

BRIEF OVERVIEW OF LABOUR LAWS IN INDIA



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Introduction to Labour Law in India

Labour Law is the body of law that governs the employer-employee relationship, including individual employment contracts, the application of tort and contract doctrines, and a large group of statutory regulation on issues such as the right to organize and negotiate collective bargaining agreements, protection from discrimination, wages and hours, and health and safety.

The law relating to labour and employment in India is primarily known under the broad category of "Labour and Industrial Law".

The relevance of the dignity of human labour and the need for protecting and safeguarding the interest of labour as human beings has been enshrined in Chapter-III (Articles 16, 19, 23 & 24) and Chapter IV (Articles 39, 41, 42, 43, 43A & 54) of the Constitution of India keeping in line with Fundamental Rights and Directive Principles of State Policy.

Factors responsible for shaping the Indian Labour legislation include:

- a. The prevailing social and economic conditions
- b. The views expressed by important nationalist leaders during the days of national freedom struggle
- c. The provisions of the Constitution
- d. The International Conventions and Recommendations.
- e. Important human rights and the conventions and standards that have emerged from the United Nations.
- f. The deliberations of the various Sessions of the Indian Labour Conference and the International Labour Conference.
- g. Recommendations of the various National Committees and Commissions such as First National Commission on Labour (1969) under the Chairmanship of Justice Gajendragadkar, National Commission on Rural Labour (1991), Second National Commission on Labour (2002) under the Chairmanship of Shri Ravindra Varma etc.
- h. Judicial pronouncements on labour related matters specifically pertaining to minimum wages, bonded labour, child labour, contract labour etc.

International Labour Organization (ILO)

The International Labour Organization (ILO) is the tripartite UN agency that brings together governments, employers and workers of its member states in common action to promote decent work throughout the world. India is a founder member of the International Labour Organization.

The International Labour Office is headed by a Director-General appointed by the Governing Body. ILO Headquarters are located in Geneva, Switzerland

The ILO was founded in 1919. The ILO emerged with the League of Nations from the Treaty of Versailles in 1919. It was founded to give expression to the growing concern for social reform after World War I, and the conviction that any reform had to be conducted at an international level.

After World War II, a dynamic restatement and enlargement of the ILO's basic goals and principles was made in the Declaration of Philadelphia. The Declaration anticipated postwar growth in national independence, and heralded the birth of large-scale technical cooperation with the developing world. In 1946, the ILO became the first specialized agency associated with the newly formed United Nations Organization.

Structure and working:

The ILO has a tripartite structure unique in the United Nations. The ILO

accomplishes its work through three main bodies, all of which comprise government, employer and worker representatives.

1. International Labour Conference: The member States of the ILO meet at the International Labour Conference in June of each year, in Geneva. Two government delegates, an employer delegate and a worker delegate represent each Member State.

2. The Governing Body: The Governing Body is the executive council of the ILO and meets three times a year in Geneva. It takes decisions on ILO policy and establishes the programme and the budget, which it then submits to the Conference for adoption. It also elects the Director-General.

The ILO Governing Body is composed of 28 government members, 14 employer members and 14 worker members.

3. The International Labour Office

The International Labour Office is the permanent secretariat of the International Labour Organization. It is the focal point for ILO's overall activities, which it prepares under the scrutiny of the Governing Body and under the leadership of a Director-General, who is elected for a five-year renewable term.

Objectives:

The ILO has four principal strategic objectives:

- To promote and realize standards, and fundamental principles and rights at work.
- To create greater opportunities for women and men to secure decent employment.
- To enhance the coverage and effectiveness of social protection for all.
- To strengthen tripartism and social dialogue.

ILO Conventions and Recommendations:

One of the ILO's original and most important functions is the adoption by the tripartite International Labour Conference (employers, workers and governments) of Conventions and Recommendations which set international standards. Through ratifications by member States, these Conventions create binding obligations to implement their provisions. Recommendations provide guidance on policy, legislation, and practice.

Key ILO Conventions:

1. No. 29

Forced Labour Convention (1930)

Requires the suppression of forced or compulsory labour in all its forms.
Certain exceptions are permitted, such as military service, properly supervised convict labour, and emergencies such as wars, fires, earthquakes.

