



JUDGMENTS | POLICY UPDATES | NEWS | ARTICLES | OPPORTUNITIES

**CENTRE FOR LABOUR LAW
RESEARCH AND ADVOCACY**



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CONTENTS

About CLLRA.....i

Editor’s Note.....i

Landmark Labour Judgements.....1

Policy and Legislative Updates.....7

Desk Dispatches.....9

- Unpacking the Rights of Surrogate mother: Are they entitled to Maternity Leave?- Himanshu Gupta, 3rd year B.A., LL. B (Hons.), NMIMS School of Law, Mumbai.
- Evolution of Principles Related to Standardization of Occupational Health and Safety in International Labour Law-Adarsh Shukla, Research Intern, CLLRA

Domestic Labour News.....13

Opportunities.....15

International Labour News.....16

Publications: Articles.....17

.....: Books.....20

Editorial Team.....21

The Centre for Labour Law Research and Advocacy (CLLRA) was established in August 2022 at the National Law University Delhi (NLUD) to revitalize Labour Law research in the context of evolving work structures and legal frameworks. The Centre focuses on a 'bottom-up' approach to address livelihood issues and aims to bring about social change and improve the quality of life for the most neglected sections of working people in India through the Rule of Law. The three-tiered team of CLLRA contains Institutional Patrons, an Advisory Board and a Centre Management team under the supervision of Dr. Sophy K.J., Director of CLLRA. The Centre's pedagogy is the use of "Praxis" i.e., the use of "Theory" and "Practice", always ensuring that one informs the other. Hence there will always be special efforts to listen to problems and insights that emerge from the grassroots and to specialised scholars from relevant social sciences with a critical mind. The Centre is open to learning and using lessons derived from International standards, Comparative jurisprudence, Constitutional law, Statutory law, case law and experiential learning. CLLRA remains particularly sensitive to deriving insights from the 'feminist movement' in the struggle against patriarchy, the movement of 'persons with disabilities', the 'child rights movement', and especially the social movements of the excluded and marginalised people, to seriously internalise different perspectives and contribute substantially to the realisation of an inclusive society.

This Newsletter, titled 'Labour Law Insights', started as there is a need for renewed thinking to reinvigorate Labour Law in the context of debates on new work, new employment relations and new legal frameworks. The lack of exchange and sharing of information on labour law and policy updates through a consistent medium has created a vacuum in the assimilation of knowledge around the discipline. This Newsletter attempts to fill in this gap by bringing forth important judicial discourse, legislative updates, scholarly discussions and information on labour to the readers. It aims to reach a wider audience, inclusive of both students and researchers and therefore, opportunities for career/future learning are also included in the Newsletter. At the very outset, it is necessary to clarify that in today's context when we say 'labour', we must take it to mean the entire 'workforce' in our society. The Centre will strive to study conditions in which all working people can live with dignity. There is an increasing need to study various anti-poverty and social justice measures with labour-related entitlements so that the workforce can access a package of measures which contributes to their enhanced quality of life. The 'Labour Law Insights' newsletter has four primary objectives:

- (i) disseminating legal knowledge by conveying developments in Indian labour laws,
- (ii) elucidating precedent through curated case laws,
- (iii) cultivating awareness about legal rights and safety among the workforce, and
- (iv) fostering scholarly discourse on labour law topics.

The Newsletter commits to providing an informative platform that enhances understanding of labour laws and their profound impact on the Indian labour landscape. Hope you will read and write to us at cllra@nludelhi.ac.in with your feedback.

Best regards,
Sophy

LABOUR LAW INSIGHTS

Decoding Labour Discourse: Insights, Updates, and Analysis

LANDMARK LABOUR JUDGEMENTS

Supreme Court

COMPUSORY RETIREMENT

COMPULSORY RETIREMENT WAS NOT INCLUDED IN THE EXPLANATION FOR DENYING GRATUITY BENEFITS

JYOTIRMAY RAY V. FIELD GENERAL MANAGER, PUNJAB NATIONAL BANK

Citation: 2023 LiveLaw (SC) 966

Court: Supreme Court of India

Facts: The appellant was an employee of the Punjab National Bank and had compulsorily retired after he was found guilty by a disciplinary authority in 2010. After this, he was denied leave encashment, employer's contribution of provident fund, gratuity, and pension. He filed a writ petition before the HC claiming the terminal benefits accruing to him, which was not allowed on the grounds that the appellant's actions had caused the bank to suffer a loss. Aggrieved by the same, the appellant approached the Supreme Court.

Judgment: The court held that as per the Punjab National Bank (Officers') Service Regulations, 1979 (1979 Regulations), the bank could withhold the Provident Fund amount only when any loss is proved to be caused by the employee. However, in the present case, the bank had given no opportunity to the appellant for a fair hearing, and therefore the Court highlighted that no such loss had been proven and set aside the order. On the issue of gratuity, the Court referred to the Payment of Gratuity Act, 1972, in which compulsory retirement was not included in the explanation as a ground for denying gratuity benefits. Therefore, the Court affirmed that the Gratuity Act would prevail over the 1979 Regulations and held the denial of gratuity to the appellant unlawful. The SC set aside the verdict of the HC and granted both the provident fund amount and gratuity to the appellant.



WAGE PARITY

ALL INDIA JUDGES ASSOCIATION V. UNION OF INDIA & ORS.

JUDGES ARE NOT COMPARABLE WITH THE ADMINISTRATIVE EXECUTIVE AS THEY EXERCISE SOVEREIGN STATE FUNCTIONS

Court: Supreme Court of India

Citation: WP(C) No. 643/2015

Facts: The Second National Judicial Pay Commission recommended an increase in the pay and allowances of judicial officers across the country, which had earlier been accepted by the Apex Court. The SC heard several objections against this appeal, as the Union along with various State governments contending that the pay of judicial officers should be equivalent to other government officers.

Judgment: The 3-judge bench deliberated on the topic rejected the argument that the pay of judicial officers should be equivalent to that of other government servants, highlighting the fact that judges are not comparable with the administrative executive as they exercise sovereign state functions. The Court held that they are comparable more to the political executive and legislature, and therefore must be treated equally and separately as a key organ of the State. Thus, parity cannot be claimed with other government staff as they only carry out the decisions of the political executive and legislature, while the judges hold sovereign authority.

High Court

COMPASSIONATE EMPLOYMENT

SARABJEET SINGH SIDHU V. STATE OF PUNJAB & ORS.

STATE CANNOT ADOPT DIFFERENT YARDSTICKS FOR CONSIDERING COMPASSIONATE APPOINTMENT OF THE DEPENDENTS OF MARTYRS FROM POLICE FORCES AND ARMED FORCES PERSONNEL

Court: Punjab and Haryana High Court

Citation: 2023:PHHC:164672

Facts: The Petitioner's grandson was the nephew of a martyred defense personnel who had lost his life in 1989 in Sri Lanka, and was denied compassionate employment in the Punjab police because according to the state, only the family members of Punjab Police martyrs could be considered for these posts. Aggrieved, the Petitioner filed a Writ against this policy.

Judgment: The Court stated that the State cannot adopt different yardsticks for considering compassionate appointment of the dependents of martyrs from police forces and Armed Forces personnel. The Court held that the claim of a family member of a defence personnel cannot be put at a lower pedestal than that of family members of police martyrs. Further, the nephew ought to be offered an appointment since he was the only one who could take care of the family of the Petitioner. In deprecating such practice and allowing the writ petition, the Court directed the Respondents to consider the nephew for the post of DSP in the Punjab police or a similar post in the police department



DEPARTMENTAL PROCEEDINGS

SANGRAM KESHARI MOHANTY V. STATE OF ODISHA & ORS.

Court: Orissa High Court

Citation: W.P.(C) No. 4066 of 2016

NO PROCEEDINGS CAN BE CONTINUED AGAINST THE EMPLOYEE UNLESS THERE WAS A SPECIFIC RULE ALLOWING CONTINUATION OF PROCEEDINGS AFTER RETIREMENT

Facts: The Petitioner was working at a college in Orissa when a departmental proceeding was initiated against him. Though the proceeding was initiated while he was in service, it was never finalized until his superannuation. It was contended by the petitioner that the pending proceeding be quashed as no provision which allowed for continuation of the proceeding after retirement.

Judgment: The Court held that the law was settled in that no proceedings can be continued against the employee unless there was a specific rule providing for continuation of the proceeding after retirement. Thus, this proceeding can be continued to be used as a detriment after his superannuation and no deduction of any retirement benefits/pension can be made if the proceedings had not finished at the time of retirement.

