

India - National legislation on caste-related labour rights

Constitution of India

Part III – Fundamental Rights

Article 14: Equality before law:

“The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”

Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth:

“(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.”

Article 17: Abolition of Untouchability:

“Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.”

Article 19: Protection of certain rights regarding freedom of speech, etc.:

“(1) All citizens shall have the right—

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India;

(g) to practise any profession, or to carry on any occupation, trade or business.”

Article 23: Prohibition of traffic in human beings and forced labour:

“(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.”

Article 24: Prohibition of employment of children in factories, etc.:

“No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.”

Article 42: Provision for just and humane conditions of work and maternity relief:

“The State shall make provision for securing just and humane conditions of work and for maternity relief.”

Article 43A: Participation of workers in management of industries:

“The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.”

The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989

(An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.)

Section 3: Punishment for offences of atrocities:

“(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe:

(iv) wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;

(vi) compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do ‘begar’ or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government;

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(xii) being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.”

The Bonded Labour System (Abolition) Act, 1976

Section 2: Definitions:

“(g) “bonded labour system” means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,-

(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of an obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community,- he would-

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(2) for the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,"

Section 4. Abolition of bonded labour system:

"(1) On the commencement of this Act, the bonded labour system shall stand abolished any every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour.

(2) After the commencement of this Act, no person shall-

(a) make any advance under, or in pursuance of, the bonded labour system, or

(b) compel any person to render any bonded labour or other form of forced labour."

The Plantations Labour Act, 1956

Section 8: Drinking water:

"In every plantation effective arrangements shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers."

Section 9.: Conservancy:

“(1) There shall be provided separately for males and females in every plantation a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

“(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.”

Section 10: Medical Facilities:

“(1) In every plantation there shall be provided and maintained so as to be readily available such medical facilities for the workers [and their families]¹ as may be prescribed by the State Government.”

Section 15: Housing facilities:

“It shall be the duty of every employer to provide and maintain necessary housing accommodation-

(a) For every worker (including his family) residing in the plantation;

(b) For every worker (including his family) residing outside the plantation, who has put in six months of continuous service in such plantation and who has expressed a desire in writing to reside in the plantation.”

The Factories Act, 1948

(This act protects workers of a factory, and its provisions include health, safety, proper working hours, etc. It specifies not only the working hours, but also provides for overtime pay to workers who work beyond their shift.)

Section 51. Weekly hours:

“No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.”

Section 54: Daily hours:

“Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day.”

Section 55: Intervals for rest:

“(1) [The periods of work] of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.”

Section 59: Extra wages for overtime:

“(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.”

The Payment of Gratuity Act, 1972

(An organization with 10 or more employees is supposed to pay gratuity to workers who have worked for 12 months or more.)

Section 4: Payment of Gratuity:

“(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years,

(a) on his superannuation, or

(b) on his retirement or resignation,

(c) on his death or disablement due to accident or disease: Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement.”

The Employees’ Provident Fund and Miscellaneous Provision Act, 1952

(The Act provides social security benefits like pension and insurance cover to the employee of an establishment which has 20 or more employees.)

Section 5. Employees’ Provident Funds Scheme:

“(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees’ Provident Fund Scheme for the establishment of provident funds under this Act for employees or for any class of employees and specify the establishments or class of establishments to which the said Scheme shall apply and there shall be established, as soon as may be after the framing of the Scheme, a Fund in accordance with the provisions of this Act and the Scheme.”

Section 6: Contributions and matters which may be provided for in Schemes:

“The contribution which shall be paid by the employer to the Fund shall be ten percent. Of the basic wages, dearness allowance and retaining allowance, if any, for the time being payable to each of the employees whether employed by him directly or by or through a contractor, and the employee’s contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten percent of his basic wages, dearness allowance and retaining allowance if any, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section.”

Section 6A: Employees’ Pension Scheme:

“(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees’ Pension Scheme for the purpose of providing for –

(a) superannuation pension, retiring pension or permanent total disablement pension to the employees of any establishment or class of establishments to which this Act applies; and

(b) Widow or widower's pension, children pension or orphan pension payable to the beneficiaries of such employees."

Section 6C: Employees' Deposit-linked Insurance Scheme:

"(1) The Central Government may, by notification in the Official Gazette, frame a scheme to be called the Employees' Deposit-linked Insurance Scheme for the purpose of providing life insurance benefits to the employees of any establishment or class of establishments to which this Act applies.

(2) There shall be established, as soon as may be after the framing of Insurance Scheme, a Deposit-linked Insurance Fund into which shall be paid by the employer from time to time in respect of every such employee in relation to whom he is the employer, such amount, not being more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance if any for the time being payable in relation to such employee as the Central Government may, by notification in the Official Gazette, specify."

The Payment of Bonus Act, 1965

This Act applies to every establishment in which twenty or more persons are employed on any day during an accounting year.

Section 10: Payment of minimum bonus:

"Subject to the other provisions of this Act, every employer shall be bound to pay to every employee in respect of the accounting year commencing on any day in the year 1979 and in respect of every subsequent accounting year, a minimum bonus which shall be 8.33 per cent. of the salary of wage earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year."

The Equal Remuneration Act, 1976

Section 4: Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature:

"(1) No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, whether payable in cash or in kind, at rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex in such establishment or employment for performing the same work or work of a similar nature.

(2) No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker."

Section 5: No discrimination to be made while recruiting men and women workers:

"On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature, [or in any condition of service subsequent to recruitment such

as promotions, training or transfer], make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force:

Provided that the provisions of this section shall not affect any priority or reservation for scheduled castes or scheduled tribes, ex-servicemen, retrenched employees of any other class or category of persons in the matter of recruitment to the posts in an establishment or employment."

The Maternity Benefit Act, 2017

Section 5: Right to payment of maternity benefit:

"(1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day.

(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twenty six weeks of which not more than eight weeks shall precede the date of her expected delivery:

Provided further that the maximum period entitled to maternity benefit by a woman having two or more than two surviving children shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery."