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EMERGING TRENDS IN INTERNATIONAL LABOUR STANDARDS

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ABSTRACT

With the end of World War I, there was huge unrest all over the world which made it necessary to establish universal peace. League of Nations was established in 1919 to achieve this goal and for the first time, not only the governmental bodies but also representatives of the world of works came together to form International Labour Organization (ILO) during the Peace Conference that put an end to the World War 1. Part XIII of the Treaty of Versailles became the founding stone of ILO.

ILS ensures opportunities to provide productive work for men and women with the dignity of labour along with freedom, security and equity. In the contemporary world, it is very important to adapt different labour standards that are suitable for the emerging global economy.

In this paper, the author wants to put forward the necessity and demand for adapting the International labour Standards and how they are successful in fulfilling the needs of the global economy.

AIMS AND OBJECTIVES OF STUDY

- To learn the importance of the establishment of International Labour Standards and how it is helping various states during any problems that were faced by member states.
- To what extent these international labour Standards are effective in promoting social justice and providing equal opportunities for men and women in the working environment
- To learn the emerging trend in 2020 that are evolved concerning globalization and the measures that should be adopted by ILO

RESEARCH METHODOLOGY

The researcher has used the doctrinal method and rather an exploratory form of study on this matter.

The study dealt is regarding the establishment of International Labour Standards by International Labour organization and how it is emerging in the global standards.

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SCOPE OF THE STUDY

The scope of the study is limited to the concept of International Labour Standards that are emerged through the International Labour Organization.

LITERATURE REVIEW

The researcher has relied upon various textbooks, articles, journals and also International Court judgment's regarding the process of choosing the international labour standard through ILO.

Alston, Philip. "Core labour standards' and the transformation of the international labour rights regime." *European Journal of International Law* 15.3 (2004): 457-521. In this article, the author has beautifully explained core labour standards and the choice of international labour standards by the voting system through the International Labour organization is paving the way for a better society. The author gave a clear view from evolution to the present scenario

1. **Valrico's, Nicolas. "International labour standards and human rights: Approaching the year 2000." *Int'l Lab. Rev.* 137 (1998): 135.**

The author in this article elucidated the basic connection and the proximity between human rights and international human rights. The author gave much emphasis on procedure and the method of choosing such standards by the help of different member states

SIGNIFICANCE OF THE STUDY

This research paper gives a clear view about the importance and basic idea of the international labour standard and how they help raise basic human rights and needs. It also explains the procedure and method of emerging labour standards.

INTRODUCTION AND HISTORICAL BACKGROUND

International labour standards (ILS) were made as a part of the International Labour organization which are drafted in the Treaty of Versailles that help in ending World War I in 1919. The main motto of creating ILO is that many nations thought universal peace can be achieved only through social Justice. The organization has helped to fight during many historical junctures such as Decolonization, The Great depression, victory by South Africa over Apartheid and so on.

ILO has a Constitution that reflects its aims and objectives. It was drafted by then Labour commission Chairperson known as Samuel Gopher. The speciality of the International Labour organization is it is the first tripartite body that has formed, which bring the government delegates, workers, representatives and employees within its executive body. The founders understand the efficacy of social justice and its reflection on establishing Peace and harmony

between the various states that helps in understanding the interdependence.² To overcome the exploitation of workers at that particular period they came up with the idea of introducing the International Labor Standards which creates the minimum standards on how labour should be treated and they made it clear that any standard should be abiding by social Justice. The driving force behind creating this was humanitarian, security, political and economic conditions prevailing at that time.

The main objective of forming the International Labor Organization is to ensure social justice in international Labor standards thereby establishing basic principles and rights of labour at the workplace. International Labour Standards (ILS) can be considered as the legal instrument under International Labor Organization and it can be of two forms either as Conventions which on ratification becomes binding on different states. There can also be recommendations that are not binding on parties but they can be referred to as guidelines.

ILS can be adopted by taking recommendations of Employees, employers, workers and government bodies of different states and put in the International Labor Conference that happens once every year. If once a standard is adopted it should be shared with the different member states or to their competent authority for consideration, if they are ratified it can be adopted as a convention.