ATTIKARIBETTU GRAMA PANCHAYATH AND GANESHA & OTHERS

Court: Karnataka High Court

Citation: Writ Appeal No 543 of 2023

Facts: The appeal by way of writ was filed against a decision to reinstate the Respondents who had been charged with a criminal case and had been dismissed from service without holding any enquiry.

Judgment: The Karnataka High Court held that the Appellants, the Grama Panchayat, cannot dismiss an employee only if a criminal case is registered against him. It added that dismissal from service can only be ordered after holding an enquiry. It also noted that in society, a job is usually the predominant source of livelihood and snatching it away in public employment without a proper enquiry amounts to taking away the means of the livelihood of the employee which is against the substance of Article 21 of the Constitution. It also noted that a welfare state like ours should conduct itself as model employers and therefore, an employee should not be removed without a proper enquiry.

DISMISSAL

GRAM PANCHAYAT CANNOT DISMISS AN EMPLOYEE ONLY IF A CRIMINAL CASE IS REGISTERED AGAINST HIM WITHOUT PROPER ENQUIRY

TRANSFER

DR. KALA C MOHAN V. EMPLOYEES STATE INSURANCE CORPORATION

Court: Kerala High Court

Citation: O.P(CAT) NOS. 185 & 186 of 2023

WORKING WOMEN PLAY IN THEIR HOUSEHOLDS, EMPLOYERS OUGHT TO BE MORE CONSIDERATE WHILE ISSUING TRANSFER ORDERS TO THEM

Facts: Two working women were moved from Employees State Insurance Corporation (ESIC) Hospital in Ernakulam to another hospital in Kollam. The employees challenged these transfer orders at the Central Administrative Tribunal in Ernakulam which decided not to intervene. Unhappy with the Tribunal's decision, the petitioners brought the matter to the Kerala High Court. The petitioners argued that they had to take care of their children and aged parents and the said transfer order would cause them inexplicable difficulties.

Judgment: The Kerala High Court observed that due to the significant role that working women play in their households, employers ought to be more considerate while issuing transfer orders to them. It acknowledged the petitioners' caregiving duties for their ailing parents, the difficulty of relocating with working husbands, and the potential disruption to their children's education if moved during the academic year. It observed that working women play a major role in taking care of their children and aged parents and may find it difficult to maintain a work-life balance in an unfamiliar environment. Thus, the Court directed the Central Administrative Tribunal to consider the case and maintain the status quo by not transferring the petitioners until then.

BONDED LABOUR

DELHI HIGH COURT HAS ISSUED DIRECTIONS FOR IMMEDIATE FINANCIAL ASSISTANCE, RECOVERY OF BACK WAGES AND LEGAL PROCEEDINGS TO BE FOLLOWED BY THE AUTHORITIES IN THE POST RESCUE PROTOCOL OF CHILD LABOURERS

KAUM FAQEER SHAH V. MINISTRY OF LABOUR & EMPLOYMENT & ORS.

Court: Delhi High Court

Citation: W.P.(C) 10462/2020

Facts: The High Court heard a petition moved by the fathers of two children who had been victims of bonded labour. They sought relief for their minor children as well as similarly placed children who have not received the benefit of financial assistance under the statutory schemes.

Judgment: The Delhi High Court has issued a slew of directions for immediate financial assistance, recovery of back wages and legal proceedings to be followed by the authorities in the post rescue protocol of child labourers in the national capital. The Court stated that an amount of financial assistance shall be given to the rescued child or his/her parent/guardian which shall be coordinated and assisted by NGOs and Vigilance Committees. Furthermore, the court directed that the Recovery Notices (for back wages) shall be issued by the Delhi Government's Labour Department within two working days of rescue of a child

INDUSTRIAL DISPUTE

CLAIM BEFORE THE INDUSTRIAL TRIBUNAL REGARDING ABSORPTION & REGULARIZATION IN A COMPANY CAN BE RAISED ONLY THROUGH A UNION

MANAGEMENT OF M/S TATA ADVANCED SYSTEM LIMITED V. THE SECRETARY TO DEPARTMENT OF LABOUR & OTHERS

Court: Karnataka High Court

Citation: Writ Petition No 7674/2023

Facts: The employee was working at the petitioner's company and he had filed a plea before the Labour Commissioner, expressing grievances about his employment. The petitioner argued that as per S. 10 of the Industrial Disputes Act, the appropriate authority might refer an industrial dispute between the workmen/union and the management for adjudication, but it must be an "industrial dispute" under S. 2(k) of the Act. It was contended that this dispute must involve a group of workmen or a trade union, and a dispute between a single workman and employer will not become an industrial dispute.

Judgment: The Karnataka HC held that any claim before the Industrial Tribunal by an individual workman regarding his absorption and regularization in a company can be raised only through a Union representing the workman and not by himself alone. Thus, the Court held that the employee was not justified in raising the dispute.

RESERAVATION

WOMEN ARE CONSIDERED TO BE A SEPARATE CLASS BUT IT DOES NOT MEAN THAT THERE CAN BE 100% RESERVATIONS FOR WOMEN TO EXCLUSION OF ALL OTHERS

SANJAY M PEERAPUR & ANOTHER V. UNION OF INDIA & OTHERS.

Court: Karnataka High Court

Citation: Writ Petition No 62966 of 2011

Facts: Section 6 of the Indian Military Nursing Services Ordinance, 1943 states that only women could be eligible for appointment to be nurses, effectively setting a 100% reservation for women in the cadre of military 'nursing officers.' The Petitioners challenged the Constitutionality of this provision.

Judgment: The Court held that though women are considered to be a separate class under the Constitution, it does not mean that there can be 100% reservations for women to the exclusion of all others without any rational nexus to be achieved. This would violate the Constitutional guarantee under Article 14 and Article 16(2) and would not fall under the ambit under Article 15(3). Further, it did not pass the twin test of reasonable classification and rational nexus between the differentia and the object sought to be achieved. The Court held that the Act was introduced in a time where women nurses were urgently needed for the war effort. However, it was now outdated due to which it was ultra vires.

International Cases

Discrimination against Whistleblower

JOB APPLICANT DID NOT FALL UNDER ARTICLE 14 OF THE ECHR AND WAS NOT PROTECTED BY THE PROHIBITION OF DISCRIMINATION.

SULLIVAN V ISLE OF WIGHT COUNCIL (UK)

Court: Employment Appellate Tribunal

Citation: [2024] EAT 3

Facts: The Appellant had applied for a job with the Respondents but had been rejected. She then contended that she had been unfairly treated as she had been a whistleblower and had made protected disclosures for public interests. She claimed that Article 10 of the European Convention of Human Rights (ECHR) protected her freedom of expression, and that as a 'job candidate', she had a protected status under Article 14 of the ECHR that shielded her from discriminatory practices.

Judgment: The EAT dismissed the appeal stating that a job applicant did not fall under Article 14 of the ECHR and was not protected by the prohibition of discrimination. Furthermore, as she was an external candidate and did not operate inside the organization, she did not come under the protections for whistleblowing that were granted to workers already in employment. Thus, the EAT refused to extend discriminatory and whistleblowing protections to those people currently seeking employment in an organization

CHARLES GREGORY GREGORY V MAXXIA PTY LTD (AUSTRALIA)

Court: Fair Work Commission

Citation: C2023/5280

Facts: The applicant was a human resources consultant who submitted a request for permanent work from home which was rejected by the employer. The employer considered that this solution was not feasible in the long term and that some activities would be challenging to perform remotely. Aggrieved, the applicant approached the Fair Work Commission (FWC).

Judgment: The FWC rejected the employee's appeal to work from home, ruling that the employer had responded reasonably to the employee's request. The FWC agreed with the employer's arguments and assessed that it had made adequate efforts to accommodate the employee, as it had earlier offered a gradual return to work and also a proposal to work remotely 80% of the time. Further, they also had "reasonable business reasons" for refusing the request. Thus, the Commission held that the employee did not have a right to claim a continued work-from-home status

Right to Work from Home

EMPLOYEE DID NOT HAVE A RIGHT TO CLAIM A CONTINUED WORK-FROM-HOME STATUS

CARRY OVER OF LEAVE

PURPOSE OF LEAVE IS TO ALLOW THE WORKER TO REST AND BENEFIT FROM A PERIOD OF RELAXATION AND RECREATION

XT AND OTHERS V KEOLIS AGEN SARL (EU)

Court: Court of Justice of the European Union

Citation: Case C-271/22

Facts: An employer refused certain workers' requests to benefit from leave days previously accrued but not used because of their illness-related absences. The French Court, by way of a reference for a preliminary ruling, asked the CJEU whether the employer's conduct can be said to be contrary to the Working Time Directive of the EU, which guarantees paid leave.

