

ILO, WTO & Indian Industrial Relations

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Today most of the industries are going global and most of the companies are MNCs. All these companies have to deal with different countries, cultures and beliefs. The companies face various road blocks in trade like unions, regional barriers, legal systems etc. Outsiders are treated as a problem and considered as aliens who are out to ruin the locals' prospects. This paper provides insights into the role of ILO in promoting labor standards and also the extent to which the WTO seeks to establish trade policy rules that help to expand trade and improve world living standards.

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Introduction

Industrial relations are about people in the world of work. The Labor Dictionary (1949) defines industrial relations as the relations between employers and employees in industry. According to Dale Yoder "industrial relations describe the relationship between management and employees or among employees and their organizations that categorize or grow out of employment (Herberth G Henrman, 1949). The International Institute of Labor Studies has defined it as "social relations in production" (IILS Bulletin, 1972). Dunlop (1958) considered industrial relations as a complex of interrelationships among managers, workers or their organizations and government agencies. These actors combine to create a complex of rules and practices, which ensure that they function together without constant conflict.

Industrial relations can be defined as the relations between management and union or between representatives of employers and employees. In the past during the era of artisan guilds the scale and size of operations were small and relations were too simple and direct, which is quite in contrast with the mod-

ern day complexities in the legal framework institutions and the governing industrial relations. Industrial relations are primarily based on individual perceptions of what is right in respect of 'fairness' and the exercise of 'power' and 'authority'. Initially industrial relations were influenced by the conditions prevalent in the post-industrial revolution scenario. Later, changes caused by the developments in the IT revolution, rapid technological changes and globalization provided new opportunities and tangible benefits for all countries and people. Their effects in the past were different from those occurring now. Earlier labor was more mobile than capital but now capital has become more mobile than labor. Even now the employer's exploitation of workers continues but the workers have become 'willing slaves' while competing for career advancement and they are even ready to work for long hours. Thus the study on industrial relations assumes significance for the following reasons:

- Globalization of business and the pressure on industries to have universal labor standards.
- The need to learn and apply what is relevant from the experiences of other cultures, countries or continents (Ratnam, 2010).

In terms of the labor market, the most influential effects of globalization include the following:

- flexibilization of labor markets;
- increasing labor migration;

- rising a typical and non-standard forms of employment;
- changes in work content and working conditions;
- Skills mismatch, multi-skilling and the need for lifelong learning.

It is here that two most important international organizations come into focus to protect the growing threat to the way of globalization towards labor and their problems. One of them is International Labor Organization (ILO) which focuses on labor issues. ILO examines problems of the workers of the member countries. They are discussed with international labor conference (a tripartite body of ILO). The second is the World Trade Organization (WTO) whose primary purpose is to open trade for the benefit of all. WTO provides a forum for negotiating agreements aimed at reducing obstacles to international trade and ensuring a level playing field for all, thus contributes to economic growth and development.

Objectives of the Study

- To probe the industrial relations scenario in India
- To examine the impact of ILO on Indian industrial relations.
- To study the various conventions and recommendations of ILO which protect the working class in India.
- To analyze the various policies of WTO to establish best trade practices across the world.

- To study the role of ILO and WTO in shaping the industrial relations in India under global scenario.

Method of Study

This study is based on the descriptive analysis of the ILO and WTO in relation to Indian industrial relations system. The study also focuses on how ILO and WTO are affecting Indian labor issues. It is a content study done on the basis of the secondary data gathered from the articles, books and also websites. The main purpose of this research is to describe the state of affairs as they exist at present.

International Labor Organization

The ILO is currently the world's foremost multilateral labor organization and since its inception it has been the part of the League of Nations in 1919 and later it became an organ of UNO. The ILO has a tripartite structure in which member governments, workers, and employers participate on an equal level. The ILO is composed of three main bodies: the International Labor Conference, the Governing Body and the International Labor Office.

