

## India & ILO

India is a founder member of the International Labour Organization, which came into existence in 1919. At present the ILO has 185 Members. A unique feature of the ILO is its tripartite character. The membership of the ILO ensures the growth of tripartite system in the Member countries. At every level in the Organization, Governments are associated with the two other social partners, namely the workers and employers. All the three groups are represented on almost all the deliberative organs of the ILO and share responsibility in conducting its work. The three organs of the ILO are:

- International Labour Conferences: - General Assembly of the ILO – Meets every year in the month of June.
- Governing Body: - Executive Council of the ILO. Meets three times in a year in the months of March, June and November.
- International Labour Office: - A permanent secretariat.

The work of the Conference and the Governing Body is supplemented by Regional Conferences, Regional Advisory Committees, Industrial and Analogous Committees, Committee of Experts, Panels of Consultants, Special Conference and meetings, etc.

### 1. INTERNATIONAL LABOUR CONFERENCE

Except for the interruption caused by the Second World War, the International Labour Conference (ILC) has continued, since its first session in 1919 to meet at least once a year. The Conference, assisted by the Governing Body, adopts biennial programme and budget, adopts International Labour Standards in the form of Conventions and Recommendations and provides a forum for discussing social, economic and labour related issues. India has regularly and actively participated in the Conference through its tripartite delegations.

The Conference has so far had 4 Indian Presidents viz., Sir. Atul Chatterjee (1927), Shri Jagjivan Ram, Minister for Labour (1950), Dr. Nagendra Singh, President, International Court of Justice (1970) and Shri Ravindra Verma, Minister of Labour and Parliamentary Affairs (1979). There have also been 8 Indian Vice Presidents of the International Labour Conference, 2 from the Government group, 3 from the Employers and 3 from the Workers' Group. Indians have chaired the important Committees of the Conferences like Committee on Application of Standards, Selection Committee and Resolutions Committee.

## **2. GOVERNING BODY**

The Governing Body of the ILO is the executive wing of the Organization. It is also tripartite in character. Since 1922 India has been holding a non-elective seat on the Governing Body as one of the 10 countries of chief industrial importance. Indian employers and workers' representatives have been elected as Members of the Governing Body from time to time.

Four Indians have so far been elected Chairmen of the Governing Body. They are Sir Atul Chatterjee (1932-33), Shri Shamal Dharee Lall, Secretary, Ministry of Labour (1948-49), Shri S.T. Merani, Joint Secretary, Ministry of Labour (1961-62) and Shri B.G. Deshmukh, Secretary, Ministry of Labour (1984-85).

Earlier, the Governing Body of ILO functioned through its various Committees. India was a member of all six committees of the Governing Body viz. (i) Programme, Planning & Administrative; (ii) Freedom of Association; (iii) Legal Issues and International Labour Standards; (iv) Employment & Social Policy; (v) Technical Cooperation and (vi) Sectoral and Technical Meetings and Related issues. Now the Governing Body of ILO functions through its various Sections and India takes part in all the proceedings of the Sections during the sessions of the Governing Body viz. Institutional Section (INS); Policy Development Section(POL);Legal Issues and International Labour Standards Section (LILS); Programme, Financial and Administrative Section(PFA);High-level Section(HL); and Working Party on the Functioning of the Governing Body and the International Labour Conference (WP/GBC)

## **3. THE INTERNATIONAL LABOUR OFFICE**

The International Labour Office, Geneva provides the Secretariat for all Conferences and other meetings and is responsible for the day-to-day implementation of decisions taken by the Conference, Governing Body etc. Indians have held positions of importance in the International Labour Office.

## **4. INTERNATIONAL LABOUR STANDARDS - ILO CONVENTIONS**

The principal means of action in the ILO is the setting up the International Labour Standards in the form of Conventions and Recommendations. Conventions are international treaties and are instruments, which create legally binding obligations on the countries that ratify them. Recommendations are non-binding and set out guidelines orienting national policies and actions.

The approach of India with regard to International Labour Standards has always been positive. The ILO instruments have provided guidelines and a useful framework for the evolution of legislative and administrative measures for the protection and advancement of the interest of labour. To that extent the influence of ILO Conventions as a standard of reference for labour legislation and practices in India, rather than as a legally binding norm, has been significant. Ratification of a Convention imposes legally binding obligations on the country concerned and,

therefore, India has been careful in ratifying Conventions. It has always been the practice in India that we ratify a Convention when we are fully satisfied that our laws and practices are in conformity with the relevant ILO Convention. It is now considered that a better course of action is to proceed with progressive implementation of the standards, leave the formal ratification for consideration at a later stage when it becomes practicable. We have so far ratified 41 Conventions of the ILO, which is much better than the position existing in many other countries. Even where for special reasons, India may not be in a position to ratify a Convention, India has generally voted in favour of the Conventions reserving its position as far as its future ratification is concerned.

