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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

INDEPTH ANALYSIS OF TRIPARTISM

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Abstract

It's simple great ingredients make great food likewise in the domain of Labour equal representation should be made from all three sector's i.e., Government, Employer's and Employee's in order to attain amicable, sustainable society. The principles of natural justice i.e., "Nemo judex in causa sua" and "Audi alteram partem" envisages the concept of rule against bias and rule of fair hearing. Human Rights principles envisages the Universality, Inviolable, Inalienable, Indivisible, Interdependent and inter-related. The main objectives of United Nations Organisation(UNO) is to maintain International Peace and Security and to develop friendly relations among nations. The term Tripartism devolves its etymology from the word tripartite which means "equal representation". Principles of Tripartism are Representation, Participation and Deliberation. Tripartism is a pillar of good governance. The International Labour Organisation(ILO) basic foundation principle is Tripartism. Therefore the nucleus of the good governance Tripartism principle enhances Ab initio(from the beginning) and Abundans cautela non nocet which means abundant caution does no harm in the governance pertaining to Industrial relations.

Keywords: United Nations Organisation, Nemo judex in causa sua, Audi alteram partem, International Labour Organisation

Introduction

The United Nations Organisation(UNO) principles of good governance are Participation, Rule of Law, Consensus Oriented, Equity and Inclusiveness, Effectiveness and Efficiency, Accountability, Transparency, Responsiveness this principles are envisaged in the concept of Tripartism. The principle of Tripartism is not only involved in the good governance but also to dispute settlement, procedures of advisory nature. Sustainable development is achieved through social dialogue which mainly depends on the principles of tripartism.

“The rights of every man is diminished when the rights of one man is threatened”

-John F.Kennedy

TRIPARTISM HISTORY

The First World War(1914-1918) which is also known as “Great War” had been concluded by signing the Treaty of Versailles between Allied and the German representatives. After the First World War importance was laid down by the Western Countries Trade Union on the conditions of workplace and work. There was never an end to the negotiations pertaining to condition of workplace which is happening around the world. The International Regulation on Labour matters was organized by Government or the private associations around 19th century, this was a never ending issue to be discussed. For the first time around 1905 and 1906 in Berne the Swiss Government adopted two conventions in the International Conference which was convened by the Swizz Government. The two conventions are Prohibition of Nightwork for Women in Industrial Employment and Prohibition of White Phosphorus in the Manufacture of Matches. This was considered a significant move.

In the year 1919, the Peace Conference was held where an Labour Commission was constituted. The Chairman of the Labour Commission was Mr. Samuel Gompers. On 11th and 28th April 1919, the Labour Commission drafted a text which subsequently became the Part XIII of the Treaty of Versailles. Therefore Part XIII of the Treaty of Versailles pitched in the establishment of International Labour Organization. The Treaty of Versailles is interminable Longest Treaty consisting of 400 printed pages and 440 Articles. Further Part XIII of the Treaty of Versailles has been procreated in subsequent treaties i.e., Treaty of Saint Germain, Treaty of Nuily and Trianon and Treaty of Sevres. The First Session of the International Labour Organization was convened in October 1919. Albert Thomas from France was the First Director¹. After the Second World War International Labour Organization was restructured where special conference was held at Philadelphia on 10th May, 1944. The Philadelphia proclamation was adopted mainly pertains to labour welfare, freedom of association is essential to nurture the sustainable development and elimination of poverty which in turn increases the prosperity and the hostilities against desire shall be carried on.

¹ Prof.Ahmedullah Khan’s Commentary on the International Labour Organisation and the Indian Response,Asia Law House, Pg7

Thereupon the Philadelphia declaration has an inbuilt Tripartite mechanism.

- The basic principle on which the International Labour Organization is founded is based on the principle of Tri-partism.
- Tri-Partism is a concept in which all the three parties namely, the Government, the Employer's and the Worker's representatives participate in the functioning of the International Labour Organisation on an equal status.
- This has been considered as the main distinguishing feature of the International Labour Organisation where the Non-Governmental representatives take part on an equal footing with the Governmental representative and they have an equal right to vote in the decision making process.