Judgment: In its decision, the Court emphasized the purpose underlying the taking of the leave itself: to allow the worker to rest from performing the tasks assigned to him by his duties and benefit from a period of relaxation and recreation. Thus, national legislation may provide for a carry-over period. Further, such provisions would allow the employer to avoid a high accumulation of employee absences due to illness and holidays, which is detrimental to the organization of the company.

PAID ANNUAL LEAVE AFTER RETIREMENT

**BENEFIT OF
COMPENSATION
IN LIEU OF PAID
LEAVES CAN BE
TAKEN AS A
MATTER OF RIGHT
EVEN IF THE
WORKER
VOLUNTARY
RETIRED
FORESEEING THE
LOSS WHICH
HE/SHE CAN
INCUR**

BU V. COMUNE DI COPERTINO (EU)

Court: Court of Justice of the European Union

Citation: Case C-218/22

Facts: A public servant worked as a training executive for several years for the municipality of Copertino (Italy). He resigned to take early retirement, claiming financial compensation for the 79 days of paid annual leave not taken during his employment. The Government contested this claim, invoking the Italian legislation rule, according to which public servants are under no circumstances entitled to financial compensation. The Italian court hearing the dispute between the public servant and the municipality of Copertino had doubts as to the compatibility of this rule with European Union law.

Judgment: According to the Working Time Directive of the EU, a public servant is entitled to financial compensation in lieu of paid leaves. This is for those scenarios in which the employment is terminated, and thus in order to protect the servant from losing the benefit of those leaves which he did not utilize during his tenure and cannot utilize in the future on account of his termination, a financial compensation can be given. The Court held that even in the present case, where the worker had voluntarily terminated his employment before his retirement and had foreseen the loss he would incur, the benefit of compensation in lieu of paid leaves can still be taken as a matter of right as that is the substance as provided in Article 7 of the Directive. Therefore, to actually and effectively guarantee this right, the Court held that the worker would be entitled to financial compensation.

VAN WYK AND OTHERS V MINISTER OF LABOUR AND EMPLOYMENT (SOUTH AFRICA)

Court: Gauteng High Court

Citation: (2023) ZAGPJHC

Facts: The petitioners in the case challenged the maternity and parental laws of the Basic Conditions of Employment Act, 1997 in South Africa. They highlighted the difference between parental leave for fathers and mothers, and called for a gender-neutral interpretation of the term 'employee'.

Judgment: The Court found unfair discrimination between mothers and fathers, where mothers were granted four months of maternity leave while fathers only had ten days of parental leave. It held that both parents have a duty and right to take care of the child, and restricting the father's right to parental leave undermines his dignity by treating his role as marginal. Thus, the Court directed the Parliament to remedy the situation and in the meanwhile provided that all parents would have access to a minimum of four consecutive months of parental leave.

GENDER NEUTRAL LEAVE

**RESTRICTING
THE FATHER'S
RIGHT TO
PARENTAL LEAVE
UNDERMINES
HIS DIGNITY BY
TREATING HIS
ROLE AS
MARGINAL.**



POLICY AND LEGISLATIVE UPDATES

M.P. (WORK CHARGED AND CONTINGENCY PAID EMPLOYEES) PENSION RULES, 1979 STANDS AMENDED BY NEW NOTIFICATION

By a notification dated December 28, 2023, the Madhya Pradesh Governor amended the Madhya Pradesh (Work Charged and Contingency Paid Employees) Pension Rules, 1979. This modification made to a subrule that had been adopted in a previous notification dated February 27, 2023. When permanent employees retired, qualifying service could be calculated for them under the original Rule 6, which began to count service on January 1, 1959. Subrule 2 stated that service from January 1, 1959, onward will be counted for pension reasons as if rendered in a regular post if a permanent employee retired without interruption from any regular pensionable post..

The latest amendment, which takes effect immediately, replaces the word "before" in subrule 3 of Rule 6 with "after." This means that any temporary employee's service performed on the terms of a regular pensionable post after January 1974, uninterrupted and for a minimum of six years, will be counted toward their pension, provided that the service was performed on a regular basis. The change permits temporary workers to be eligible for pension benefits provided they worked continuously in a regular pensionable position for at least six years after January 1974.

EPFO GIVES EMPLOYERS AN ADDITIONAL FIVE MONTHS TO UPLOAD WAGE INFORMATION AND OTHER DATA PERTAINING TO PENSIONS ON HIGHER WAGES

An online portal has been made available by the Employees' Provident Fund Organization (EPFO) to submit applications for the validation of pension options or joint options based on higher salaries. This action is in accordance with the directive issued on November 4, 2022 by the Hon'ble Supreme Court.

Currently, employers are processing more than 3.6 lakh applications that are pending for certification of choices or joint options. The Chairman of the Central Board of Trustees (CBT) EPF has granted an extension until May 31, 2024, for employers to upload wage details online and finish the required procedures in order to guarantee the prompt processing of these unprocessed applications.

REGULATIONS FROM ESIC TO EXPAND MEDICAL BENEFITS TO COVER THE FAMILIES OF INSURED

The Employees State Insurance (General) Regulations, 1950 state that, as of December 1, 2023, the Director General has decided that the medical benefits specified in Regulation 95-A and the Uttar Pradesh Employees State Insurance (Medical Benefit) Rules, 1958 will be extended to the families of insured individuals in every region of the Mainpuri district, as well as in all of the Basti district of Uttar Pradesh and the previously designated areas within the district. On December 4, 2023, this notification was formally published.

LABOUR LAWS (EXEMPTION FROM RENEWAL OF REGISTRATION AND LICENSE BY ESTABLISHMENTS) ORDINANCE IS ISSUED BY MANIPUR GOVERNMENT

On December 29, 2023, the Manipur government issued the Laws Exemption from Renewal of Registration and Commencement License by Establishments Ordinance, 2023, which applied to establishments under certain acts. Employers are excluded from renewing registrations or licenses under this code, although they are required to offer self-certification on an annual basis or within 30 days of finishing pertinent work. It has no bearing on earlier actions, rights, fines, or pending legal actions pertaining to the scheduled acts.

Under Manipur labor regulations, failure to provide self-certification can result in a fine of up to ten thousand rupees, compoundable. It is statewide and goes into effect right away. However, certain elements of planned acts are subject to the ordinance's specified circumstances.

COMPENSATION FOR ACCIDENTAL DEATH & PERMANENT DISABILITY INTRODUCED BY THE HARYANA GOVERNMENT

The Mukhyamantri Vyapari Samuhik Niji Durghatna Yojana (MVSNDY), launched by the Haryana government, offers recipients compensation of Rs. 5 lakh per occurrence in the event of an accidental death or permanent disability. The HTWB and HPSN portals are used by beneficiaries to register online. An annual registration fee of Rs. 10 lakh, or as specified, is required. Under the initiative, Haryana's GST registered taxpayers can register online through the Haryana Traders Welfare Board portal during a designated annual window starting in the financial year 2023–2024. Incidents that take place 30 days after registration are eligible for reimbursement. The HTWB and the Haryana Parivar Suraksha Nyas (HPSN) work together to operate the plan, and the District/Sub-Divisional Grievance Redressal Committee (DGRC) handles any disputes pertaining to claims.

THE HARYANA GOVERNMENT MANDATED THE ESTABLISHMENT OF AN INTERNAL COMMITTEE TO COMPLY WITH THE POSH ACT

Organizations are urged to abide with the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act, 2013) in response to a Compliance Notice issued on December 20, 2023. In order to do this, an Internal Committee must be formed, and the District Officer must receive an Annual Report outlining compliance with the POSH Act for the months of January through December 2023.

Important guidelines include creating an Internal POSH policy, posting notifications conspicuously, holding awareness sessions, and forming the Internal Committee as soon as possible. To prevent penalties and promote a safe and welcoming work environment, the Annual Report should thoroughly document all instances of sexual harassment and guarantee complete compliance with the Act.

KERALA LABOUR DEPARTMENT ISSUED NOTIFICATION CONCERNING CONSUMER PRICE INDEX

A notification regarding the Consumer Price Index (Cost of Living Index) Numbers for November 2023 that apply to workers covered by the Minimum Wages Act (Central Act XI of 1948) has been made public by the Kerala Labour Department. In accordance with clause (C) of the Act, the Director General of Economics & Statistics has determined these figures.

