improvement of conditions of work and life in order to adopt International Labour Organisation action to new industrial realities through a more flexible, open and global programme.

In recent years, particular stress has been laid on (a) the activities most suited to the needs of developing countries, viz. education, information and training (b) Collaboration with national agencies, official services and safety and health institutes as well as with other international or regional organization concerned; (c) the integration of safety, health in all branches of activity.

The International Labour Organisation is guided by two specific criteria in this connection; firstly, the number of workers at risk, and secondly, the level of risk present in a given process in an industry. Application of the first criterion brings to the fore the largest classes of workers in particular those employed in agriculture and small undertakings which in some countries, may account for over half the labour force.

Unlike the other agencies such as World Health Organisation or the International Atomic Energy Agency which are purely governmental, the International Labour Organisation brings together representatives of government, employers and workers that is to say the great majority of those directly concerned in the prevention of occupational accidents and diseases. This tripartite meeting has remarkable advantage for the International Labour Organisation enables it to direct its activities towards practical forms of action and establish realistic priorities at an international level; and also facilitates application of the Organization's decisions at the work place.⁵

5. "A Workers' Educational Manual", Accidents and Prevention; International Labour Office, Geneva.

III Safety Health Standards:

The preparation of international standards for the protection of workers' health was the principal aim of the International Labour Organization's safety and health activities before the Second World War and it remains one of its most important forms of action in this field. Of the 156 Conventions and 165 Recommendations adopted, so far 58 Conventions and 60 Recommendations relate directly or indirectly to occupational safety and health and 22 Conventions and 21 Recommendations concern safety and health and working environment. Some standards which call for special attention are discussed below:

IV Recommendation No.31 explicitly defines or points to most of the essential principles followed in accident prevention such as the need for close collaboration between industry and society, the part played in accident prevention by workers' skills and motivation. It emphasizes the importance of collaboration between the employers and workers in safety matters specially through safety and health Committees as well as the need for a statistical study of accidents and careful research into accident causes.

V Convention No.119 (1963) which is supplemented by Recommendation No.118 concerns the guarding of new or second hand power driven machinery; it provides that sale and hire of such machinery should be prohibited if certain specified dangerous parts are not equipped with appropriate safety devices and that the use of such machinery should be prohibited if any dangerous part is without an appropriate guard. This Convention as it 1st January, 1981 had been ratified by 35 Member States including India.

VI Convention No.81 The Labour Inspection Convention No.81 and Recommendation No.81 (1947) are among the most important instruments for the

protection of workers' health. This Convention had been adopted in order to establish a system of labour inspection at industrial workplaces. It defines the duties and powers of Labour Inspectors and stipulates that governments should secure the collaboration of duly qualified experts and technicians including specialists in medicine, engineering, electricity and chemistry. This Convention has been ratified by 98 member countries as at 1st January, 1981 who undertook to establish a system of labour inspection at least in industrial workplaces; commerce, mining and transport may be exempted from these obligations.

VII Occupational Health:

In the 1960s a number of international standards were adopted in specialized areas of occupational health such as Radiation Protection Convention No.115 ratified by 35 member states as at 1st January 1981 and Recommendation No. 1141; Hygiene in Commerce and Offices Convention and Recommendation No.120, ratified by 40 member states including India as at 1st January, 1981, Medical Examination of Young persons Employed Underground Convention No. 124, ratified by 33 member states as at 1st January, 1981 and the maximum permissible weight to be carried by one worker Convention No.127 ratified by 20 member states on at 1st January, 1981 and Recommendation No.128⁶.

VIII Recommendation No.97 is the first international instrument to deal with occupational safety and health measures in the workplace with a true professional approach instead of administrative restriction. It covers two basic methods for the protection of workers' health; technical measures for hazard control, concerning premises working environment and equipment including personal protective equipment on

the one hand and medical surveillance of the individual worker on the other.

IX Recommendation No.112 defines the role of occupational health services in place of employment providing that such services may be established according to the circumstances by laws and regulations or by collective agreement between employers and workers concerned and that they may be organized either for a single undertaking or for a number of undertakings. Their principal functions consist of surveillance of all factors, which may affect the health of the workers, pre employment and periodic medical examination, emergency treatment and health education. By the beginning of 1970, the establishment of occupational health services had been laid down by law in 26 countries. In other countries there is legislative provision for the performance of essential functions of these services, whilst in still others, employers have established such services in large undertakings.

X The Global Approach:

In 1981 the International Labour Conference adopted the Convention No.155 and Recommendation No.164 on Safety and health in the working environment. These instruments reflect the new national awareness of the need to protect workers' health; laying down foundations of national policy and of the action which is necessary at the level of the undertaking to achieve a coherent and global occupational health and safety systems.