In 1920 ILO has moved to Geneva and in less than 2 years it has adopted 9 International Conventions and nearly 10 recommendations which address the major issues like Maternity benefit, unemployment, working hours, providing work for younger persons and women at night times etc.,³ A committee of Experts was established in 1926 to look after the standards, to examine and submit the report during the Conference which happens once a year. This committee consists of independent jurists from different states. The Great Depression resulted in huge unemployment and the, then director Harold Butler, thought the labour problems need to be dealt with by international cooperation. In 1934, US joined as a member of ILO and in the middle of 1939 during World War II a meeting was held in Philadelphia whose outcome was considered as an annexure to the Constitution of ILO. The Declaration of Philadelphia was adopted by representatives, workers and employees from 41 different states. It includes that “labour is not a commodity to use” and “all human beings, irrespective of race, creed or sex,

² International Labor Conference, 85th Session. Report of the Director-General, *The ILO, standard setting and globalization 1997*

³ Ghellab, Y. "Recovering from the crisis through social dialogue." Dialogue in Brief 1 (2009).

have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity". The Declaration of Philadelphia is still relevant in the contemporary world as it was made a part of the objectives of ILO constitution.⁴

In 1946 it became a special agent of the United Nations which was newly formed at that time. In 1960 it established a new Geneva-based International Institute for Labour. In 1969 on the 50th anniversary of ILO it was awarded by Nobel Peace Prize. Later it was further developed and worked for freedom of association and also the right to organize. In 1976 it played a major role in making Poland free from dictatorship as it ratified the Freedom of association in 1957. It also helped Somalia and other countries in later years and established the world commission on Dimension of Globalization that helped in recognizing the needs of people.

CORE CONVENTIONS OF ILO

Although there are roughly 189 ILO Conventions, it is up to the parties to decide whether or not to ratify them in their interests. However, there are eight Fundamental Conventions relating to basic principles and rights at work that apply to all ILO member nations without the need for ratification. These eight fundamental conventions were established in 1998 by the International Labour Organization Declaration on Fundamental Principles and Rights at Work -

1. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
2. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
3. Forced Labor Convention, 1930 (No. 29) (and its 2014 protocol)
4. Abolition of Forced Labor Convention, 1957 (No. 105)
5. Minimum Age Convention, 1973 (No. 138)
6. Worst Forms of Child Labor Convention, 1999 (No. 182)
7. Equal Remuneration Convention, 1951 (No. 100)
8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

⁴ Gravel, Eric, Tomi Kohiyama, and Katerina Tsotroudi. "Key Lessons from the Crisis and Way Forward."(2000)

There are other 4 Conventions which are known as Priority conventions because they help in the governance of ILO -

1. Labor Inspection Convention, 1947 (No. 81)
2. Employment Policy Convention, 1964 (No. 122)
3. Labor Inspection (Agriculture) Convention, 1969 (No. 129)
4. Tripartite Consultation (International Labor Standards) Convention, 1976 (No. 144)

STRUCTURE OF INTERNATIONAL LABOR ORGANISATION

The ILO preamble reads as follows “whereas universal and lasting peace can be established only if it is based on social Justice” this is the main motto behind the tripartite system.⁵

The ILO structure consists of 4 member delegates for every state constituting 1 workers delegate, 2 government delegates and 1 employer’s delegate and the governing body consists of 14 worker representatives, 24 government representatives and 14 employer’s representatives.⁶

Labour standards can be achieved through conventions, protocol and recommendations.

1. Conventions are legally binding on the parties which are members to it they become international treaties on ratification (ratification is a voluntary process where the party have an option either to ratify a particular convention or not). There are almost 189 conventions under the ILO.
2. Protocols are also legally binding on the parties if they are ratified. If any convention needs any upgrading it can be done through the protocol. But new parties cannot ratify the protocol directly unless they are the members of the old ratification. However, there are only 6 Protocols under ILO.
3. Recommendations are not binding on any parties but they are used as guidelines and they provide detailed information on Conventions. Recommendations can also be autonomous (not related to any convention)

PROCESS OF FORMATION OF INTERNATIONAL LABOR STANDARDS

⁵ Siroën, Jean-Marc, et al. "The use, scope and effectiveness of labor and social provisions and sustainable development aspects in bilateral and regional free trade agreements." contract VC/2007/0638 (2008).

⁶ Grandi, P. L. “*Trade Agreements and their Relation to Labor Standards – The Current Situation*.” International Centre for Trade and Sustainable Development.” Programme on EPAs and Regionalism, 2009

As we all know that ILO is a tripartite organization where the executive body not only consists of government delegates but also its representatives, employees and workers. This makes it a very unique organization of the UN and it makes it more effective from in socioeconomic and legal perspective.

All the member states have to report their observations annually to the International Labour Organization during the International Labour Conference (ILC) that happens during the December of every year in Geneva.⁷

Firstly the member's states have to identify the problem that is existing in their state as their observation and the same has to be put forward and circulated in ILC. The members who put observations are the independent Judiciary who belongs to various states known as the Committee of Experts which will be discussed in the Conference. All the comments were noted down after the discussion and this will be sent to the other committee for any amendments. After the examination, it will be discussed again for the second time. The conclusion will go for the tripartite discussion and the revised instrument will be kept before the ILC. This will now be put forth before the tripartite body for electing it as International Labor Standard. If it gets more than 2/3rd votes it can be declared as International Labor standard.⁸

These standards once got majority votes, they can be declared as universal principles. The unique feature of these standards is that they are flexible enough to convert into national laws and practice with due consideration.