KARNATAKA AMENDED BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) RULES 2006

The Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) (Karnataka) Rules, 2006 have been amended by the Karnataka government in consultation with the Expert Committee. The amendment defines a "Competent Person" as a person who possesses the necessary qualifications and experience to test and certify lifting appliances, gears, wire ropes, pressure plant, or equipment.

To be recognized, one must fill up an online application and pay the necessary fees. The application must be renewed yearly. A mechanical or electrical engineering degree and seven years of relevant experience are required, along with certifications earned prior to using pressure plants and equipment.

EPFO ISSUED CLARIFICATION REGARDING IMPLEMENTATION OF DIGITAL JOINT REQUEST

The Employees Provident Fund Organization (EPFO) clarified the Digital Joint Request implementation process in a circular dated January 30, 2024. Employers who pay administrative costs beyond the statutory limit and employees who contribute to EPFO on a wage exceeding the statutory limit must submit a digital joint request. Employees who left their jobs or died before December 31, 2024, are free from this requirement, according to EPFO.

Unpacking the Rights of Surrogate mother: Are they entitled to Maternity Leave?

Himanshu Gupta is a 3rd year B.A., LL. B (Hons.) student at NMIMS School of Law, Mumbai.

INTRODUCTION

The rights of surrogate mothers under labour laws have been a subject of perpetual debate and a never-ending struggle for them. One such fight is their struggle to avail of maternity leave/benefits under the Maternity Benefits Act, 1961 ("1961 Act") in the postnatal phase. While the 1961 Act and various State Rules are completely silent upon recognizing this right of surrogate mothers, it is the Courts where their hope lies in the pursuit of justice. In this regard, the Rajasthan High Court in the case of Chanda Keswani v. State of Rajasthan ("Keswani") followed the progressive stance taken by various other High Courts of India previously and granted maternity leave to a surrogate mother.

The High Court categorically held that "there is no distinction between the natural, biological and surrogate or commissioning mothers and all of them have fundamental right to life and motherhood, contained under Article 21 of the Constitution of India and children born from the process of surrogacy have the right to life, care, protection, love, affection and development through their mother, then certainly such mothers have right to get maternity leave for above purpose." The aforesaid judgement poses an important question as to the status of surrogate mothers in terms of their right to maternity leave. The Court further called for specific legislation for surrogates and commissioning mothers in this regard. The author of this article attempts to trace the legal position of surrogate mothers under the 1961 Act and also attempts to compare the provision of India with other countries. The author further argues that surrogate mothers should be recognized under the 1961 Act with reference to laws of various international jurisdictions including the USA, Australia, New Zealand and Canada.

BRIEF BACKGROUND

The petitioner in the present case was married to her husband in 2007 and since the couple did not have any issue from the wedlock, the petitioner along with her husband decided to have children through surrogacy. The process of surrogacy was done and twins were born out of it.

The case arose out of an application made by the petitioner to the State authorities for granting maternity leave to take care of her children. The State declined her application for grant of leave on the ground that the provisions under the Rajasthan Service Rules, 1951 ("1951 rules") are silent for grant of maternity leave to the mother, who got children through the process of surrogacy. Thus, the petitioner approached the Hon'ble Rajasthan High Court by way of a writ petition under Article 226 of the Indian Constitution challenging the order of the State of declining her leave

application. The petitioner argued that the Rajasthan Services Rules was enacted in 1951 and at that time surrogacy had not become well known. However, as a result of development in medical sciences parents can now adopt to alternative procedures such as surrogacy. Citing examples of similar rules in Delhi and Maharashtra, the petitioner further argued that the Delhi High Court and the Bombay High Court in Rama Pandey vs. Union of India & Ors. and, Dr. Ms. Pooja Jignesh Doshi vs. The State of Maharashtra & Anr respectively have granted maternity leaves to the surrogate mother.

On the other hand, the respondent placed reliance on Rule 103 of the 1951 rules and argued that it is silent on the grant of such maternity leave and hence the request put forth by the petitioner should be declined.

The High Court while endorsing the progressive nature of medical sciences held that a woman can become a mother through various means including surrogacy. The Court further held that the laws relating to maternity leave are beneficial provisions and must be construed beneficially to impart social justice. Interpreting Rule 74 of the 1951 rules, the Court further opined "We do not find anything in Rule 74 which disentitles the petitioner to maternity leave, like any other female government servant, only because she has attained motherhood through the route of surrogacy procedure." Hence, the Court granted maternity leave to the petitioner for the child born through surrogacy.

POSITION OF SURROGATE MOTHERS IN INDIA

The *Keswani* case is yet another achievement for surrogate mothers as it tries to establish an equitable ground based on which maternity benefits can be availed in the absence of specific legislation. The 1961 Act which is the principal legislation for maternity benefits in India entitles all women employees up to a maximum of twelve weeks paid leave that is, six weeks up to and including the day of her delivery and six weeks immediately following that day on fulfilment of certain conditions provided under the Act.

The question that needs attention is who can be a 'mother' for the purpose of the 1961 Act as the term 'mother' is not defined in the Act. At this juncture, it becomes imperative to address whether surrogates can be treated as mothers and will be entitled to the benefits of this Act. In the absence of legislation providing maternity benefits to surrogate mothers, reliance should be placed on various judicial pronouncements in this regard. For instance in the case of K. Kalaiselvi Vs. Chennai Port Trust, the High Court of Madras while interpreting Rule 3A of the Madras Port Trust (Leave) Regulation, 1987 held that the rule should be interpreted to

include a child born out of surrogacy procedure and thus provided maternity benefits to the surrogate mother.

Further, the High Court of Chhattisgarh in the case of Smt. Sadhana Agrawal Vs. State of Chhattisgarh held that there exists no difference between a biological mother, a natural mother and a mother who has begotten a child by surrogacy. The State by treating them differently violates their right to life prescribed under Article 21 of the Indian Constitution which includes the right to motherhood and the right to every child to full development. Hence, the State Government is not justified in denying maternity leave to the mother who has begotten children by way of surrogacy procedure. The Court further held that the petitioner (who was the intended mother of the child) should be treated as a 'mother with newborn babies' and therefore is entitled to all the benefits of the postnatal phase with effect from the date of birth of children.

Furthermore, in the case of Pratibha Himral v. State of Himachal Pradesh, the Himachal Pradesh High Court while explaining the reasoning behind the grant of maternity leave opined there exist two major factors behind the grant of maternity leave, which include health issues and the crucial period of bonding. The Court further held that to differentiate between a mother who begets a child through adoption and a natural mother, who gives birth to a child, would result in insulting womanhood. Motherhood never ceases with the birth of the child, and a commissioning mother cannot be refused paid maternity leave. Thus, it can be very well construed that maternity leave is granted to a woman not only for her mental or physical needs but for a greater purpose which is to build a bond between the mother and the child. Hence, in these circumstances, a bond between a surrogate mother and the child is equally important and thus maternity leave should be extended to surrogate mothers as well.

INTERNATIONAL PERSPECTIVE: WHAT IS IN FOR INDIA?

Article 11 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) of which India is a signatory states that all state parties should take appropriate measures and grant the right to paid leave from work to women employees.

Further, Article 25(2) of the Universal Declaration of Human Rights states that "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection." Thus, emphasizing the importance of early mother-child relations.

These international frameworks underscore the need for analysing the legal position of maternity leave in different jurisdictions. For instance, in the United States of America, the Family and Medical Leave Act, 1993 ("FMLA") governs the provision for maternity leave. The FMLA grants 12 work-weeks of unpaid leave after the birth of the child and to care for the newborn child within one year of birth. The FMLA further provides 12 weeks leave to mothers to bond with the

the newly born child after a surrogate gives birth to it.

The position in Australia with regard to maternity leave is governed under the Paid Parental Leave Act, 2010. The Australian Paid Parental Leave Rule, 2021 grants paid maternity leave to both, the mother giving birth and the gaining parent of the child born out of surrogacy. Hence, recognizing the rights of surrogate mothers and respecting the bonding period between the child and the mother.

In the case of New Zealand, the Parental Leave and Employment Protection Act, 1987 governs the provision for maternity leave. A female employee is entitled to a maximum of fourteen weeks' maternity leave from the date of the delivery. "In a surrogacy situation, both the birth mother and the new primary carer are fully entitled to primary carer leave and parental leave payments (if they meet the eligibility criteria). The birth mother's entitlements do not end when she hands over care of the child". Furthermore, the position in Canada is also liberal in nature wherein surrogate mothers are entitled to maternity leaves upon birth of the child.

