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EVOLUTION OF RIGHTS OF LABOUR

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ABSTRACT

Ancient jurists of India like Kautilya and Manu laid down many rules regarding the relations between the master and the servant. In those days of small family units of industries facilitating closer personal contact between the master and the servant as opposed to the present day mass production factories employing thousands of men and women, the existence of such a system of industrial jurisprudence must be appreciated and considered to be progressive. Most of the countries in their ancient law had guaranteed some rights to the individual as natural rights. The human rights of industrial labourers were given new direction since the Industrial Revolution. So after the establishment of ILO (International Labour Organisation) large numbers of beneficial industrial laws have appeared on the Statute book of many countries of the world including India.

On Elimination of all Discrimination Against Women (CEDAW) and also the relevant provisions of the Directive Principles, the Court further observed that whatever be the nature of the women's duties, vocation, and place of work, they must be provided with all the facilities they are entitled to.

Key words: ***Women, industrial jurisprudence, International Labour Organization, human rights*.**

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The labour laws were in the rudimentary forms in ancient India in the Arthasastra of Kautilya and the labour-management relations in Manu. Kautilya's Arthshastra is a guiding example of the introduction of the philosophy of social security in ancient India. It has been viewed that Ancient Indian jurists like Brihaspati, Yagnavalkya, Sukracharya and Vishnu etc. had framed extensive laws regarding wages and conditions of work, technical and vocational training, women and child labour, regulation of industrial relations etc. These Scripts bear testimony to the fact that social structure in those days was so involved and codes so designed as to provide security to the people in general and the workers in particular.

Ancient jurists of India like Kautilya and Manu were its chief exponents. Kautilya classifies the labour as free labourer. Manu also deals partly with this Subject. They laid down many rules regarding the relations between the master and the servant in the matter of wages, punishment for breach of contract, sick leave, festival holidays, efficiency bonus and the like. In those days of small family units of industries facilitating closer personal contact between the master and the servant as opposed to the present day mass production factories employing thousands of men and women, the existence of such a system of industrial jurisprudence must be appreciated and considered to be progressive. But these ancient laws mostly have become obsolete with the role of time. The structure of Hindu Society in ancient India was by itself a great security against economic calamities. It has been very aptly observed that, in ancient India joint Hindu family was the unit of social organization and was also the original cell for security, prototype and analogous to the further institutions. The reciprocal obligations of parents to support the child in infancy and of the son to support the parents in old age were represented in social insurance by the solidarity of generations. The paternal responsibility was further illustrated across the ancient Indian history in the relationship of patron to his clients, the Lord to his vassals and the master to his servants and as such it survives even today in a variety of legal obligations of the employer to protect his workers, and in the manifold welfare schemes set up voluntarily by the employers. It is recorded by Kautilya that the Government believed in social cooperation and enforced social duties on its subjects. Any dereliction of such duties was penalized. As such punishments were inflicted on men forsaking wife and children or husbands refusing to maintain wives or on brothers with means, refusing to take care of minor brothers and sisters. Kautilya has mentioned a number of pension schemes in his book, such as, educational pension, public poor relief. He

says the "State itself should provide support to poor, pregnant, women, to their new born offspring, to orphans, to the aged, the infirm, the afflicted and the helpless." In the eighth century Sukracharya makes special provisions for social security particularly regarding sickness benefits, pensions and the old-age benefits, family pensions and maintenance allowance. He made it clear that when a servant was ill and could not work temporarily, the master should make no deduction from his salary. Thus, the rights of labour were well depicted in ancient texts.

The evolution of the concept of human rights is not of recent origin. Most of the countries in their ancient law had guaranteed some rights to the individual as natural rights. The ancient origin of human rights can be traced from 5th century B.C. to Greece and Rome and these rights were not codified. John Locke has neither invented the doctrines of natural rights nor has Jean Jacques Rousseau discovered it. It seems to be, a logical outcome of the protestant revolt against authority of tradition and private judgment of an individual's conscience. Right to life is the most essential basic human rights movement both at national and international levels. The human rights is a direct progenitor of doctrine of natural law. Natural law thus led to the formulation of human rights.

The essence of human rights with foundations of natural rights gains general recognition. For this, certain basic societal changes are necessary. For example, changes of the sort that took place gradually, beginning with the decline of European feudalism from about the 13th century and continuing through the Renaissance to the Peace of Westphalia. During this period, combination of resistance to religious intolerance and political and economic bondage; the evident failure of rulers to meet their obligations under natural law; and the unprecedented commitment to individual expression and worldly experience that was characteristic of the Renaissance shifted the natural law from duties to rights.

The human rights of industrial labourers were given new direction since the Industrial Revolution. The early management theories framed by Henry Fayol Gullick, Frederick Winslow Taylor and LillianGillbreth concentrated on maximum output caring about the well being of labourers. But towards the end of nineteenth century a number of Philanthropists, social reformers and economists succeeded in arousing interest in and enlisting the support of some

governments for the idea of international social legislation. To this end, conferences with large and ambitious programmes at the international level were convened at Berlin in 1890, 1905 and 1906. The first two multilateral labour Conventions, which were also the first international conventions for the protection of human beings, were concluded. One of these conventions prohibited night work for women in Industrial employment, and the other prohibited the use of highly poisonous chemicals in the manufacture of matches.

For the enlistment of the working class the International Labour Organization (ILO) was constituted in the League of Nations. The Treaty of Versailles (1919) and other peace treaties established the ILO as part XIII of the Treaty, in its constitution. Unlike other organizations, the ILO consists of representatives not only of Government Organizations but also of employers and workers. It has made a significant contribution to the promotion of human rights through international agreement not only in fields traditionally associated with labour law and labour relations, but in the industrial environment.

