

### History and Evolution of Labour Laws

Labour law regulates the employer–employee relationship.

Modern view (Philadelphia Charter 1944):

W. Friedmann "poverty anywhere is a danger to prosperity everywhere"  
 employer owes a "social duty"

### History and Evolution of Labour Laws

| Phase | Examples | Nature |
|-------|----------|--------|
|-------|----------|--------|

### History and Evolution of Labour Laws (cont)

|                                    |   |  |
|------------------------------------|---|--|
| Early repressive (colonial/feudal) | England: Statute of Labourers 1351 (capped wages, demanding more = offence); Combination Acts 1799/1800 (banned worker combinations).<br><b>India:</b> Tea District Emigrant Labour Act 1832, Workmen's Breach of Contract Act 1859 (desertion = crime), Assam Labour Emigration Acts 1863–1901 | Served employers; forced labour supply |
|------------------------------------|---|--|

### History and Evolution of Labour Laws (cont)

|                              |   |                         |
|------------------------------|---|-------------------------|
| First protective factory law | Health & Morals of Apprentices Act 1802 (England) — world's first factory legislation                       | Protect children/-women |
| India's first                | Factory Act 1881 (from Lancashire lobby pressure vs cheap Indian textile labour; worker benefit incidental) | Colonial self-interest  |
| Modern                       | Progressive laws post-Independence rooted in social justice   | Welfare state           |

Labour laws = "the natural children of the Industrial Revolution."



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### Principles of Labour Legislation

|                  |   |
|------------------|---|
| Frank Tillyard:  | two aspects — protective & regulative   |
| R.K. Das (1937): | four principles — (1) Social Justice, (2) Social Welfare, (3) National Economy, (4) International Solidarity. |

### Standard 7-principle classification

| Principle  | Meaning  | Example Indian laws  |
|------------|--|--|
| Protection | Protect workers who can't protect themselves against industrial hazards, long hours, low wages, child/women exploitation | Factories 1948; Mines 1952; Plantation Labour 1951; Child Labour 1986; Contract Labour 1970; Payment of Wages 1936; Minimum Wages 1948 |

### Principles of Labour Legislation (cont)

|                |  |   |
|----------------|--|---|
| Social Justice | Remove discrimination against disadvantaged groups (bonded, migrant, women, caste) | Equal Remuneration 1976; Bonded Labour Abolition 1976; Indian Slavery Act 1843; Contract Labour 1970                          |
| Regulation     | Balance power between employers & workers/unions; regulate IR, strikes, disputes   | Trade Unions 1926; ID Act 1947; Standing Orders 1946  |
| Welfare        | Provide basic amenities to workers & families beyond statutory minimum             | Welfare Fund Acts (Mica, Beedi, Iron/Manganese Ore); Dock Workers 1986; welfare provisions in Factories/Mines/Plantation Acts |

### Principles of Labour Legislation (cont)

|                          |  |  |
|--------------------------|--|--|
| Social Security          | Income security against contingencies (sickness, injury, old age, death, maternity) — via social insurance (contributory) & social assistance (non-contributory) | Workmen's/Employees' Comp 1923; ESI 1948; EPF 1952; Maternity Benefit 1961 |
| Economic Development     | Laws that aid industrial peace & productivity  | IR laws, social security, hours regulation                                 |
| International Obligation | Give effect to ILO Conventions/Recommendations   | Laws implementing ratified ILO Conventions                                 |

### International Labour Organization (ILO)

|                    |   |
|--------------------|---|
| <b>Foundations</b> | Est. 1919<br><br>under Treaty of Versailles (Part XIII) |
| <b>Premise</b>     | lasting peace requires social justice                   |

### International Labour Organization (ILO) (cont)

|  |                                       |
|--|---------------------------------------|
| HQ Geneva (1920)   | First Director Albert Thomas (France) |
| Only tripartite UN agency — governments + employers + workers. | 187 member states.                    |
| Specialized UN agency 1946.                                    | Nobel Peace Prize 1969 (50th anniv.)  |