“There is no proportional representation requirement in the equal protection clause”

-Cass Sunstein

- On the occasion of the 75th Anniversary of ILO in 1994 the International Labour Conference held discussions about the Traditional pillars of the International Labour Organisation.
- Tripartism is the basic and traditional principal on which the ILO has been established.

Tripartism in ILO

The ILO Constitution was officially recognized in 1919. ILO Constitution consists of total of 40 articles. Subsequently the International Labour Conference formulated Standing Orders of the International Labour Conference.

The three main determinants of the ILO are:

- i) International Labour Conference
- ii) Governing Body
- iii) International Labour Office.

The composition of the members in the Organs of the ILO is based on the Tripartite principle.

International Labour Conference(ILC)

- ILC is the supreme decision making body and first principal organ of the ILO. ILC network consists of four members of which two members shall be Government delegates and the two others shall be delegates representing employers and workers of each of the member². The two members

² Article 3(1) of the ILO Constitution 1919

representing the employers and workers shall be nominated by the Members in agreement with the industrial organizations which are most representative of employers or work people in their respective countries³. Therefore the composition of the members of the International Labour Conference is Tripartite in nature.

Governing Body

The Governing Body of the ILO is the second principal organ⁴. The Governing Body shall consist of fifty six members of whom twenty-eight members represent Government, fourteen members represent employers and fourteen members represent workers⁵. Sixty six Deputy members of whom 28 members represent Government, 19 members employers, 19 members workers representative.

The Governing Body consist of one Chairman and two Vice Chairman, where one shall be person representing employers, one representing workers and one representing government. The tenure of office of the Governing Body is 3 years.

Participation of Worker's and Employer's Organisation.

In the process of effective participation of Worker's and Employer's Organisation a copy of information and reports communicated to International Labour Office shall also be equipped by the Concerned Government to spokesperson of the Organizations pertaining to employers and workers in the country. The decisions adopted by the Worker's and Employer's Organisation is either informed through the Government. In the cases where Worker's and Employer's Organisation conveys its comment directly through ILO subsequently they are communicated to the Government to decide any comments appropriate.

CONVENTION NO.144-TRIPARTITE CONSULTATION

The Convention Number 144 has been adopted by the ILO at the 61st session on 21st June 1976.

There has been total of 14 Articles in this Convention

AIM OF THE CONVENTION NO.144

- To promote International Labour Standards by establishment of Tripartite machinery.

³ Article 3(5) of the ILO Constitution 1919

⁴ Article 2(b) of the ILO Constitution 1919

⁵ Article 7 of the ILO Constitution 1919

- In the opening statement of this Convention hark back to the Convention and recommendations in specific to the Freedom of Association and Protection of the Right to Organise Convention 1948, the Right to Organise and Collective Bargaining Convention 1948 and the Consultation(Industrial and National Level) Recommendation 1960 where these corresponding convention guarantees the right to establish free and independent organisations and to ensure fruitful consultation at national level between public authorities , workers and employers⁶.

“Convention is the another name for the habits of the society”

-Rosamond Lehmann

Representative Organisations

- Representative Organisations has been defined as representative organization of employers and workers enjoying the right of freedom of association⁷.
- Article 2 lays down that each member country which had ratified the Tripartite Convention is duty bound to implement procedures which enhances effective consultations with matters pertaining to Article 5 of the Tripartite Convention. The nature and form of such procedures may be determined in each country in accordance with national practice after consultation with the representative Organisation of Employers and Workers.
- Article 3- states that the Representatives from employer’s and worker’s shall be freely chosen and they shall be represented on an equal footing on any bodies through which consultation is undertaken
- Emphasis is laid down on the Competent Authority and therefore the Competent Authority shall be accountable for providing the administrative support in relation to the procedures provided in the Convention. Appropriate arrangements between the Competent Authority and the representative organisations shall be made for providing financial requirements for necessary training of participants in these procedures⁸.
- Article 5 lays down the matters for which consultation is necessary is provided by the Convention Number 144 include:

⁶ Prof.Ahmedullah Khan’s Commentary on the International Labour Organisation and the Indian Response,Asia Law House, Pg199

⁷ Article 1 of the Convention Number 144,1976

⁸ Article 4 of the Convention Number 144,1976.