The principal means of action in the ILO is the setting up of international labor standards in the form of conventions and recommendations. The ILO advocates international standards as essential for the eradication of labor conditions involving "injustice, hardship and privation". International labor standards refer to conventions agreed upon by international actors, resulting from a series of

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value judgments, set forth to protect basic worker rights, enhance workers' job security, and improve their terms of employment on a global scale. The intent of such standards, then, is to establish a worldwide minimum level of protection from inhumane labor practices through the adoption and implementation of said measures. Thus, it is the aim of international labor standards to ensure the provision of rights in the workplace, such as against workplace aggression, bullying, discrimination and gender inequality on the one hand and on the other working diversity, workplace democracy and empowerment. According to the ILO, international labor standards contribute to the possibility of lasting peace, help to mitigate potentially adverse effects of international market competition and help the progress of international development

Impact on Industrial Relations in India

India is a member of the ILO since its inception and it contributed to a great extent to the labor legislations in India. India has adopted many of the conventions and recommendations on international standards for improvement in labor conditions, under Article 3 of the constitution of ILO. So far India has ratified 39 out of 189 conventions adopted by the ILO. These ratifications have made In-

dia obligated to implement the provisions made by ILO by incorporating the provisions in labor laws and collective agreements. India being a founder and permanent member of ILO's Governing body, it has been deeply involved with not only ILO's labor standards but with the processes established by ILO in employment relations (Sen, 2010). The ILO's influence on India's labor relations, which was established and continues to govern employer and employee relations, is marked. For instance,

- The systems of national tripartite consultation were established right from 1943 in the Indian Labor Conference.
- State-wise tripartite consultation was established later in the 1960s and 1970s but can be seen in the state Labor Advisory Committees.
- Drafting committees on legislation or other decisions are also tripartite in composition.
- A tripartite committee was set up in the early years after Independence to oversee the incorporation of ILO conventions and recommendations.
- The systems of dispute settlement that are established under law (Industrial Disputes Act, 1947), such as Conciliation and Arbitration (both voluntary and compulsory).
- The acceptance and encouragement of collective bargaining in public sector enterprises and the active involvement in several industry – level agreements.

- The tripartite pay commissions and wage boards, all bear the stamp of the ILO's methods of consultation and decision-making (Sen, 2010)

India has also availed considerable technical assistance from the ILO in research and investigation in labor issues, funding for welfare, safety and health projects, as well as elimination of child labor. Many eminent Indians have served for extended periods on some of ILO's expert bodies and committees.

The conventions ratified by India have been incorporated in the labor legislation. ILO standards have a decisive impact on the factory, mines, social security and wage legislation in India. The ILO has greatly influenced the trade union movement in our country. The AITUC formed in 1920, owes with immediate origin to the ILO. India's commitment to the ILO is also reflected in the institution of tripartism which has been a medium of resolving labor management conflict. The ILO conventions have influenced Indian labor legislation after 1947 when the Indian National Government assumed office at the centre. The Directive Principles of the State Policy in Articles 34, 41, 42 and 43 of the constitution lay down policy objectives in the field of labor which are influenced by ILO.

International Standards & Trade

Labor standards in the World Trade Organization are binding rules, which form a part of the jurisprudence and principles applied within the rule making in-

stitutions of the World Trade Organization (WTO). Labor standards play an implicit, but not an overt role within the WTO. The conventions adopted by the ILO constitute the international labor standards. Their purpose is to maintain certain basic minimum standards, worldwide. As a means of reconciling globalization and social justice, efforts are being made to link international trade with the system of Social Clause so that developing countries do not enjoy the benefits of trade liberalization on the basis of comparatively low labor cost.

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The Social Clause was the proposed linkage of social standards to institutional arrangements governing multilateral trade. In other words, this clause permitted member countries to prohibit import of goods from countries that did not observe the core labor standards as determined by ILO. The clause was required to allow restrictions in an otherwise free trade regime. Most of the countries against which import restrictions or bans were envisaged were developing countries. This was natural at the time, since the developing countries were violating the core standards and hence liable to have their export restricted (Sen, 2010).

In December 1996, the ministerial conference of the newly created World Trade Organization (WTO) was held in Singapore. The conference attracted considerable attention, particularly the

negotiations concerning the controversial issue of “social clause”- the linking of labor standards with trade liberalization. The linking of trade and labor standards within WTO was urged most strongly by the United States, France, and some other developed countries, and opposed by a substantial number of developing countries (and interestingly by United Kingdom). The trade ministers also agreed that labor standards should not be used for protectionist purposes and that the comparative advantage of low wage developing countries should be questioned.