- **Core Conventions of the ILO:** - The eight Core Conventions of the ILO (also called fundamental/human rights conventions) are:
  - Forced Labour Convention (No. 29)
  - Abolition of Forced Labour Convention (No.105)
  - Equal Remuneration Convention (No.100)
  - Discrimination (Employment Occupation) Convention (No.111)  
**(The above four have been ratified by India)**
  
  - Freedom of Association and Protection of Right to Organised Convention (No.87)
  - Right to Organise and Collective Bargaining Convention (No.98)
  - Minimum Age Convention (No.138)
  - Worst forms of Child Labour Convention (No.182)  
**(These four have not been ratified by India)**

Consequent to the World Summit for Social Development in 1995, the above-mentioned Conventions (Sl.No. 1 to 7) were categorised as the Fundamental Human Rights Conventions or Core Conventions by the ILO. Later on, Convention No.182 (Sl.No.8) was added to the list.

As per the Declaration on Fundamental Principles and Rights at Work and its Follow-up, each Member State of the ILO is expected to give effect to the principles contained in the Core Conventions of the ILO, irrespective of whether or not the Core Conventions have been ratified by them.

Under the reporting procedure of the ILO, detailed reports are due from the member States that have ratified the priority Conventions and the Core Conventions every two years. Under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, a report is to be made by each Member State every year on those Core Conventions that it has not yet ratified.

**India has so far not ratified Conventions 87, 98, 138 and 182 which are the Core ILO Conventions.**

**4.(1) Convention No.87:** Convention No.87 concerning **Freedom of Association and Protection of the Right to Organize** provides for the right of workers and employers, without any distinction, to establish and join organizations of their own choosing without previous authorization. Their

organizations have the right to form or join federations and confederations, including those at the international level.

**4.(2) Convention No.98:** Convention No.98 concerning **Right to Organize and Collective Bargaining** aims to protect the right to organize and to promote voluntary collective bargaining.

. The guarantees provided for under these two Conventions are by and large available to workers in India by means of constitutional provisions, laws and regulations and practices.

- **Reasons for non-ratification of the conventions:** The main reason for non-ratification of the above two Conventions is due to reservations expressed by DoPT because ratification would create legally binding obligations which are inconsistent with our laws and practices. DoPT's view is that ratification of these Conventions would involve granting of certain rights that are prohibited under the statutory rules for Government employees, namely, to strike work, restrictions on maintaining any political funds, to openly criticize Government policies, to freely accept financial contribution, to freely join foreign organizations etc.
- **Steps taken by MOLE on C-87 & C-98:** The Ministry is in regular discussion with various ministries on the possibility of ratifying Convention Nos. 87 and 98. We are also in touch with ILO for seeking technical assistance in this regard. Ratification of ILO Conventions especially Core Conventions including C-87 and C-98 has been identified as a key priority area in our **Decent Work Country Programme** for 2013-2017.

**4.(3) Convention No.138: (Minimum Age):** ILO Convention No. 138 concerning Minimum Age for Entry to Employment & Work was adopted by the International Labour Conference at its 58<sup>th</sup> Session in June, 1973. This Convention is one of the 8 Core Conventions of the ILO being referred to as Fundamental or basic Human Rights Conventions and the ILO has been very active in promoting its ratification. Each country ratifying this Convention undertakes to:

- Pursue a national policy designed to ensure the effective abolition of child labour;
- Specify a minimum age for Entry to employment or work which will not be less than the ages of completion of compulsory schooling;
- To raise this progressively to a level consistent with the fullest physical and mental development of young people;
- Guarantee that the minimum age of entry to any type of employment or work, which is likely to compromise health, safety of morals of young persons shall not be less than 18 years.

Child Labour is a socio-economic problem, which needs sustained efforts over a long period of time for resolving it. Considering the nature and magnitude of the problem, Government

of India is following a sequential approach of first covering children working in hazardous occupations / processes. The Government of India has adopted a multi-pronged strategy for eradication of child labour which is as follows:

- A legislative action plan in the form of Child Labour (Prohibition & Regulation) Act, 1986.
- Project-based action plan in areas of high concentration of Child Labour under National Child Labour Project Scheme.
- Focus on general development programmes for the benefit of the families of Child Labour.

The Government of India has been implementing the Child Labour (Prohibition & Regulation) Act, 1986 very effectively over the years. Based on the advice of the Technical Advisory Committee on Child Labour two additional occupations namely caring of elephant and working in the circus has been added during 2011. At present there are 18 occupations and 65 processes prohibited under the CLPRA Act. The Ministry of Labour & Employment is also carrying out media awareness through the electronic media via Doordarshan and All India Radio and has incurred expenditure of 5 crores during 2011-12 on this account. The above measures have yielded positive results in eradication of child labour.

The Government of India is implementing National Child Labour Project (NCLP) for rehabilitation of children, withdrawn from work. Under the Project, children withdrawn from work are enrolled in the special schools, where they are provided with bridge education, vocational training, nutrition, stipend, health care, etc. before being mainstreamed into the formal education system.