- a) Government replies to questionnaire concerning items on agenda of the International Labour Conference and Governments comments on proposed texts to be discussed by the Conference;
- b) The proposals to be made to the competent authority in connection with the submission of Conventions and Recommendations pursuant to Article 19 of the ILO Constitution;
- c) The re-examination of unratified Conventions and Recommendations at appropriate intervals pertaining to which no effect has been given, to consider what measures might be taken to promote their implementation;
- d) Questions arising out of reports to be made to the International Labour Office under Article 22 of the Constitution of the ILO; and
- e) Proposals for the denunciation of ratified Convention⁹.

Therefore consultation shall be undertaken at such intervals as fixed by the agreement, but at least once a year consultation should be held.

- Competent Authority shall issue an annual report on the working of the procedures provided in this Tripartite Convention¹⁰.
- Articles 7 to 14 deal with the procedure relating to the ratification, registration and denunciation by the Member Countries.

Points to be noted:

157
countries
ratified

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TRIPARTITE
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⁹Article 5 of the Convention Number 144,1976.

¹⁰Article 6 of the Convention Number 144,1976.

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CONVENTION NO.144 AND THE DECENT WORK

CONVENTION:

- The Tripartite structure and the functioning of the ILO is basis for achieving social justice and decent work for everyone.
- The ILO Declaration on Social Justice for a Fair Globalization, at the
- International Labour Conference (ILC) in 2008, recognized Convention No. 144 as one of the four most eloquent instruments corresponding to Governance.
- The Plan of Action incorporated by the ILO Governing Body in October 2013 involved Convention No. 144 in the list of International Labour Standards to be promoted by the Office.
- The Resolution on Advancing Social Justice via Decent Work, was incorporated at the 2016 International Labour Conference, insisted the member States to increase the action plan in relation to the implementation of the Fundamental and Governance Conventions¹¹.

¹¹ https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_590126.pdf
(visited on 28/03/2024)

CONVENTION NO. 144 AND THE SUSTAINABLE

DEVELOPMENT AGENDA

- Social dialogue is an essential tool for advocating the 2030 Sustainable Development Agenda, where the accomplishment of social dialogue requires active engagement of the tripartite actors: governments, employers' and workers' organizations.
- Social Dialogue pertains to the following Sustainable Development Goals (SDGs):
- Goal 8 -Decent work and economic growth towards sustainable development
- 8.6 Youth employment
- 8.7 Elimination of child labour and forced labour
- 8.8 Safety and health at work

Goal 16 -Peace, justice and strong institutions

- 16.3 Rule of law enhanced and strong institutions established
- 16.6 Effective, accountable and transparent institutions at all levels in order to maintain peace and secure justice
- 16.7 Responsive, inclusive, participatory and representative
- decision-making at all levels.

Therefore after the ratification of Tripartite Convention in 40 years, 3/4 of ILO member States have ratified Convention No. 144.

“We cannot be mere consumers of good governance, we must be participants ; we must be co-creators”

-Rohini Nilekani

Tripartism History in India

- There existed common unrest after the Second World War in India. Frequent strike and lockout was prevailing which was affecting the smooth functioning of the Industry. The Government of India promulgated Rule 81-A of Defence of India Rules under the emergency provision to provide for conciliation and compulsory adjudication of the industrial disputes that were frequently affecting the growth of production in Industry.
- Therefore in the three consecutive meetings of the Labour Ministers Conference held in 1940,

1941 and 1942 there was an acknowledgement to give effect to the Royal Commission's Recommendations to create a favorable atmosphere in industry¹².