### Three Organs

| Organ                                 | Role  |
|---------------------------------------|---|
| International Labour Conference (ILC) | Annual "world parliament of labour"; sets standards, budget |
| Governing Body                        | Executive; policy & agenda                                  |
| International Labour Office           | Permanent secretariat, Geneva                               |

|                             |                                      |
|-----------------------------|--------------------------------------|
| Committee of Experts (1926) | supervises application of standards. |
|-----------------------------|--------------------------------------|

### International Labour Organization (ILO) (cont)

Decent Work Agenda- 4 strategic objectives: (1) set/promote standards & fundamental rights at work; (2) create decent employment & income; (3) enhance social protection; (4) strengthen tripartism & social dialogue.

Principles / Declaration of Philadelphia (1944): "Labour is not a commodity"; "poverty anywhere is a danger to prosperity everywhere"; all humans, irrespective of race/c-reed/sex, have the right to pursue material well-being & spiritual development in freedom, dignity, economic security, equal opportunity.

Instruments:

### International Labour Organization (ILO) (cont)

Conventions = binding once ratified (obligation-creating)      Recommendations = non-binding guidelines.

By July 2002, India had ratified 39 of 184 ILO Conventions (since increased, incl. core conventions). India ratified Convention No. 81 (labour inspection — inspectors' right to enter freely) and No. 87 (freedom of association).

Subjects covered: wages, hours, paid holidays, minimum age, maternity, OSH, social security, freedom of association, collective bargaining, night work, medical examination, employment/unemployment.

India & ILO: founding member (1919); permanent Governing Body member since 1922.

### Department of Labour (Central & State)

Central - Ministry of Labour & Employment

One of the oldest & most important ministries; federal ministry enforcing labour laws & social security. First Labour Minister: Jagjivan Ram (1947–52).

Skill Development/Apprenticeship → moved to Ministry of Skill Development & Entrepreneurship (Nov 2014).



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### Department of Labour (Central & State) (cont)

Initiatives: National Career Service portal (20 Jul 2015); e-Shram card (1 Aug 2021) for unorganised workers.

Thrust areas/functions: labour policy & legislation; safety/health/welfare; social security; special groups (women/child); IR & enforcement (central sphere); adjudication via Central Govt Industrial Tribunals-cum-Labour Courts & National Industrial Tribunals; workers' education; labour statistics; emigration for overseas jobs; employment services & vocational training; ILO cooperation.

#### Organisations:

| Type                 | Bodies   |
|----------------------|--|
| Attached             | DG Employment; Chief Labour Commissioner (Central); DGFASLI; Labour Bureau                                       |
| Subordinate          | DG Mines Safety (DGMS); Labour Welfare Organisations; Indian Labour Archives                                     |
| Statutory/Autonomous | ESIC; EPFO; VVGNLI; Central Labour Institute; Central Govt Industrial Tribunals & Labour Courts; PDNASS; DTNBWED |
| State                |  |

### Department of Labour (Central & State) (cont)

Labour = Concurrent List → each State has a Directorate/Department of Labour headed by a Labour Commissioner.

Functions: enforce state + applicable central laws; run State Labour Courts/Industrial Tribunals; inspect factories/shops (Factories Act, Shops & Establishments Act); conciliate disputes; administer State ESI/welfare boards.

#### Important Dates

|                   |   |
|-------------------|---|
| November 26, 1949 | Constitution of India adopted                             |
| January 26, 1950  | Constitution came into force, celebrated as Republic Day. |

#### Sources of the Indian Constitution

|         |   |
|---------|---|
| UK      | Parliamentary system, Rule of Law, law-making procedure, single citizenship, bicameralism |
| USA     | Judicial review, independence of judiciary, Fundamental Rights, removal of judges         |
| Ireland | Directive Principles of State Policy  |

#### Sources of the Indian Constitution (cont)

|                  |  |
|------------------|--|
| Canada           | Federation with strong Centre; "Union of States"                 |
| Austria          | Concurrent List  |
| Germany (Weimar) | Emergency provisions   |
| Gol Act 1935     | Federal structure, office of governors, federal judiciary powers |

#### Salient Features of the Indian Constitution

Longest written constitution (bulky: borrowed provisions, single doc for Centre+States, FR+FD+DPSP, SC/ST/backward provisions, emergency provisions, detailed judiciary/services/elections).