Besides this, Government of India has taken an important step by making the Right to Education a Fundamental Right for children under the Constitution. Every child in the age group of 6-14 years is to be provided free and compulsory education. The Right of Children to Free and Compulsory Education Act came into force on 1.4.2010 to facilitate implementation of this right. The Government of India is contemplating certain amendments in Child Labour (Prohibition & Regulation) Act which are in line with Right to Free and Compulsory Education Act, 2009.

The Cabinet has approved the proposal of Ministry of Labour & Employment for amending the Child Labour (Prohibition & Regulation) Act, 1986 which is in line with the ratification of Convention No. 138. An Amendment Bill to prohibit employment of children below the age of 14 years in all occupations and processes has been introduced in the Parliament. The Bill also proposes to prohibit the employment of adolescents between the age of 14 and 18 years in

hazardous occupations and processes specified in the schedule to the proposed amendment Bill. These amendments, when approved, would enable India to ratify ILO Conventions 138 and 182.

Apart from Legislative provisions, there is an area based National Child Labour Project which seeks to identify and withdraw children below the age of 14 years from employment, specially hazardous employment and induct them into special schools/special training centers which provide formal/non formal education, vocational training, supplementary nutrition, health check-up as well as financial support by way of a stipend. Currently, nearly 6400 such special schools/special training centers with 300,000 students (approximately) are functional across 270 districts of the country.

Apart from legislative provisions and project based action in the areas of high concentration of child about, the Government emphasizes convergence of services and support from different departments to the families of these children so that the circumstances compelling these children to work are mitigated.

**4.(4) Convention No.182 on Worst Forms of Child Labour:** ILO Convention No. 182 and the accompanying Recommendation No. 190 concerning Worst Forms of Child Labour was adopted by the International Labour Conference in its 87<sup>th</sup> Session at Geneva in June, 1999. Convention No. 182 is one of the 8 Core Conventions of the ILO being referred to as fundamental or basic human rights Conventions.

➤ **Main provisions of Convention No 182:**

- For the purpose of this Convention, the term child shall apply to all persons under the age of 18.
- For the purpose of this Convention, the term worst forms of child labour comprises:
  - a. All forms of slavery or practices similar to slavery, such as the sale and trafficking of children (debt bondage and serfdom and forced or compulsory labour), including forced or compulsory recruitment of children for use in armed conflict.
  - b. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.
  - c. The use, procuring or offering of a child for illicit activities, in particular of the production and trafficking of drugs as defined in the relevant international treaties.
  - d. Work which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children.

➤ **Government of India's stand on ILO convention 182:** The Worst Forms of Child Labour are already prohibited under various acts namely:

- Slavery, Debt Bondage and Forced or Compulsory Labour through Bonded Labour System (Abolition) Act, 1976.
- Prostitution, Pornography and Pornographic performances banned through Indian Penal Code (IPC), Immoral Trafficking Prevention Act, 1956.
- Production and Trafficking of drugs has been banned by Narcotic Drugs and Psychotropic Substances Act, 1985.
- Child Labour below 14 years in Hazardous Occupation is prohibited under the Child Labour (Prohibition & Regulation) Act, 1986.

Government of India agrees with the principles of the convention. The convention could not be ratified so far because it mandates the age of 18 years for prohibition of children from employment in specified hazardous occupations whereas according to the Child Labour (Prohibition & Regulation) Act, 1986, the minimum specified age for employment in the hazardous occupations is 14 years. Government of India follows the policy of ratifying the ILO convention only when the existing laws and practices are in conformity with the provision of the said convention. Cabinet has approved the proposal of Ministry of Labour & Employment for amending the Child Labour (Prohibition & Regulation) Act, 1986 which is in line with the ratification of Convention No. 182. The Child Labour (Prohibition & Regulation) Amendment Bill, 2012 was introduced in the Rajya Sabha during the Winter Session of Parliament, 2012. The Rajya Sabha has referred the Amendment Bill to the Parliamentary Standing Committee on Labour and presently the Bill is under examination of the Standing Committee. The Amendment Bill inter-alia covers

- Complete prohibition on employment of children below 14 years and linking the age of the prohibition with the age under right to Free and Compulsory Education Act.
- Prohibition of Working of Adolescents (14 to 18 years) in Mines, Explosives and hazardous occupations set forth in the Factories Act, 1948.
- More strict punishment to the offenders and making the offences under the Act cognizable.

The process of ratification would be taken up only after the amendments are finalized.

## 5. ILO Conventions Ratified by India

There are 41 ILO conventions and 1 protocol ratified by India. We had earlier ratified 43 conventions but we have since denounced Convention No.2 and Convention No.41. There are 8 core conventions of which we have ratified 4.

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) Convention (Revised), 1934	13.01.1964
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
@	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
Proto col 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.