ROYAL COMMISSION OF LABOUR (1931-1933)

- Royal Commission of Labour also known as Whitley Commission under the Chairmanship of Mr. Whitley. The Royal Commission considered the issue pertaining to whether the subject of 'Labour' should be retained as the central subject or should it be delegated to the Provinces(States) and recommended for 'Sharing of Powers' between the Centre and the Province(State).
- During 1931-1933, recommendations of the Royal Commission on Labour was that Industrial Relations Policy must primarily concentrate on ensuring creation of an amicable atmosphere in the industry.
- Further the need to make suitable provisions for the Tri-Partite consultation at National level involving Government, Employers's and Worker's representatives was felt in all the matters relating to the industrial relations and its policy. Hence the Royal Commission on Labour suggested the International Labour Organisation's pattern on Tri-Partism¹³.

INDIAN RESPONSE TO THE CONVENTION NO.144

- India ratified the Convention No.144 concerning Tripartite Consultation on 27.02.1978.
- The ratification of Convention requires the Government of India to consult the Employer's and Worker's Organisation on the matters and the activities of the International Labour Organisation.(Para 5 of the Convention No.144)
 - The ratification of Convention requires the Government of India to consult the Employer's and Worker's Organisation with regard to the Government's replies to questionnaire concerning items on the agenda of International Labour Conference.
 - Under Article 19 of the ILO Constitution deals about the proposals to be made to the Competent Authority in connection with the Conventions and Recommendations of the International Labour Conference. Further Article 22 of the ILO Constitution 1919 deals

¹² Prof.Ahmedullah Khan's Coomentary on the International Labour Organisation and the Indian Response,Asia Law House, Pg223

¹³ Prof.Ahmedullah Khan's Coomentary on the International Labour Organisation and the Indian Response,Asia Law House, Pg223

about the question arising out of reports to be made to the International Labour Organisation. The Convention No.144 lays down the principle that tripartite consultation should be held at appropriate intervals determined with the mutual agreement between the parties, but tripartite consultation should at least be held once a year

INTRODUCTION OF ILC AND SLC

- The first Tripartite Labour Conference was held on 7th August, 1942 at New Delhi under the Chairmanship of Dr. B.R. Ambedkar, in which the representatives of the Government, Employers and Workers took part on an equal footing.

The main objects of the Tripartite Labour Conference are:

1. The Promotion of Uniformity in Labour legislation
2. The laying down of a procedure for the settlement of industrial disputes
3. The discussions on all matters of all India importance between employers and workers.

In order to achieve the main objects of the Conference decided to constitute on the same pattern found in International Labour Organisations, and constitution two main organs namely the:

1. Indian Labour Conference(ILC)
2. Standard Labour Committee (SLC)

- Indian Labour Conference is the apex level tripartite consultative committee in the Ministry of Labour & Employment to advise the Government on the issues concerning working class of the country.
- The first meeting of the Indian Labour Conference was held in 1942 and till now 42 sessions has been held¹⁴.

Functions of the Indian Labour Conference and Standard Labour Committee

- To advise the Government on any matter referred to Indian Labour Conference and Standard Labour Committee taking into account of suggestions made by various Governments and representatives of Worker's and Employer's.

¹⁴ Prof.Ahmedullah Khan's Coomentary on the International Labour Organisation and the Indian Response, Asia Law House, Pg227.

- The binding nature of the advice, recommendations and suggestions of the ILC and SLC has no legal binding effect on the Government to act upon.
- Unanimous recommendations of the ILC and SLC should be honored and all the three parties declared moral obligation to adhere to such unanimous conclusions.

Standing Labour Committee(SLC)

- When compared with the International Labour Organisation the Standing Labour Committee is in the nature of Governing Body.