2. No. 87

Freedom of Association and Protection of the Right to Organize Convention (1948)

Establishes the right of all workers and employers to form and join organizations of their own choosing without prior authorization, and lays down a series of guarantees for the free functioning of organizations without interference by public authorities.

3. No. 98

Right to Organize and Collective Bargaining Convention (1949)

Provides for protection against anti-union discrimination, for protection of workers' and employers' organizations against acts of interference by each other, and for measures to promote collective bargaining.

3. No. 100

Equal Remuneration Convention (1951)

Calls for equal pay and benefits for men and women for work of equal value.

4. No. 105

Abolition of Forced Labour Convention (1957)

Prohibits the use of any form of forced or compulsory labour as a means of political coercion or education, punishment for the expression of political or ideological views, workforce mobilization, labour discipline, punishment for participation in strikes, or discrimination.

5. No. 111

Discrimination (Employment and Occupation) Convention (1958)

Calls for a national policy to eliminate discrimination in access to employment, training, and working conditions, on grounds of race, colour, sex, religion,

political opinion, national extraction or social origin, and to promote equality of opportunity and treatment.

6. No. 138

Minimum Age Convention (1973)

Aims at the abolition of child labour, stipulating that the minimum age

for admission to employment shall not be less than the age of completion of compulsory schooling.

7. No. 182

Worst Forms of Child Labour Convention (1999)

Calls for immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour which include slavery and similar practices, forced recruitment for use in armed conflict, use in prostitution and pornography, any illicit activity, as well as work which is likely to harm the health, safety, and morals of children.

List of International Labour Organisation Conventions Ratified by India:

List of International Labour Organisation Conventions Ratified by India		
Sl. No.	No. and Title of Convention	Date of ratification
1.	No.1 Hours of Work (Industry) Convention, 1919	14.07.1921
2.*	No.2 Unemployment Convention, 1919	14.07.1921
3.	No.4 Night Work (Women) Convention, 1919	14.07.1921
4.	No.5 Minimum Age (Industry) Convention, 1919	09.09.1955
5.	No.6 Night Work of Young Persons (Industry) Convention, 1919	14.07.1921
6.	No.11 Right of Association (Agriculture) Convention, 1921	11.05.1923
7.	No.14 Weekly Rest (Industry) Convention, 1921	11.05.1923
8.	No.15 Minimum Age (Trimmers and Stokers) Convention, 1921	20.11.1922
9.	No.16 Medical Examination of Young Persons (Sea) Convention, 1921	20.11.1922
10.	No.18 Workmen's Compensation (Occupational Diseases) Convention, 1925	30.09.1927
11.	No.19 Equality of Treatment (Accident Compensation) Convention, 1925	30.09.1927
12.	No.21 Inspection of Emigrants Convention, 1926	14.01.1928
13.	No.22 Seamen's Articles of Agreement Convention, 1926	31.10.1932
14.	No.26 Minimum Wage-Fixing Machinery, Convention, 1928	10.01.1955
15.	No.27 Marking of Weight (Packages Transported by Vessels) Convention, 1929	07.09.1931
16.	No.29 Forced Labour Convention, 1930	30.11.1954
17.	No.32 Protection Against Accidents (Dockers) Convention (Revised), 1932	10.02.1947
18.@	No.41 Night Work (Women) Convention (Revised), 1934	22.11.1935
19.	No.42 Workmen's Compensation (Occupational Diseases)	13.01.1964