Prodded by these controversies, the 86th International Labor Conference adopted the Declaration on Fundamental Principles and Rights at Work in 1998 (Sen, 2010). In 1999, Convention No.182 concerning immediate action to end the worst forms of child labor was adopted. A number developing countries still strives to push the WTO to ensure respect for Core Labor Standards and propose to establish a working forum in trade, globalization, development, and labor issues at the Third Ministerial Conference in Seattle in October 1999 (Ratnam, 2010). In spite of all these conferences differences still persist within and between developed and developing countries. The governments, employers and trade unions in most developing countries continue to mistrust the real links behind such linkages.

There is concern among several developing countries that the WTO agreement provides free movement of capital and products from developed countries to developing countries, but does not pro-

vide for mobility of labor or for easy access to technology (Ratnam, 2010). Further, while low wages may constitute a comparative economic advantage, there is also a comparative social disadvantage. In the absence of credible evidence of a fairer distribution of the benefits of trade among nations, consensus on the linkage between labor standards and trade remains elusive (Sen, 2010).

Barriers

Most of the employers, unions, governments in developed countries and in several developing countries have been resisting any formal linkage between labor standards and trade. Their major concern is that producers in developed countries are exploiting the cheap labor of the developing countries. This in turn affects jobs of the workers in the developed countries. Therefore, the linkage of social clause to trade is considered by social partners in developing countries as an effort of government and workers in developed countries to deprive the developing countries of this advantage.

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The Uruguay Round of trade liberalization resulted in the General Agreement of Trade and Tariff (GATT) giving way to the establishment of World Trade Organization (WTO) in 1995. The World Social Summit at Copenhagen in 1995

committed itself “to promoting the goal of full employment as a basic priority of our economic and social policy, and to enabling all men and women to attain secure and sustainable livelihood through freely chosen productive environment and work” (Ratnam, 2010).

There are some major road blocks to the process of recognizing Core Labor Standards within the WTO. Trade liberalization constraints the domestic policy making ability, and the ability of states to fulfill their treaty obligations (United Nations Economic and Social Council, 1999). For example, it is trade liberalization that has led developing countries to deregulate in order to attract investment and retain a competitive advantage. The governments are therefore restricted in providing key workplace rights and satisfying Core Labor Standards. This is known as the ‘race to the bottom’ (Erest, 2004). In simple terms, it is a phenomenon where interstate competition results in the progressive dismantling of regulatory standards, and in this case, those governing labor standards. In order to gain a comparative advantage and attract foreign investment, countries deregulate which leads to a decrease in working conditions and wages. The race to the bottom becomes a vicious circle with states competing to deregulate even further resulting in major human rights problems.

Many developing countries express their concern that labor standards will have a deleterious effect on their economies. The comparative wage advantage is an essential part of the world economic

order. So there is a general opposition to the incorporation of labor standards within the WTO. Developing countries also hold legitimate fears that the attempts to incorporate labor standards may be used as a thinly veiled protectionist measure. Tariffs can have a devastating effect on a developing economy. Although the threat of protectionism is valid and justified, in some cases it is just trade language being used to justify heinous human rights abuses such as slave labor and exploitive forms of child labor. The recognition of labor standards in the WTO may “alienate members who negotiated the agreement with different expectations” and cause further unrest (Erest, 2004). However a country is unlikely to leave the WTO altogether as the disadvantages of leaving the system would be too great.

WTO & ILO

Originally however, the WTO was supposed to have a strong working relationship with the ILO and “consult and co-operate” in all labor related matters, and co-operate in such issues as economic development and reconstruction (Final Act of the United Nations Conference on Trade and Employment). The current system is but a shadow of this, with very limited collaboration. When the issue of labor standards was raised at the 1996 Singapore Ministerial Conference, Article 4 of the resultant Ministerial Declaration ruled that “the WTO and ILO Secretariats will continue their existing collaboration”. The Chairman of the Singapore Ministerial Conference Yeo Chow Tong later clarified in his conclud-

ing remarks that this collaboration “respects fully the respective and separate mandates of the two organizations”. During the Geneva Ministerial Conference, the US, EU and South Africa pushed again for a more substantive relationship between the two organizations which was opposed by a group of developing countries, led by Brazil. But despite the amount of controversy and discussion about the issue, the Ministerial Declaration failed to make a mention of it.