CONSTITUTIONAL FRAMEWORK IN INDIA

- According to A.V. Dicey the essential feature of the federation is the distribution of powers. Subsequently the Royal Commission of Labour, also known as Whitley Commission considered the question pertaining to whether the subject of 'Labour' should be retained as the central subject or should it be delegated to the Provinces(States) therefore the mechanism of sharing of powers between the Centre and the Province(State) was adopted¹⁵.
- Firstly before attainment of Independence by India, the Government of India Act, 1935 provided for a concurrent jurisdiction of the Central and Province Government relating to Labour matters.
- After the attainment of freedom under the Constitution of India, 1950 envisages concurrent list through the States have wider power to legislate upon the subject of Labour, the Union has an overriding jurisdiction, under Article 253 of the Constitution of India.
- Article 43A of the Constitution of India 1950, deals with Participation of workers in management of industries.
- Accordingly, the State shall strive to take steps, by suitable legislation to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry this will be a step forward to enhance the participation of workers in management .
- The Article 43A was inserted by the 42nd Constitutional Amendment to provide for participation of the workers in the management. The primary objective is to unite employers

¹⁵ Prof.Ahmedullah Khan's Coomentary on the International Labour Organisation and the Indian Response,Asia Law House, Pg227

and employees with the help of the State where the principle of Tripartism is enhanced here

ADMINISTRATIVE PROCEDURE OF RATIFICATION OF ILO CONVENTION IN INDIA

According to Article 19(4) of the ILO Constitution 1919, the Director-General of the International Labour Office is obliged to send certified copy of the Convention or Recommendation to each of the members. On receipt of such certified copy of the Convention and Recommendation, the Central Government shall circulate the copy to all the State Governments, concerned Ministries of the Government of India and also the Employer's Organizations and Worker's Organizations, inviting their observations, objections and suggestions with regard to the desirability or taking into consideration the views expressed, the Central Government prepares a statement of action proposed which is placed before the Parliament where the statement will be discussed and considered. Therefore in the process of ratification of any Convention or Recommendation, Tripartite Consultation plays an important role.

TRIPARTISM UNDER THE INDUSTRIAL DISPUTES ACT, 1947

The main objective of Industrial Disputes Act, 1947 is the investigation and settlement of industrial disputes. The Industrial Dispute Act 1947, implements the concept of Tripartism under dispute resolution mechanisms that are tripartite in nature.

STAGES OF DISPUTE RESOLUTION MECHANISM:

1. CONCILIATION
2. ARBITRATION
3. ADJUDICATION

Here conciliation is a process which includes third-party intervention in promoting the voluntary settlement of disputes. Conciliation is a process of reasonable and organized discussion of differences between the parties to a dispute under the guidance of a conciliator. The authorities that make use of conciliation as the sole method of dispute settlement of the industrial dispute are:

1. Works Committee
2. Conciliation Officer
3. Board of Conciliation.

1.Works Committee(SECTION 3)

Duties of the Works Committee:

- a) to advance measures as a means for stabilizing protecting and preserving amity and good relations between the employers and workmen
- b) to achieve the object of promoting measures for securing and preserving amity and good relations between the employers and workmen, it is their duty to comment upon matters of common interest or concern of employers and workmen
- c) to endeavor to compose any material difference of opinion in respect of matters of common interest or concern between employers and workmen.
 - Work Committee is applicable only where a minimum of one hundred workmen have been employed on any day in the preceding twelve months in an industrial establishment.
 - According to Sec 3(1) the Appropriate Government by general or special order to require the employer to constitute Works Committee and the Work Committee shall consist of representatives of employers and workmen engaged in the establishment. The number of representatives of workmen on the Works Committee shall not be less than the number of representatives of the employer to enhance the tripartite governance¹⁶.