CONCLUDING REMARKS

Article 42 of the Indian Constitution directs the State to make provisions to secure humane working conditions and maternity leave. The need for maternity leave was felt long back by the makers of the Indian Constitution and hence its importance cannot be underestimated. Denial of maternity leave to surrogate mothers can have dire consequences as the Hon'ble High Court has linked maternity leave with Article 21 of the Indian Constitution in the Keswani case itself.

It can be construed that in the absence of specific legislation and ambiguity surrounding the word 'mother' in the 1961 Act, various Courts of the country have adopted a modern and liberal approach and granted maternity benefits to surrogate mothers. These decisions have promoted equality and raised hope among female employees who are unable to procreate without assisted reproductive techniques. International standards respect and give equal treatment to surrogate and birth mothers and thus, India should imbibe these Western principles and acknowledge the rights of surrogate mothers and stand true to the ideals postulated by the Constitution. The landmark ruling of the Supreme Court of California in Anna Johnson Vs. Mark Calvert which paved the way towards the development of surrogacy cannot be overlooked. The Court while upholding the decision of the lower Court held that genetic parents are the natural parents of the child gestated through a surrogate. Henceforth, it is the intending mother who deserves space to build a bond with the child. The state must strive to grant maternity leave and benefits to a mother who has begotten a child through surrogacy. With the slow increase in female workforce participation in India, judgements like the Keswani case come as a ray of hope to the women intending to work. An overhaul to the existing position of law should reflect as a positive move safeguarding the female labour force and thus motivating more females to join the workforce.

Evolution of Principles Related to Standardization of Occupational Health and Safety in International Labour Law

Adarsh Shukla, Research Intern, CLLRA

Introduction

The nature of work has seen a fundamental shift in the wake of emergence of new kinds of industries. The advent of technology has given rise to new kinds of employment such as freelancers, gig workers, etc. The mode of working in these kinds of employment is very different.[1] Moreover, the expansion of service sector has seen quick expansion.[2] This means that the nature of work has shifted from involving hard physical labour to mental labour. It must also mean that work has shifted from demanding physical movement on part of the workers to requiring workers to sit for long hours at a stretch i.e. sedentariness has become an inherent character of work.[3] As a consequence, the kind of challenges related to occupational safety and health the workers in these kinds of industries experience are very different from the nature of challenges in the pre-technology era.

At a first glance, the nature of work in these kinds of industries is not conventionally hazardous in the sense that workers face no direct physical hazard as seen in industries like mining, weapon manufacturing, etc. where the risk of injury in the course of work is physical and direct due to the dangerous nature of substances and processes involved. Instead, the source of occupational health hazard in this new kind of industries arise from two places: (a) the chronic mental stress the workers find themselves in and (b) the sedentary nature of work.

A variety of cultural and technological forces have effected change in the nature of work. The change has made employment more precarious by depriving workers of job security and stability.[4] It is known that a loss of control generates stress[5]. Emerging technology has made the current day jobs more stressful because instability and insecurity have become an inherent feature of organized sector work and the new kinds of employment like that of freelancers, gig workers, etc. Rise of consumerism and fast paced technological developments have imposed unreasonable demands on workers. With the advent of AI, a number of jobs have been automated. Due to such fast-paced changes, workers have been deprived avenues of stability. Standardized routines and procedures have been replaced by flexible work as in the case of work from home. Thus, new developments have contributed to a rise of new kind of work where the level of stress that workers are experiencing is unprecedented.[6]

The expansion of the service sector has also made work in the organized sector more of sedentary nature. The implications for the OSH of workers because of long-term sitting and little to no physical activity are well documented. However, such health hazards have not received due attention partly because of the fact that such hazards become manifest gradually and only over a period of time.

ILO has several conventions relating to standardization of occupational health and safety in specific economic activities. However, the ILO has failed to keep pace with the new developments and its OSH regime is focused almost exclusively on physical hazards workers face, thus leaving out an entire sector of workers who are faced with a very real threat of occupational hazards caused by work. The author in this article argues that new conventions on health and safety of workers in the emerging industries is needed.

The author attempts to locate the duty of the ILO towards the workers in these new and emerging industries in its existing conventions and argues for expansion of the OSH regime to cover the new kinds of threats to OSH in the new kinds of industries that have come into being.

The argument will proceed by:

A. Establishing that the ILO has a duty to protect against the new age occupational hazards. This will be done by an examination of ILO Conventions on Health and Safety.

B. Examining the status accorded to occupational hazards arising from stress and sedentariness in the ILO OSH regime. This will be done by examining the evolution of principles relating to OSH over the course of years.

C. Addressing the challenges related to the recognition of such occupational hazards and suggesting the ways in which such challenges can be dealt with.

An examination of ILO Conventions on OSH through the years

One of the obligations of the ILO as per the Declaration of Philadelphia is the "adequate protection for the life and health of workers in all occupations." [7] Health has been defined as not mere absence of disease but includes mental well-being as well. [8] However, a cursory examination of the ILO Conventions and Recommendations reveal that the focus has been mostly on safeguarding workers against the threat of physical hazards. There exist a number of recommendations relating to protection against hazards in specific sectors of work. There also exist recommendations concerned with safeguards against specific threats such as radiation, asbestos, etc. However, a mental component is missing among all the recognized hazards.

The earliest available OSH instrument containing general provisions relating to occupational hazards is recommendation 097. [9] The recommendations largely focus on safeguarding against physical substances and processes. The closest the recommendation get to recognizing anything similar to stress or sedentariness generated occupational hazards is in Recommendation No. 2(h) which casts a duty on the employer to provide for protection against noise. [10] Noise is similar to sedentariness and stress since both are per se harmless and produce physical manifestations only

over long periods of exposure. Recommendation No. 102 of 1958, however provides for recreation facilities for employees hinting some shift towards the recognition of mental health in work.[11] A major shift in approach to OSH is observed in Convention 155- one of the fundamental conventions relating to OSH.[12] The convention defines health not merely as absence of disease but also includes mental element within the meaning of health.[13] Finally, the 1981 recommendation of the ILO titled 'Promotional Framework for Occupational Safety and Health Recommendation' prescribes in unambiguous and direct terms the need to take measures towards prevention of mental stress arising from work. However, the 2002 recommendation goes back to taking a far more restrictive approach to mental well-being as a component of OSH.[14] The recommendation gives recognition to mental disorders provided a direct link can be established. However, it only takes into account mental "disorders". Neither stress and sedentariness nor their effects are "disorders". However, both have physical symptoms that become manifest only over a period of extended exposure and their effect on the well-being are not necessarily mental. [15]

Therefore, although occupational hazards originating as a result of stress and low levels of physical inactivity have a marginal status, they do find legal recognition in International Labour Law. While Recommendation No. 194 which enumerates the list of occupational diseases counts mental disorders and behaviour among other occupational hazards, no specific mental disorders aside from PTSD are recognized.[16] However, the list is not exhaustive and provides for inclusion of new mental disorders if a direct link can be established between that mental disorder and work. [17]

It is well established that chronic stress has become an inherent feature of work due to a number of factors enumerated above.[18] It is also well documented that such stress has a number of health consequences.[19] Thus, there exists a direct link between negative health consequences and stress. Thus, stress as an agent producing myriad health complications and being an inherent feature of work cannot be ignored as an occupational hazard in itself. Similarly, sedentary nature of work is also directly linked to a large number of negative health consequences.[20] Thus, there is sufficient evidence for the recognition of stress and sedentariness as occupational hazards in themselves.

Conclusion

Article 21 of Convention 155 imposes a duty on the employers to put in place measures to deal with emergencies and accidents only where necessary. Moreover, the OSH regime of the ILO is concerned only with injuries resulting directly from work. The incidence of injuries and accidents is far less in the new kind of employment. In fact, the unique nature of injury is that it is far more gradual and develops over a period of time. Hence, it is far more difficult to establish causality. Moreover, since the effects of stress and

sedentariness are not immediately visible, they are not considered as serious hazards.

The nature of challenges calls for a different approach: an approach which is rooted in public health. It was discovered in a study that number of hours spent sitting is not related to work productivity.[21] The occupational health services authority as per the occupational health services convention can take the duty to implement measures to limit the sitting time of workers in office premises. The design of furniture should be ergonomically sound to make minimize strain on workers.

To remedy the problems arising from stress, it will have to be prevented at source. Managers and superiors can be trained to make them more sensitive towards workers problems. Organisations may also be required to keep an in-house counsellor or psychologist to help workers with stress management. It is hence clear that in such a situation a continuous preventive approach and not a one-time measure is essential for the welfare of workers.