Blend of rigidity & flexibility (some amendments by simple majority, some by special majority + state ratification).

Parliamentary government (real executive = Council of Ministers; President nominal; collective responsibility to Lok Sabha).

Federal system with unitary bias ("Union of States"; strong Centre; unitary in emergency; states cannot secede).

Fundamental Rights (justiciable; laws violating them can be struck down; not absolute — reasonable restrictions).



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### Salient Features of the Indian Constitution (cont)

Fundamental Duties (added by 42nd Amendment 1976).

DPSP (non-justiciable; social & economic democracy / welfare state).

Secular State (no state religion; equal treatment).

Independent Judiciary (integrated; guardian of FRs; judicial review).

People as source of authority ("We, the People...").

Universal Adult Franchise (vote at 18; SC/ST seat reservation).

Emergency powers (national/state/financial; federal→unitary shift).

Single citizenship.

Bicameral legislature (Lok Sabha = people; Rajya Sabha = states).

Bicameral legislature (Lok Sabha = people; Rajya Sabha = states).

Panchayati Raj & urban local bodies (73rd & 74th Amendments, 1992).

Synthesis of parliamentary sovereignty & judicial supremacy; integrated & independent judiciary.

### Preamble of the Indian Constitution

| Term                        | Meaning   |
|-----------------------------|---|
| Sovereign                   | Internally & externally free, no external authority |
| Socialist (added 42nd Amdt) | Mixed-economy "democratic socialism"                |
| Secular (added 42nd Amdt)   | No state religion; equal treatment                  |
| Democratic                  | Authority from people; elected, accountable rulers  |
| Republic                    | Elected head of state (President) for fixed term    |

Text keywords: Sovereign, Socialist, Secular, Democratic, Republic + Justice (social, economic, political), Liberty (thought, expression, belief, faith, worship), Equality (status & opportunity), Fraternity (dignity of individual, unity & integrity of nation).

### Fundamental Duties

Added by 42nd Amendment 1976 (Swaran Singh Committee) — 10 duties; 11th added by 86th Amendment 2002. Non-justiciable.

(a) Abide by Constitution, respect ideals/institutions, National Flag & Anthem

### Fundamental Duties (cont)

- (b) Cherish noble ideals of the freedom struggle
- (c) Uphold sovereignty, unity & integrity of India
- (d) Defend the country & render national service
- (e) Promote harmony & common brotherhood; renounce practices derogatory to women's dignity
- (f) Value & preserve composite culture
- (g) Protect & improve natural environment; compassion for living creatures
- (h) Develop scientific temper, humanism, spirit of inquiry
- (i) Safeguard public property; abjure violence
- (j) Strive towards excellence
- (k) (86th Amdt) Parent/guardian to provide education (ages 6–14)

### Directive Principles of State Policy

36 = defines "State." 37 = DPSPs non-justiciable but fundamental in governance.

| Type | Articles | Content |
|------|----------|---------|
|------|----------|---------|

### Directive Principles of State Policy (cont)

|           |   |                               |
|-----------|---|-------------------------------|
| Socialist | 38 social order with justice; 39 (a) livelihood, (b) resources for common good, (c) prevent wealth concentration, (d) equal pay for equal work, (e) protect health/strength of workers & children, (f) children's healthy development; 39A free legal aid (42nd Amdt); 41 right to work/education/public assistance; 42 just & humane work conditions + maternity relief; 43 living wage, decent life, leisure; 43A workers' participation in management (42nd Amdt); 47 nutrition, standard of living, public health | Welfare state, worker welfare |
|-----------|---|-------------------------------|