In the case of **Northbrook Jute Company Limited Vs Their Workmen**¹⁷ where a rationalization scheme was introduced in a Jute company. The Works Committee, which was duly constituted under the Industrial Disputes Act, had approved the scheme of rationalization after due consideration. It was deemed that representatives of workmen was done on behalf of the Works Committee. The Supreme Court held that the Works Committee do not represent the workmen for all purposes but only for the purpose of the functions of the Works Committee. The Functions of the Works Committee includes only to smooth away frictions that might arise between the workmen and the management in day-to-day work.

In the case of **Kem and Co Limited Vs Their Workmen**¹⁸ it was held that the institution of the Works Committee has been enhanced to look after the welfare and interest of the workmen as stated in the rules framed under Industrial Disputes Act. The decision of the Work Committee can be

¹⁶ S.N. MISRA, LABOUR & INDUSTRIAL LAWS, 28TH Edition, Central Law Publications,pg no.94

¹⁷ AIR 1960 SC 879

¹⁸ (1955) I LLJ 48

challenged if it not fairly constituted or the workmen are not fairly represented on it.

According to the Rule 42 Industrial Disputes(Central) Rules 1957 , the workmen's representative on the Committee shall be elected in two groups namely:

- 1) Those persons are to be elected by the workmen of the establishment unless they are members of the registered Trade Union or Unions or
- 2) Those to be elected by the workmen of the establishment even when they are not members of the registered Trade Union.
 - Works Committee has been constituted for redressing day to day grievances and promoting smoother co-operation.

2. Conciliation Officer(Section 4)

- The Appropriate Government may by notification in the Official Gazette, appoint conciliation officers. These officers perform the duty of betwixt and between subsequently assisting in the settlement of industrial disputes. The Appropriate Government may appoint one or more conciliation officers, as thinks fit. A corresponding conciliation officer may be appointed for a specified area in order to ensure the compact of industrial disputes. The appointment may be made either uninterrupted or for a limited period. The jurisdiction, powers and others matters in respect of the conciliation officer shall be published in the Official Gazette.
- In the case of **D.C.M. Chemical Employee's Lokhit Congress Vs Delhi Administration**¹⁹ it was observed that there is no legal duty on the part of the Conciliation Officer to intervene in the matter . But where the contract of employment is terminated, the cause of action would arise leading to dispute and in such a situation it is open to the Conciliation Officer to initiate conciliation proceedings under Section 12(1) of the Industrial Disputes Act.
- In the case of **General Manager, Security Paper Mill Vs R.S. Sharma**²⁰ it was held that Section 12(1) of the Industrial Disputes Act requires Conciliation Officer to hold Conciliation proceedings in the prescribed manner where an industrial dispute exists or is apprehended. Even though the Conciliation Officer is not competent to adjudicate upon the disputes between the management and its workmen, he is expected to assist them to arrive at a fair and just settlement. Conciliation Officer is to play the role of an advisor and a friend of both the parties

¹⁹ 1983 I LLJ 306

²⁰ 1986 Lab IC 667 (670) SC.

and to see that neither party takes undue advantage of the situation.

- In the case of the **Workmen of Buckingham and Carnatic Mills Vs State of Tamil Nadu**²¹ where it has been observed that under Section 12 of the Industrial Disputes Act the Conciliation Officer is required to hold conciliation proceedings in the prescribed manner as provided. Section 12(2) of the Industrial Disputes Act casts a duty on the Conciliation Officer to investigate the dispute as early as possible and to do all such things by fair means as he thinks fit for the purpose settlement of the. In cases, where as the result of conciliation proceedings, a settlement of the dispute or any of the matters in dispute is arrived at between the management and the workmen, the Conciliation Officer is bound under Section 12(3) to send the report to the State Government together with a memorandum of settlement signed by the parties to the dispute. The Commissioner of Labour, when performing the duty as Conciliation Officer under Section 12 are only administrative and are purely incidental to industrial adjudication.