XI Application of Conventions on Occupational Safety and Health:

Member States of the International Labour Organization that have ratified international conventions concerning occupational safety and health have an obligation to apply them under Article 19, paragraph 5(d) of the International Labour Organization Constitution which provides that when a Convention has

6. International Labour Organisation World Report, Vol.2.

been ratified the member state will take such action as may be necessary to make effective provisions of such conventions.

XII International Supervision:

The constitutional instruments of the organization provide for international supervision of compliance with this obligation as well as with the detailed requirements of each particular convention. This supervision is designed to promote the ratification of International Labour Organisation conventions and their full implementation. It facilitates the development of appropriate national legislation and practice by means of the follow up of measures requested from or announced by the governments concerned to ameliorate national laws, regulations and practices and also by technical assistance from the International Labour Organisation to the interested countries. This supervision is the function mainly of the Committee of Experts on the application of Conventions and Recommendations.

XIII INDIA and the ILO:

India has been an important beneficiary of the technical assistance programme of International Labour Organisation. India has received its technical assistance in several forms viz, (a) expert advice (b) organization of training institutes and programmes (c) Exchange of technical information (d) grant of fellowships and internships (e) organization of seminars and technical conferences and (f) supply of proper equipment. One of the notable fields in which India has been benefited by the advice of International Labour Organization's experts is 'Occupational Safety and Health.'

India has also received assistance in the form of U.N. Special Fund projects with the International Labour Organisation at the Executive Agency. The purpose of these projects is to provide required assistance to the Government of India in its industrial

expansion programme envisaged under Five Year Plans.

These projects include the establishment of

- (i) Five centre Training Institutes to meet the expanding needs of trained craft instructors;
- (ii) Three Regional Labour Institutes for education, research and training in labour allied problems;
- (iii) The Central Mining Research Station for the promotion of health, safety and efficiency of workers in mines;
- (iv) A National Institute for training in Industrial Engineering for training executives in industrial engineering techniques, methods and practices; and
- (v) A plot Institute for training and advisory services in the design and construction of moulds, dies and tools for the plastic pressing and other industries.⁷

XIV RESEARCHER'S COMMENTS:

In conclusion it may be stated that the ILO is paying much attention to the welfare of the labour particularly their safety and health at the workplace. For this purpose the ILO has adopted a number of Conventions and Recommendations. The instruments discussed above are testimony of the efforts taken by the Organisation to improve the working conditions of labour all over the world. Though the role of the ILO in adopting international labour standards in the form of Conventions and Recommendations is advisory, it does not look like a mere advisory body for observing its functions. It is interesting to observe that the International Labour Organisation take much pains in order to see that the

7. N. Bhogkwal, "Economics of Labour and Social Welfare, p.685.

conventions and recommendations are implemented properly. It is watching carefully every step that is taken by the member states with regard to the application of its Conventions and Recommendations. This can be proved by the procedure prescribed for ratification of Conventions and Recommendations. The member states who wish to ratify the Conventions have to ratify them in toto and once the Convention is ratified by the member state, it is binding on the member State to adopt each and every provision of the Convention. If any provision of Convention is not implemented the International Labour Organization is required to be intimated the reasons for such failure with a reasonable time. And it also to be

intimated when they will be implemented. This shows how carefully the International Labour Organisation guards the implementation of its Conventions and Recommendations. It can be assessed by its procedure for ratification of Conventions and Recommendations that the role of the International Labour Organisation is not merely advisory; it is more than that.

To a great extent the International Labour Organization has influenced the Indian Labour Policy and Legislation. As a matter of fact labour policy and labour legislation in almost all the countries are now generally based on the principles enunciated in the Labour Code of the organization.

THEORIES OF CONTRACT

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The Theories of Contract give an idea about the elements of the Law of Contract, the justification for protecting a particular interest of the contracting parties and the amount of protection that the law should provide to such interests. Different legal systems adhere to different theories depending upon the existing socio-economic conditions of the society.

The Theories of Contract represent the response of the society to the problems arising in the matter of enforcing of the society to the problems arising in the matter of enforcing the mutual obligations. The advantages or disadvantages of the contracting parties in the matter of their contractual obligations therefore depend upon the theories to which the legal system adheres. Following are some of the important theories of the Law of Contract.

In this article the Theories of Contract are discussed under the two broad heads of the theories applicable to Municipal Law and the theories applicable to International Law.

I. THEORIES OF CONTRACT RELATING TO MUNICIPAL LAW:

(1) *Theory of an Equivalent*: In the seventeenth century the problems before the Law of Contract were as to which transaction should be recognized as worthy of protection: whether a bare promise was sufficient to create obligations between the contracting parties? Was it necessary that something should be exchanged for the promise? Whether a document should be executed in a particular form? Two theories arose during this period, one was the theory of an equivalent, and the other was the theory of inherent moral force.