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DOMESTIC LABOUR LAW NEWS

THE ILO HAS RELEASED NEW INDICATORS ON WORK-BASED LEARNING (WBL) AND VOCATIONAL EDUCATION

Work-based learning (WBL) is vital for skill development in the evolving job market, benefiting both youth and adults seeking up-skilling or re-skilling opportunities. Widening access to apprenticeships and work-based training can reduce youth unemployment, enhance workforce transitions, boost enterprise productivity, and address skill needs in a changing job landscape. The International Labour Conference's recent adoption of the Quality Apprenticeships Recommendation, 2023 (No. 208), provides detailed guidance to Member States on promoting and regulating apprenticeships. Globally, around half of young people (15-24) engage in education or training, with significant regional disparities, while gender gaps persist in employment outcomes.....[Scan QR to read more.](#)



DELHI'S STUDENT, TEACHER OUTFITS SLAM UGC OVER DE-RESERVATION DRAFT GUIDELINES

Several student bodies and teacher's associations in Delhi criticized the University Grants Commission (UGC) for draft guidelines proposing to de-reserve SC, ST, and OBC vacancies if an insufficient number of candidates from these categories are available. The UGC's proposal to open such vacancies for the General category faced backlash, with critics claiming it legitimizes the declaration of reserved posts as 'Not Found Suitable,' undermining constitutional reservation mandates. The Democratic Teachers Front condemned the move, asserting it excludes socially and economically underprivileged segments. The draft, open for public opinion until January 28, triggered concerns over the potential exclusion of marginalized groups from educational opportunities and employment.....[Scan QR to read more.](#)



WAGE CUTS, SEXUAL HARASSMENT: WHY SANITATION WORKERS PROTESTED AT A DELHI GOVT HOSPITAL

Sanitation workers at a Delhi government hospital, employed by Global Ventures, a contract firm, went on strike due to delayed wage release and alleged harassment. The workers, mostly women, faced threats when requesting timely payments. Sexual harassment, wage cuts, and exploitation were reported, with supervisors demanding sexual favors. Despite the Payment of Wages Act guidelines, salaries were often reduced arbitrarily, creating uncertainty. Workers faced dismissal for seeking timely payments, and monthly salaries varied. The supervisors allegedly pressured workers to conceal lower wages. Previous FIRs against supervisors for sexual assault yielded inadequate police intervention. The strike highlights pervasive issues in workers' conditions and treatment.....[Scan QR to read more](#)



EXPORTS FROM LABOUR INTENSIVE SECTORS LAGGING, SAYS GTRI

India's labor-intensive exports, including textiles, garments, gems, and jewelry, face a slowdown despite past free trade agreements (FTAs), as rivals like China, Vietnam, and Bangladesh dominate global markets, notes the Global Trade Research Initiative. Amid an overall decline in goods exports due to Western demand slumps and China's property crisis, the think tank highlights non-tariff barriers (NTBs) imposed by consumer nations as a major impediment.



The report suggests India leverage ongoing FTA negotiations to eliminate NTBs, focusing on regulatory or quota restrictions that hinder imports and hinder the country's competitiveness in key sectors.....[Scan QR to read more.](#)

INDIAN WOMEN ARE WORKING MORE. HERE'S WHY

The 'Indian Economy — A Review' (2024) by the Department of Economic Affairs highlights a notable surge in the female labor force participation rate (FLFPR), particularly in rural India, over the past six years. The rural FLFPR increased from 24.6% (2017-18) to 41.5% (2022-23), and urban FLFPR rose from 20.4% to 25.4% during the same period. The report suggests that factors such as enhanced skilling support, credit access, and rising female employment through initiatives like Deendayal Antyodaya Yojana National Rural Livelihood Mission (DAY-NRLM) and Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) contribute to this positive trend. The DAY-NRLM, covering 9.96 crore women, emphasizes women's collectives and livelihood diversification.....[Scan QR to read more.](#)



SEX WORK IS WORK: RIGHTS GROUPS DEMAND COURTEOUS, INCLUSIVE LANGUAGE FOR SEX WORKERS

Over 3,600 individuals associated with women's rights and sex workers' organizations express dissatisfaction with the UN Special Rapporteur's terminology in seeking inputs for the report on violence against women and girls. The upcoming thematic report aims to explore the connection between global prostitution and violence against women. The call for inputs, while addressing this issue, is criticized for using problematic language. Concerns center around the need for clear terms, approaches, and actions within the framework of international human rights law to effectively protect women and girls from all forms of violence, fostering debate within the broader discourse on the subject.....[Scan QR to read more.](#)



GLOBAL UNEMPLOYMENT RATE SET TO INCREASE IN 2024 WHILE GROWING SOCIAL INEQUALITIES RAISE CONCERNS, SAYS ILO REPORT

The International Labour Organization (ILO) reports that global labor markets have shown resilience despite economic challenges, with unemployment and job gaps below pre-pandemic levels. However, the recovery is uneven, and new vulnerabilities threaten social justice. The 2023 global unemployment rate improved to 5.1%, but the ILO predicts a worsening outlook in 2024, with an additional two million job seekers. Income inequality has widened, working poverty persists, and rates of informal work are expected to remain at 58% globally. Disparities persist between high and low-income countries, impacting unemployment and job gap rates.....[Scan QR to read more.](#)



GOVT RECONSTITUTES THE CENTRAL BOARD OF TRUSTEES OF EPFO

The Central Board of Trustees (CBT) of the Employees' Provident Fund Organization (EPFO) has been reconstituted by the Indian government for a five-year term. The new board's formation, effective from the notification date of January 12, 2024, sets the stage for the much-anticipated CBT meeting to determine interest rates for the financial year 2023-24. The reconstitution empowers the CBT to make crucial decisions regarding provident fund policies and management.....[Scan QR to read more.](#)



EPFO SURVEY SEEKS DETAILS ON FACILITIES AVAILABLE FOR WOMEN WORKING IN ESTABLISHMENTS

The Employees' Provident Fund Organisation (EPFO) and the Ministry of Women & Child Development have initiated a survey to address concerns about low female labor force participation in India. The survey, distributed to EPFO subscribers, focuses on facilities for women in workplaces, including flexible working hours and equal pay. It delves into organizational aspects like the presence of internal committees for sexual harassment prevention, crèche facilities, transportation provision during late hours, and equal pay for equal work. With nearly 30 crore subscribers, the EPFO aims to gather insights on factors influencing women's workforce participation across 21.23 lakh establishments in various industrial categories nationwide.....[Scan QR to read more.](#)



FORMAL JOB CREATION UNDER EPFO DOWN 14.2% TO 1.39 MILLION IN NOVEMBER, ACCORDING TO PAYROLL DATA

In the reported month, the Employees' Provident Fund Organization (EPFO) witnessed a decline in new member additions, with 0.73 million individuals joining, marking a 5.2% decrease from October 2023. Notably, 57.3% of these new entrants were in the 18-25 age group, indicating a substantial proportion of first-time job seekers in the organized sector. The payroll data also revealed that 1.06 million EPFO subscribers exited and subsequently rejoined, opting for fund transfer between jobs rather than final settlement. Among the new members, approximately 0.19 million were females, contributing to a net addition of around 0.28 million female members.....[Scan QR to read more.](#)



OPPORTUNITIES'

1. Fellowship: [2024-25 AIF Banyan Impact Fellowship](#)

The American India Foundation's (AIF's) Banyan Impact Fellowship is an interdisciplinary experiential learning program that places young professionals from India and the U.S. in service with development organizations in India. Through collaboration and capacity-building, Fellows and local communities exchange knowledge and skills to steer projects that advance social and economic development. Fellows learn about grassroots development and inclusive leadership. In addition to providing fellows with mentorship, networking opportunities and resources for leadership development through The Banyan Impact Fellowship Program, AIF also presents its fellows with an additional professional development platform: The Atlas Corps Virtual Leadership Institute (VLI).

To know more about the fellowship program, visit https://ngobox.org/fellowship_full-Applications-Open-for-the-2024-25-AIF-Banyan-Impact-Fellowship-for-service-in-India-American-India-Foundation_22134.