3.Board of Conciliation.(Section 5)

- The appropriate Government may, by notification in the Official Gazette, constitute a Board of Conciliation as deem fit. The object of the board is promotion of settlement of an industrial dispute. A Board consists of a Chairman and two or four other members as the appropriate Government thinks fit.
- The Chairman shall be an independent person and other members shall be persons appointed in equal number to represent the parties to the dispute. Any person appointed to represent a party shall be appointed on the suggestion of that party. If any party fails to make a recommendation within the prescribed time, appropriate Government shall appoint such persons as it thinks fit to represent that party²².
- If the Central Government proposes to appoint a Board, it shall a send a notice to the parties asking them to nominate within reasonable time persons to represent them on the Board. The notice to the employer shall be sent to him personal or if the employer is an incorporated Company or a body Corporate, to the agent, manager, or other principal Officer of such company or body.

²¹ (1987) I LLJ 300(307).

²² Tenth Edition,Dr.V.G. GOSWAMI,LABOUR & INDUSTRIAL LAWS,CENTRAL LAW AGENCY, PG.1127.

The intimation notice to the workmen shall be sent in the following steps:

- a) where the workmen who are members of a Trade Union in that case notice is sent to the President or Secretary of the Trade Union; and
- b) where the workmen who are not members of a Trade Union the notice is sent to any one of five representatives of the workmen who have attested the application made under Rule 3 as in prescribed means and in this case a copy of the notice shall also be sent to the employer subsequently the employer will display copies on notice boards in a noticeable manner at the main entrance to the premises of the establishment.

Section 13-Duties of the Conciliation Board

The Employees Compensation Act, 1923

- Section 19 of the Employees Compensation Act, 1923 deals with the question of deciding the liability of any person to pay compensation. The State Government has appointed Workmen's Compensation Commissioners. The Commissioner has to independently give a finding as to the extent of the loss of earning capacity. Section 20 deals with the appointment of Commissioner. Under the provision the participation of Employer, Employee and Government the tripartite principles are enhanced²³.

The Contract Labour(Regulation and Aboilition) Act, 1970.

- According to Section 3 Central Advisory Board of the Contract Labour(Regulation and Aboilition) Act, 1970 states that Central Government shall, as soon constitute a board to advice the Central Government in matters arising out of the administration of this act.
- Section 4-State Advisory Board
- Section 5-Power to constitute committees
- The principle of tri-partism has been adhered representing Employer,Employees and the Government²⁴.

The Industrial Relations Code, 2020

The Industrial Relations Code, 2020 is a tripartite structure including three core laws

1. The Industrial Disputes Act, 1947

²³S.N. MISRA, LABOUR & INDUSTRIAL LAWS, 28TH Edition, Central Law Publications,pg no.493 .

²⁴ Tenth Edition,Dr.V.G. Goswami,Labour & Industrial Laws,Central Law Agency, PG NO.660

2. The Trade Unions Act, 1926
3. Industrial Employment (Standing Orders) Act, 1946

The above mentioned acts were passed for different purposes but with a common area of concern for the welfare of the employees.

The Tripartite mechanism has been introduced under the Grievance Redressal Committee (GRC) and the Works Committee (under the Industrial Disputes Act, 1947)

Grievance Redressal Committee (GRC)

- Any industrial establishment with more than 20 employees must have one or more GRC. This body is tripartite the motive was to provide the employee with the option of appeal to the Board of Conciliation within 30 days to settle disputes faster maintain peace and harmony among the employers and employees.

Industrial Tripartite Committees (ITC):

At the end of the Indian Labour Conference in 1944 the formation of the Industrial Tripartite Committees was established.

The duties of the Industrial Tripartite Committees are

1. to study and discuss labour-related issues specific to the industry in question in order to improve understanding between the parties
2. to advise the government on how to solve these issues and reach a workable solution that is acceptable to all parties.
3. The meetings of the Industrial Tripartite Committees are called as needed.