The obvious reluctance of the WTO to deal with labor standards and the unlikelihood of recognition in this field in the near future means that the link between the WTO and ILO is crucial in regulating labor standards. However this relationship has never been formalized within the WTO and so will remain ineffective at best without proactive change. Within the Agreement establishing the WTO, Article III ‘Functions of the WTO’ Par. 5 reads: “With a view to achieving greater coherence in global economic policymaking, the WTO shall co-operate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.” The ILO should be inserted into this section. Furthermore, in order to establish a formal, more meaningful relationship, a Ministerial Declaration should be written acknowledging the high level of co-operation and inter-connectedness of the organizations, similar to the Ministerial Declarations regarding the relationship with the IMF and World Bank. The advantage of this relationship is that the ILO would not be undermined by the WTO,

maintaining its authority in regard to labor standards. The mandates of each organization would be respected, and there would be no recourse to trade sanctions whilst maintaining a degree of basic protection for labor rights.

Collaboration between the ILO and WTO should also make use of the joint research facilities available, and a series of reports on labor rights should be created, similar to the ILO and WTO report "Joint Study on Trade and Employment" (World Trade Organization, 2007), but with a focus on labor standards. In the thinking of ILO Director General Michel Hansenne in the aftermath of the Singapore Ministerial Conference, a good working relationship could be established by pressuring states to ratify the relevant ILO conventions comprising the Core Labor Standards. A scheme was established where those states who do not choose to ratify have to present a brief every 4 years "showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention" (International Labor Organization, 'Constitution' Art. 19.5e). Although the ILO is unable to enforce labor standards it can simply make recommendations, relying on moral tensions. Following the Singapore Ministerial Conference Hansenne further opined that it would be beneficial if a Complaints Committee were set up which could recommend that (a) A case does not require further

consideration (b) The offending government rectify the labor standards abuse (c) The matter be referred to the Fact-finding and Conciliation Commission of the ILO with the agreement of the offending government. Unfortunately, the committee idea failed to gain support.

It has been suggested that another way in which to increase the importance of the relationship between the WTO and ILO is that countries wishing to join the organization must first ratify the relevant ILO convention. Within the WTO, existing members set the standards of accession. However, this use of double standards is completely unjust, and does nothing to address the labor standards abuses of existing members. There is still no way of coercing unco-operative states into respecting core standards, and not including labor standards expressly within the WTO has the possible result of sidelining the issue and so is no means an ideal solution, but remains a worthy first step.

Mechanisms

Within the WTO Agreements there are "general exceptions" clause (GATT Article XX) that can be used for the protection of specific human rights (Marrakech Agreement Preamble). GATT Article XX paragraphs (a), (b) and (d) can be used to impose unilateral trade restrictive measures on countries for unacceptable labor standards. Article XX was incorporated into the Final Act of the Uruguay Round establishing the WTO. It allows member countries to deviate from the oth-

erwise inviolate principle of non-discrimination and to adopt trade restrictions that would otherwise be unlawful under GATT. Such restrictions are allowed then if they are:

- a) necessary to protect public morals;
- b) necessary to protect human, animal or plant life or health

Politically it is stated that GATT Article XX has technical and legal problems involved with invoking the clause in the first place. The wording in the relevant sections of GATT Article XX means that it must be proved that it is “necessary” to restrict a product in order to protect human, animal or plant life or health. For a state to legally take unilateral trade restrictive measures under these sections, the ‘necessity test’ must first be passed. There are three components. Firstly, it must be determined whether the interests protected are vital. Secondly, there is an assessment as to whether or not alternative measures are reasonably available and thirdly it is determined whether these alternate measures are less inconsistent with GATT. The ‘necessity test’ ensures that only when the products themselves present a threat can they be restricted. Therefore protecting labor rights through GATT Article XX is impossible, even if the production of the product may threaten human life. For example, the worst forms of child labor are a heinous practice which fall within the Article XX

Protecting labor rights through GATT Article XX is impossible.

exception (b) yet children cannot be protected under this because it is their work conditions which are harmful, not the products themselves.

A Social Clause

A solution that is widely talked about by some trade unionists and human rights groups is the incorporation of a social clause into the WTO Agreement (Greenfield, 2001). Essentially, this means that the Core Labor Standards would be inserted into an article within the WTO Agreements which could be a more viable option than amendment of the Agreements themselves.