	Convention (Revised), 1934	
20	No.45 Underground Work (Women) Convention, 1935	25.03.1938
21.	No.80 Final Articles Revision Convention, 1946	17.11.1947
22. **	No.81 Labour Inspection Convention, 1947	07.04.1949
23.	No.88 Employment Services Convention, 1948	24.06.1959
24.	No.89 Night Work (Women) Convention (Revised), 1948	27.02.1950
25.	No.90 Night Work of Young Persons (Industry) (Revised), 1948	27.02.1950
26.	No.100 Equal Remuneration Convention, 1951	25.09.1958
27.	No.107 Indigenous and Tribal Population Convention, 1957	29.09.1958
28.	No.111 Discrimination (Employment & Occupation) Convention, 1958	03.06.1960
29.	No.116 Final Articles Revision Convention, 1961	21.06.1962
30.#	No.118 Equality of Treatment (Social Security) Convention, 1962	19.08.1964
31.@ @	No.123 Minimum Age (Underground Work) Convention, 1965	20.03.1975
32.	No.115 Radiation Protection Convention, 1960	17.11.1975
33.	No.141 Rural Workers' Organisation Convention, 1975	18.08.1977
34.	No.144 Tripartite Consultation (International Labour Standards) Convention, 1976	27.02.1978
35.	No.136 Benzene Convention, 1971	11.06.1991
36.# #	No.160 Labour Statistics Convention, 1985	01.04.1992
37.	No.147 Merchant Shipping (Minimum Standards), 1976	26.09.1996
38.	No.122 Employment Policy Convention 1964	17.11.1998
39.	No.105 Abolition of Forced Labour, 1957	18.05.2000
40.	No.108 Seafarers' Identity Documents Convention, 1958	07.01.2005
41.	No.174 Prevention of Major Industrial Accidents	06.06.2008
42.	No. 142 Human Resources Development	25.3.2009
43	No. 127 Maximum Weight	26.3.2010
Prot ocol 1	P89 Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948	

* Later denounced, The Convention requires, internal furnishing of statistics concerning unemployment every three months which is considered not practicable.

@ Convention denounced as a result of ratification of Convention No.89.

** Excluding Part II.

Branches (c) and (g) and Branches (a) to (c) and (i).

@@ Minimum Age initially specified was 16 years but was raised to 18 years in 1989.

Article 8 of Part – II.

Constitutional Provisions on Labour

Under the Constitution of India, Labour is a subject in the Concurrent List where both the Central & State Governments are competent to enact legislation subject to certain matters being reserved for the Centre.

Labour Jurisdiction : Constitutional Status:

Union List	Concurrent List
Entry No. 55 : Regulation of labour and safety in mines and oil fields	Entry No. 22 : Trade Unions; industrisl and labour disputes.
Entry No. 61: Industrial disputes concerning Union employees	Entry No.23: Social Security and insurance, employment and unemployment.
Entry No.65: Union agencies and institutions for "Vocational ...training..."	Entry No. 24: Welfare of abour including conditions of work, provident funds, employers 'invalidity and old age pension and maternity benefit.

Ministry of Labour and Employment, Government of India

<http://labour.nic.in/welcome.html>

Ministry of Labour and Employment of the Government of India is the nodal Ministry for Labour in India. It is comprised of the following:

Main Secretariat

- Social Security Division
 - Social Security - A Profile
 - Employee Provident fund Organisation
 - Employee State Insurance Corporation
 - THE UNORGANISED SECTOR WORKERS' SOCIAL SECURITY SCHEME
 - SALIENT FEATURE OF THE ABOVE SCHEME
- Industrial Relations
- Child and Women Labour
- Directorate General, Labour Welfare
 - THE UNORGANISED SECTOR WORKERS' SOCIAL SECURITY SCHEME
 - SALIENT FEATURE OF THE ABOVE SCHEME
- Economic and Statistics Division
 - Wage Cell
 - Wage Board
 - Planning Unit
- International Labour Affairs
- Labour Conference

Attached Offices

- Office of the Chief Labour Commissioner (Central), New Delhi
- Directorate General, Employment and Training, New Delhi
- Labour Bureau, Simla
- Directorate General, Factory Advice Service and Labour Institutes, Bombay

Subordinate Offices

- Directorate General, Mines Safety, Dhanbad
- Office of the Welfare Commissioner, Allahabad, Bangalore, Bhubaneswar, Calcutta, Hyderabad, Jabalpur, Karma (Bihar) and Nagpur

Adjudicating Bodies

- Central Government Industrial Tribunal-cum-Labour Court No.1 Dhanbad(Bihar) and No.1Mumbai and at Asansol, Calcutta, Jabalpur, New Delhi, Chandigarh, Kanpur, and Bangalore

Arbitration Bodies

- Board of Arbitration (JCM), New Delhi

Autonomous Organizations

- Employees' State Insurance Corporation, New Delhi
- Employees' Provident Fund Organisation, New Delhi
- V.V.Giri National Labour Institute, NOIDA, (U.P)
- Central Board for Workers' Education, Nagpur

Labour Legislations in India

Labour Laws may be classified under the following heads:

I. Laws related to Industrial Relations such as:

1. Trade Unions Act, 1926
2. Industrial Employment Standing Order Act, 1946.
3. Industrial Disputes Act, 1947.

II. Laws related to Wages such as:

4. Payment of Wages Act, 1936
5. Minimum Wages Act, 1948
6. Payment of Bonus Act, 1965.
7. Working Journalists (Fixation of Rates of Wages Act, 1958

III. Laws related to Working Hours, Conditions of Service and Employment such as:

8. Factories Act, 1948.
9. Plantation Labour Act, 1951.
10. Mines Act, 1952.
11. Working Journalists and other Newspaper Employees' (Conditions of Service and Misc. Provisions) Act, 1955.
12. Merchant Shipping Act, 1958.