After World War II, ILO became a specialized agency of the United Nations. As a guardian of labourers' rights, the ILO guaranteed human rights such as the abolition of forced labour, the elimination of discrimination in employment and occupation, freedom of association and equal wage for work of equal value.

A convention is a treaty which when ratified by the member state becomes international binding on the State to implement. It forms basis for national legislation of the State. Whereas recommendation when adopted by member state acts as a guide to the national action. So after the establishment of ILO large numbers of beneficial industrial laws have appeared on the Statute book of many countries of the world including India.

Labour Laws sometimes have been added bit by bit by adoption of large number of Acts. Each one dealing with fairly limited subject. The bulk of labour legislation in India had proved counterproductive and had only succeeded in dividing labour and management, rather than forging harmony and co-operation against the intention of legislations. The evolution of industrial jurisprudence in India has been the effect of continuous and appreciable co-operation

of the legislature and judicial organs of the Government. The industrial jurisprudence in India seems to have dictatorship of the proletariat and seems to be marching ahead towards a Socialistic Republic with the help the rule of law in a typical Indian style.

One of the disabilities from which women in employment suffer is discrimination in wages. Ordinarily there should have been no discrimination. The government is bound by the principle of equal pay for equal work embodied in Article 39(d) of the Indian Constitution. India has also ratified the ILO Convention on Equal Remuneration for work of equal value. But neither the general policy of the Government nor the ratification of the Convention has settled the issue. An argument is always put forward that the work turned out by a woman is not of equal value with that turned out by a man and on that ground lower wages are fixed for women in a number of cases. The preamble to the Universal Declaration of Human Rights refers to "the equal rights of men and women". Article 2 states: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 7 of the Universal Declaration also says "All are equal before the law and are entitled to equal protection of the law". Article 23 asserts that "Everyone, without any discrimination, has the right to equal pay for equal work." These sentiments are repeated in both the ICCPR and the ICESCR. In 1951 the ILO adopted Equal Remuneration Convention (No. 100), and in 1958 the Discrimination (Employment and Occupation) Convention (No. 111). The former seeks to “ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value” The latter aims "to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination thereof". The Convention defines discrimination to include: 1(a). Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; (b). Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. 2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination. The General Assembly of the United Nations adopted a Declaration

on the Elimination of Discrimination Against Women in 1967. This was subsequently followed in 1979 by a Convention on the Elimination of All Forms of Discrimination Against Women. The 1979 Convention states: discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity. The Convention points to the need to undertake "all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women." On the specific issue of employment the Convention identifies the need to eliminate discrimination concerning selection criteria, choice of profession, promotion, job security and all benefits, apprenticeships, vocational training and retraining, equal pay for work of equal value, rights to employment-related social security benefits and safe and healthy working conditions. In addition, marital status including pregnancy and maternity should not be a basis for discrimination. Child-care facilities should be provided to help parents combine work and family obligations.

On Elimination of all Discrimination Against Women (CEDAW) and also the relevant provisions of the Directive Principles, the Court further observed that whatever be the nature of the women's duties, vocation, and place of work, they must be provided with all the facilities they are entitled to. Employers of labour intensive industries in developing countries, subcontract parts of the production to smaller units to escape the laws which regulate labour conditions. Exploitation of the workers is the consequence of this process; workers are often unregistered, temporary, unorganised and are getting less than minimum wages for long hours of work without the protection of social security. Also the web of divided subcontracted units makes it more difficult for labour inspectors or controlling bodies to check on violations of the existing labour laws and human rights.

The preamble of charter of United Nations 1945, expressly declare its determination to reaffirm faith in fundamental rights, in the dignity and worth of the human person, in equal right of man and women. The unorganised women workers, who are regarded as most vulnerable section of

India's human resources' realise their human rights. The ILO report on "More and Better Job for women-An Action Guide" states that more than 45% women all over the world in the age group of 15 to 64 are contributing to the economy in a significant way. In South Asia about 40% of women work outside home compared to the figure 20 years ago. In Asia and Africa most women workers are found in the agricultural sector-where wages are the lowest and 1/3 of the women in the non-agricultural activities are in the formal sector. Despite existence of labour laws, the workers in this sector do not get social security and other benefits for various reasons and there is hardly any trade union or constitutional mechanism to fight for them.

The Indian Constitution, the ILO Conventions that we have ratified and the existing laws together guarantee some rights to the workers. But neither the general policy of the Government nor the ratification of the Convention has settled the issue. An argument is always put forward that the work turned out by a woman is not of equal value with that turned out by a man and on that ground lower wages are fixed for women in a number of cases.

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multiple roles of which work for wages/employment/income earning is one among the most significant ones. The large majority of Indian women who work in the informal sector face several Health problems emanating from the workplace and their domestic situation. Gender roles vary from one country to another, but almost everywhere, women face disadvantages relative to men in the social economic and political spheres of life. Gender differences affect women's health and well being throughout the life cycle. The changing patterns of economic development in the liberalization era have put a heavy burden on women, which is reflected in their health status. The growth of small and cottage industries has depended heavily on female labour. These industries do not come under the purview of any kind of safety legislation. To share their woes and experiences, to inspire and get inspired around 2,000 working women from all corners of the country gathered at Ramlilamaidan for a mass convention putting forward 14 important demands. The participants were representatives of both the organised and unorganised sectors - different types of workers and government employees and a lot many, under one banner and with one voice.

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