Civil Society Participation

One suggestion for the improvement of the WTO system is to allow for increased civil society participation. This would result in the centralization of social issues, and within this, the Core Labor Standards. Furthermore, civil society groups are in an ideal position to put pressure on governments to uphold their human rights commitments, and monitor any progress in this field. Within civil society, non-government organizations (NGOs) would play a particularly crucial role. Within the UN under Article 71 there are 2,350 (2004) NGOs with consultative status. There is provision for NGO participation within the WTO already under Article 5:2 ‘Relations with Other Organizations of the Marrakech Agreement’: “The General Council may make appropriate arrangements for consultation and cooperation with non-governmental

organizations concerned with matters related to those of the WTO”. Allowing NGOs to have a say could increase transparency of the system, put pressure on non-compliant governments and provide specialist knowledge and support.

Ratification by India

In the 86th International Labor Conference, 1998 the declaration on fundamental principles and the rights at work was adopted which identified four areas which are further divided into eight key conventions and any ILO member state should have ratified at least the eight conventions which deal with

- Right of freedom of association (No. 87) and collective bargaining (No. 98)

- Elimination of discrimination in respect of employment and occupation (No. 111)
- Elimination of forced or compulsory labor (No. 29 and No. 105)
- Abolition of child labor (No.182)

These core or fundamental standards were considered to be the bare minimum in labor standards which must be achieved by all member states and employers regardless of the economic conditions or compulsions of a country or industry. They have been ratified by an overwhelming majority of ILO member states. In the World Summit for Social Development in 1995, the above-mentioned conventions were categorized 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 (Ratnam, 2010).

Ratified Convention	Non-ratified Convention
<ul style="list-style-type: none"> • Forced Labor (No. 29) • Abolition of Forced labor (No. 105) • Equal Remuneration (No. 100) • Discrimination (Employment/Occupation) (No. 111) 	<ul style="list-style-type: none"> • Freedom of Association and Rights to organize (No.87) • Right to Collective Bargaining (No.98) • Minimum Age Convention (No.138) • Worst Form of child labour convention (No. 182)

Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)

The Convention applies to all workers-with the exception who are employed in the armed forces, police service and all employers. The Convention also guarantees to workers’ and employers’ organizations the right to draw up their constitutions and rules, to elect their

representatives in full freedom, to organize their administration and activities and to formulate their programs. It calls upon public authorities to refrain from any interference that would restrict this right or impede its lawful exercise. The right to strike has not been explicitly guaranteed under the Convention. However, the right to strike is considered to be an intrinsic corollary of the right to organize guaranteed under the Conven-

tion. Articles 3, 8 and 10 of the Convention that guarantee to trade unions the right to organize their administration and activities and to formulate their programs and further the interests of workers have been interpreted as being inclusive of the right to strike. 150 member states of the ILO have ratified Convention No. 87.

Right to Organize & Collective Bargaining Convention, 1949 (No. 98)

The Convention guarantees to all workers adequate protection against acts of anti-union discrimination in respect of their employment. It provides that such protection shall apply more particularly in respect of acts calculated to: (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership or (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or with the consent of the employer, within working hours. It also protects workers' organizations from acts of interference by employers or their organizations. In addition, the Convention requires member states to take appropriate measures to encourage and promote collective bargaining between workers' organizations and employers or employers' organizations and workers' organizations in order to regulate the terms and conditions of employment by means of collective agreements. 160 member states of the ILO have ratified Convention No. 98.

Non-ratification by India: Conventions nos. 87 & 98

The main reason for non-ratification of the two conventions is the reservations expressed by Department of Personnel and Training (DoPT) because ratification would create legally binding obligations which are inconsistent with our laws and practices. Department of Personnel and Training 's (DoPT) 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.

The guarantees provided for under these two conventions i.e. convention nos.87 and 98 are by and large available to workers in India by means of constitutional provisions, laws and regulations and practices. The main reason for our not ratifying these two conventions is the inability of the government to promote unionization of the government servants in a highly politicized trade union system of the country. Freedom of expression, freedom of association and functional democracy are guaranteed by our Constitution. The government has promoted and implemented the principles and rights envisaged under these two conventions in India and the workers are exercising these rights in a free and fair democratic society. Our Constitution guarantees job security, social security and fair working conditions and fair wages to the government servants. They have also been

provided with alternative grievance redressal mechanisms like Joint Consultative Machinery, Central Administrative Tribunal etc. Hence, our stand has been that this section of the workforce cannot be said to have been deprived of the right of association.