13. Motor Transport Workers Act, 1961.
14. Beedi & Cigar Workers (Conditions of Employment) Act, 1966.
15. Contract Labour (Regulation & Abolition) Act, 1970.
16. Sales Promotion Employees Act, 1976.
17. Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.
18. Dock Workers (Safety, Health & Welfare) Act, 1986.
19. Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996.
20. Building and Other Construction Workers Welfare Cess Act, 1996
21. Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981
22. Dangerous Machines (Regulation) Act, 1983
23. Dock Workers (Regulation of Employment) Act, 1948
24. Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Act, 1997
25. Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993
26. Industrial Employment (Standing Orders) Act, 1946
27. Mines and Mineral (Development and Regulation Act, 1957
28. Plantation Labour Act, 1951
29. Private Security Agencies (Regulation) Act, 2005

IV. Laws related to Equality and Empowerment of Women such as:

30. Maternity Benefit Act, 1961
31. Equal Remuneration Act, 1976.

V. Laws related to Deprived and Disadvantaged Sections of the Society such as:

32. Bonded Labour System (Abolition) Act, 1976
33. Child Labour (Prohibition & Regulation) Act, 1986
34. Children (Pledging of Labour) Act, 1933

VI. Laws related to Social Security such as:

35. Workmen's Compensation Act, 1923.
36. Employees' State Insurance Act, 1948.
37. Employees' Provident Fund & Miscellaneous Provisions Act, 1952.

38. Payment of Gratuity Act, 1972.
39. Employers' Liability Act, 1938
40. Beedi Workers Welfare Cess Act, 1976
41. Beedi Workers Welfare Fund Act, 1976
42. Cine workers Welfare Cess Act, 1981
43. Cine Workers Welfare Fund Act, 1981
44. Fatal Accidents Act, 1855
45. Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976
46. Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976
47. Limestone and Dolomite Mines Labour Welfare Fund Act, 1972
48. Mica Mines Labour Welfare Fund Act, 1946
49. Personal Injuries (Compensation Insurance) Act, 1963
50. Personal Injuries (Emergency Provisions) Act, 1962
51. Unorganised Workers' Social Security Act, 2008

Labour Policies of the Ministry of Labour and Employment

1. National Policy on HIV AIDS and the World of Work
2. National Policy on Skill Development (March 2009)
3. National Policy on Safety, Health and Environment at Work Place
4. Draft National Employment Policy
5. Draft Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour
6. Guidelines to Issuance of Visa for Foreign personnel coming to India for Employment

Professional Opportunities under Labour Laws

There are innumerable legislations on Labour in India. Consultancy may be provided on various matters in relation to these laws e.g -

- Internal Audit
- Registration
- Licenses

- Forms
- Submission of Returns
- Displays required to be made
- Registers to be maintained
- Periodic Information to be filed with the concerned authorities

Statutory compliance under various labour laws has to be ensured by establishments. It is not just limited to the statutory deposits, returns and records to be maintained by the employer under various labour laws, but also to represent them in case of prosecution under various statutes. Hence, it hardly needs to be emphasized that the labour related laws cast an obligation for meticulous, impeccable and timely compliances. In the event of violation or delay in complying with the statutory requirements, the consequences in terms of levy of damages, prosecution is inevitable.

Useful Websites

International Labour Organisation

<http://www.ilo.org/global/lang-en/index.htm>

Ministry of Labour and employment

- <http://www.labour.nic.in/>

Labour Bureau

- <http://labourbureau.nic.in/>

V. V. Giri National Labour Institute

<http://www.vvgnli.org/>

Trade Union

<http://www.tradeunionindia.org/>

About the Author

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Mr. Rajkumar S Adukia is an eminent business consultant, academician, writer, and speaker. A senior partner of Adukia & Associates he has authored more than 34 books on a wide range of subjects. His books on IFRS namely, "Encyclopedia on IFRS (3000 pages) and The Handbook on IFRS (1000 pages) has served number of professionals who are on the lookout for a practical guidance on IFRS. The book on "Professional Opportunities for Chartered Accountants" is a handy tool and ready referencer to all Chartered Accountants.