2. Webinar: [U.S. Forced Labor & Trade Remedy Enforcement: Adapting to the New Regulatory Realities](#)

Dive deep into the changes in American trade remedies and customs policy enforcement with Akin's seasoned attorneys. Explore the intricacies of forced labour regulations and the Uyghur Forced Labor Prevention Act (UFLPA), uncovering how U.S. Customs and Border Protection (CBP) has created substantial challenges for importers, domestic buyers, and foreign manufacturers. Learn about newly adopted antidumping and countervailing duty enforcement mechanisms at the U.S. Commerce Department. Hear about practical strategies to reduce supply chain risk.

To register, visit <https://www.mondaq.com/webinars/webinar/592/us-forced-labor--trade-remedy-enforcement-adapting-to-the-new-regulatory-realities>

3. Workshops: [Expert workshop on the regulation of platform work in Frankfurt - March 2024](#)

The workshop aims to address the following questions: Can the Directive deliver on its promises? How can working conditions be improved for genuine self-employed workers who use the platform to provide their services? How do the Nordic countries, where the Directive has been criticised, deal with platform workers? For more information, visit <https://www.boeckler.de/de/aktuelle-veranstaltungen-2718-european-labour-law-workshop-54693.htm>

4. Research Associate: [National Council of Applied Economic Research \(NCAER\)](#)

The National Council of Applied Economic Research (NCAER) is India's oldest and largest national, non-profit, independent economic research institute. It is among the few think tanks globally that have strong field data collection capabilities for national surveys. Its research covers almost the entire horizon of policy-focused applied research in economics, from macroeconomics to poverty and consumer behaviour. The deadline to apply is 10th February, 2024.

5. Postdoctoral opportunities: [JSPS-UNU Postdoctoral Fellowship Programme 2024](#)

UNU offers Postdoctoral Fellowships to provide young scholars and policymakers, especially from the developing world, with a multidisciplinary context within which to pursue advanced research and training that are of professional interest to the successful applicant and of direct relevance to the research agenda of their selected thematic programme. This fellowship is aimed at candidates who have completed their doctorates in the past six years (with the period of maternity/paternity leave subtracted) and have professional and/or research experience. The deadline to apply is 10 March, 2024.

INTERNATIONAL LABOUR LAW NEWS

NEW REPORT ON PLATFORM ECONOMY MARKS FIRST STEP TOWARDS CONSIDERING A NEW INTERNATIONAL LABOUR STANDARD

The International Labour Organization (ILO) has released a new Law and Practice report titled "Realizing Decent Work in the Platform Economy," which marks a significant step towards establishing an international labor standard for decent work in the platform economy. The report will be discussed at the 2025 and 2026 International Labour Conferences and offers insights into how countries worldwide are addressing the opportunities and challenges posed by the growth of platform work. It includes a questionnaire for governments to provide input on future labor standards, emphasizing consultation with employers' and workers' organizations. Responses are due by 31st August 2024.....[Scan QR to read more.](#)



OSH MEASURES KEY TO PREVENT VIOLENCE AND HARASSMENT IN THE WORLD OF WORK, SAYS ILO REPORT

The International Labour Organization (ILO) report underscores the critical role of Occupational Safety and Health (OSH) measures in combating workplace violence and harassment, affecting over one-in-five employees globally. OSH frameworks address underlying risks and promote workplace cooperation, with legal provisions primarily embedded within OSH legislation across regions. The report recommends practical tools and training programs to facilitate policy implementation. This research aligns with a broader initiative funded by the European Commission and the ILO, coinciding with a conference on this topic. Additionally, the adoption of the ILO Violence and Harassment Convention, 2019, and its Recommendation highlights the international commitment to ensuring a safe and healthy working environment.....[Scan QR to read more.](#)



ILO SUBMITS DOSSIER RELATED TO THE RIGHT TO STRIKE DISPUTE TO THE INTERNATIONAL COURT OF JUSTICE

On December 14, 2023, the International Labour Office (ILO) submitted a collection of 342 documents in five volumes to the International Court of Justice (ICJ) as required under article 65(2) of the Court's Statute. This submission followed the decision of the ILO Governing Body to refer a dispute over the right to strike to the ICJ in The Hague. The documents, sourced from both ILO and non-ILO entities, are expected to shed light on various aspects of the interpretation dispute, including the institutional debate on Convention No 87, the 'jurisprudence' of ILO supervisory organs on the right to strike, and the recognition of the right to strike in international human rights law. The dossier was accompanied by an Introductory Note and has been made publicly available on the ICJ's website to facilitate the preparation of written statements by Member States parties to Convention No 87 and six international organizations of employers and workers enjoying general consultative status at the ILO.....[Scan QR to read more.](#)



GLOBAL UNEMPLOYMENT RATE SET TO INCREASE IN 2024 WHILE GROWING SOCIAL INEQUALITIES RAISE CONCERNS, SAYS ILO

Despite some improvement in global unemployment and job market participation rates, new vulnerabilities and crises are hindering recovery from the pandemic, according to the International Labour Organization (ILO) World Employment and Social Outlook: Trends 2024 report. The report forecasts a slight increase in global unemployment in 2024, with persistent disparities between high and low-income countries. Working poverty and income inequality are also expected to persist, while informal work rates remain steady.....[Scan QR to read more.](#)



PUBLICATIONS: ARTICLES

IN VIKSIT BHARAT, RURAL REAL WAGES ARE IN DECLINE- WRITTEN BY ASHOK GULATI , SHYMA JOSE

As Prime Minister Narendra Modi participates in the consecration of the Ram temple in Ayodhya, there is optimism for the emergence of Ram Rajya, symbolizing communal harmony, women's safety, and poverty eradication. Despite Modi's vision for a developed India by 2047, NITI Aayog reports that 248.2 million people have been lifted out of poverty in nine years under his government, based on the National Multidimensional Poverty Index (NMPI). This index, with 12 indicators, including maternal health and bank accounts, reflects progress towards UNDP's goals in health, education, and standard of living. The ceremony intertwines religious sentiments with socio-economic aspirations.....[Scan QR to read more.](#)



DISTRUST OF EMPLOYERS IS BRED INTO INDIAN POLICY. IT NEEDS TO END- WRITTEN BY MANISH SABHARWAL

Indian Penal Code grants significant state power, yet nearly half of its 1,536 laws concerning employers involve jail provisions. The Jan Vishwas Bill, now law, aims to curb corruption by eliminating 113 such provisions from 23 laws. Advocating for Jan Vishwas Bill Version 2.0, there's a call for a policy shift from retail to wholesale, emphasizing a broader strategy to address and reduce the excessive imprisonment clauses across various laws impacting employers.....[Scan QR to read more.](#)



HOW CASTE SHAPES THE ORIGIN AND TRANSFORMATION OF WORK AND EMPLOYMENT IN INDIA

Studies in social sciences extensively explore caste as a governing institution in India's socio-political and economic spheres, particularly labor segmentation and its ties to material inequality. This article contextualizes India's caste history, emphasizing occupation's predominant role in socio-economic hierarchy. Despite debates on reservation policies, it raises a pertinent question: why, despite constitutional mechanisms, does the direct impact to disintegrate caste-occupational affiliations remain minimal?



The article highlights the need to address this issue alongside reservation debates to comprehend the persistence of caste-based associations in formal employment despite constitutional efforts for social equity.....[Scan QR to read more.](#)

SOCIO-ECONOMIC IMPACT OF MGNREGA – A PARADIGM SHIFT WITH SPECIAL REFERENCE TO WOMEN SENIOR CITIZENS

Rural development initiatives in countries like India address the substantial rural population's needs, focusing on improving living conditions and overall well-being. With a significant portion of poverty in India concentrated in rural areas, government programs, such as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) enacted in 2005, aim to provide 100 days of employment to vulnerable individuals reliant on wage labor.