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 Program for 2013-2017

Convention No.138: (Minimum Age)

ILO Convention No. 138 concerning minimum age for entry to employment and work was adopted by the International Labor Conference at its 58th 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 labor.
- 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 and morals of young person's shall not be less than 18years.

Convention No.182 on Worst Forms of Child Labor:

Convention No. 182 on Worst Forms of Child Labor was adopted in June 1999. It calls for the prohibition and elimination of the worst forms of child labor, as a matter of urgency. Convention No. 182 defines the worst forms of child labor as:

- All types of slavery, including the sale and trafficking of children; forced labor to pay off a debt; any other type of forced labor, including using children in war and armed conflict.
- All activities which sexually exploit children, such as prostitution, pornography or pornographic performances.
- Any involvement in illegal activities, especially the production or trafficking of drugs.
- Any work which could damage the health, safety or well-being of children (so called "hazardous work").

Reasons for Non-ratification by India: Conventions no.138 and 182:

As a founder member of the International Labor Organization, which came into existence in 1919, the Government of India should be at the forefront in upholding the ILO Conventions, especially the Core Labor Standards Convention — Convention 182 on worst forms of child labor and Convention 138 on minimum age of employment. In fact, the present

laws, like the Right of Children to Free and Compulsory Education Act 2009, Juvenile Justice (Care and Protection of Children) Act 2000, Immoral Traffic Prevention Act, 1956, Bonded Labor System (Abolition) Act 1976, and the provisions of the Indian Penal Code, and the adoption of ILO Declaration on Fundamental Principles and Rights at Work in 1998, already contain the claims of the ILO Conventions No. 138 and No. 182.

The main bottleneck in the way of Government of India to ratify Conventions 138 and 182 are addressing forced or compulsory recruitment of children for use in armed conflict and appropriately raising the age of employment in hazardous occupations from 14 to 18 years in the Child Labor (Prohibition and Regulation) Act 1986. A provision already exists in Section 26 of Juvenile Justice (Care and Protection) of Children Act 2000 that highlights that whoever ostensibly procures a juvenile or child (an individual less than 18 years) for the purpose of any hazardous employment, keeps him in bondage, withholds his/her earnings or uses such earnings for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall be liable to fine. 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 Labor (Prohibition & Regulation) Act, 1986, the minimum specified age for employment in the hazardous occupations is 14 years. This in a way eases the job of the

Government to ratify Conventions 138 on Minimum Age of Employment and 182 on Worst Forms of Child Labor which are two of the eight Core ILO Labor Conventions that have been pending for a long time now reflecting poorly on India as a nation which is a founder member of the International Labor Organization.

Government of India follows the policy of ratifying the ILO convention only when the existing laws and practices are in conformity with the provisions of the said convention. Cabinet has approved the proposal of Ministry of Labor & Employment for amending the Child Labor (Prohibition & Regulation) Act, 1986 which is in line with the ratification of Convention No. 182. The Child Labor (Prohibition & Regulation) Amendment Bill, 2012 was introduced in the Rajya Sabha during the Winter Session of Parliament, 2012. The above said bill is passed by the parliament and led to various amendments in the existing act. The Standing Committee on Labor and Employment under D.S. Chauhan had in its report on CLPRA Bill, in December 2013, recommended that the Bill give details for regulation for prescribing the conditions of work for adolescents — criteria for wages, hours of work, settlement of disputes. This was incorporated. It had suggested that adolescents should have completed Class VIII before being allowed to join an occupation. The Right of Children to Free and Compulsory Education Act, 2009 enjoins the State to ensure free and compulsory education to all children in the age group of 6 -14 years. A corollary to this would be that if a child is in the work place, he would miss

school. Thus, the CLPR Act is not aligned to the RTE Act as it permits employment of child below 14 years in occupations/processes not prohibited.

