

# NEED CHANGES IN INDIAN LABOUR LAWS ADHERE TO GLOBAL STANDARDS UNDER CURRENT SITUATION

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## ABSTRACT

*India is one of the founding members of the ILO, which came into existence in 1919. The Indian parliament has ratified 47 conventions of the ILO, some of which relate to working hours, labour inspections, equal remuneration, and compensation in case of injuries, among others. Central trade unions in India had termed states' changes an "inhuman crime", which they said was in "gross violation" of the ILO's conventions, including that on holding tripartite dialogues. The unions said that they were "seriously" considering lodging a complaint with the ILO. Trade union leaders have said the ILO has the power to impose sanctions on a country for violation of its conventions. The inherent principles of ILO Conventions are increasingly reflected in policies and regulations, and a number of national mechanisms are in place to support the implementation and ratification of Conventions, including a tripartite Committee on Conventions.*

**KEYWORDS-** CONVENTIONS, ILO, AMENDMENTS, LABOUR STANDARDS

## INTRODUCTION

The International Labour Organization (ILO) is the United Nations agency for the world of work. It sets international labour standards, promotes rights at work and encourages decent employment opportunities, the enhancement of social protection and the strengthening of dialogue on work-related issues. The ILO has a unique tripartite structure bringing together governments, employers' and workers' representatives. ILO's mandate of social justice as the basis for peace is expressed today as Decent Work for all. Decent Work is recognized as a global goal, the promotion of which means striving for economic growth with equity, though a coherent blend of social and economic goals, to contribute to opportunities for all women and men to obtain decent and productive work in conditions of freedom, equity, security and dignity.

## SPECIFIED CONVENTIONS

India has ratified many Conventions & Protocol, of which 42 are in force. The ratified Conventions include four fundamental Conventions, three governance Conventions and 38 technical Conventions. International labour standards in India play an important role in creating a productive and equitable labour market and shaping national policy and development initiatives.

India has ratified only four out of the eight core conventions, those being:

- Forced Labour Convention, 1930, No 29
- Equal Remuneration Convention, 1951, No 100
- Discrimination (Employment and Occupation) Convention, 1958, No 111
- Abolition of Forced Labour Convention, 1957, No 105

Thus we can see that from an international perspective India is effectively implementing only two of the four rights enshrined in the DFPR, those being Freedom from Discrimination and Protection Against Forced Labour. There are numerous judgements which show conformity with international standards and recognise these fundamental human rights, and even statutory enactments which implement the same.

The question that now arises is: Why hasn't India ratified the remaining core conventions?

This is because ratification incurs legal obligation and requires implementation. This means that once a treaty has been ratified, a state incurs an immediate legal obligation at the international level. This is illustrated by the distinction between being a mere signatory of a treaty/convention and subsequent ratification. Being a signatory of a treaty usually indicates that a state intends to become a party to a treaty at some future date. Until ratification at that future date, a state is required to do nothing which would obstruct the objects and purposes of the treaty/convention, there is no legal obligation on the state. In contrast, once a state has ratified a treaty, it must conform to all the obligations set down in a treaty and it cannot generally avoid them unless there are exceptions provided therein. However, a state cannot cite the failure of concurrence between international and domestic law on an issue as an excuse for the above.

## RELEVANCE OF INTERNATIONAL LAW

After reading the preceding section that explains ratification and the voluntary nature of international obligations, one might wonder why International Labour Law is relevant and moreover what bearing it has on domestic labour law and policy. The two questions are linked to each other and the answer to the same can be seen from two differing perspectives. One point of view sees ILO policies and standards as preferences that nations can adopt through regulatory decisions that ultimately provide them with competitive advantages in global trade. This is because international conventions provide a universal basis for policy and thus prevent nations from implementing measures such as deregulation with the intention of gaining trade advantages. Such measures would be met with international disapproval, sanctions as well as trade isolation and thus positive morality operates to give these instruments relevance.

The other approach views ILO conventions as norm prescribing documents that allow States to assess their policies with respect to its peer States. This means that States can compare their policies to both internationally accepted standards as well as the policies adopted by States that are similarly placed from a socio-economic perspective. Therefore, they can analyse the need for reform and amendment by finding policy preferences that fall midway between the two aforementioned points of reference.

## CURRENT STATUS

The International Labour Organisation (ILO), responding to the sweeping changes in labour laws proposed by state governments, has asked the authorities to ensure that all such relaxations adhere to global standards and are effected after proper consultation. "Certain states in India are moving towards relaxing labour laws with a view to revitalise the economy from the impact of COVID-19. Such amendments should emanate from tripartite consultation involving the government, the workers' and the employers' organisations and be compliant with the international labour standards, including the Fundamental Principles and Rights at Work (FPRW)," the ILO said in statement released by *Business Standard*.

The ILO added that labour laws protect the well-being of both employers and workers and called for "collective efforts and solidarity between the government, employers and workers". "They (labour laws) are an important means to advance social justice and promote decent work for all," it said. Subsequently, some states announced relaxing or doing away with major labour laws to attract investment. The Uttar Pradesh government has proposed an Ordinance exempting firms from almost all labour laws for the next three years. The Gujarat government has announced that it will follow in UP's footsteps and allow new companies setting up shops over the next 1,200 days to be exempt from major labour laws.

The Madhya Pradesh government has notified changes in labour laws to do away with the need to avail multiple licences for hiring contract workers and setting up factories. It has exempted firms from various welfare provisions under the Factories Act, 1948, along with replacing inspections with third-party certification and giving exemptions from industrial relations laws. In UP, provisions related to minimum wages, timely payment of wages and safety provisions under the Factories Act, 1948 and Building (and Other Construction Workers) Act, 1996 will continue to apply to all firms, according to the draft ordinance, which is pending approval from the president.

"COVID-19 has jeopardised the health and safety of millions of people across India, and put immense pressure on businesses, jobs, and livelihoods. The country is making efforts to flatten the upward curve of infection. National and state-level measures to provide income and social security support to workers, and to revitalise businesses and the economy have been advanced on priority," the ILO's statement said. The ILO's declaration on the Fundamental Principles and Rights at Work was adopted by India in 1998. All members of the ILO have to "respect and promote" the "freedom of association and the effective recognition of the

right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation”.

## CONCLUSION

The ILO had in April estimated that around 400 million workers were at a risk of slipping into poverty because of a “stringent” nationwide lockdown implemented to control the spread of coronavirus. The ILO advised that any policy response should ensure recovery through fiscal and monetary stimulus measures, support to enterprises, jobs and income through social protection, retention and financial relief to companies along with ensuring that workers’ needs be protected by strengthening occupational safety and health measures. It further said the most important element was “to strengthen the social dialogue, collective bargaining, labour relation institutions and process for implementing solutions”.

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