### Directive Principles of State Policy (cont)

|          |  |                          |
|----------|--|--------------------------|
| Gandhian | 40 village panchayats; 43 cottage industries; 43B promotion of co-operatives (97th Amdt 2011); 46 promote SC/ST/weaker-section interests; 47 prohibition of intoxicants; 48 organise agriculture/-animal husbandry (cow slaughter) | Village e/s-elf-reliance |
|----------|--|--------------------------|

### Directive Principles of State Policy (cont)

|                      |   |                   |
|----------------------|---|-------------------|
| Liberal-Intelle-tual | 44 Uniform Civil Code; 45 early childhood care/education <6 (86th Amdt); 48 modern agriculture; 48A environment/forests/wildlife (42nd Amdt); 49 protect monuments; 50 separation of judiciary from executive; 51 international peace | Modern governance |
|----------------------|---|-------------------|

Labour-critical DPSPs (memorise as a cluster): 38, 39(a)(d)(e)(f), 41, 42, 43, 43A, 47. (These 5 articles — 39, 41, 42, 43, 43A — mirror the ILO Constitution & Philadelphia Charter 1944.)

#### FR ≠ DPSP relationship

FRs justiciable; DPSPs non-justiciable but morally binding.

Courts read them harmoniously; DPSPs help interpret FRs (Art 21 read with 39/41/42/43).

### 29 Acts → 4 Codes

| Code (yr)      | Subsumes   |
|----------------|--|
| Wages 2019 (4) | Payment of Wages 1936; Minimum Wages 1948; Bonus 1965; Equal Remuneration 1976 |
| IR 2020 (3)    | Trade Unions 1926; Standing Orders 1946; ID Act 1947                           |



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### 29 Acts → 4 Codes (cont)

Social Security 2020 (9) EPF 1952; ESI 1948; Employees' Comp 1923; Employment Exchanges 1959; Maternity 1961; Gratuity 1972; Cine-Workers Welfare Fund 1981; BOCW Welfare Cess 1996; Unorganised Workers' SS 2008

OSH 2020 (13) Factories 1948; Mines 1952; Dock Workers 1986; BOCW 1996; Plantations 1951; Contract Labour 1970; Inter-State Migrant Workmen 1979; Working Journalists (Conditions) 1955; Working Journalists (Wages) 1958; Motor Transport 1961; Sales Promotion Employees 1976; Beedi & Cigar 1966; Cine-Workers & Cinema Theatre 1981

### 29 Acts → 4 Codes (cont)

**Still standalone:** Apprentices 1961; Bonded Labour Abolition 1976; Child & Adolescent Labour 1986; POSH 2013; Public Liability Insurance 1991; Boilers 1923; Manual Scavengers 2013.

#### Intention/objective one-liners:

**Wages:** universal minimum wage for all; national floor wage (states can't go below); single "wages" definition.

**IR:** rationalise disputes, recognise unions, ease retrenchment (100→300), formalise FTE, regulate strikes.

**SS:** widen net — first cover for gig/platform/unorganised; consolidate EPF/ESI/gratuity/maternity.

**OSH:** single safety/health standard; gender parity (women in all shifts with safeguards); ease contractor licensing.

### The Indian Constitution

#### Constituent Assembly

The Constituent Assembly was initially composed of 389 members.

292 members were elected through the Provincial Legislative Assemblies, 93 represented the Indian Princely States, and 4 represented the Chief Commissioners' Provinces.

### The Indian Constitution (cont)

Members were chosen by indirect election as per the Cabinet Mission's recommendations.

The Assembly's membership was subsequently reduced to 299 post partition.

#### Inaugural Session

The Constituent Assembly held its first session on December 9, 1946, in the Constitution Hall of Parliament House, now known as Samvidhan Sadan.

Dr. Sachchidananda Sinha presided as the interim President during this inaugural meeting.