Recently, ILO has given power to dissolve any existing Standards if they are deemed to be obsolete and no longer serve the purpose but the procedure for dissolving also need 2/3rd votes.

IMPACT OF COVID 19 PANDEMIC ON LABOR STATISTICS

This Covid-19 Scenario has already considered as the most dreadful pandemic of this century and there are millions who succumbed to death because of this deadly virus. The hard truth is there are many more millions of people who succumbed to this virus indirectly as hunger deaths and suicides due to lack of work and labor. The statistics reported by ILO 2020 as mentioned below were certainly shocking:

⁷ Ebert F.C and Posthuma A. "Labor Provisions in trade arrangements: current trends and perspectives", Discussion paper 205 (2010)

⁸ International Labor Conference, 85th Session. Report of the Director-General, *The ILO, standard setting and globalization*. (1997)

As we already know that pandemic has tilted the world economy upside down because of World-wide lockdown of more than 3 months which resulted in loss of trillion US dollars.

- Because of such situation all the upper middle class countries were able to manage 3 months without work as the corona cases were tremendously increasing almost 70% of workers became jobless over-night.
- The scenario in the lower middle class countries was worse than anyone can ever imagine. In spite of increase in cases the low income countries announced the relaxation of lockdown measures considerably. Totally it has led to the closure of 94% of work places all over the world.
- In the 5th edition of ILO monitor it was held that more than 17.5% of working hours were lost in the second quarter of 2020 compared to 2019 statistics which is almost equal to the loss of 495 million full time jobs.

In comparison with 2019 statistics 3.5 trillion dollars of Global income of Labors were lost in this year.

IMPACT OF GLOBALISATION ON INTERNATIONAL LABOR STANDARDS

Earlier trade was a simple mechanism of export and import of necessary goods from one place to other place with in a city or a country but with the advent of globalization it includes the cross border transportation from one country to the other country and huge access to the economic activities through the markets. ‘Giddens’ and ‘Hutton’ describe globalization as “the interaction between extraordinary technological innovation and a worldwide reach drifted by world capitalism that gives its particular complexity to today’s change”.⁹ It leads to the increasing economic activity among the states because of Globalization, Privatization and Liberalization but at the same time, there was a vanishing trend among the national labor laws and traditional policies that were adopted by the laborers as it changed everything from the regional level to the global level.

It allowed the organizations from different countries to expand their capital thereby introducing the foreign capital division which was described by Stieglitz as the “enhanced integration of the countries and citizens of the world, resulting from the enormous reduction of transportation costs

⁹ Bangasser, Paul E. The ILO and the informal sector: an institutional history. (Geneva: International Labour Organization, 2000).

and communication costs and the breakdown of artificial barriers to the trans-boundary flows of goods, services, resources, information, people.”¹⁰

Though Globalization is helping in increasing the world economy but it has a devastating effect on the labor as the structure of labor laws and labor legislation were utterly domestic. They can't cope up with needs of International standards as strictly speaking there is no international law that is binding on all the parties per se. it helped in reducing the extreme poverty and helped women to be a part of system (women right to work is recognized) but it didn't help entirely in making a socially justiciable society. It resulted in major social upheavals, huge unemployment in certain areas of the world and dislocation of employee's and workers which disturbed the financial stability of many countries. It also leads to the income in-equality in most of the places around the world.

EMERGING TRENDS

1. A right to world of works free from violence and harassment which was never an instrument of ILO emerged as new standard adopted by the members of the committee in 2019 as there were many killings and abuse happening in the workplace and being un-reported. Especially in the cases related to women where they were asked for the sexual favors.
2. International labor organization is working hard from long years to make global instruments that help in uplifting social and human conditions of labor by providing security, protection and healthy environment at work places.
3. Declaration on Social Justice for a Fair Globalization in 2008, In order to achieve ILO objectives the organization must provide support the ILO's standard-setting strategy as a cornerstone of the organization's activities by increasing its relevance in the workplace, and secure the role of standards as a helpful tool for accomplishing the Organization's constitutional goals in the context of Globalization.¹¹
4. It is working on the issue of 'deepening inequality' that is spreading in the contemporary world along with the unequal wage amount that is causing huge distress among the world.
5. Protection of workers about the Informal economy- in an informal economy the workers are provided with work informally but always this doesn't guarantee the workman with the Decent work.