The MGNREGA ensures job opportunities, promoting sustainable livelihood support at the community level. A study involving a random sample of 200 women senior citizens investigates the impact of MGNREGA, aiming for representative findings in the context of rural development.....[Scan QR to read more.](#)

THE PROTECTION OF HUMAN RIGHTS OF WOMEN MIGRANT WORKERS UNDER THE INTERNATIONAL LEGAL FRAMEWORK

International labor migration presents economic benefits, yet female migrant workers encounter challenges in recruitment and employment, facing exploitation and discrimination. This research explores the international legal framework, encompassing human rights instruments and ILO labor standards, safeguarding the rights of female migrant workers. Analysis indicates that these legal frameworks, addressing legal, cultural, social, and economic rights, are applicable to women migrant workers, protecting them from discrimination and exploitation. The study emphasizes the need for gender-sensitive migration procedures, promoting safe migration and legal protection for female migrant workers engaged in overseas employment.....[Scan QR to read more.](#)



THE ROLE OF JUDICIARY IN THE PROTECTION OF WOMEN WORKERS IN INDIA: A CRITICAL STUDY

Women's employment and access to decent work are crucial for inclusive and sustainable development, but women face challenges in job opportunities, working conditions, wage equality, and work-life balance. India's Constitution and various laws, such as the Factories Act of 1948 and the Sexual Misconduct at Workplace Act of 2013, aim to protect and empower women workers. Judicial decisions, like *Vishaka vs. the State of Rajasthan*, underscore the judiciary's commitment to women workers' welfare. The state plays a vital role in executing these measures, reflecting the government's responsibility in ensuring the safety and well-being of women in the workforce.....[Scan QR to read more](#)



QUALITY OF WORK-LIFE SITUATION AND EFFECTIVENESS OF LABOUR LAWS: MANAGERIAL PERSPECTIVES

This study explores the quality of work-life (QWL) in Nepalese workplaces by analyzing perspectives from 85 higher- and middle-level managers. Key aspects of QWL include safe working conditions, social relevance, social integration, and work-life balance, gaining prominence during the COVID-19 pandemic. Challenges exist in providing growth opportunities, job security, fair compensation, and constitutionalism. The Labor Act, 2017, is identified as crucial for promoting QWL, offering benefits to employees' personal and professional lives. The study recommends policy measures for enhancing QWL in Nepalese workplaces, emphasizing the effectiveness of labor laws' QWL-related provisions. Union leaders' perspectives are excluded from the analysis.....[Scan QR to read more](#)



THE SPATIAL AND ECONOMIC FOOTPRINT OF THE COAL INDUSTRY ON RURAL LIVELIHOODS IN JHARKHAND, INDIA

In the context of India's continued dependence on coal despite international climate goals, this article provides empirical evidence on household reliance on coal mining and alternative livelihoods in rural Jharkhand. Conducting primary household surveys, the study reveals a spatial concentration of coal-related livelihoods, emphasizing their significance within a 5 km radius of active mines. Agriculture dominates income sources farther from mines, while day labor becomes more prevalent closer to them. The findings suggest the need for targeted policies, such as job training and government-led job investments, to balance rural development and just transition strategies, facilitating a smoother transition to resilient and decent livelihoods.....[Scan QR to read more](#)



WORLD EMPLOYMENT AND SOCIAL OUTLOOK: TRENDS 2024

Global economic recovery decelerated in 2023 due to geopolitical tensions and widespread inflation, leading to swift and aggressive interest rate hikes by central banks. Major emerging economies like China, Türkiye, and Brazil experienced significant slowdowns, impacting global industrial activity and trade, while growth in advanced economies nearly halved. Despite this, job growth proved resilient, with the unemployment rate falling globally to 5.1%. However, the jobs gap, although improved, remained high at around 435 million. Labor market imbalances persisted, especially in advanced economies, with concerns rising that these imbalances may be structural rather than cyclical.....[Scan QR to read more](#)



THE EVOLUTION OF STANDARD WORK THE ELGAR COMPANION TO DECENT WORK AND THE SUSTAINABLE DEVELOPMENT GOALS

The standard employment relationship, characterized by full-time indefinite contracts, ensures robust labor and social security protection. However, the rise of non-standard work forms like part-time, temporary, and self-employment poses challenges to existing labor laws and social security systems. Increasingly complex labor market dynamics, exacerbated by digital transformations, demand a reassessment of social protection frameworks. The vulnerability of non-standard workers, addressed in sustainable development goals, necessitates legal adaptations.



The EU emphasizes social protection for all workers, yet countries struggle to integrate non-standard forms effectively. This assessment explores the evolving nature of standard employment and the obstacles in adapting labor and social security laws to contemporary work structures.....[Scan QR to read more.](#)

EMPLOYEE STATUS PRECONDITIONS: A CRITICAL ASSESSMENT

The paper by Pnina Alon-Shenker and Guy Davidov critically assesses the preconditions for determining employee status. Focusing on the complexities of employment relationships, the authors scrutinize the criteria used to classify individuals as employees. They emphasize the nuanced nature of contemporary work arrangements, considering factors such as economic dependency, control, and the evolving landscape of employment. The assessment delves into the challenges and implications of defining employee status, shedding light on the intricacies of modern employment dynamics and suggesting the need for nuanced and context-aware criteria in legal frameworks.....[Scan QR to read more.](#)



A TECHNOLOGICAL CONSTRUCTION OF SOCIETY: COMPARING GPT-4 AND HUMAN RESPONDENTS FOR OCCUPATIONAL EVALUATION IN THE UK

This paper presents a comprehensive comparison between GPT-4 and human evaluations of 580 occupations in the ISCO-08 framework, focusing on prestige and social value in the United Kingdom. Despite high correlation, GPT-4 tends to provide more generous scores than humans, exhibiting notable discrepancies, especially for emerging digital and stigmatized occupations. The study underscores the potential advantages of LLMs, such as efficiency and accuracy, in occupational research. However, it highlights risks like bias and contextual misalignment, emphasizing the need for cautious integration of LLM-generated data into societal constructs and discussing policy implications for their application in the workforce.....[Scan QR to read more.](#)



PREVENTING AND ADDRESSING VIOLENCE AND HARASSMENT IN THE WORLD OF WORK THROUGH OCCUPATIONAL SAFETY AND HEALTH MEASURES

Workplace violence and harassment (V&H) are pervasive global issues affecting individuals across various sectors and work settings. More than one in five employed individuals has experienced V&H, impacting health, well-being, and livelihoods. The ILO's Violence and Harassment Convention, 2019, underscores the commitment to a V&H-free work environment. Recognizing the evolving nature of work, including new employment contracts and digital aspects, emphasizes the need for comprehensive strategies.



The Convention emphasizes occupational safety and health (OSH) as a key preventive measure, promoting an integrated, gender-responsive approach to address psychosocial risks and underlying causes, ensuring a collective effort to eradicate workplace V&H.....[Scan QR to read more.](#)

PUBLICATIONS: REPORTS AND BOOKS

Working Yet Poor: Challenges to EU Social Citizenship- by Luca Ratti, Paul Schoukens

About the book: This open-access book examines the EU regulatory framework addressing in-work poverty and its impact on diverse labor market groups. The innovative approach aligns the reinforcement of social rights with the fulfillment of EU citizenship entitlements, emphasizing the need for fair earnings. Over the past two decades, EU nations witnessed rising inequalities and in-work poverty, posing a threat to the core principles of EU citizenship. The book scrutinizes policy options at both EU and national levels, offering a theoretical reflection on the role of legislation and socio-fiscal welfare in contemporary labor markets, aiming to mitigate working poverty and safeguard EU citizenship values.

Production of Neoliberal Subjectivity(ies) on the Shop Floor: A Study of Women Shop-floor Employees in a Shopping Mall in Hyderabad- by Ipsita Pradhan

About the book: In the post-1992 neoliberal capitalist era in India, young women employed as shop-floor workers in retail malls represent a new labor force. Tasked with serving the growing consumer base of non-essential goods, they embody the culture of consumption crucial for neoliberal sustainability. Despite their seemingly small and disposable role, these women play a significant part in reinforcing and sustaining the neoliberal order. To navigate this environment, they internalize workplace codes, adopting behaviors like speaking English, wearing makeup, and maintaining politeness, contributing to their pursuit of upward mobility. Their employment necessitates active promotion of a consumption culture, perpetuating the wheels of developing neoliberalism.

Contract, Labour Law and the Realities of Working Life A Silent Revolution- by Eugene Schofield-Georgeson

About the book: This book critically examines the transformation of labor law, particularly in Australia, highlighting its shift towards protecting employers rather than workers. Investigating the influence of the common law on shaping labor law in alignment with commercial contracts, it underscores the underexplored role of the judiciary in this process. The author contends that this new conceptualization undermines reciprocal industrial relations, favoring employers. Proposing innovative legal and policy strategies, the book seeks to restore the protective role of labor law in employment relationships. Accessible to both scholars and students, it addresses labor law, contract law, and sociolegal studies, offering insights into this significant evolution.

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The newsletter titled "Labour Law Insights: Unlocking India's Labor Legal Labyrinth: Insights, Updates, and Analysis" is a comprehensive resource focusing on the intricate landscape of labor law in India. It provides timely updates on legal developments, in-depth analysis of key cases, expert commentary, and answers to common questions, all rooted in Indian legal provisions and case laws. This publication stands as an invaluable resource for scholars, practitioners, and stakeholders seeking profound insights into India's labor legal framework.



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