In addition to being a Chartered Accountant, Company Secretary, Cost Accountant, MBA, Dip IFR (UK), Mr. Adukia also holds a Degree in Law and Diploma in Labor Laws. He has been involved in the activities of the Institute of Chartered Accountants of India (ICAI) since 1984 as a convenor of Kalbadevi CPE study circle. He was the Chairman of the Western Region of Institute of Chartered Accountants of India in 1997 and has been actively involved in various committees of ICAI. He became a member of the Central Council in 1998 and ever since he has worked tirelessly towards knowledge sharing, professional development and enhancing professional opportunities for members. He is a regular contributor to the various committees of the ICAI. He is currently the Chairman of Committee for Members in Industry and Internal Audit Standard Board of ICAI.

Mr. Adukia is a rank holder from Bombay University. He did his graduation from Sydenham College of Commerce & Economics. He received a Gold Medal for highest marks in Accountancy & Auditing in the Examination. He passed the Chartered Accountancy with 1st Rank in Inter CA & 6th Rank in Final CA, and 3rd Rank in Final Cost Accountancy Course in 1983. He started his practice as a Chartered Accountant on 1st July 1983, in the three decades following which he left no stone unturned, be it academic expertise or professional development. His level of knowledge, source of information, professional expertise spread across a wide range of subjects has made him a strong and sought after professional in every form of professional assignment.

He has been coordinating with various professional institutions, associations' universities, University Grants Commission and other educational institutions. Besides he has actively participated with accountability and standards-setting organizations in India and at the international level. He was a member of J.J. Irani committee which drafted Companies Bill 2008. He is also member of Secretarial Standards Board of ICSI.

He represented ASSOCHAM as member of Cost Accounting Standards Board of ICWAI. He was a member of working group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.

He has served on the Board of Directors in the capacity of independent director at BOI Asset management Co. Ltd, Bharat Sanchar Nigam Limited and SBI Mutual Funds Management Pvt Ltd. He was also a member of the London Fraud Investigation Team.

Mr. Rajkumar Adukia specializes in IFRS, Enterprise Risk Management, Internal Audit, Business Advisory and Planning, Commercial Law Compliance, XBRL, Labor Laws, Real Estate, Foreign Exchange Management, Insurance, Project Work, Carbon Credit, Taxation and Trusts. His clientele include large corporations, owner-managed companies, small manufacturers, service businesses, property management and construction, exporters and importers, and professionals. He has undertaken specific assignments on fraud investigation and reporting in the corporate sector and has developed background material on the same.

Based on his rich experience, he has written numerous articles on critical aspects of finance-accounting, auditing, taxation, valuation, public finance. His authoritative articles appear regularly in financial papers like Business India, Financial Express, Economic Times and other professional / business magazines. He has authored several accounting and auditing manuals. He has authored books on vast range of topics including IFRS, Internal Audit, Bank Audit, Green Audit, SEZ, CARO, PMLA, Antidumping, Income Tax Search, Survey and Seizure, Real Estate etc. His books are known for their practicality and for their proactive approaches to meeting practice needs.

Mr. Rajkumar is a frequent speaker on trade and finance at seminars and conferences organized by the Institute of Chartered Accountants of India, various Chambers of Commerce, Income Tax Offices and other Professional Associations. He has also lectured at the S.P. Jain Institute of Management, Intensive Coaching Classes for Inter & Final CA students and Direct Taxes Regional Training Institute of CBDT. He also develops and delivers short courses, seminars and workshops on changes and opportunities in trade and finance. He has extensive experience as a speaker, moderator and panelist at workshops and conferences held for both students and professionals both nationally and internationally. Mr. Adukia has delivered lectures abroad at forums of International Federation of Accountants and has travelled across countries for professional work.

Professional Association: *Mr. Rajkumar S Adukia with his well chartered approach towards professional assignments has explored every possible opportunity in the fields of business and profession. Interested professionals are welcome to share their thoughts in this regard.*