Conclusion

The industrial member states believe the right to bargain collectively, freedom of association and workplace abuse, (including forced labor and certain types of child labor), are matters for consideration in the WTO. WTO rules and disciplines, they argue, would provide a powerful incentive for member nations to improve workplace conditions. These proposals have been highly controversial. Many developing and some developed nations believe the issue has no place in the WTO framework. These nations argue that efforts to bring labor standards into the arena of multilateral trade negotiations are little more than a smokescreen for protectionism. Many officials in developing countries believe the campaign to bring labor issues into the WTO is actually a bid by industrial nations to undermine the comparative advantage of lower wage trading partners. Since then there has been debate in the International Labor Organization on the possibility of including a “social clause” in the WTO to enforce Core ILO Labor Standards. The debate there has also been marked by divergences of views between ILO member governments and more generally across an ILO structure that includes representatives from government, labor and business.

The Delhi Declaration of January 1995 at the 5th Labor Ministers Conference of non-aligned and other develop-

ing countries expressed deep concern regarding efforts to link International Trade and enforcement of labor standards through the imposition of social clause. It has consistently opposed the proposals to link labor standards and trade through ‘social labeling’ etc. India also played an active role in Seattle in 1999 to prevent linking trade with labor and environmental issues. All the stakeholders in India including the trade unions, government are in favor of upgrading labor standards, but are against the linking of labor standards with trade and also against enforcing it under the threat of trade sanctions. They suspect that the linkage is aimed at putting artificial barriers against competition and in the words of the Mexican President, ‘saving India and other developing countries from development’. Also, concern for improving labor standards should be more holistic and should encompass the entire working class rather than the microscopic minority engaged in production for exports. (Ratnam, 2010)

India will continue to adhere to the stand that all matters related to international labour standards are to be agitated only in the relevant forum of the ILO. India will continue to reject the use of labor standards for protectionist purposes and any attempt to link labor standards with trade will be vehemently opposed invariably, even if isolated by other countries.

References

- Casselmen, P.H. (1949), *Labor Dictionary*, Philosophical Library, New York
- Dunlop, John T (1958), *Industrial Relations System*, Henry Holt & Co., New York.

- Eres, T (2004), "The Limits of GATT Article XX", *Georgetown Journal of International Law*, 35 (3).
- Final Act of the United Nations Conference on Trade and Employment: Havana Charter for International Trade Organization, Art 7:3 and Art. 10
- Greenfield, G (2001), "Core Labor Standards in the WTO: Reducing Labor to a Global Commodity", *Working USA*,5(1).
- Heneman, Herbert G. (ed.), (1949), *Personnel Administration and Labor Relations*, Prentice Hall, New York
- International Institute of labor Studies (1972), *Bulletin No.10*.
- International Labor Organization (ILO)(1919), *ILO History*, Geneva
- ILO, *Bureau for Workers' Activities* (2008),(ACTRAV), *International Labor Law*.
- ILO Decent Work Team for South Asia (2011), *Challenges, Prospects and Opportunities of Ratifying ILO Conventions Nos. 87 and 98 in India*, New Delhi.
- International Labor Organization, (2011), *Constitution*, Art. 19.5 (e)
- ILO, *Activities of ILO* (1966), *Report of the Director General to the 51st session of the International Labor Conference, 1967, Report I (part II)*
- Mamoria, C.B. & Satish Mamoria, (2007), *Dynamics of Industrial Relations*, Himalaya Publishing House, Mumbai.
- Part 8 Concluding remarks by H.E. Mr. Yeo Cheo Tong, <http://www.twinside.org.sg/title/tong-cn.htm>
- Ramaswamy, E.A. (1981), *Industry & Labor*, Oxford University Press, New Delhi.
- Sen, Ratna (2010), *Industrial Relations*, Second Edition, Macmilian Publisher India Ltd, New Delhi.
- United Nations Economic and Social Council (1999), *Statement of the UN Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization*.
- Venkata Ratnam, C.S. (2010), *Industrial Relations*, Fourth Impression Oxford University Press. (New Delhi)
- Uruguay Round, *Relationship of the World Trade Organization with the International Monetary Fund*.
- Wilkinson, R (1999), 'Labor and Trade related regulation : Beyond the Trade-Labor Standards debate?', in *British Journal of Politics and International Relations*, Vol. 1.181:: 165-191
- World Trade Organization, (March 29, 2007), 'News Items: WTO and Other Organizations'-WTO. "The New Negotiations." http://www.wto.org/english/tratop_e/serv_e/s_negs_e.htm .