As a result the following Industrial Tripartite Committees have been established:

1. Industrial Tripartite Committee on Plantation Industry
2. Industrial Tripartite Committee on the Road Transport Industry
3. Industrial Tripartite Committee on the Cotton Textile Industry
4. Industrial Tripartite Committee Jute Industry
5. Electricity Generation Industrial Tripartite Committee and distribution industry
6. Industrial Tripartite Committee Engineering Industry

7. Industrial Tripartite Committee for Sales Promotion Employees²⁵

NON-STATUTORY SCHEME

1. The 1983-Scheme of Worker's Participation in Management

- An Non-statutory scheme to enhance the worker's participation in management was formulated on 30th December 1983 by the Government of India.
- The 1983-scheme is applicable to all public sector undertakings. In addition the State Government and Private Sector enterprises have also been instructed to implement the scheme.
- To monitor the working of the scheme and the progress a committee consisting of representatives of the employing ministries, State Governments, Central Public Sector Enterprises, Central Worker's Organizations and representatives of the Private Sector Manufacturer's Organizations was set up in August, 1984.
- The 1983-scheme is non-legislative without legislative backing.
- During the 11th meeting of the Tripartite Committee on Employee's Participation in Management Scheme, 1983 was held on 3rd October, 1997 with the object of revising the Employee's Participation in Management Scheme.

2. Worker's participation in winding up proceedings

In the case of National Textile Workers Union Vs PR Ramakrishnan²⁶ the Supreme Court observed that (i) the workers are entitled to appear at the hearing of the winding up petition whether to support or oppose it, so long as no winding up order is made by the Court

(ii) The workers have a locus standi to appear and to be heard in the winding up petition both when the winding up petition is admitted and when an order for advertisement is put up also after the admission and advertisement of the wrapping up of the company.

(iii) If a winding up order is made and the workers are aggrieved by the winding up order, they would also be entitled to prefer an appeal and contend in the appeal that no winding up order should have been made by the company

²⁵

[https://labour.gov.in/mainsecretariatdivisions/industrial-tripartite-committees#:~:text=The%20functions%20of%20the%20Industrial,a%20workable%20formula%20agreeable%20to visited on \(09/03/2024\)](https://labour.gov.in/mainsecretariatdivisions/industrial-tripartite-committees#:~:text=The%20functions%20of%20the%20Industrial,a%20workable%20formula%20agreeable%20to visited on (09/03/2024))

²⁶ (1983) 1 SCC 228.

(iv)The workers have a right to be heard even when an application for appointment of a provisional liquidator is made in a winding up petition, because the appointment of a provisional liquidator may adversely affect the interest of the workers thereupon ensuring the principles of natural justice adhered.

Workers Participation In Management

- Worker’s participation in management may be broadly classified into five types namely informative, consultative, associative, administrative and decisive²⁷.
- In the year 2019-2020 the Code of Wages was passed on both the houses of the Parliament. Section 8(1) of the Code states that in fixing the minimum rate of wages or in revising minimum rates of wages, the appropriate Government shall appoint as many committees to recommend with respect to such wage fixation or revision. Subsequently under Section 8(2) states every committee appointed by the Appropriate Government shall consist of persons representing of employers and employees in equal numbers.
- Section 42 of the Code of Wages deals with appointing of the Central Advisory Board which shall comprise of persons to be constituted by the Central Government where the members shall be (a)representing employers (b)representing employees which shall be equal in number of the members²⁸.

CONCLUSION

The ILO has celebrated the 100th year Birth Anniversary at 2019. The present Director-General of ILO is Gilbert Hungbo. Therefore the principle of Tripartism is embodied in ratification of ILO Convention involving Constitutional, administrative and consultative framework. While travelling in a train/airport/bus we reach a particular destination from that destination we only depend on road transport that is to walk if nearby, private vehicle or bus likewise in the principle of Tripartism series of great things began with tripartite consultation.

“Great things are done by a series of small things brought together”

-Vincent Van Gogh

²⁷ V G Mehta, Labour Participation in Management, 20-21

²⁸ 8th edition, S C Srivastava, Industrial Relations and Labour Laws, Pg no:88

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