¹⁰ Vosko, Leah F. "Legitimizing the triangular employment relationship: emerging international labor standards from a comparative perspective." *Comp. Lab. L. & Pol'y J.* 19 (1997): 43.

¹¹ *Comp. Lab. L. & Pol'y J.* 19 (1997): 43.

6. In 2002 the international Labour conference had adopted the Informal Economy in its conceptual framework from which it started working more effectively and in a systemic manner.
7. Trade arrangements in international trade have to be in nexus with international Labour Standards to achieve more success rate as there is a huge gap between the international and national labour legislation.
8. It is also a basic necessity to understand and analyse the trade-related trade provisions and their impact on International Labour Standards.
9. Decent work should be the prime motto of Globalization providing a fair share of work to men and women.

CURRENT TRENDS OF WORLD ECONOMY AND SOCIAL OUTLOOK IN 2021

As there are persistent inequalities and enormous challenges in the world it became mandatory to establish a clear picture of social employment and global trends. To achieve social justice completely and to fulfil the gaps it is very much needed to address the challenges with innovation in policymaking.

There are 4 key issues and challenges that are needed to be addressed in 2020 for the betterment of social conditions -

- Lack of inclusiveness and lower economic growth became a major drawback for reducing poverty in low-income countries
- People of working age are underutilized which causes lessen access to work. The total rate of “Underutilization of labour” exceeds the total rate of unemployment in the world.
- The quality of work presented by an individual is lower than it is expected to be.
- The informal economy which prevails in poverty countries are inadequate for decent workplaces or is not meeting the basic standard of workplaces. Decent workplace standards include the protection to their families, healthy environment in work places and also fundamental rights like freedom to form association and trade unions.
- Income inequality became one of the major issues that are prevailing more than ever before in the present time which has to be taken care of.
- We can observe more protests in 2019 due to decent work deficit which clearly shows the unrest within the society that may be either political, social or economical
- The rate of global unemployment is nearly 5.4% which will be continued for the next three years and the pandemic has made the situation more pathetic.

- Access to paid work is not considered as a guarantee for decent work. There are more than 1.4 billion people who belong to lower-income groups and work informally for their families but they are not provided with any rights or decent working conditions.
- There are still 630 million workers who belong to extreme or moderate poverty which will make it impossible to achieve the main goal of Sustainable Development Goals (to eradicate extreme poverty)
- Young people and women are facing extreme obstacles in their workplaces even today.

PRACTICAL SCENARIO

In the 2016 Annual report on the International Labour Conference, it was held that ILO has successfully saved so many children from trafficking this was popularly known as Camel jacking Case. In this case, many children from South Africa and East Asia are trafficked and supplied to Qatar. This case was brought before the ILO by the local organization. ILO after analyzing the situation talked to both the parties and asked Qatar to explain the same. Since Qatar was a member state it obeyed the order of ILO and explained the problem for which ILO provided the alternative solution of using Robotics and made an agreement with Singapore to provide robotics to Qatar and it has responded positively. With this ILO has saved the lives of many children as both the states ratified the convention related to the worst forms of Child Labor.

CONCLUSION

The above-needed gaps are to be fulfilled by International Labor Organization through introducing new standards in the form of International Labor Standards. It is considered the high time that states have to work in cooperation with ILO to achieve the Sustainable development Goals that were set to be achieved by 2030.

ILO has legitimate authority to take over the lead in introducing new provisions and labour standards. It should assist the members which are entering into trade agreements which were also envisaged in the 'Social Justice Declaration'. ILO should focus on developing the labour provisions and proper coordination between them and International labour Standards to maintain integrity. It leads to the transparency and expansion of labour and lends credibility in trade arrangements for the member states to promote the Principles and objectives of the organization. In considering the effectiveness of International Labor Standards we have to understand that ILO is a normative body and every state has given a voluntary option to adapt a particular convention or not but with the given transparency through the tripartite body every member state has an option to put their views and vote according to adopt a new standard. As it is a tripartite body

even the workers and employers were given the same opportunity as the governmental delegates.

In these circumstances, the ILO has a responsibility to adopt new technological features to increase transparency. ILO has to ensure that it has the institutional capacity to keep them up to date on the ongoing processes, to develop meaningful processes. The standards that are adopted should relate and ensure that the decisions made are relevant and responsive in the world of works.

SUGGESTIONS

One of the major draw-back with the ILO is though there are regional offices in different states there are no local bodies to which the individual can directly approach the issue. They are accessed with the local trade union but it becomes a bit difficult to address the problems to the trade Union as they are not aware of the same.