On December 11, 1946, Dr. Rajendra Prasad was appointed as the permanent President of the Constituent Assembly.

#### Drafting Committee

The Drafting Committee, chaired by Dr. B. R. Ambedkar, was the most important committee of the Constituent Assembly.

Dr. B. R. Ambedkar introduced the final draft of the Constitution to the Assembly on November 04, 1948, for the first reading.

The Assembly held a general discussion on the draft for five days, concluding on November 09, 1948.

#### Finalized Document

The final Constitution included 395 articles, divided into 22 parts and 8 Schedules.



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### The Indian Constitution (cont)

At the time of its adoption, it was the world's lengthiest written Constitution.

### Factors that shaped Indian labour legislation

Early exploitative industrial society — laissez-faire, long hours, child/women abuse, low wages.

Contemporary events/ideas — Rousseau, J.S. Mill, French Revolution, Hegel, Marx & Engels, Russian Revolution; World Wars made workers realise their bargaining importance.

Growth of trade unionism — demands drove wage/hours/compensation laws and laws regulating disputes.

Political freedom & universal adult franchise — workers' votes → pro-labour legislation.

Socialist & revolutionary ideas — Marx ("workers of the world unite..."); Fabian Society; protective laws adopted as a safe antidote to revolution.

Humanitarian ideas / social welfare & justice — reformers (Hume, Place, Shaftesbury); social-science research debunked "natural elite."

Establishment of ILO — international minimum standards (International Labour Code).

### Factors that shaped Indian labour legislation (cont)

Colonial rule — Lancashire/Birmingham pressure; British civil servants imported British legal pattern (Workmen's Comp 1923, Trade Unions 1926, Payment of Wages 1936).

National emancipation & the Constitution — freedom struggle pushed protective laws (Royal Commission on Labour, Trade Unions Act); promises embodied in Preamble, FR, DPSP.

Changed approach to labour law/IR post-WWII — "labour not a commodity"; employer's "social duty."

### Fundamental Rights (Part III, Art 12–35)

#### Right to Equality (14–18)

- 14 Equality before law & equal protection of laws
- 15 No discrimination on religion, race, caste, sex, place of birth
- 16 Equality of opportunity in public employment
- 17 Abolition of untouchability

### Fundamental Rights (Part III, Art 12–35) (cont)

- 18 Abolition of titles (except military/academic)

#### Right to Freedom (19–22)

- 19 Six freedoms: (a) speech & expression, (b) assembly, (c) association (→ trade unions), (d) movement, (e) residence, (g) profession/occupation/trade/business
- 20 Protection re conviction (no ex-post-facto, no double jeopardy, no self-incrimination)
- 21 Protection of life & personal liberty → incl. livelihood, dignity, health
- 21A Right to education (ages 6–14)



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### Fundamental Rights (Part III, Art 12–35) (cont)

22 Protection against arrest & detention

#### Right against Exploitation (23–24)

23 Prohibition of human trafficking & forced labour (begar)

24 Prohibition of child labour (<14) in factories/mines/hazardous work

#### Right to Freedom of Religion (25–28)

25 Freedom of conscience, practice & propagation

26 Freedom to manage religious affairs

27 No tax for promotion of any religion

28 Freedom from religious instruction in state-funded institutions

#### Cultural & Educational Rights (29–30)

29 Protection of minorities' interests

### Fundamental Rights (Part III, Art 12–35) (cont)

30 Minorities' right to establish/administer educational institutions

**Right to Constitutional Remedies (32)** Ambedkar: "heart and soul."

#### Remedies (32)

writs: Habeas Corpus, Mandamus, Prohibition, Certiorari, Quo Warranto

Right to Property — originally FR under Art 19(1)(f)/31; removed by 44th Amendment 1978; now a legal right under Art 300A.

### Classification of Labour Laws

|          |                   |                |
|----------|-------------------|----------------|
| Category | Illustrative laws | → maps to Code |
|----------|-------------------|----------------|

|                      |  |         |
|----------------------|--|---------|
| Industrial Relations | Trade Unions 1926; Standing Orders 1946; ID Act 1947 | IR Code |
|----------------------|--|---------|

|       |  |            |
|-------|--|------------|
| Wages | Payment of Wages 1936; Minimum Wages 1948; Bonus 1965; Equal Remuneration 1976 | Wages Code |
|-------|--|------------|

### Classification of Labour Laws (cont)

|                          |   |          |
|--------------------------|---|----------|
| Working Conditions / OSH | Factories 1948; Mines 1952; Contract Labour 1970; Plantation 1951 | OSH Code |
|--------------------------|---|----------|

|                 |   |         |
|-----------------|---|---------|
| Social Security | EPF 1952; ESI 1948; Maternity 1961; Gratuity 1972; Employees' Comp 1923 | SS Code |
|-----------------|---|---------|

|                       |   |                  |
|-----------------------|---|------------------|
| Employment & Training | Employment Exchanges 1959; Apprentices 1961 | (partly SS Code) |
|-----------------------|---|------------------|

|                           |  |                      |
|---------------------------|--|----------------------|
| Specific/-deprived groups | Child Labour 1986; Bonded Labour 1976; POSH 2013 | (mostly stand-alone) |
|---------------------------|--|----------------------|

NCL (2002) grouping: (i) industrial relations, (ii) wages, (iii) social security, (iv) safety, (v) welfare & working conditions.

### Labour Reforms in India

**Why** National Commission on Labour (2002) found laws fragmented, archaic (e.g. Factories Act rules on spittoons/whitewashing), inconsistent definitions ("worker," "wages," "establishment," "appropriate government").

### Labour Reforms in India (cont)

~40 central + 100+ state laws  
→ govt consolidated 29 central Acts into 4 Codes. Central tension: job creation/firm flexibility vs worker protection.

#### Key reform debates (old vs Code):

| Issue                | Old  | Code change  |
|----------------------|--|--|
| Coverage thresholds  | Most laws at 10+; only organised ~7% covered | Wages & IR → all establishments; factory threshold 10→20 (power), 20→40 (no power) |
| Retrenchment/closure | ID Act: govt permission if 100+              | IR Code → 300; govt may raise by notification                                      |

### Labour Reforms in India (cont)

|                 |  |   |
|-----------------|--|---|
| Contract labour | Contract Labour Act at 20+; no auto-regularisation (SC 2001) | OSH Code → 50+; bans contract labour in core activities (except sanitation, security, intermittent); auto-absorption if contractor unlicensed |
|-----------------|--|---|

|                       |                           |  |
|-----------------------|---------------------------|--|
| Fixed-term employment | Central sphere since 2018 | IR Code formalises FTE — same benefits + pro-rata gratuity |
|-----------------------|---------------------------|--|

|                         |   |  |
|-------------------------|---|--|
| Trade union recognition | ~12,420 unions; no recognition criteria | IR Code: sole negotiating union at 51%; else negotiating council; 14-day strike notice all industries (NCL wanted 66%) |
|-------------------------|---|--|

### Labour Reforms in India (cont)

|             |                                      |  |
|-------------|--------------------------------------|--|
| Enforcement | Multiple inspections/returns-seeking | Web-based/randomised inspection, Inspector-cum-Facilitator, third-party certification, compounding, higher fines |
|-------------|--------------------------------------|--|

|                      |                  |  |
|----------------------|------------------|--|
| Gig/platform workers | Outside all laws | SS Code defines gig & platform workers; enables schemes + aggregator contributions (definitions overlap/unclear) |
|----------------------|------------------|--|

|                       |   |   |
|-----------------------|---|---|
| Delegated legislation | — | Essentials left to govt rule-making (thresholds, SS applicability, safety standards, minimum-wage norms) — criticised |
|-----------------------|---|---|

#### 29 Acts → 4 Codes



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